

19TH JUDICIAL DISTRICT COURT
FOR THE PARISH OF EAST BATON ROUGE

*to Ann
Moseley*

STATE OF LOUISIANA

NO. *536908*

SECTION **SEC. 8**

CONTINENTAL INSURANCE COMPANY, CONTINENTAL CASUALTY
COMPANY, THE ST. PAUL TRAVELERS COMPANIES, INC.,
AND BOAT OWNERS ASSOCIATION OF THE U.S.

versus

MARINE RECOVERY AND SALVAGE, LLC AND THE BOARD
OF COMMISSIONERS FOR THE ORLEANS LEVEE DISTRICT

#540 = #1878
COST CLERK 375
2296
OCT - 4 2005
BY *[Signature]*
CLERK OF COURT

FILED: _____

DEPUTY CLERK

**PETITION FOR DAMAGES, TEMPORARY RESTRAINING ORDER,
FOR PRELIMINARY INJUNCTION AND DECLARATORY RELIEF**

The Petition of Continental Insurance Company and Continental Casualty Company, through their marine manager, Boat Owners Association of the U.S., and The St. Paul Travelers Companies, Inc., avers, based upon information and belief, as follows:

1.

Petitioners, Continental Insurance Company and Continental Casualty Company (collectively "Continental") through their marine managers, Boat Owners Association of the U.S. ("Boat U.S.") and The St. Paul Travelers Companies, Inc. ("St. Paul Travelers") are foreign insurers licensed to do and doing business in Louisiana.

2.

Made defendants herein are:

1. Marine Recovery and Salvage, LLC ("MRS"), a limited liability company organized on September 8, 2005 shortly after Hurricane Katrina passed through the New Orleans area. The company exists pursuant to the laws of the State of Louisiana, and is domiciled at 620 Ursuline Dr., Baton Rouge, Louisiana 70808; and,
2. The Board of Commissioners for the Orleans Levee District ("Orleans Levee Board") a body politic and political corporation of the State as defined under La. R.S. 38:308 and 309, and/or a political subdivision as defined under Art. VI. Section 44(2) of the

Louisiana Constitution of 1974, established pursuant to La. R.S. 38:291 *et seq* and more specifically pursuant La. R.S. 38:307 *et seq*.

3.

Venue is proper in this 19th Judicial District Court for the Parish of East Baton Rouge as MRS has its principal place of business in East Baton Rouge, Louisiana. Further, the Orleans Levee Board is a state political subdivision subject to suit in the Parish of East Baton Rouge under La. R.S. 13:5104. Moreover, subsequent to Hurricane Katrina, the Orleans Levee Board has temporarily relocated to and is domiciled in the Parish of East Baton Rouge, specifically 10761 Perkins Road, Suite A, Baton Rouge, Louisiana 70810, such that much of the background activity which forms the basis for the allegations took place in the Parish of East Baton Rouge.

Factual Background

4.

Continental through its marine manager, Boat U.S., and St. Paul Travelers, collectively insure many yachts in the United States and throughout the Gulf South, including New Orleans.

5.

On August 29, 2005, Hurricane Katrina made landfall over southeast Louisiana. The storm inflicted damage to many yachts throughout the Gulf of Mexico, including New Orleans, and in particular, the South Shore Harbor Marina, the Orleans Marina and the New Orleans Municipal Yacht Harbor Marina, all of which are located on Lake Pontchartrain in the New Orleans lakefront area.

6.

The South Shore Harbor Marina and the Orleans Marina are owned and/or operated by the Orleans Levee Board, but the New Orleans Municipal Harbor is owned and operated by the City of New Orleans.

7.

Continental insures many vessels which, on August 29, 2005, were moored at Orleans Marina and South Shore Harbor Marina in New Orleans. This insurance is managed by Boat U.S. In particular, Continental insures numerous vessels at South Shore Harbor Marina as follows:

| Policy No. | Policy Holder's Last Name | Year Insured Vessel Constructed | Length / Description of Insured Vessel |
|------------|---------------------------|---------------------------------|--|
| 0507761 | Boothe | 1982 | 30' Catamaran |
| 0506806 | Bloom | 1977 | 27' O'Day |
| 0507591 | Budo | 1999 | 26' Hunter |
| 0506911 | Bysam | 1972 | 53' Hatt |
| 0506986 | Christana | 1979 | 25' Tanzer |
| 0507676 | Cheramic | 1977 | 33' Bert |
| 0506964 | Clayton | 1982 | 40' Trojan |
| 0507117 | Chataghiel | 1976 | 26' Pearson |
| 0507336 | Dolan | 1985 | 35' Senator |
| 0506929 | Dorn | 1976 | 35' Allied |
| 0507146 | Donnelly | 1988 | 30' Catalina |
| 0507233 | Doerring | 1974 | 30' Albin |
| 0507604 | Gerant | 1996 | 19' Sanswire |
| 0506807 | Knight | 1980 | 27' Pacip |
| 0507721 | Levens | 2002 | Four Winns |
| 0507268 | Larrieu | 1982 | 30' Lugar |
| 0507544 | Lanning | 1974 | 41' Gulfstar |
| 0506999 | Molony | 1985 | 31' O'Day |
| 0507376 | Parker | 1980 | 22' Catamaran |
| 0507769 | Porter | 1979 | 27' Watkins |
| 0507227 | Povey | 2002 | 26' McGregor |
| 0507132 | Rizzuto | 1993 | 30' Cape Port |
| 0507107 | Teague | 1983 | 33' Hunter |
| 0507979 | Towe | 1980 | 33' Hunter |
| 0507767 | Wilson | 1998 | 45' Hunter |
| 0507869 | Walters | 1981 | 25' Hunter |
| 0507865 | Waltham | 1983 | 35' Hunter |
| 0507974 | Gross | 1980 | 36' Hunter |
| 0507970 | Gelder | 1977 | 26' C + C |
| 0507402 | Slatrey | 1986 | 32' Beneteau |

8.

St. Paul Travelers also insured many yachts which were or are located in Orleans Marina and/or South Shore Harbor Marina. This Petition will be amended to list these yachts when this information becomes available.

9.

As aforementioned, on September 8, 2005, just after Hurricane Katrina passed through New Orleans, MRS was formed. One of the principals and registered agents of MRS is Douglas Scott Carmouche, the son of George L. Carmouche. The latter is employed by the Orleans Levee Board as an attorney. George L. Carmouche is therefore a “public employee” and/or “public servant” as defined by La. R.S. 42:1162.

10.

After Hurricane Katrina passed, Continental and St. Paul Travelers began making every effort to assist its yacht policy holders, moving quickly to repair, recover and/or salvage those insured yachts using several experienced contractors throughout the Gulf region, including those yachts at New Orleans Municipal Yacht Harbor, Orleans Marina and South Shore Harbor Marina. These salvage efforts are presently in progress.

11.

On September 27, 2005, Messrs. Douglas Scott Carmouche and Michael G. Mayer of MRS attended a meeting with representatives of Boat US which took place at the offices of Talbot, Carmouche and Marcello, in Gonzales, Louisiana. At the meeting, Messrs. Carmouche and Mayer advised that MRS had retained a “subordinated right” from the Orleans Levee Board to commence yacht salvage efforts at the New Orleans Lakefront area. MRS has refused to provide any documentation for this “subordinated right” and it is therefore unclear whether MRS has the rightful legal authority to proceed with salvage. Yet, MRS principals, Messrs. Carmouche and Mayer, informed representatives of Boat U.S. at the meeting that Boat U.S. and/or its salvors or contractors was not allowed to salvage, repair or work on any yacht in Orleans Levee Board Marinas or on property owned by the Orleans Levee Board including Orleans Marina or South Shore Harbor Marina.

12.

In addition, Messrs. Carmouche and Mayer advised that MRS intended to immediately proceed with salvage efforts on yachts insured by Continental and expected to be paid at rates nearly three or more times those charged by other contractors and salvors performing similar services under similar circumstances. Finally, Messrs. Carmouche and Mayer advised that MRS expects to be paid

additional sums for fire and pollution control and other salvage related services, with no specific cap or limitation.

13.

Most significantly, Messrs. Carmouche and Mayer advised that MRS expects both boat owners and their insurers, if they are insured, to pay for those services at such inflated rates. Yet, again, MRS refuses to provide a copy of any document evidencing their right to proceed with their salvage efforts.

14.

Boat U.S. estimates that the costs to Continental alone associated with MRS's proposed salvage operations will be between \$800,000 - \$900,000. Boat U.S. estimates that the costs to salvage yachts insured through Boat U.S. alone with its own contractors will be approximately \$300,000. Other insurers will be found to incur additional amounts. If Petitioners and/or their policyholders are obligated or forced to pay MRS additional, unnecessary over-charges, they, as well as other insurers and uninsured yacht owners, will suffer irreparable harm. In addition, small boats under 25 feet insured under homeowner policies only allow limited salvage costs far less than MRS is attempting to charge, thus rendering such yachts underinsured. There is simply no reasonable or rational basis for MRS to charge or recover these additional costs from the owners of damaged yachts or their insurers. Indeed, that demand constitutes unlawful "price gouging" as that term is defined under La. R.S. 29:732 *et. seq.*, in the context of the State of Emergency following Hurricane Katrina.¹

15.

Immediately after the aforementioned meeting on September 27, 2005, surveyors reported to Boat U.S. that MRS had begun spray-painting yachts at the New Orleans lakefront area. These boats are being marked with the letters, "MRS" as well as with a number. This painting is causing new damage to these yachts and has occurred without the consent or approval of the yacht owners and their insurers.²

¹ Attached as Exhibit A.

² Attached as Exhibit B is an example of a letter that had been affixed to a vessel in South Shore Harbor by MRS's contractor.

16.

On September 28, the undersigned counsel corresponded with MRS and amicably demanded that MRS immediately cease all activities related to any yachts covered by insurance managed by Boat U.S.³ In addition, Boat U.S. advised that neither Boat U.S. nor its yacht policyholders agree or would agree to pay MRS or anyone acting for or on behalf of MRS the exorbitant rates presented by MRS in the aforementioned meeting. Boat U.S. also advised that it would only agree to pay salvage and related expenses pursuant to a written, signed contract for each individual boat at reasonable, agreed rates. Meanwhile, Boat U.S. has contractors available on site to perform that work, but MRS has not allowed them to proceed. In fact, police officers acting on behalf of the Orleans Levee Board are actively impeding Boat U.S.'s salvage efforts by threatening to arrest work crews performing salvage efforts in New Orleans Municipal Yacht Harbor which the Orleans Levee Board does not even own.

17.

Meanwhile, MRS responded on September 29, 2005 in a letter dated September 21, 2005,⁴ advising that the Orleans Levee Board had "subrogated their rights to collect from the owners and insurers (of the damaged yachts) for performance of this service by Marine Recovery and Salvage LLC." MRS also advised in the letter that it had retained a salvor, Resolve Marine Group, Inc., and set forth rates that will result in the additional costs which MRS will seek from Continental and/or St. Paul Travelers and/or their insured policyholders. These amounts will be in excess of \$600,000 for Continental alone, as set forth above. Other insurers and uninsured yacht owners will be charged hundreds of thousands of dollars more as well.

18.

Petitioners, through counsel, have attempted to convince MRS to cease these salvage efforts through both a face to face meeting and through correspondence to MRS prior to the filing of this Petition for a Temporary Restraining Order, but MRS has persisted in pursuing the salvage actions. If MRS is permitted to proceed in this fashion, this will result in irreparable harm to Boat U.S. and/or

³ Attached as Exhibit C is that correspondence.

⁴ Attached as Exhibit D is that correspondence.

Continental, and/or St. Paul Travelers as well as additional damage to uninsured and underinsured yacht owners.

Causes of Action

Count 1

Injunctive Relief

19.

Continental, Boat U.S. and St. Paul Travelers reaver Paragraphs 1 through 18.

20.

At this time, absent relief from this Court in the form of injunctive relief barring MRS and/or the Orleans Levee Board from further marking and/or salvaging and/or damaging of vessels covered by insurance issued by Continental and managed by Boat U.S. and/or insurance issued by St. Paul Travelers, Petitioners and their policyholders will sustain irreparable harm. Petitioners also seek injunctive relief barring Orleans Levee Board Police from interfering with salvage efforts in the New Orleans Municipal Yacht Harbor or in waterways adjacent thereto.

21.

The irreparable harm caused to Continental, Boat U.S. and St. Paul Travelers by the actions of MRS and/or the Orleans Levee Board outweighs the harm, if any, that will be caused to MRS and Orleans Levee Board and those acting for or on behalf of same, upon this Court's granting of the relief being requested. Accordingly, there is no substantial harm which will be caused to any other party, including MRS and the Orleans Levee Board, by the granting of the relief requested herein.

Count 2

Tortious Interference With A Contract

22.

Continental, Boat U. S. and St. Paul Travelers reaver Paragraphs 1 through 21.

23.

MRS and the Orleans Levee Board are indebted to Continental, Boat U.S. and St. Paul Travelers in an amount that is proper in the premises for any increase in costs, expenses, liabilities, or losses caused by the actions of MRS and/or the Orleans Levee Board and/or those acting for or on behalf of same and incurred by Continental, Boat U.S., St. Paul Travelers and/or yachts covered by insurance issued and/or managed by Continental, St. Paul Travelers and Boat U.S.

Count 3

Property Damage

24.

Continental, Boat U.S. and St. Paul Travelers reaver Paragraphs 1 through 23.

25.

To the extent MRS, the Orleans Levee Board, and/or those working for or on behalf of same are causing additional property damages to insured yachts through salvage efforts that are not authorized by the owners of the insured yachts or their insurers, MRS and the Orleans Levee Board are liable for all property damage, losses, costs and/or expenses to or associated with the subject insured yachts resulting from the actions of MRS and/or the Orleans Levee Board and/or those acting for or on behalf of same.

Count 4

Nepotism, Ultra Vires and Declaratory Relief

26.

Continental, Boat U.S. and St. Paul Travelers reaver and reallege Paragraphs 1 through 25.

27.

Upon information and belief, MRS is not acting under lawful right or under color of law as this work was not effected pursuant to law or lawful order, instruction, and/or contract with the Orleans Levee Board and/or through public bidding and/or after the execution of the proper affidavits and documentation required by law including, but not limited to, La. R.S. 38:2224.

28.

Further, the work is being performed by a company in which Douglas Scott Carmouche is a principal, despite the fact that he is the son of Orleans Levee Board attorney, George L. Carmouche. This constitutes a violation of applicable ethics rules, statutes and laws, including, but not limited to L.A. R.S. 42:1101 *et seq.*

29.

Accordingly, both MRS and the Orleans Levee Board lack legal authority for their actions, which should immediately cease. Therefore, this Honorable Court should declare MRS's contract, authority, "subrogation", and "subordination", if any, to perform the salvage as aforementioned, null and void.

Petitioners should be entitled to all damages, losses, costs and expenses incurred by the unlawful actions of MRS and the Orleans Levee Board.

WHEREFORE, Petitioners, Continental Insurance Company, Continental Casualty Company, Boat Owners Association of the U. S., and The St. Paul Travelers Companies, Inc. pray that this Honorable Court:

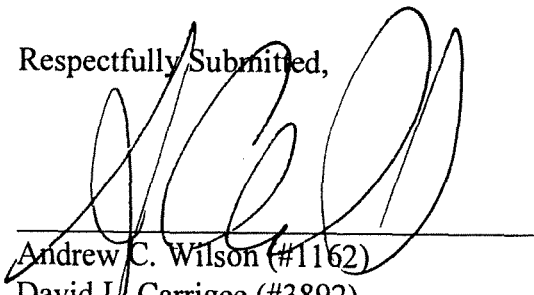
1. Enter a Temporary Restraining Order preventing MRS from further marking, salvaging and/or other work on yachts and/or vessels covered by insurance issued by Continental and managed by Boat U.S., or issued by St. Paul Travelers;

2. Enter a Preliminary Injunction preventing MRS, the Orleans Levee Board and/or those working for or on behalf of same from further marking and/or salvaging and/or other yachts and/or vessels covered by insurance issued by Continental and managed by Boat U.S.;

3. Declare that MRS and/or the Orleans Levee Board had no legal authority to proceed as set forth above; and

4. After due legal proceedings, issue judgment in favor of Petitioners, Continental Insurance Company, Continental Casualty Company, Boat Owners Association of the U.S. and The St. Paul Travelers Companies, Inc. against MRS and the Orleans Levee Board, for all damages, losses, costs and/or expenses incurred or sustained by Petitioners in an amount that is proper in the premises, and for all cost of these proceedings and for such other equitable relief as is proper under these circumstances.

Respectfully Submitted,



Andrew C. Wilson (#1162)
David L. Carrigee (#3892)
Jedd S. Malish (#23846)
Burke & Mayer, APLC
Physical Address:
7914 Wrenwood Blvd., Suite C
Baton Rouge, LA 70809
Mailing Address:
9618 Jefferson Hwy, Suite D, PMB #380
Baton Rouge, LA 70809
Telephone: 225-930-9979
Facsimile: 225-930-9978

Counsel for Boat Owners Association of the U.S.,
Continental Insurance Company, Continental Casualty
Company and The St. Paul Travelers Companies, Inc.
(157965)

PLEASE SERVE:

Douglas Scott Carmouche, Esq.
Marine Recovery and Salvage, LLC
620 Ursuline Drive
Baton Rouge, Louisiana 70808

George L. Carmouche, Esq.
As Counsel for the Board of Commissioners for the Orleans Levee District
10761 Perkins Road, Suite C & D
Baton Rouge, Louisiana 70810

Mr. James P. Huey, President
The Board of Commissioners for the Orleans Levee District
10761 Perkins Road, Suite A
Baton Rouge, Louisiana 70810

and
6001 Stars & Stripes Blvd.
New Orleans, Louisiana 70126-8006

Mr. Max Hearn
The Board of Commissioners for the Orleans Levee District
10761 Perkins Road, Suite A
Baton Rouge, Louisiana 70810
and
6001 Stars & Stripes Blvd.
New Orleans, Louisiana 70126-8006

10TH JUDICIAL DISTRICT
EAST BATON ROUGE PARISH, LA
FILED
2005
CLERK OF COURT

State of Louisiana



EXECUTIVE DEPARTMENT

PROCLAMATION NO. 54 KBB 2005

EXTENSION OF STATE OF EMERGENCY - HURRICANE KATRINA

WHEREAS, Proclamation No. 48 KBB 2005, issued on August 26, 2005, declared a state of emergency for the state of Louisiana due to Hurricane Katrina's potential to cause severe storms, high winds, and torrential rain that could cause flooding and damage to private property and public facilities, and threaten the safety and security of the citizens of Louisiana;

WHEREAS, On August 29, 2005, Hurricane Katrina struck Louisiana resulting in severe flooding and damage to the southeastern part of the state of Louisiana which has threatened the safety, health, and security of the citizens of the state of Louisiana, along with private property and public facilities; and

WHEREAS, it is necessary to renew Proclamation No. 48 KBB 2005, to extend the state of emergency due to the extreme damage caused by Hurricane Katrina and the continuing disaster and emergency conditions in the affected areas;

NOW THEREFORE I, KATHLEEN BABINEAUX BLANCO, Governor of the state of Louisiana, by virtue of the authority vested by the Constitution and laws of the state of Louisiana, do hereby order and direct as follows:

SECTION 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency is declared to continue to exist in the state of Louisiana due to Hurricane Katrina and its aftermath, which resulted in severe storm damage and extreme flooding to private property and public facilities, and continues to threaten the safety, health, and security of the citizens of the state of Louisiana;

SECTION 3: The state of emergency is extended for an additional thirty (30) days from Sunday, September 25, 2005, through Tuesday, October 25, 2005, unless terminated sooner.



IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 22nd day of September, 2005.

/S/ Kathleen Babineaux Blanco
GOVERNOR OF LOUISIANA

ATTEST BY
THE GOVERNOR

/S/ Al Ater
SECRETARY OF STATE

EXHIBIT

A

MARINE RECOVERY AND SALVAGE, LLC

620 Ursuline Drive
Baton Rouge, Louisiana 70808

Email
dscoff@carmouche@yahoo.com

Phone
225-324-4903



This vessel being prepared to move to safe storage area
(old Naval Reserve Site @ Lakeshore Dr. + Seabrook) per Orleans
Levee District directive 9/12/05. For more information contact
Michael Mayer @ 504-251-6565.

Date 9-19-05 Recovery # 0016^R Clock In 9:00 Clock Out _____
techs R & D

machinery used: _____

Boat name: Therapy Hull #: N/A
Manufacturer: Catalina RC# applied to Hull: 0016 length: _____
Home Port: Madisonville LA Color: Wh/Bl
Location found: SE. park lot
General condition: Good
Work description: unstep mast, prep for transport

documented by: TC

EXHIBIT

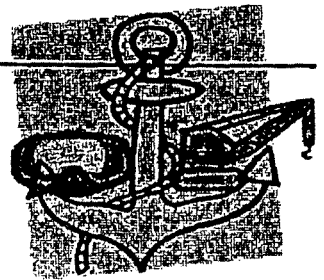
B

MARINE RECOVERY AND SALVAGE, LLC

620 Ursuline Drive
Baton Rouge, Louisiana 70808

E-mail
dscottcarmouche@yahoo.com

Phone
225-324-9803



September 9, 2005

(Insert text here)

Below is the price per foot for recovery cost to insurers for vessels less than fifty feet [50']. Additional to this cost will be a charge for pollution, safety, fire suppression, and additional cost for special circumstances based on the condition and location of the vessel. Vessels fifty feet [50'] and over will be negotiated on site at time of removal.

Recovery of vessels stranded on-shore.
\$225.00 per foot

Recovery of vessels from the water
\$350.00 per foot

Transportation
[to be determined later]

Storage
[estimated]
\$1.00 per foot/per day or \$10.00/ per foot/ per month

BURKE & MAYER

A Professional Law Corporation

Physical Address:

7914 Wrenwood Court, Suite C

Baton Rouge, Louisiana 70809

Telephone: 225-930-9979

877-811-8777

Facsimile: 225-930-9978

Website: www.burke-mayer.com

Mailing Address:

9618 Jefferson Highway, Suite D

PMB#380

Baton Rouge, Louisiana 70809

writer's internet e-mail address:

awilson@burke-mayer.com

September 28, 2005

Via Facsimile:225-769-3271

Mr. Michael G. Mayer

Mr. Douglas Scott Carmouche

Marine Recovery and Salvage, LLC

620 Ursuline Drive

Baton Rouge, Louisiana 70808

Re: Salvage Efforts Related to
Hurricanes Katrina and Rita

Gentlemen:

We represent the interests of Continental Insurance Company, Continental Casualty Company and their marine manager, Boat US, their insurer of many yachts in the areas of the Gulf of Mexico hard hit by the recent hurricanes, Katrina and Rita. Boat US is making every effort to fulfill its role for its yacht policy holders at this time. In this regard, Boat US is moving quickly to repair, recover and/or salvage those yachts, utilizing several experienced contractors who are already working at various sites in Louisiana and elsewhere. Many of these contractors and salvors have worked with or for Boat US in connection with other post hurricane situations, all at reasonable rates.

It is our understanding that you attended a meeting with representatives of Boat US which took place yesterday at the offices of Talbot, Carmouche and Marcello, in Gonzales, Louisiana. At the meeting, you advised that your company had retained a "subordinated right" from the New Orleans Levee Board to commence yacht salvage efforts at the New

157927

EXHIBIT



Mr. Michael G. Mayer
Mr. Douglas Scott Carmouche
September 28, 2005
Page 2

Orleans Lakefront area. In addition, you advised that you intended to immediately proceed with those efforts and expected to be paid at rates nearly three times those charged by other contractors and salvors performing similar services under similar circumstances. It is also our understanding that you expect to be paid additional sums for fire and pollution control and other salvage related services, with no specific cap or limitation. Finally, it is our understanding that you expect all boat owners and their insurers (if they are insured), to pay for those services at such rates.

It has also been reported to us that persons acting for or on your behalf have been spray-painting yachts at the lakefront area. Evidently these boats are being marked with the letters, "MRS", an abbreviation of your company's name, as well as with a number. This painting is causing new damage to these yachts and has occurred without the consent or approval of the yacht owners and their insurers.

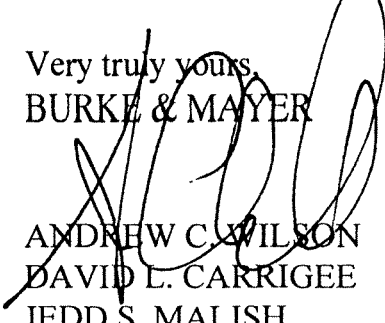
Our clients demand that you immediately cease all activities related to any yachts insured by Continental/Boat US. Further, this is to formally advise you that neither Continental/Boat US nor its policy holders agree to pay you are anyone acting on your behalf the exorbitant rates you presented in the meeting yesterday. Continental/Boat US will only agree to pay salvage and related expenses pursuant to a written, signed contract for each individual boat at reasonable, agreed rates.

At this time, we would appreciate your immediate advices as to whether you will agree to cease all activity related to yachts insured by Continental/Boat US. Further, we also seek your immediate advices as to whether you wish to be considered as a potential contractor for salvage efforts associated with yachts insured by Continental/Boat US, which efforts must be performed at reasonable rates agreed in writing. We would appreciate your written reply by 5:00 p.m. today. If you fail to do so, please be advised that Continental/Boat US will pursue legal action, including, but not limited to a suit for damages, injunctive relief and/or attorney's fees. Please do not make this necessary.

Mr. Michael G. Mayer
Mr. Douglas Scott Carmouche
September 28, 2005
Page 3

We look forward to your earliest reply and with kind regards remain

Very truly yours,
BURKE & MAYER



ANDREW C. WILSON
DAVID L. CARRIGEE
JEDD S. MALISH

ACW/tfm

cc: Mr. James Huey (Via Facsimile 225-763-2080)

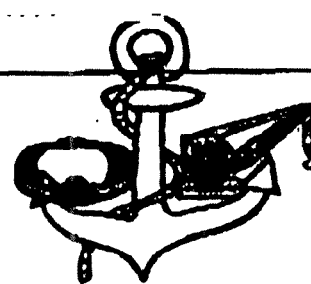
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MARINE RECOVERY AND SALVAGE, LLC

620 Ursuline Drive
Baton Rouge, Louisiana 70808

E-mail
dscoffcarmouche@yahoo.com

Phone
225-324-9803



September 21, 2005

Mr. Andrew C. Wilson
BURKE & MAYER
7914 Wrenwood Court, Suite C
Baton Rouge, LA 70809
Attorney for:
Continental Insurance Company
Continental Casualty Company
Boat US

To Andy Wilson
212-440-7904

Dear Mr. Wilson:

Marine Recovery And Salvage has the best interest of the vessel owners and the Orleans Levee District in mind with the safe handling of these vessels. We also wish to work closely with all insurers and underwriters in a cooperative effort to expedite the process in a fair and business like manner. I can assure you that these vessels are being well cared for and that the cost to your clients are in line with the market and are fair.

The devastation left by Hurricane Katrina caused numerous vessels at the Orleans Marina and South Shore Harbor to be thrown from their births onto land, other vessels, and sunk or partially sunk. The devastation also included great damage to the facilities at both of these locations. The condition of the vessels and grounds created a hazardous environment for personnel, a virtual impossibility to easily identify vessels, and hindered any attempt to move one vessel without affecting others. Due to this condition, the Orleans Levee District determined that they needed to make an effort to secure the vessels and facilities to allow for the safe and organized identification and inspection of the vessels by the owners and insurers.

In order to create this safe and organized condition, the Orleans Levee District asked that Marine Recovery And Salvage, LLC manage the recovery and organization process. The request included the requirement that the vessels would be recovered and stored in a safe and environmentally friendly manner. The district then subrogated their rights to collect from the owners and insurers for performance of this service by Marine Recovery And Salvage, LLC.

Marine Recovery And Salvage contacted numerous specialist in the area of marine heavy lifting, environmental contamination, and vessel recovery. Through these efforts they were able to locate a contractor that had the equipment, skills, experience, and knowledge to perform these services in a manor that would protect the vessels and the marinas from physical and environmental damage.

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Resolve Marine Group, Inc. was found to be the best qualified to perform these services and offered the best pricing. Costs for these services are charged by foot and vary depending on size, location, and condition of each vessel. All vessels will require the need for fire suppression and environmental containment; therefore the cost will be assessed to each vessel recovered on a per-foot basis.

A survey of prices for these services was conducted and are as follows: \$100 - \$150/ per foot for vessels under 27 linear feet; \$200 - \$250/ per foot for vessels from 28 to 40 linear feet; and \$250 - \$700/ per foot for vessels in excess of 40 linear feet. These prices do not reflect the special circumstances we are dealing with after the devastation of Hurricane Katrina. Below is a breakdown of cost for the recovery and storage of these vessels.

RECOVERY

RECOVERY PRICE PER FOOT

Vessels 0-25 feet in length:

- \$150.00 per linear foot for all recovered vessels, which are stranded on shore.
- \$200.00 per linear foot for all recovered vessels, which are recovered from the water.

Vessels 26-50 feet in length:

- \$225.00 per linear foot for all recovered vessels, which are stranded on shore.
- \$350.00 per linear foot for all recovered vessels, which are recovered from the water.

Vessels over 50 feet in length:

- The price per foot will be negotiated upon inspection at the facility.

FIRE SUPPRESSION AND POLLUTION CONTROL

- Fire Suppression per foot price will be determined shortly.
- Pollution control per foot price will be determined shortly.

SPECIAL CIRCUMSTANCES

Some vessels will present special circumstances that will add to the cost of the recovery of a vessel.

- This cost will be negotiated and determined at the facility.

TRANSPORTATION

- Transportation per foot price will be determined shortly.

STORAGE

All recovered vessels will be stored at the Naval Reserve Station on Lake Shore Drive. The facility will be secured and access will be limited. Appointments will be made for inspection by owners and insurers. Price per foot is anticipated to be approximately \$1.00 per linear foot per day to \$10.00 per linear foot per month.

Please regard this letter as an earnest response to your letter and we are going forward. You may contact me if you have any further questions or suggestions. We look forward to working with your clients in this much needed effort. With kind regards

Sincerely,



D. Scott Carmouche, Administrator
Marine Recovery And Salvage, LLC.
620 Ursuline Drive,
Baton Rouge, LA 70808
(225) 324-9803

19TH JUDICIAL DISTRICT COURT
FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NO.

SECTION _____

CONTINENTAL INSURANCE COMPANY, CONTINENTAL CASUALTY
COMPANY, THE ST. PAUL TRAVELERS COMPANIES, INC.,
AND BOAT OWNERS ASSOCIATION OF THE U.S.

versus

MARINE RECOVERY AND SALVAGE, LLC AND THE BOARD
OF COMMISSIONERS FOR THE ORLEANS LEVEE DISTRICT

FILED: _____

DEPUTY CLERK

AFFIDAVIT

STATE OF LOUISIANA

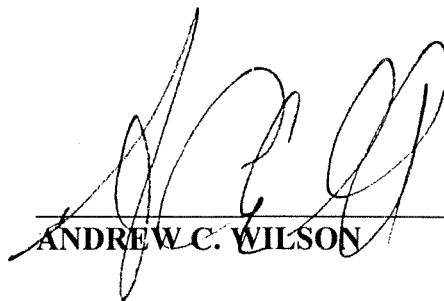
PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned Notary Public, personally came and appeared:

ANDREW C. WILSON

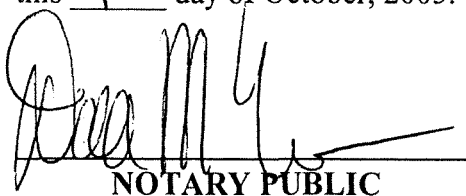
- 1) He is the attorney and counsel of record for Continental Insurance Company, Continental Casualty Company, Boat Owners Association of the U. S. and The St. Paul Travelers Companies, Inc.
- 2) The allegations contained in the foregoing Petition are true and correct to the best of his knowledge and belief.
- 3) Opposing counsel for The Board of Commissioners for the Orleans Levee District ("Orleans Levee Board"), George L. Carmouche, Esq., was notified by telephone and telefax on October 3, 2005 that this Petition was being filed. Marine Recovery and Salvage, LLC ("MRS") was also notified that this Petition was being filed by telefax and telephone to one of the principals of that company, Douglas Scott Carmouche.

- 4) That the subject TRO should issue without hearing for the reasons that the continued action of the Orleans Levee Board and MRS will cause irreparable harm to Continental Insurance Company, Continental Casualty Company, Boat Owners Association of the U.S. and The St. Paul Travelers Companies, Inc. and the imposition of the TRO will cause no foreseeable harm to MRS and/or the Orleans Levee Board.



ANDREW W.C. WILSON

Sworn to and subscribed before me
this 4th day of October, 2005.



NOTARY PUBLIC

Donna M. Young
Bar Roll # 20936
(157973)

CERTIFIED TRUE COPY

000560

DEPUTY CLERK OF COURT

JOHN JUDICIAL DISTRICT
EAST BATON ROUGE PARISH, L.S.
FILED

2005 OCT -4 PM 1:28



DEPUTY CLERK OF COURT FOR

DOUG WELBORN
CLERK OF COURT E.B.R. PARISH

19TH JUDICIAL DISTRICT COURT
FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NO.

SECTION _____

CONTINENTAL INSURANCE COMPANY, CONTINENTAL CASUALTY
COMPANY, THE ST. PAUL TRAVELERS COMPANIES, INC.,
AND BOAT OWNERS ASSOCIATION OF THE U.S.

versus

MARINE RECOVERY AND SALVAGE, LLC AND THE BOARD
OF COMMISSIONERS FOR THE ORLEANS LEVEE DISTRICT

FILED: _____

DEPUTY CLERK

ORDER

Considering the above Verified Petition, IT IS HEREBY ORDERED THAT:

- 1) The Defendants, The Board of Commissioners for the Orleans Levee District and Marine Recovery and Salvage, LLC, be served with notice and citation of these proceedings.
- 2) That a Temporary Restraining Order be issued herein to The Board of Commissioners for the Orleans Levee District and Marine Recovery and Salvage, LLC, restraining, enjoining and prohibiting The Board of Commissioners for the Orleans Levee District and Marine Recovery and Salvage, LLC, or any other person or entity acting for or on their behalf, from in any manner whatsoever salvaging, repairing, spray painting, removing, lifting, damaging or otherwise performing work related to yachts in the Orleans Marina and/or the South Shore Harbor Marina, and from interfering with salvage efforts being conducted by yacht insurers in the New Orleans area until such time as a hearing is held before this Court;
- 3) It is further ordered that a Rule directed to Defendants, The Board of Commissioners for the Orleans Levee District and Marine Recovery and Salvage, LLC, issue ordering same to show cause on the 13TH day of October, 2005 at 9:00 clock why preliminary injunction in the form and substance of the temporary restraining order sought immediately herein above should not be issued herein;

4) That Petitioners are hereby required to post a bond in the amount of 25,000.⁰⁰/_{xx} dollars in security.

Baton Rouge, Louisiana, this 4TH day of October, 2005.

Leon Amuzegar
DISTRICT JUDGE

(157972)

10TH JUDICIAL DISTRICT
EAST BATON ROUGE PARISH, LA
FILED

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DEPUTY CLERK OF COURT

DOUG WELBORN
CLERK OF COURT E.B.R. PARISH

CERTIFIED TRUE COPY

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DEPUTY CLERK OF COURT