

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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DAVID STRUCK, Individually and On Behalf of All Others Similarly Situated,	)	
	)	
	)	<b>CIVIL ACTION NO.</b>
Plaintiff,	)	
	)	
vs.	)	<b>CLASS ACTION COMPLAINT</b>
	)	
BRITANNIA BULK HOLDINGS INC., ARVID TAGE, FARIYAL KHANBABI, JOHN SINDERS, JENS FEHRN-CHRISTENSEN, SOREN HALSTED, GOLDMAN, SACHS & CO., BANC OF AMERICA SECURITIES LLC, DAHLMAN ROSE & COMPANY, LLC and OPPENHEIMER & CO. INC.,	)	<b><u>JURY TRIAL DEMANDED</u></b>
	)	
	)	
Defendants.	)	
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	)	
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Plaintiff, David Struck ("Plaintiff"), alleges the following based upon the investigation by Plaintiff's counsel, which included, among other things, a review of the defendants' public documents, conference calls and announcements made by defendants, United States Securities and Exchange Commission ("SEC") filings, wire and press releases published by and regarding Britannia Bulk Holdings Inc. ("Britannia Bulk" or the "Company"), securities analysts' reports and advisories about the Company, and information readily available on the Internet, and Plaintiff believes that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

## **NATURE OF THE ACTION AND OVERVIEW**

1. This is a federal class action on behalf of purchasers of the common stock of Britannia Bulk, who purchased or otherwise acquired Britannia Bulk common stock pursuant or traceable to the Company's June 17, 2008 Initial Public Offering (the "IPO" or the "Offering"), seeking to pursue remedies under the Securities Act of 1933 (the "Securities Act").

2. Britannia Bulk is an international provider of drybulk transportation services focusing on transporting drybulk commodities in the Baltic region. Its fleet consists of ships and barges. The Company operates in the Baltic/Continent coal trade, and in areas such as Europe, South America, Far East and Australia, principally in the Handy to Panamax size.

3. On or about June 17, 2008, the Company conducted its IPO. In connection with the IPO, the Company filed a Registration Statement and Prospectus (collectively referred to as the "Registration Statement") with the SEC. The IPO was a financial success for the Company and its underwriters, as they raised \$125 million by selling over 8.33 million shares of the Company's common stock to investors at a price of \$15.00 per share.

4. However, on October 28, 2008 the Company announced that since July 2008, it had bought forward freight agreements ("FFAs") that appeared not to have been purchased to hedge identifiable ship or cargo positions. This was in stark contrast to their stated purpose in the Registration Statement that they were entered into "with an objective of economically hedging the risk of the fleet, specific vessels or freight commitments." This resulted in "the Company being more exposed to falling charter rates and reduced overall demand for dry bulk shipping services than it would have been if its historic practice of using FFAs as economic hedges had been followed."

5. Then, on October 29, 2008, the Company announced that effectively immediately, its common shares would be suspended from trading on the New York Stock Exchange ("NYSE"). Finally, on October 31, 2008, the Company announced that its indirect wholly owned subsidiary, Britannia Bulk Plc, had been placed into administration under United Kingdom insolvency laws.

6. In response to this news, shares of the Company's stock declined \$1.63 per share, or 85.79 percent, to close on October 28, 2008 at \$0.27 per share, on unusually heavy trading volume. This closing price on October 28, 2008 represented a cumulative loss of \$14.73, or over 98 percent, of the value of the Company's shares at the time of its IPO just months prior. Thereafter, the value of the Company's shares continued to decline, trading as low as \$0.01 per share. At the time this Complaint was filed, the Company's shares were trading for about \$0.03 per share.

7. The Complaint alleges that, in connection with the Company's IPO, defendants failed to disclose or indicate the following: (1) that the Company had not instituted or enforced protocols to prevent employees from buying FFAs that were not purchased to hedge identifiable cargo or ship positions; (2) that Company was exposed to considerable risk due to FFAs being used outside of their stated guidelines; (3) that the Company had failed to enter into proper fixed price contracts at a time when crude oil and bunker fuels were experiencing tremendous fluctuation; (4) that the Company lacked adequate internal and financial controls; and (5) that, as a result of the foregoing, the Company's Registration Statement was false and misleading at all relevant times.

8. As a result of defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class Members have suffered

significant losses and damages.

### **JURISDICTION AND VENUE**

9. The claims asserted herein arise under and pursuant to Sections 11, 12(a)(2), and 15 of the Securities Act (15 U.S.C. §§ 77k and 77o).

10. This Court has jurisdiction over the subject matter of this action pursuant to Section 22 of the Securities Act (15 U.S.C. § 77v).

11. Venue is proper in this Judicial District pursuant to Section 22 of the Securities Act. Many of the acts and transactions alleged herein, including the preparation and dissemination of materially false and misleading information, occurred in substantial part in this Judicial District. Additionally, many of the Defendants maintain headquarters located within this Judicial District.

12. In connection with the acts, conduct and other wrongs alleged in this Complaint, defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mails, interstate telephone communications and the facilities of the national securities exchange.

### **PARTIES**

13. Plaintiff, David Struck, as set forth in the accompanying certification, incorporated by reference herein, purchased Britannia Bulk common stock at artificially inflated prices during the Class Period and has been damaged thereby.

14. Defendant Britannia Bulk is a United Kingdom corporation with its principal executive offices located at Dexter House, 2<sup>nd</sup> Floor, 2 Royal Mint Court, London, United Kingdom.

15. Defendant Arvid Tage ("Tage") was, at relevant times, the Company's Chief

Executive Officer ("CEO"), and Chairman of the Company's Board of Directors.

16. Defendant Fariyal Khanbabi ("Khanbabi") was, at relevant times, the Company's Chief Financial Officer ("CFO") and a member of the Board of Directors.

17. Defendant John Sindere ("John Sindere") was, at relevant times, a member of the Company's Board of Directors.

18. Defendant Jens Fehrn-Christensen ("Christensen") was, at relevant times, a member of the Company's Board of Directors.

19. Defendant Soren Halsted ("Halsted") was, at relevant times, a member of the Company's Board of Directors.

20. Defendants Tage, Khanbabi, Sindere, Fehrn-Christensen and Halsted are collectively referred to hereinafter as the "Individual Defendants." The Individual Defendants, because of their positions with the Company, possessed the power and authority to control the contents of Britannia Bulk's quarterly reports, press releases and documents, and presentations to securities analysts, money and portfolio managers and institutional investors, i.e., the market. Each defendant was provided with copies of the Company's reports and press releases and documents alleged herein to be misleading prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them, each of these defendants knew that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public, and that the positive representations which were being made were then materially false and misleading. Each of the Individual Defendants signed or authorized the signing of the Company's Registration Statement. The Individual Defendants are liable for the false statements pleaded herein, as those statements were each "group-published" information,

the result of the collective actions of the Individual Defendants.

21. Defendant Goldman, Sachs & Co. (Goldman Sachs) was an underwriter of the Company's IPO, and served as a financial advisor and assisted in the preparation and dissemination of the Company's IPO materials. Defendant Goldman Sachs's headquarters are located at 85 Broad Street, New York, New York.

22. Defendant Banc of America Securities LLC ("Banc of America") was an underwriter of the Company's IPO, and served as a financial advisor and assisted in the preparation and dissemination of the Company's IPO materials. Defendant Banc of America's headquarters are located at Bank of America Corporate Center, 100 North Tryon Street, Charlotte, North Carolina.

23. Defendant Dahlman Rose & Company ("Dahlman Rose") was an underwriter of the Company's IPO, and served as a financial advisor and assisted in the preparation and dissemination of the Company's IPO materials. Defendant Dahlman Rose's headquarters are located at 142 West 57<sup>th</sup> Street, 18<sup>th</sup> Floor, New York, New York.

24. Defendant Oppenheimer & Co. Inc. ("Oppenheimer") was an underwriter of the Company's IPO, and served as a financial advisor and assisted in the preparation and dissemination of the Company's IPO materials. Defendant Oppenheimer's United States headquarters are located at 125 Broad Street, 14<sup>th</sup> Floor, New York, New York.

25. Defendants Goldman Sachs, Banc of America, Dahlman Rose and Oppenheimer are collectively referred to hereinafter as the "Underwriter Defendants."

## SUBSTANTIVE ALLEGATIONS

### Background

26. Britannia Bulk is an international provider of drybulk transportation services focusing on transporting drybulk commodities in the Baltic region. Its fleet consists of ships and barges. The Company operates in the Baltic/Continent coal trade, and in areas such as Europe, South America, Far East and Australia, principally in the Handy to Panamax size.

27. On or about June 17, 2008 the Company conducted its IPO. In connection with the IPO, the Company filed a Registration Statement and Prospectus (collectively referred to as the "Registration Statement") with the SEC. The IPO was a financial success for the Company and its underwriters, as they raised \$125 million by selling over 8.33 million shares of stock to investors at a price of \$15.00 per share.

### Materially False and Misleading Statements Made in the Registration Statement

28. Regarding the Company's business, the Registration Statement, in relevant part, stated:

To complement our owned fleet, we actively charter-in a significant number of vessels to increase our overall dwt capacity and enhance our service to our customers. As at March 31, 2008, the number of chartered-in drybulk vessels under our control was 45, 11 of which were ice-class. These chartered-in vessels added dwt capacity of 2,197,891, significantly increasing our total fleet of controlled vessels. Revenues from our chartered-in tonnage have grown significantly in the last year as we have expanded our fleet, broker network and customer base. *Furthermore, this growth has been aided by a stronger overall demand in the drybulk shipping market, coupled with strong freight rates and increased trade for the commodities that we transport.* The combination of owning and chartering-in our fleet provides us with the flexibility to capitalize on profitable opportunities.

\* \* \*

We charter some of our vessels to other parties who pay us a daily rate of hire. We also enter into contracts of COAs and voyage charters. In circumstances where we charter-out our vessels, we rely on the ability of time charterers to pay charter hire, especially when rates available in the spot market are less than previously agreed upon time charter rates. Additionally, we enter into drybulk forward freight agreements, or FFAs, as economic hedges relating to identifiable ship or cargo positions and as economic hedges of transactions we expect to carry out in the normal course of our shipping business.

\* \* \*

***We enter into FFAs with an objective of economically hedging the risk of the fleet, specific vessels or freight commitments.***

\* \* \*

To mitigate the risk of such temporary effect, and in light of recent substantial increases in prices for crude oil and, as a result, bunker fuels, we have entered into an agreement in principle for the purchase of a fixed quantity of bunker fuels at a total fixed price of \$47.4 million, to be delivered and paid for over a period ending on May 31, 2009. The contract is designated as a cash flow hedge for accounting purposes and, accordingly, unrealized gains or losses resulting from changes in fuel prices will be recorded in other comprehensive income (loss), a component of stockholders' equity. In the three months ended March 31, 2008 we recorded bunker fuel expenses of \$33.0 million. [Emphasis added.]

29. The statements contained in ¶ 28 were materially false and misleading when made because defendants failed to disclose or indicate the following: (1) that the Company had not instituted or enforced protocols to prevent employees from buying FFAs that were not purchased to hedge identifiable cargo or ship positions; (2) that Company was exposed to considerable risk due to FFAs being used outside of their stated guidelines; (3) that the Company had failed to enter into proper fixed price contracts at a time when crude oil and bunker fuels were experiencing tremendous fluctuation; (4) that the Company lacked adequate internal and financial controls; and (5) that, as a result of the foregoing, the Company's Registration Statement was false and misleading at all relevant times.

30. On August 4, 2008, the Company issued a press release entitled "Britannia Bulk Holdings Inc. Reports Record Results for the Second Quarter and Six-Month Period Ended June 30, 2008." Therein, the Company, in relevant part, stated:

Britannia Bulk Holdings Inc (the "Company"), an international provider of drybulk shipping and maritime logistics services with a focus on transporting drybulk commodities in and out of the Baltic region, announced today its unaudited financial and operating results for the second quarter and six month period ended June 30, 2008.

The Company has also today furnished to the Securities and Exchange Commission under cover of Form 6-K a detailed discussion of the unaudited financial and operational results for the second quarter and six month period ended June 30, 2008.

**Corporate Highlights:**

On June 23, 2008, Britannia Bulk Holdings successfully completed its Initial Public Offering of 8,333,333 shares of common stock raising approximately \$116.3 million in proceeds after underwriting discount. Britannia Bulk Holdings common shares commenced trading on the New York Stock Exchange (NYSE) on June 18, 2008 under the symbol "DWT." The Company used the proceeds to retire existing indebtedness and for general corporate purposes.

**Second Quarter 2008 Financial and Operational Highlights:**

- Revenues increased by 220.9% from the same period last year. Specifically, in the second quarter 2008, the Company had revenue from operations of \$353.9 million and Net Income of \$31.3 million, before a one-time charge for the early extinguishment of its senior secured notes compared to revenues of \$110.3 million and Net Income of \$2.9 million for the same period in 2007. After the onetime charge of \$36.9 million related to the early retirement of its senior secured notes, the Company incurred a Net Loss of \$5.6 million or \$0.28 per share for the second quarter 2008.
- EBITDA for the second quarter 2008 was \$47.9 million compared to \$13.7 million for the same period last year, an increase of 250%. Please refer to a subsequent section of this Press Release for a reconciliation of EBITDA to Net Income.

- The average number of vessels in our controlled fleet, which includes our own vessels as well as those we charter in, increased from 45 in Q2 2007 to 78 in Q2 2008.
- An average of 13 owned vessels were operated earning an average daily TCE rate of \$30,522 compared to 9 vessels earning an average daily TCE rate of \$21,019 during the same period in 2007. Our owned vessel available days increased by 53% to 1,251 in Q2 2008 compared to 817 in Q2 2007.
- An average of 56 vessels were chartered in earning an average daily TCE rate of \$47,385 compared to 28 vessels earning an average daily TCE rate of \$ 26,762 during the same period in 2007. Our chartered in vessel available days increased by 108% to 5,139 in Q2 2008 from 2,465 in Q2 2007.
- Tonnes of cargo shipped during the second quarter 2008 increased by 76.3% to 5,097 tonnes compared to 2,891 tonnes during the same period last year.

**First Six Months 2008 Financial and Operational Highlights:**

- The Company had revenue from operations of \$654.1 million and Net Income before a one- time charge for the early extinguishment of its senior secured notes of \$62.9 million compared to revenues of \$171.6 million and Net Income of \$2.8 million for the same period in 2007. After the one-time charge of \$36.9 million related to the early retirement of its senior secured notes in the second quarter of 2008, Net Income for the first six months of 2008 was \$26.0 million or \$1.35 per share.
- EBITDA for the six months 2008 was \$ 94.4 million compared to \$20.2 million in the same period last year, an increase of 367%. Please refer to a subsequent section of this Press Release for a reconciliation of EBITDA to Net Income.
- The average number of vessels in our controlled fleet increased from 39 in the first six months of 2007 to 75 in the first six months of 2008.
- An average of 21 owned vessels operated during the first six months of 2008 earning an average daily TCE rate of \$28,383 compared to 16 vessels earning an average daily TCE rate of \$19,162 during the same period last year. Our owned vessel available days increased by 74% to 2,418 in the first six months of 2008 compared to 1,389 in the first six months of 2007.

- An average of 54 vessels were chartered in during the first six months of 2008 earning an average daily TCE rate of \$45,234 compared to 23 vessels earning an average daily TCE rate of \$23,647 during the same period last year. Our chartered in vessel available days increased by 136% to 9,777 in the first six months of 2008 from 4,144 in the first six months of 2007.
- Tonnes of cargo shipped during the first six months of 2008 increased by 95.6% to 10,494 tonnes compared to 5,365 tonnes during the same period last year.
- The Company generated cash flow from operations of \$52.0 million at June 30, 2008, an increase from \$11.0 million during the same period of 2007.

#### **Fleet Development:**

- During the first half of 2008, the Company acquired three additional three vessels expanding its owned fleet to a total of thirteen drybulk carriers. Specifically, in January 2008, the Company acquired and took delivery of a specialist self-unloading ice-class Handysize vessel, the Defiant II, built in 1978, for \$5.7 million. In February 2008, the Company acquired and took delivery of two 1995 built, iceclass Handymax vessels, Ice Trader II and Ice Power II, for approximately \$71 million in the aggregate.
- Currently, the Company owns a fleet of 22 vessels comprised of 13 drybulk vessels, five of which are ice-class, five ocean going ice-class barges and four ice-class tugs. In addition, as of June 30, 2008, the Company had chartered in an additional 53 drybulk vessels adding another 2.9 million dwt in capacity.
- On November 8, 2007, the Company entered into agreements for the acquisition of six new-build, ice-class Panamax bulk carrier vessels for \$59.4 million each (\$356.4 million in the aggregate). The Company expects to take delivery of these vessels by June 30, 2009, September 30, 2009, December 31, 2009, March 31, 2010, June 30, 2010 and September 30, 2010, respectively. Upon delivery of these vessels the Company's owned fleet will expand to a total of 28 vessels, including 19 drybulk vessels, eleven of which will be iceclass. Based on the Company's market knowledge there are currently fewer than 10 ice-class Panamax drybulk carriers which are less than 10 years old, and therefore following delivery of these Panamax newbuild vessels, the Company expects to own the largest and most modern fleet of ice class Panamax drybulk vessels in the world. Owning ice class vessels provides the

company with a distinct competitive advantage given its main focus on trade routes in the Baltic region.

**Management Commentary:**

Arvid Tage, Chairman and CEO of Britannia Bulk Holdings commented: "We are pleased to report strong operating results for the second quarter 2008 continuing our track record of profitable growth. We attribute the strong quarter earnings to the increase in demand from our customers for commodities shipped, and an increase in our controlled fleet. Our ability to maximize our profit through a combination of owned and chartered in vessels has allowed us to realize an increase of 221% in revenues and 979% in Net Income before the one-time charge related to the early retirement of our senior secured notes.

In 2008, we have grown significantly and our business profile has diversified. We transport a broad range of cargoes using a variety of owned and chartered in vessels across a number of trade routes. In the second quarter of 2008, our Panamax business grew by 534% to represent 53% of our revenues, while Handymax and Handysize vessels account for 29% and 18% of our revenues respectively.

This underlying growth is also reflected in the broader geographic spread of our trade routes. We have grown our North and South American business routes to 21% of our second quarter 2008 revenues compared to 12% for the same time last year. While coal still represented 45% and 32%, respectively, of the cargo we transported in the second quarter of 2008 and 2007, we significantly increased our shipments of fertilizers, agricultural products such as grain and scrap, among other commodities. Time charters accounted for about 42% and 14% respectively of our revenues in the second quarter of 2008 and 2007, representing the second largest use of our total owned and chartered in capacity after shipments of coal.

Our owned fleet has expanded in 2008 to 13 ships in total following the acquisition of 3 vessels since the beginning of the year. At the same time, our chartered in fleet as of June 30, 2008 increased to 53 vessels in the second quarter of 2008 compared to 28 in the same period last year.

This increase in our year over year number of chartered in vessels is a direct result of our commitment to capitalize on the growing demands of our existing and increasing customer base who require additional services during times of strength in the dry bulk market.

This strategy allows us to adjust our fleet based on market conditions without the need to depend on capital for fleet growth. Going forward, we plan to continue to add to our position of chartered in vessels while at the same time, take advantage of our strong balance sheet, by seeking to enhance our owned fleet through disciplined acquisitions.

The acquisition of the six new-build, ice-class Panamax bulk carrier vessels in due course will further enhance our growth strategy. Upon delivery of these vessels we will increase our leading market position in the ice class segment, which will better serve the needs of our customers who trade in the Baltic region. We believe that our expertise of managing vessels in ice class conditions, and our diversified fleet of owned and chartered in vessels, which allows us to transport cargoes through various trade routes, including smaller ports, creates a competitive advantage.

In closing, the listing of our common shares on the prestigious New York Stock Exchange is a strategic milestone in the long-term development of our company. We believe it will provide us with a significant platform to pursue our growth strategy while at the same time creating attractive returns for our shareholders. Moving forward, we believe that we are strategically positioned to benefit from the strength of drybulk market and the expanding regional trade flows especially in the Baltic region capitalizing on our industry know-how, our strong customer relationships and our commitment to providing our customers with a comprehensive range of transportation and maritime logistics services."

### **The Truth Begins to Emerge**

31. On October 28, 2008, Britannia Bulk issued a press release entitled "Britannia Bulk Holdings Inc. Provides Operational and Financial Update." Therein, the Company, in relevant part, stated:

Britannia Bulk Holdings Inc. (the "Company"), an international provider of dry bulk shipping and maritime logistics services with a focus on transporting dry bulk commodities in and out of the Baltic region, is hereby providing an update on significant financial and operational matters prior to the Company's upcoming release of unaudited financial and operational results for the three month and the nine month periods ended September 30, 2008.

### **Expected Third Quarter 2008 Financial Trends**

While the Company has not yet concluded the review of its financial results for the three months ended September 30, 2008, *the Company expects to announce a significant net loss for the period compared to the net income achieved during the second quarter of 2008. The Company believes that the expected loss will have resulted from the substantial decreases in dry bulk charter rates that occurred during the period, exacerbated by the Company's increase in chartered-in capacity during the same period and its entry into the forward freight agreements ("FFAs") and a bunker fuel hedge more fully described below.*

### **Update on Third Quarter 2008 Operational Difficulties**

Chartered-In Vessels. Historically the Company has chartered-in vessels to increase its overall dead weight tonnage capacity and enhance its service offering to customers. During the three months ended September 30, 2008 the Company increased its chartered-in capacity at a time when the demand for dry bulk shipping capacity decreased significantly. This decrease continued throughout the third quarter of 2008 and dry bulk charter rates fell substantially during the same period. As a result, the charter rates the Company achieved during the three months ended September 30, 2008 for its chartered-in vessels were less than the rates the Company paid to secure many of these vessels, resulting in significant losses.

*Forward Freight Agreements. A Forward Freight Agreement ("FFA") is an agreement to pay the difference between a current price and the future price of moving a product from one location to another, or for the future price of hiring a ship over a period of time. FFAs are used by ship-owners and charterers as means of protecting themselves against the volatility of freight rates. For example, a shipowner would typically sell FFAs to hedge against falling freight rates. Similarly, a charterer would typically buy FFAs to fix shipping costs. Positions in FFAs can be closed out by buying or selling opposing positions.*

*The Company has historically entered into dry bulk FFAs as economic hedges relating to identifiable ship or cargo positions and as economic hedges of transactions expected to be carried out in the normal course of its shipping business.* None of the Company's FFA derivatives qualify for hedge accounting; therefore, the net changes in derivative assets and liabilities are reflected in current period operations. In the past, the Company has entered into FFA contracts to provide a fixed number of theoretical voyages at fixed rates, with such contracts generally ranging from one month to one year and settling monthly based on a published index.

For such contracts, the Company recognizes monthly realized gains or losses from FFAs concurrently with monthly cash settlements. In addition, unrealized gains or losses on the FFAs are recorded in the Company's statement of operations under "gains on forward freight agreements." Entering into FFAs can lead to material fluctuations in the Company's reported net income on a period to period basis.

***Since July 2008, the Company bought FFAs that appear not to have been purchased to hedge identifiable ship or cargo positions. This resulted in the Company being more exposed to the falling charter rates and reduced overall demand for dry bulk shipping services than it would have been if its historic practice of using FFAs as economic hedges had been followed.*** In marking these FFAs to market, the Company expects to recognize a significant realized loss for the three months ended September 30, 2008. Cash settlement of such FFAs is scheduled to commence in the fourth quarter of 2008 and continue into 2009.

***An independent committee of the Company's Board of Directors has resolved to retain an external advisor to assist it in determining how the Company came to enter into these FFAs.***

Bunker Fuel Hedge. If the Company's vessels are time-chartered out to third parties, the charterer pays for the bunker (fuel and oil). In such instance, any inflationary pressure on the cost of bunker fuel does not affect the Company's results of operations. If, however, the Company's vessels are employed under contracts of affreightment ("COAs") or spot charters, the freight rates it receives are generally sensitive to the price of bunker fuel. A rise in bunker costs can sometimes have a negative temporary effect on the Company's results since freight rates generally adjust upwards only after bunker fuel prices settle at a higher level. To mitigate the risk of this temporary effect, and in light of recent substantial movements in the price for bunker fuel, the Company has in the past entered into hedging arrangements whereby it purchased a fixed quantity of bunker fuel, calculated against identifiable COAs, at a fixed price to be delivered over a specified period of time. Bunker fuel hedges are designated as cash flow hedges for accounting purposes and, accordingly, unrealized gains or losses resulting from changes in fuel prices are recorded in other comprehensive income (loss), a component of stockholders' equity.

In the three months ended September 30, 2008, the Company entered into a bunker fuel hedge which is currently uncompetitive because it is hedged to prices which are significantly above the

current market price of bunker fuel. As a result, *the Company currently estimates that its aggregate bunker fuel hedging losses for the three months ended September 30, 2008 will be significant.*

### **Board Discussions with Company Management**

In response to the severe financial difficulties the Company is experiencing, the Board is currently conducting extensive discussions with the Company's management team to identify and implement any necessary changes. While discussions and resulting changes are ongoing, *the Board has recently imposed a number of cash conservation and cost reduction measures on the Company and has limited management's ability to conduct daily sales and purchases and hedging activities, including entering into any new FFAs or bunker fuel hedge arrangements, without specific Board approval.*

### **Engagement of Outside Corporate Advisors**

*The Company has engaged AlixPartners, a leading corporate advisory firm, to assist the Company's management in discussions and negotiations with the Company's lenders and trade counterparties and to address the Company's current financial and liquidity issues.* Representatives of AlixPartners are working with management to immediately implement measures to conserve cash and reduce costs. AlixPartners is expected to have an integral role in helping the Company address key issues with its lenders and trade counterparties.

### **Ongoing Discussions with Secured Term Loan Facility Lenders**

On May 23, 2008, the Company's wholly owned subsidiary, Britannia Bulk Plc, as borrower (the "Borrower"), entered into a US \$170.0 million term loan facility with Lloyds TSB Bank Plc and Nordea Bank Denmark A/S (the "Facility"), which Facility is secured by twenty two vessels in the Company's owned fleet. Approximately US \$158.0 million is currently outstanding under the Facility. The Company has guaranteed the Facility and, pursuant to the terms of the guaranty, the Company is subject to certain financial covenants, including a minimum liquidity covenant. In addition, the Facility contains a collateral cover requirement pursuant to which the Borrower may be required to provide additional collateral or make repayments under the Facility if updated valuations of five of the vessels securing the Facility reflect that the fair market value of such vessels has dropped below

required levels. In addition, such updated valuations will be used in the calculation of certain of the financial covenants.

The Company is not currently in violation of its financial covenants. Although no such violations currently exist, *severe adverse market conditions and the severe financial difficulties currently being experienced by the Company (as well as a revaluation of its fleet) have resulted in a very high risk of a future violation of one or more financial covenants in the near term.* If such violations occur and the Company is unable to cure such violations or obtain waivers within the applicable cure periods to the extent available, such violations will constitute an event of default under the Facility. Similarly, adverse market conditions have resulted in a material risk that the lenders may require additional collateral or repayments of the Facility under the collateral cover requirement. A failure to satisfy such collateral cover requirement or make the required payments within 30 days of request by the lenders to do so will also constitute an event of default under the Facility. Additionally, *the lenders may assert that certain insolvency events or material adverse changes have occurred. The occurrence of such events would also constitute events of default. If an event of default occurs, and the Company believes there is a very high risk of that occurring, the lenders would accelerate the due date for the payment of all of the outstanding indebtedness under the Facility,* exercise remedies as a secured creditor with respect to the vessels and other collateral securing the Facility and offset cash balances on account with the lenders.

*The Company is in discussions with the lenders under the Facility regarding its current severe financial difficulties and the possibility that events of default may occur under the Facility.* There can be no assurance that a resolution of the issues surrounding the Facility will be reached. The Company is considering its alternatives if it is unable to reach an accommodation with the lenders, including liquidation or protection under applicable bankruptcy or insolvency laws.

*In either case (an accommodation with the lenders or a liquidation, administration or bankruptcy), it is unlikely that the Company's shareholders would realize much, if any, value.*

#### **No Payment of Third Quarter Dividend**

*As a result of its current financials, the Company has determined that it will not pay a dividend on its common shares for the quarter ended September 30, 2008.* While the timing and amount

of any future dividend payments will depend on future earnings, financial condition, capital requirements and such other factors as the Board may consider relevant at such future date, ***the Company does not expect to pay a dividend in the foreseeable future.*** [Emphasis added.]

32. Upon the release of this news, shares of the Company's stock declined \$1.63 per share, or 85.79 percent, to close on October 28, 2008 at \$0.27 per share, on unusually heavy trading volume. This closing price on October 28, 2008 represented a cumulative loss of \$14.73, or over 98 percent, of the value of the Company's shares at the time of its IPO just months prior.

33. Then, on October 29, 2008, Britannia Bulk issued a press release which stated, in relevant part:

Britannia Bulk Holdings Inc (the "Company") (NYSE:DWT), an international provider of dry bulk shipping and maritime logistics services with a focus on transporting dry bulk commodities in and out of the Baltic region, today announced that following the Company's press release of October 28, 2008, ***the lenders under the US \$170.00 million term loan facility (the "Facility") of Britannia Bulk Plc, a wholly owned subsidiary of the Company (the "Borrower"), have provided notice to the Borrower of the acceleration of all of its obligations under the Facility and the set off of the Borrower's cash accounts on deposit with one of the lenders.*** The Company has guaranteed the Borrower's obligations under the Facility. The acceleration notice alleges that certain events of default under the Facility have occurred, including material adverse changes in the Borrower's financial condition, and demands immediate repayment of the loan, accrued interest thereon and other amounts due thereon, aggregating approximately US \$158.7 million without taking into account the set off of the Borrower's cash accounts.

Following further discussion with the Company, the lenders have advised the Company that they are prepared, subject to certain conditions, to make funds available to ensure that the vessels securing the Facility continue to operate normally and meet their commitments. Such understanding is in the context of ongoing negotiations with the lenders regarding a sale of certain of the Company's assets, which, if consummated, is not expected to result in any return to the Company's common shareholders. [Emphasis added.]

34. Also on October 29, 2008, the Company issued a press release entitled "Britannia Bulk Holdings Inc – Suspension of Trading on the New York Stock Exchange." Therein, the Company, in relevant part, stated:

**Britannia Bulk Holdings Inc (the "Company") (NYSE:DWT), an international provider of dry bulk shipping and maritime logistics services with a focus on transporting dry bulk commodities in and out of the Baltic region, *hereby announces that NYSE Regulation, Inc. ("NYSE Regulation") informed the Company today that it has determined that the common stock of the Company should be suspended from trading immediately.***

NYSE Regulation informed the Company that it had determined that the Company's common stock is no longer suitable for trading in light of the Company's news announcements on October 28 and 29, 2008. In addition, NYSE Regulation informed the Company that, in reaching its determination, it also considered the "abnormally low" trading level of the Company's common stock, which closed at \$0.27 on October 28, 2008, with a resultant market capitalization of approximately of \$5 million.

Application to the U.S. Securities and Exchange Commission to delist the Company's common stock is pending the completion of applicable procedures and the Company will not contest the determination of NYSE Regulation. In its communication with the Company, NYSE Regulation noted that it may, at any time, suspend a security if it believes that continued dealings in the security on the NYSE are not advisable. [Emphasis added.]

35. Then, on October 31, 2008, the Company issued a press release entitled "Britannia Bulk Holdings Inc. Announces That Its Subsidiary Britannia Bulk Plc Has Been Placed Into Administration." Therein, the Company, in relevant part, stated:

***Britannia Bulk Holdings Inc (the "Company")(NYSE:DWT) hereby announces that its indirect wholly owned subsidiary, Britannia Bulk Plc, has been placed into administration under United Kingdom insolvency laws.***

Britannia Bulk Plc is the borrower (the "Borrower") under a US\$170 million term loan facility with Lloyds TSB Bank Plc and Nordea Bank Denmark A/S (the "Facility"), which Facility is secured by twenty two vessels in the Borrower's owned fleet. The Company guaranteed the Facility. As set forth in the Company's

press release of October 29, 2008, *the lenders under the Facility provided notice to the Borrower of the acceleration of all of its obligations under the Facility and set off the Borrower's cash accounts on deposit with one of the lenders.*

The discussions that ensued with the lenders under the Facility regarding a sale of certain of the Borrower's assets were ultimately unsuccessful. Accordingly, *the board of directors of the Borrower resolved to place the Borrower into administration under the UK insolvency regime* and, by filing a notice of appointment of administrators at the High Court in London earlier this afternoon, appointed partners of BDO Stoy Hayward in London to be the administrators of the Borrower.

*With the Borrower in administration, the Company will not have access to cash to pay any obligations and expects that its common shares will have no value.* As previously announced, on October 29, 2008, NYSE Regulation, Inc. informed the Company that it had determined that the Company's common stock was no longer suitable for trading, a determination that the Company will not contest. [Emphasis added.]

36. At the time this Complaint was filed, the Company's shares were trading for about \$0.03 per share.

#### **PLAINTIFF'S CLASS ACTION ALLEGATIONS**

37. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise acquired Britannia Bulk's common stock pursuant or traceable to the Company's June 17, 2008 IPO, and who were damaged thereby (the "Class"). Excluded from the Class are defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which defendants have or had a controlling interest.

38. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Britannia Bulk's common stock actively traded on the NYSE. While the exact number of Class members is unknown to Plaintiff at this time and

can only be ascertained through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by Britannia Bulk or its transfer agent, and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

39. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by defendants' wrongful conduct in violation of federal law that is complained of herein.

40. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

41. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- (a) whether the federal securities laws were violated by defendants' acts as alleged herein;
- (b) whether statements made by defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of Britannia Bulk; and
- (c) to what extent the members of the Class have sustained damages and the proper measure of damages.

42. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and

burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

### **UNDISCLOSED ADVERSE FACTS**

43. The market for Britannia Bulk's common stock was open, well-developed and efficient at all relevant times. As a result of these materially false and misleading statements and failures to disclose, Britannia Bulk's common stock traded at artificially inflated prices during the Class Period. Plaintiff and other members of the Class purchased or otherwise acquired Britannia Bulk's common stock relying upon the integrity of the market price of Britannia Bulk's common stock and market information relating to Britannia Bulk, and have been damaged thereby.

44. During the Class Period, defendants materially misled the investing public, thereby inflating the price of Britannia Bulk's common stock, by publicly issuing false and misleading statements and omitting to disclose material facts necessary to make defendants' statements, as set forth herein, not false and misleading. Said statements and omissions were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about the Company, its business and operations, as alleged herein.

45. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, defendants made or caused to be made a series of materially false or misleading statements about Britannia Bulk's financial well-being, business prospects, and operations. These material misstatements and omissions had the cause and effect of creating in the market an

unrealistically positive assessment of Britannia Bulk and its financial well-being, business prospects, and operations, thus causing the Company's common stock to be overvalued and artificially inflated at all relevant times. Defendants' materially false and misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's common stock at artificially inflated prices, thus causing the damages complained of herein.

### **LOSS CAUSATION**

46. Defendants' wrongful conduct, as alleged herein, directly and proximately caused the economic loss suffered by Plaintiff and the Class.

47. During the Class Period, Plaintiff and the Class purchased common stock of Britannia Bulk at artificially inflated prices and were damaged thereby. The price of Britannia Bulk's common stock significantly declined when the misrepresentations made to the market, and/or the information alleged herein to have been concealed from the market, and/or the effects thereof, were revealed, causing investors' losses.

### **Applicability of Presumption of Reliance: Fraud On The Market Doctrine**

48. At all relevant times, the market for Britannia Bulk's common stock was an efficient market for the following reasons, among others:

- (a) Britannia Bulk stock met the requirements for listing, and was listed and actively traded on the NYSE, a highly efficient and automated market;
- (b) As a regulated issuer, Britannia Bulk filed periodic public reports with the SEC and the NYSE;
- (c) Britannia Bulk regularly communicated with public investors via established market communication mechanisms, including through regular

disseminations of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and

- (d) Britannia Bulk was followed by several securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

49. As a result of the foregoing, the market for Britannia Bulk's common stock promptly digested current information regarding Britannia Bulk from all publicly-available sources and reflected such information in Britannia Bulk's stock price. Under these circumstances, all purchasers of Britannia Bulk's common stock during the Class Period suffered similar injury through their purchase of the Company's common stock at artificially inflated prices and a presumption of reliance applies.

#### **NO SAFE HARBOR**

50. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this Complaint. Many of the specific statements pleaded herein were not identified as "forward-looking statements" when made. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements pleaded

herein, defendants are liable for those false forward-looking statements, because at the time each of those forward-looking statements was made, the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of Britannia Bulk who knew that those statements were false when made.

**FIRST CLAIM**  
**Violation of Section 11 of**  
**The Securities Act Against All Defendants**

51. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein only to the extent, however, that such allegations do not allege fraud, scienter or the intent of the defendants to defraud Plaintiff or members of the Class. This count is predicated upon defendants' strict liability for making false and materially misleading statements in the Registration Statement.

52. This claim is asserted by Plaintiff against all defendants by, and on behalf of, persons who acquired shares of the Company's common stock pursuant to or traceable to the false Registration Statement issued in connection with the June 17, 2008 IPO.

53. The Individual Defendants, as signatories of the Registration Statement, as directors and/or officers of Britannia Bulk and controlling persons of the issuer, owed to the holders of the stock obtained through the Registration Statement the duty to make a reasonable and diligent investigation of the statements contained in the Registration Statement at the time they became effective to ensure that such statements were true and correct, and that there was no omission of material facts required to be stated in order to make the statements contained therein not misleading. The defendants knew, or in the exercise of reasonable care should have known, of the material misstatements and omissions contained in or omitted from the Registration

Statement as set forth herein. As such, defendants are liable to the Class.

54. The Underwriter Defendants owed to the holders of the stock obtained through the Registration Statement the duty to make a reasonable and diligent investigation of the statements contained in the Registration Statement at the time they became effective to ensure that such statements were true and correct and that there was no omission of material facts required to be stated in order to make the statements contained therein not misleading. Defendants knew, or in the exercise of reasonable care should have known, of the material misstatements and omissions contained in or omitted from the Registration Statement as set forth herein. As such, defendants are liable to the Class.

55. None of the defendants made a reasonable investigation or possessed reasonable grounds for the belief that the statements contained in the Registration Statement were true or that there was no omission of material facts necessary to make the statements made therein not misleading.

56. The defendants issued and disseminated, caused to be issued and disseminated, and participated in the issuance and dissemination of, material misstatements to the investing public which were contained in the Registration Statement, which misrepresented or failed to disclose, *inter alia*, the facts set forth above. By reason of the conduct herein alleged, each defendant violated and/or controlled a person who violated Section 11 of the Securities Act.

57. As a direct and proximate result of defendants' acts and omissions in violation of the Securities Act, the market price of Britannia Bulk's common stock sold in the IPO was artificially inflated, and Plaintiff and the Class suffered substantial damage in connection with their ownership of Britannia Bulk's common stock pursuant to the Registration Statement.

58. Britannia Bulk is the issuer of the stock sold via the Registration Statement. As

issuer of the stock, the Company is strictly liable to Plaintiff and the Class for the material misstatements and omissions therein.

59. At the times they obtained their shares of Britannia Bulk, Plaintiff and members of the Class did so without knowledge of the facts concerning the misstatements or omissions alleged herein.

60. This action is brought within one year after discovery of the untrue statements and omissions in and from the Registration Statement which should have been made through the exercise of reasonable diligence, and within three years of the effective date of the Prospectus.

61. By virtue of the foregoing, Plaintiff and the other members of the Class are entitled to damages under Section 11 as measured by the provisions of Section 11(e), from the defendants and each of them, jointly and severally.

**SECOND CLAIM**  
**Violation of Section 12(a)(2) of**  
**The Securities Act Against All Defendants**

62. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

63. This Count is brought pursuant to Section 12(a)(2) of the Securities Act on behalf of the Class, against all defendants.

64. The defendants were sellers, offerors, and/or solicitors of purchasers of the shares offered pursuant to the Britannia Bulk Offering Registration Statement.

65. The Britannia Bulk IPO Registration Statement contained untrue statements of material facts, omitted to state other facts necessary to make the statements made not misleading, and concealed and failed to disclose material facts. The Individual Defendants' actions of solicitation included participating in the preparation of the false the misleading Registration

Statement.

66. The defendants owed to the purchasers of Britannia Bulk's common stock, including Plaintiff and other members of the Class, the duty to make a reasonable and diligent investigation of the statements contained in the IPO materials, including the Registration Statement, to ensure that such statements were true and that there was no omission to state a material fact required to be stated in order to make the statements contained therein not misleading. Defendants knew of, or in the exercise of reasonable care should have known of, the misstatements and omissions contained in the IPO materials as set forth above.

67. Plaintiff and other members of the Class purchased or otherwise acquired Britannia Bulk's common stock pursuant to and/or traceable to the defective Registration Statement. Plaintiff did not know, or in the exercise of reasonable diligence could not have known, of the untruths and omissions contained in the Registration Statement.

68. Plaintiff, individually and representatively, hereby offer to tender to defendants that common stock which Plaintiff and other Class members continue to own, on behalf of all members of the Class who continue to own such common stock, in return for the consideration paid for that common stock together with interest thereon. Class members who have sold their Britannia Bulk common stock are entitled to rescissory damages.

69. By reason of the conduct alleged herein, these defendants violated, and/or controlled a person who violated Section 12(a)(2) of the Securities Act. Accordingly, Plaintiff and members of the Class who hold Britannia Bulk common stock purchased in the IPO have the right to rescind and recover the consideration paid for their Britannia Bulk common stock, and hereby elect to rescind and tender their Britannia Bulk common stock to the defendants sued herein. Plaintiff and Class members who have sold their Britannia Bulk common stock are

entitled to rescissory damages.

70. This action is brought within three years from the time that the common stock upon which this Count is brought was sold to the public, and within one year from the time when Plaintiff discovered or reasonably could have discovered the facts upon which this Count is based.

**THIRD CLAIM**  
**Violation of Section 15 of The Securities Act**  
**Against the Individual Defendants**

71. Plaintiff repeats and realleges each and every allegation contained above, excluding all allegations above that contain facts necessary to prove any elements not required to state a Section 15 claim, including without limitation, scienter.

72. This count is asserted against Individual Defendants and is based upon Section 15 of the Securities Act.

73. The Individual Defendants, by virtue of their offices, directorship and specific acts were, at the time of the wrongs alleged herein and as set forth herein, controlling persons of Britannia Bulk within the meaning of Section 15 of the Securities Act. The Individual Defendants had the power and influence and exercised the same to cause Britannia Bulk to engage in the acts described herein.

74. The Individual Defendants' position made them privy to and provided them with actual knowledge of the material facts concealed from Plaintiff and the Class.

75. By virtue of the conduct alleged herein, the Individual Defendants are liable for the aforesaid wrongful conduct and are liable to Plaintiff and the Class for damages suffered.

**WHEREFORE**, Plaintiff prays for relief and judgment, as follows:

- (a) Determining that this action is a proper class action under Rule 23 of the

Federal Rules of Civil Procedure;

- (b) Awarding compensatory damages in favor of Plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
- (c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
- (d) Such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.

Dated: November 19, 2008

Respectfully submitted,

By: \_\_\_\_\_

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