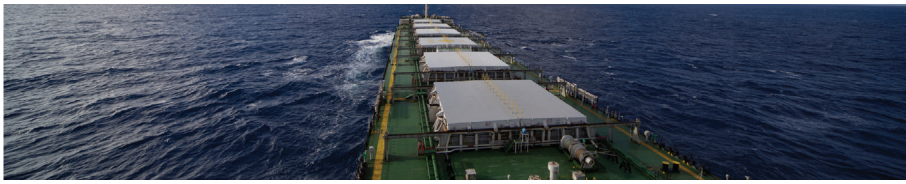

The Deal Pipeline

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Bankruptcy Big Catch

By Kimberly Ghorm

The second quarter may not have had a great deal of activity on the bankruptcy front, but sifting through the cases that washed ashore in court provides a hint of what future tides may bring.

The marine transportation sector, to name one area, has provided a bounty for restructuring advisers so far in2013, with filings including STX Pan Ocean Co. Ltd. ($6.7 billion), Excel Maritime Carriers Ltd. ($2.7 billion), TMT USA Shipmanagement LLC ($1.5 billion) and PT Berlian Laju Tanker Tbk ($500 million). (Excel's figures are not part of this quarter's data, as it filed for Chapter 11 on July 1.)

Athens shippers DryShips Inc. ($8.9 billion), FreeSeas Inc. ($114.4 million) and Seanergy Maritime Holdings Corp. ($93 million) and New York dry bulk shipper Eagle Bulk Shipping Inc. ($1.8 billion) could jointhem in the future, as The Deal Pipeline has issued distress warnings for the quartet since May 2012.

That would boost firms such as Bracewell & Giuliani LLP, Skadden, Arps, Slate, Meagher & Flom LLP, and Miller Buckfire & Co. LLC, which are working on Eagle's restructuring. All already advise shipping companies in bankruptcy.

Evan Flaschen, chairman of the financial restructuring group at Houston law firm Bracewell & Giuliani, has had a front-row view of the shipping industry, having been debtor counsel to Marco Polo Seatrade BV ($11.7 million), Omega Navigation Enterprises Inc. ($527.4 million) and, most recently, TMT. "Shipping is a highly cyclical business, and we expect continuing financial difficulties for owners and shipyards," Flaschen said. “Many of the current problems stem from vessels that were financed or ordered at the top of the cycle several years ago, leaving owners with unsustainable debt service obligations and shipyards with numerous canceled orders."

Chris Wu, partner at New York middle-market investment bank Carl Marks Advisory Group LLC, said the problems in the industry are rooted in what was "an optimistic view of the demand for goods driven by China and emerging markets, causing shipping companies to massively expand their orders for new ships. At the same time, lenders were aggressively lending at high [loan-to-value ratios] buoyed by high charter rates. The financial crisis hit soon thereafter."

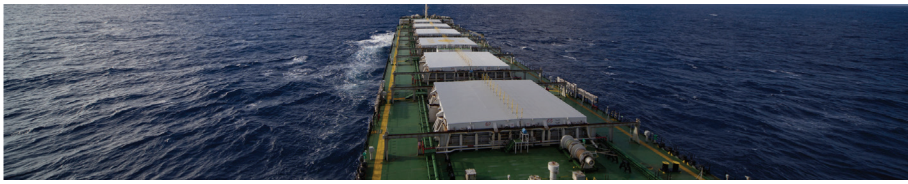
Chris Wu
Partner, Carl Marks Advisory Group

Jay Goffman, global head of corporate restructuring at Skadden, sees a recovery a ways off. "In general, there is an oversupply in the shipping industry in terms of the number of ships and an underutilization in terms of the need for cargo ships because of where the worldwide economy is right now. The industry is in a down period, and I believe we are a long way from being done, but both the worldwide economy and the shipping industry will come back eventually." Goffman, debtor counsel to Excel Maritime, said it might be a minimum of two to three years before the shipping industry starts to make a comeback.

Lending to the shipping industry has been cut in half since 2008, and lenders are still trying to reduce their exposures. "Valuations of vessel assets have not recovered," Wu said. "These factors have put lenders in a difficult position of not being able to provide the necessary liquidity for their borrowers to maintain their fleets and operations and at the same time paralyzing them from foreclosing or causing the asset to be sold, which would result in a drastic write off."

Still, he said, "There is light at the end of this tunnel, as lenders are gradually improving their balance sheets, giving them more room to restructure their assets and work with private equity sources to give ballast to the industry."

For restructuring professionals, of course, the current down times are boom times, and one firm to capitalize has been crisis management firm AlixPartners LLP. Last year, the firm launched a global maritime practice to address the



needs of struggling companies in the industry. Lisa Donahue, managing director and co-leader of the firm's North American division of the turnaround and restructuring services group, said her firm is uniquely qualified to offer truly comprehensive solutions to the businesses.

"We've actually been doing maritime work for quite a long time, but a couple of years ago, we thought it would make sense to codify our market offering, globally, as a practice, to let the $380 billion worldwide maritime industry know more about our capabilities, so that's what we did." The firm, which advised TBS Shipping Services Inc. during its prepackaged Chapter 11 last year, works with companies of all sizes on both the company/sponsor side and the creditor side.

A main question is whether the bankruptcy league tables will reflect all of the shipping industry work put in by restructuring firms.

Many of the restructurings have been done out-of-court, Goffman said, noting that "if the company has a small group of creditors, it can often work things out outside of court, but if it has widely held public debt, the company may have to go into Chapter 11, although it should be possible to do so through quick and efficient prepackaged plans of reorganization. We have done several out-of-court restructurings in the shipping industry."

Flaschen is working on out-of-court deals as well. "Particularly with the publicity that recent Chapter 11 filings have generated, international lenders are now willing to be more accommodating in rescheduling their debts consensually rather than risk a Chapter 11 filing," he said.

Wu's firm is also involved in a number of matters out of court, but more filings could be on the way. He explained: "Lenders have been unwilling to materially write off or equitize, and therefore shipping borrowers have not been able to properly right-size their debts to any meaningful degree yet. However, with several filings in recent months, including Excel and TMT, more in-court restructurings are anticipated."

Global companies that do commence a bankruptcy proceeding often end up in a U.S. court, either in Chapter 11 or Chapter 15. For instance, Berlian is based in Jakarta, Indonesia, while Excel Maritime is based in Athens. Befitting an industry that spans the globe, many companies have operations, registered vessels and lenders in several countries.

"Since many of the [industry] lenders are European, there is a large amount of regulatory scrutiny and political implications of government-controlled banks taking large losses," Wu said. "The result is a global industry strangled by complex financing structures mired in indecision and inertia."

To address the needs of the global industry, Alix Partners' maritime group comprises advisers from Hong Kong, Japan, North America and the U.K. "We are working today all over the world, from Europe to Asia to North America," Donahue said. She added: "It's of course well known that places like Greece and Asia, including Singapore, have seen a lot of distress in maritime. Overall, most of the entire industry continues to face a challenging environment where cash-management pressures and critical operational issues are being accentuated by the ongoing sluggish global economic outlook, including the double-dip recession in Europe and China's economic slowdown."

One subsector not in trouble is domestic operators.

"Local companies in the U.S. are doing reasonably well given the benefit of Jones Act compliance," Flaschen said, referring to legislation that mandates commercial vessels operating between ports in the U.S. be owned and operated by U.S. citizens and registered under the U.S. flag. "Internationally, the smaller companies are in even greater difficulty [than their larger peers] due to a lack of critical mass, and many of these companies are simply being foreclosed out of existence."