

Dear Sirs,

To the Liquidators of HPH  
The Board of Directors of HPH

**Re: Harvardsky Prumyslovy Holdings (In Liquidation) v (1) Landlocked Shipping Co; (2) Viktor Kozeny**  
**Docket No. 651826/2012 NYC Supreme Court**

Dear Sirs,

I am resending this email not having had a reply to my email of 15 April 2020 but now including Prof. Zdenek Častoral into this email. I appreciate the lockdown may cause delays in response.

I act for Dr. Jitka Chvatic, the sole beneficial owner of Landlocked Shipping Co. She has authorised me to send this email.

I understand you are the liquidators of HPH. I am sending this email in these difficult times to invite HPH to engage in mediation with a view to settling this long running dispute. The current Covid 19 crisis will no doubt bring economic uncertainty for the near future.

A mediated settlement would avoid all further time consuming litigation in this matter. It is of note that despite the age of the proceedings they have still not reached a first instance decision.

I further note that in the recent Liquidator's report into HPH dated a27.6.2019 at paragraph [3.29] it was stated that HPH had invited settlement discussions, but that these were not fruitful at that time. Jitka Chvatic was unaware of HPH's invitation. I offer this invitation from her in response to that invitation.

You will be aware of the decision in the Cypriot courts that covers the identical matter as these proceedings in New York Supreme Court. I attach a copy for ease of reference. It can be seen that the fundamental issue of whether Viktor Kozeny was the *alter ego* of related companies to Landlocked Shipping Co was determined in favour of Jitka Chvatic and against HPH Settlement (hereinafter "Trust I") and HPH Distribution Settlement No. 2 (hereinafter "Trust II"). The issue was indeed whether Jitka Chvatic was the beneficial owner of the plaintiff companies or whether Viktor Kozeny was the alter ego of those plaintiff companies. The judge summarised the claims of the HPH Trustees as:

"The Plaintiffs belong to the Kozeny group of companies, i.e. they are controlled by Victor Kozeny, who has been convicted in serious criminal cases for fraudulent acts against HPH company and its assets, and is a fugitive in the Bahamas.

The Plaintiffs are guilty of fraud, deceit and conspiracy between Kozeny and/or; his mother and/or his brother and/or other collaborators for misappropriation and embezzlement of HPH assets and did not acquire and/or do not lawfully hold shareholding percentage of HPH.

Court proceedings and claims against the Plaintiffs are pending in relation to their participation in HPH, as well as for debts due to HPH."

The judge heard oral evidence subject to extensive cross-examination. The judge heard from Jitka Chvatic and Thomas Sevcik who had served as a member of the Board of directors of HPH. In summary the findings of fact made by the judge were that Jitka Chvatic was a truthful witness and was indeed the sole beneficial owners of the plaintiff companies. On the other hand the judge found that Thomas Sevcik was an unreliable and contradictory witness. The judge accordingly rejected the claims of the HPH Trustees set out above and entered judgment in favour of Jitka Chvatic. I attach a copy of the judgment of the Cypriot court for ease of reference.

You will immediately see that such a finding of fact, if made in the New York Supreme Court proceedings, would be dispositive against your claim. In addition the holding of the Honourable Harold Baer in the *United States of America v The Funds on Deposit in account No. 12671905 held in the name of Landlocked shipping Co 09CV 3481(HB)*, affirmed on appeal, is likewise supportive as a fact finding exercise that Jitka Chvatic is the sole beneficial owner of the funds in question. It follows Jitka Chvatic has been advised Landlocked has excellent prospects of success in the above captioned litigation.

That all being said, the litigation concerning the sale proceeds of the Aspen property may take a number of years to finally conclude, having already taken nearly 20 years. Covid 19 creates considerable uncertainty. Jitka Chvatic is therefore desirous of Landlocked and HPH settling this litigation if possible, by a settlement that is acceptable to all parties.

It follows I write with a view to your agreement to engage in mediation, in London or Prague, if travel becomes possible or alternatively by way of video-conference, with a view to reaching an amicable settlement of this litigation.

Yours sincerely,

**James Lewis QC**

**James Lewis QC**

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