

Svitzer's shame

nautilus UK at work

Union warns members to think twice about employment offers following long struggle to win redundancy for Svitzer Marine members

A PROTRACTED case in which Nautilus UK has fought long and hard to secure redundancy payments for 11 members whose employment was transferred has prompted a warning to seafarers from the Union.

Industrial officer Jonathan Havard said the experiences with Svitzer Marine Services have led him to urge all members to think twice before taking up employment with the company.

He said he is 'absolutely outraged' by the company's failure to pay redundancy to officers employed on the two vessels following the transfer of their employment from Svitzer Marine Services (Guernsey) Limited to Ultramar Shipping of Panama. The two ships have since been re-named Fugro Mercator and Fugro Meridian.

Mr Havard said he had also brought the company's behaviour to the attention of officials in the

Transport and General Workers' Union and to the International Transport Workers' Federation, in order to forewarn other seafarers.

'Their heartlessness is demonstrated by the fact that at no point did they even recognise the claim of one of our members who sadly died onboard (after the transfer of employment),' Mr Havard told the Telegraph.

'Without ever justifying their assertions, they tried to hide behind the Transfer of Undertakings (Protection of Employment) [TUPE] Regulations, even though the members in question had transferred to a totally different set of terms and conditions of service and lost all their years of seniority,' he explained.

'In any case, the TUPE regulations could not have applied, as they were transferring from a Guernsey contract to a Panamanian one.'



The Fugro Mercator, above, is one of the two ships at the centre of a dispute between Nautilus UK and Svitzer Marine and was renamed at the time members' employment was transferred. Industrial officer Jonathan Havard, right, stresses that the Union has a positive relationship with Scorpio Marine, with whom the Union has an agreement covering members onboard the two vessels

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Mr Havard stresses that the Guernsey operation has been more than helpful in trying to resolve these matters — but that 'intransigence and sheer bloody mindedness from the puppeteers in Svitzer Limited (Teesside)' have apparently led to the costs associated with these cases amounting to a higher level than Nautilus UK's actual claim.

'We were deliberately misled by the company and its legal advisers,' he added. 'In a letter dated 13 October 2005 their solicitors, Eversheds, stated that they anticipated "that there could be significant developments over the next 14 days" following "a number of developments in relation to [the cases]" which [they felt] significantly affected [these cases] and which may result in an effective resolution.' This was not true.

'It seems that Svitzer have duped their employees into offshore employment in order to denude them of their UK employment rights,' Mr Havard explained. 'By virtue of the flags of the vessels not being the UK, the UK minimum provisions for redundancy and notice payments were deemed not to apply.'

Mr Havard said he felt sure that all bona fide offshore employers in Guernsey would be dismayed to hear of Svitzer's behaviour, fearing that their usual claim of no detriment to a seafarer's terms and conditions following offshoring would be seriously undermined — particularly where the vessels worked on were foreign-flagged.

In fact, one Guernsey-based employer has privately described Svitzer's actions as 'reprehensible,' he added.

Mr Havard said that an 'Offshore Employment Presentation' made by Svitzer Limited during the 'consultation' period before the seafarers' contracts were transferred (via TUPE) from Svitzer Limited to Wijsmuller Marine Services (Guernsey) Limited (thence to Svitzer Marine Services [Guernsey] Limited) has been shown to Nautilus UK.

At this presentation, seafarers were told that:
✦ marine staff would benefit from a 'continuation of employment terms and benefits — the status quo would prevail'

This was untrue.

They were also told that:

✦ the new employer would 'recognise UK employment law'

This was also untrue

They were further told that:

✦ their period of employment would be 'continuous'

This, too, was untrue.

In short, seafarers were guaranteed continuity of employment, with their service history and terms and conditions of service protected. They were told that UK employment law (including the Employment Rights Act [1996]) would apply, Mr Havard pointed out.

'How can any seafarer trust an employer who makes such guarantees and then sells its employees down the river?' he asked. 'Our members are furious, and regard particular individuals in Svitzer Limited as nothing short of scoundrels and shysters. Bearing in mind the Union's numerous attempts to settle these matters amicably — and, in our minds, at a level below what our members actually deserve — it is hard to argue with them.'

Mr Havard said matters could still be resolved by Svitzer approaching the Union with a reasonable and realistic offer of compensation to its members. Until that time, he says: 'I would advise members not to touch this company with a barge-pole.'

Mr Havard stresses that the current relationship between the Union and Scorpio Marine Limited, as demonstrated by the recently-signed industrial agreement covering members serving onboard the Fugro Mercator and Fugro Meridian, is in no way prejudiced by the ongoing dispute between Nautilus UK and Svitzer.