

Betreff: Re: Stormvogel - Norsand

Von: Peter Wiedekamm <peter@wiedekamm.com>

Datum: 01.03.2015, 03:26

An: Gerry Lindberg - Argos Marine Survey <argos@clear.net.nz>, reception@hendersonreeves.co.nz

Hello Gerry,

thank you very much for this.

At the end, in this situation, there is only a "qualified opinion" possible, I believe.

Of course, nobody knows what happens exactly. But we sailed 18.000 miles from Europe to New Zealand and nothing breaks and no nuts comes loose. Than NORSAND worked on it and 1.000 miles later it fatally breaks.

NORSAND got the job to improve the construction. Without time or budget constrains. They said, they did the job and they where paid for that.

So even if the keyway / shaft causes the problem with the loose nuts - NORSAND failed as they did not do the job properly as they maybe did not check this part.

During Christmas 2014 we visited our insurance company PANTAENIUS to discuss this case. As you remember, they recommend you as NZ based surveyor. And, in the meantime, they committed to take over all cost for the lawyer and your survey work. This commitment is unusual, but very welcome. And it is a strong signal as they also believe that NORSAND failed.

I understood you all the time that you also think that there is a correlation between NORSAND work and the fatal break. I'm sure that you can find one or two sentences which formulates this qualified opinion.

Other way around:

NORSAND still simply said that they have absolute nothing to do with our MAYDAY situation and they dont know what we are talking about.

Do you believe that after reading all the documents and look at the pictures?

Again, thank you for your support,

Best,

Peter.

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Am 27.02.2015 um 10:02 schrieb Gerry Lindberg - Argos Marine Survey:

[FAO Ms. Arla Kerr](#)

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Dear Ms. Kerr,

Peter Wiedekamm has asked me to respond to your email below.

The obvious difficulty with this case is that there is no yacht or failed parts available to inspect. Therefore, one might say, and the opposition may well do so, my observations are all speculation, which is not a surveyor's usual stock-in-trade.

I cannot claim to know with certainty what occurred and any attempt to do so would quite rightly be ridiculed, but in both the email of 22 January you refer to, and in the extract copied below from my letter to Peter, I have expressed an opinion outlining what I believe to be the most likely sequence of events. I believe there is consistency between these two references.

Best regards

Gerry Lindberg

Engineer Surveyor

027 292 0468

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www.argosmarinesurvey.co.nz

From: Peter Wiedekamm [mailto:peter@wiedekamm.com]

Sent: 25 February 2015 17:45

To: argos@clear.net.nz >> Gerry Lindberg - Argos Marine Survey

Cc: Arla Kerr

Subject: Re: Stormvogel - Norsand

Hello Gerry,

our lawyer comes back to us with the question of adding some sentences to your "owners letter".

As we do not have good internet access here in THAILAND and I do not like to delay the process, please get in touch with ARLA KERR (contact details see below) to discuss and make the additional comment. Please send the new version also directly to them, in copy to me.

Of course I will cover any additional cost/money for that. Please let me know.

Thank you very much in advance,

Peter Wiedekamm / SY STORMVOGEL

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Am 20.02.2015 um 10:36 schrieb Arla Kerr:

Dear Peter and Heidi

I am one of Jeremy's colleagues. He has asked me to help him on your matter.

As per your instructions we have been considering a letter in response to Matthew Flynn. We think it would strengthen your claim to also provide the report from Gerry Lindberg. We think it would be helpful to have Mr Lindberg amend his report, to also include some of the points he makes in his covering email (dated 22 January). One of the key points appears to be whether the nuts came loose on their own accord (because of the pivot shaft's poor fit), or because of not being secured properly (by Norsand). He confirms the latter view in his email, but not in his report.

Are you happy for me to get in touch with Mr Lindberg and ask him to amend his report?

Kind regards

Arla Kerr

Senior Solicitor



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From: Gerry Lindberg - Argos Marine Survey [<mailto:argos@clear.net.nz>]

Sent: 22 January 2015 20:03

To: 'peter@wiedekamm.com'

Subject: RE: Support survey

Dear Mr. Wiedekamm,

Thank you for your responses. I particularly wanted to know the keel material because the only possible reasons the assembly can have come apart as it did are that :-

- a) the nut (or nuts - see letter attached) were not secured properly; or,
- b) the nuts were tight to start with but the pivot shaft was a poor fit in the taper bore of the keel and rattled the nuts loose in time.

Since you have confirmed the keel is aluminium and therefore much softer than the shaft I believe the former is the more likely explanation and that the poor fit of the shaft taper, as found in Cairns, was a result and not a cause of the incident.

Of course, none of this is absolutely provable either way, but since civil court judgements are made on the balance of probabilities, it will come down to which side presents the most plausible case. Therefore I have presented what I think is an unassailable technical argument detailing the sequence of events most likely to have occurred.

Whether Norsand did or did not remove the shaft is irrelevant so I have not tried to prove one way or the other. The fact is there is photographic evidence that they disconnected the bearing assembly at both ends and therein lies the source of the trouble.

If they did take the shaft out, one could assume they would or should have noticed if the tapers were a poor fit.

I had independently come to the view that the nuts should be locked together for security so I am pleased to see that this was done in Cairns. Locktite is one option but can be very hard to dismantle when required (and is not totally foolproof). A small screwed in pin, preferably through both nuts, or at least part way into the lower nut, is a much better option.

As to how to proceed from here, I am not sure how the District Court will handle the case in your absence from New Zealand – I am assuming you are back in Germany and not intending to come back for a hearing. If you have not already seen the information on the website below :-

<http://www.communitylaw.org.nz/community-law-manual/chapter-13-disputes-tribunal/introduction/>

... you will see that normally cases are presented by the parties themselves – lawyers are not allowed to be present. The two options open to you if you are not available seem to be to appoint a representative (who may not be a lawyer and possibly not a witness either – assuming you may require me to appear as a witness); or to present the case yourself by teleconference. Your lawyer may know which will apply, or you can seek advice direct from the Court.

As before, without knowing exactly what you may need me to do, it is difficult to put a time estimate on it. It may be that you already have enough to support your case. To clarify costs for my ongoing services, this would be at the previously quoted rate + expenses for travel etc. as applicable.

I should mention finally that hitherto I have had a good working relationship with Norsand. My observation over the years is that they generally do a good job and are honest. You will understand from that, that my involvement in this case puts me in a slightly difficult position. Naturally I would not wish to jeopardise that relationship, but I realise that may well be the outcome of expressing an honest opinion that happens not to be in their favour. That just goes with the territory as a surveyor; but I am looking for ways of damage limitation if there are any.

Best regards

Gerry Lindberg

Engineer Surveyor

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Extract , Para 1, Pg 3 of 'Letter to Owner' of 22 January 2015:

In the absence of parts to physically examine it is difficult to assign an absolute cause to the failure of the sealing system; however, after a careful study of all the documentation I consider that proximate cause and the most likely sequence of events, is that the nut or nuts under the aluminium cap on the port side of the pivot shaft came loose. This allowed the pivot shaft to move to starboard and in so doing the taper contact released, aided by lateral movement of the swing keel as the vessel rolled. The sides of the keyways would be likely to flog the key under these circumstances and cause some or all of the damage noted at S3.9 of the survey report. Similarly, the taper bore in the aluminium keel would be expected to be flogged by repeated impact against the harder material of the steel pivot pin, as had reportedly occurred when the tapers were tested with engineers' blue in Cairns to check the mating contact area.



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