



## **Incomplete disclosure regarding refunds with respect to ship funds MT "Margara?" - Capital market law**

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Dusseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London - [www.grprainer.com/en](http://www.grprainer.com/en) conclude: In the instant case, the claimant took a share in the shipping company MT "Margara?" GmbH & Co. KG in the amount of 50,000.00 euros after a consultation with his bank. During the consultation discussions, the bank and the investor agreed to reduce the usual premium of 5% to 1%. In the course of doing so, however, the bank did not clarify that in the event of the investment in issue being brokered it would receive a refund of 18%. In this connection, advisors are obliged as a matter of principle to disclose flowing refunds, also referred to as "kick-backs?". A lack of disclosure leads to erroneous investment advice, which can justify claims for damages.

This was stated by the Regional Court (LG) of Hamburg in its judgment (Az.: 302 O 356/12). It is of considerable importance for the decision to invest to provide information about "kick-backs?". If the investor is not informed about this, he is not able to assess whether the bank has delivered an impartial recommendation or is pursuing its own financial motives. Moreover, in light of the agreement with respect to the reduced premium, the claimant could assume that an additional, higher commission would not arise. This also results in the prescription of claims not occurring.

In the course of a consultation discussion, banks and investment intermediaries are subject to several duties to disclose and inform. Should a breach of these duties arise during the consultation discussion, investors could as a result be entitled to claims for damages. What is essential for the investor above all is that he is comprehensively informed about any existing risks. He must therefore always be given investor and issue specific advice. This means, on the one hand, the client's objectives and state of knowledge are factored into the investment recommendation and, on the other hand, all relevant circumstances concerning the investment are disclosed to the client.

Aggrieved parties also should not simply accept an incomplete disclosure of refunds. It is therefore advisable to turn to a lawyer versed in capital market law. He can examine on a case-by-case basis what claims the investors are entitled to and assist in enforcing these.

<http://www.grprainer.com/Schiffsfonds.html>

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Anlage: Bild

