Ankenævnet for Forsikring

Den 6. december 2017 blev i sag nr. 90896:

xxxxxxxxxxxxxxxxxxxx
xxxxxxxxxxxxxxx
xxxxxxxxxxxxxxx

mod

Alpha Insurance A/S
Sundkrogsgade 21
2100 København Ø

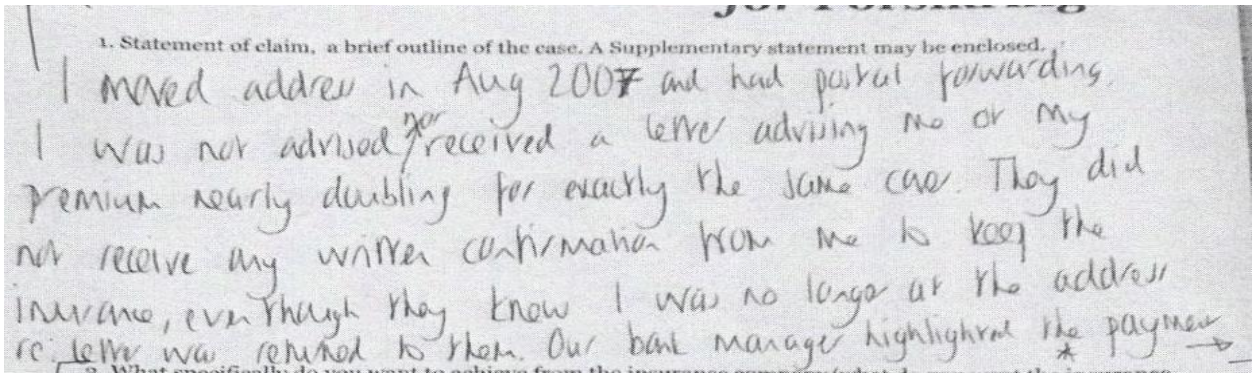
afsagt

k e n d e l s e :

Forsikringstageren har en såkaldt "Mortgage Payment Protection" forsikring i Alpha Insurance A/S. Han klager over, at forsikringen i 2009 er overført til selskabet, og at præmien på forsikringen er blevet forhøjet uden hans vidende eller accept. Han kræver tilbagebetaling af indbetalt præmie fra tegningen af forsikringen og indtil opsigelsen i november 2016.

Selskabet har anført, at forsikringsaftalen er gyldigt indgået, og at klageren har været i dækning i perioden, hvor der er betalt præmie.

I klageskemaet af 24/7 2017 til nævnet har klageren blandt andet anført:

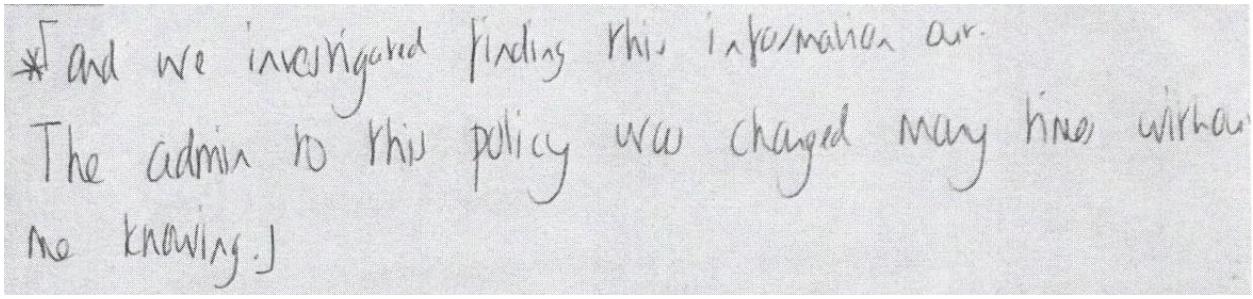


1. Statement of claim, a brief outline of the case. A Supplementary statement may be enclosed.

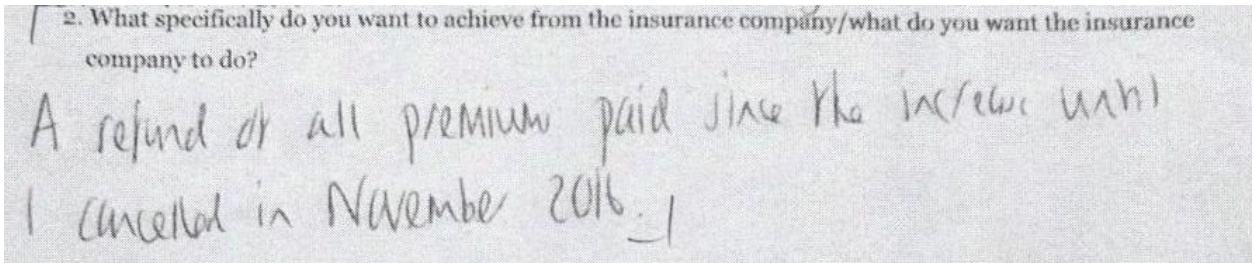
I moved addres in Aug 2007 and had postal forwarding
I was not advised/received a letter advising me of my
premium nearly doubling for exactly the same cover. They did
not receive any written confirmation from me to keep the
insurance, even though they know I was no longer at the addres
re: letter was remited to them. Our bank manager highlighted the payme

…

2. 90896



…



Selskabet har i brev af 14/8 2017 til nævnet blandt andet oplyst:

> "[Klageren] took out a Mortgage Payment Protection insurance policy in July of 2007 by personally accessing the website of [forsikringsmægler]. In connection with his complaint raised in January 2017, [klageren] contacted [forsikringsmægler] and was asked by them to complete a standard 'Payment protection insurance: consumer questionnaire' (Attachment 1) so that they could investigate further. In that questionnaire, amongst other things, [klageren] confirms his current postal address on Page 1, he indicates on Page 7 that his employment at the time he took out the policy was '…' and on Page 10, he comments on the benefits he enjoys/has enjoyed in connection with his employment since 1996.
>
> [Forsikringsmægler] sent a reply to [klagerens] complaint, which he had initially raised against them, on 26th January 2017 (Attachment 2). In that letter, they confirm the following matters that are of relevance:
>
> 1. [Forsikringsmægler] is a broker not an insurer.
> 2. [Klageren] made the original application himself on-line and received no advice or recommendations in that connection.
> 3. Even though [klageren] had other, similar insurance in place, if a claim had been made under this policy, benefit would have been payable to [klageren], subject to policy terms and conditions.
>
> It was therefore not for [forsikringsmægler] to investigate whether [klageren] believed that he needed this policy back in 2007, that was a matter for him to decide for himself.
>
> In connection with his policy, [klageren] entered into an agreement with his bank to pay the monthly premiums by standing order and premium payments have been made since then, in a timely manner, each month until the policy was cancelled in November 2016.
>
> In April of 2009, [klageren] was advised by [forsikringsmægler] by letter of important changes to his insurance policy (Attachment 3). The information provided introduced Alpha Insurance A/S (Alpha) to [klageren] and advised of an increase in premium. [Klageren] was given 30 days notice of the change before Alpha became his insurer and the first premium payment to Alpha was due in June 2009. That letter was sent to the ad-

dress that [klageren] had advised [forsikringsmægler] of when he took out the policy in July 2007. A further letter enclosing his policy schedule and policy terms and conditions was sent out by [forsikringsmægler] in June of 2009 (Attachments 4&5)

In his complaint [klageren] seems to be claiming that these letters from April and June 2009 never reached him. In his e-mail of 9th January 2007 to [forsikringsmægler] [klageren] writes that he changed address on loth August 2007 and that he had an official postal forwarding with the [postselskab] for one year after moving and for a further two years through an informal arrangement with the new owners. In his further e-mail to [forsikringsmægler] of 12th February 2017, [klageren] writes that he moved house on 20th August 2008. In that second e-mail he advises that he had mail forwarding arranged for two years from the later date and that he did not receive any policy renewals (Attachment 6).

It is unclear which is the actual date [klageren] changed address. Nevertheless, the [forsikringsmægler] letters sent out in April and June of 2009 were not returned and are therefore assumed to have been received by [klageren]. The premium increase notified in the April letter was quite significant and, regardless of whether or not the letter was received, it is logically that [klageren] could have been expected to notice and, if relevant, remark upon at that time or shortly thereafter.

Further premium changes have occurred over the intervening years, due to increases in insurance premium taxes imposed by the U.K. tax authority, yet we note that it was only in November of 2016 that [klageren], who in the complaints form indicates his occupation to be a '…', took action to cancel the policy and has subsequently lodged a complaint seeking a return of premiums paid.

The position of Alpha has been stated on our behalf by our policy administrators, Trent-Services (Administration) Ltd. in their final response letter to [klageren] dated loth March 2017 (Attachment 7). It is admitted that from January of 2010, they were aware that [klageren] had changed address, but they were not in possession of his new address details and therefore the annual policy updates continued to be sent out to his original address.

In Denmark, where individuals are identified by individual personal numbers, it is possible to trace someone's official registered address. This is not the case in [udlandet] and it is incumbent upon the policyholder to keep his insurers advised of current contact details. [klageren] must have been aware that annual reviews are sent out on insurance policies of this nature and that he was therefore missing these documents but, as long as he continued to pay the monthly premiums, we could not know that there was any problem.

In the policy terms and conditions (Attachment 5) under 13. General Conditions & Cancellation, amongst other things, the following is written:

...If **You** cancel the policy no further **Premium** will be collected and no refund of **Premium** will be made...
Cancellations will not be backdated for any reason...

[Klageren] cancelled the policy in November of 2016 and from June 2009 up to that date he has enjoyed coverage under the insurance policy. Therefore, we maintain that no refund of premium is due from or payable by Alpha"

Klageren har i mail af 29/8 2017 til nævnet blandt andet bemærket:

> "At least one key letter was returned that was sent to my previous address as was highlighted in one of their response emails, including an image.
>
> My email and mobile has remained the same since 1997 so, as they admitted, they realised I was no longer residing at that address by January 2010 and they state there was no way of contacting me, but they did have both my email and mobile on file, so could have contacted me.
>
> They admitted that the increase of premium was high, which was nearly double from the amount that I agreed.
>
> They state that there was no way of contacting me but as highlighted they could have reached me by either my mobile or email which I have had the same since 1997.
>
> If they are at fault then a refund should be due.
>
> The Administration company has changed many times without my knowledge and there is confusion between one company to the next and have been hesitant in their responses, and trying to blame each other when I was trying to get answers, hence the amount of emails that were sent / received.
>
> I hope that the Insurance Complaints Board will receive all the correspondence I have sent / received and not the brief details they have submitted.
>
> I cannot believe that an insurance company can nearly double the premium for the same cover without written confirmation from the client"

Af klagerens mail af 3/9 2017 til nævnet fremgår det blandt andet:

> "Further to my correspondence relating to the above file number, please see attached a copy of the policy documentation that I received in 2007. I received the original documentation via email and when they were aware that 'the addressee had gone away' why did they not contact me via email which has not changed since 1996/1997"

Selskabet har i brev af 18/9 2017 til nævnet blandt andet anført:

> "[Klageren] has made the following comments:
>
> 1. At least one key letter was returned that was sent to the previous address and Alpha could have contacted him either by e-mail or mobile phone.
> 2. An e-mail containing policy documentation was sent in 2007 to [klageren].
> 3. The premium increase was high and nearly double from the amount that [klageren] originally agreed.
> 4. The administration company changed many times, without [klagerens] knowledge.
>
> I will answer the questions in order:
>
> 1. In 2010, when [klageren] had changed his address, the custom of our administrators was only to write to policyholders at their last known address, as per the terms & conditions section 13, line 14 (see attached). Therefore, we did not seek to write an

e-mail or try to contact the policyholder via telephone, as this was not our procedure at that time and we had no reason to make contact with him, while premiums continued to be paid. He had the contact details for our administrators, if he needed to make contact with us.

As indicated in Section 2 of the terms and conditions, the policy concerned 'will automatically renew each month' unless [klageren] chose to cancel or stop paying premiums. He did neither of these and therefore his continued payment of the monthly premiums ensured that his policy remained in force, until he chose to cancel in November of 2016. Also in accordance with the policy terms and conditions section 13 line 19: 'Cancellations will not be backdated for any reason.'

Moreover, in lines 11 and 12 of the same section, the following is written: 'If **You** cancel the policy ... no refund of **Premium** will be made.'

2. In 2007 [forsikringsmægler] e-mailed a confirmation of the Mortgage Protection policy to [klageren]. At that time [forsikringsmægler] worked as an agent of another insurer, … Alpha's administrators' method of contacting policyholders was different, by writing to their last known address. Use of e-mail and mobile phone nos. has been implemented only recently and we would not have had [klagerens] current contact details on file.

3. In a letter of April 2009, [klageren] was advised by [forsikringsmægler] by letter of important changes to his insurance policy. The information provided advised, among other things, of an increase in premium and the reasons. [Klageren] was given 30 days notice of the change before Alpha became his insurer. The premium increase notified in the April letter was significant and, regardless of whether or not the letter was received, [klageren] could have been expected to notice the increase in his regular bank statements.

4. In June 2009 Alpha Insurance took on the risk of all existing policyholders in [forsikringsmægler] and [klageren] was advised of this by the letter of 28th April 2009. Since then Alpha has been the insurers of [klagerens] Mortgage protection policy. The change in administrators has had no relevance to the coverage provided, however, it did result in a change in the name of the company processing payment, which we would also have expected to be something he noticed in his bank statements. [Klageren] could have taken steps to investigate at any time during the period of coverage from June 2009 – November 2016, if he was in any doubt."

I brev af 28/4 2009 fra klagerens forsikringsmægler til klageren er det blandt andet oplyst:

"As you know, we at [forsikringsmægler] pride ourselves on delivering the best products and service at an affordable cost. To ensure this, we are constantly reviewing our providers to ensure that the policies we offer give excellent cover whilst still demonstrating good value for money. During this review we were informed that the current provider of your insurance policy felt it necessary to implement a very large price rise in June due to the continuing economic downturn.

Given this situation we felt that we should seek an alternative insurer with a view to keeping any price increase to a minimum and ensuring that our products still represented excellent value in the marketplace.

Change of Insurer
We are pleased to inform you that we have joined forces with a premier insurer in the form of Alpha Insurance A/S, to offer you continued cover with no changes to your existing terms and conditions. These changes are being taken to ensure you continue to receive excellent customer service and cover at a time when the economic outlook is less certain. Should you need to contact Alpha Insurance A/S for any reason you can do so by writing to the Customer Liaison Manager at Alpha Insurance A/S, [selskabets addresse i udlandet].

Changes to Policy Wording and Cover Provided
No terms, conditions or wording of your policy has been changed. Please review your policy to ensure that cover provided meets your needs and requirements, as we do not provide any recommendations or advice as to its suitability. If however you do not want your policy, or your personal details to be transferred to Alpha Insurance A/S, then please email … or phone … within 30 days of the date of this letter.

Change of Administrator
[Forsikringsadministrator 1] is the appointed agent of Alpha Insurance A/S for the purposes of collecting premiums, refunding premiums and managing and paying claims under this policy and will take over the administration of your policy at the same time as the change of underwriter. Please note that if, for any reason, your premiums are not up to date, then arrears will be collected as part of the transfer process. [Forsikringsadministrator 1] is registered in [udlandet] Number …
…
Premiums and Direct Debit Collection
Unfortunately, given the current market, it has not been possible to totally avoid an increase in your monthly premium which will increase to £86.97 from June 2009 onwards, but we feel this is a small price to pay for a policy which offers all the quality you expect from us and will continue to provide a valuable safety net in this time of economic uncertainty.

As your premium is currently paid in monthly installments by direct debit, payments will continue to be collected automatically. You do not need to take any action. Please note that the Originator Identification Number will been changed to … in the name of [forsikringsadministrator 1] and this will be the name appearing on your bank statement. The standard direct debit guarantee will continue to apply; a copy of which can be made available upon request.

Finally we hope you are happy with the service you have received from [forsikringsmægler], and look forward to providing protection for you and your family in the years to come, but if you have any queries please do not hesitate to contact us on …"

Nævnet er blevet forelagt breve af 21/3 2011, 16/4 2012, og 12/4 2013 fra forsikringsmægleren til klageren. Brevene er alle adresseret til klagerens tidligere adresse, og indeholder oplysninger om, at hans police er blevet fornyet for yderligere 12 måneder.

I brev af 9/4 2014 fra forsikringsmægleren til klageren orienteres der om den årlige fornyelse. I den vedlagte oversigt er det oplyst, at den årlige præmie i det foregående år var £86.97. Brevet er adresseret til klagerens tidligere adresse.

Ved tre breve af 13/5 2015 til klageren fremsendte forsikringsmægleren oplysninger om henholdsvis ændringer (forbedringer) til forsikringen. Videre var det oplyst, at den årlige præmie i det foregående år var £86.97. Brevet er adresseret til klagerens tidligere adresse.

Klageren har i en mail til en forsikringsadministrator af 8/3 2017 blandt andet anført:

> "I am writing to you once again regarding my complaint regarding the above details. I am being passed from pillar to post with each company that I am being referred to putting me in contact with another and I am still no further forward. I took the insurance out in 2007 and a further policy schedule was apparently issued without my knowledge in June 2009. The initial premium was £48.75 per month which was dealt with by [tidligere forsikringsselskab] and then in 2009 (without my consent or knowledge) increased to £90.25 per month.
>
> I attach all my correspondence and expect you to look into this matter urgently. One of you has to take responsibility with the major mistakes and errors that have taken place. I originally took the insurance out with you and then the final people that I dealt with has been … so between the two of you I need an answer which includes the total amount of refund (from June 2009) of all premiums paid, interest and compensation that I am due."

En forsikringsadministrator har i brev af 20/3 2017 blandt andet oplyst:

> "**Findings**
> In March 2009 [tidligere forsikringsselskab] took the decision that they no longer wanted to insurer [forsikringsmægler] policyholders, therefore in April 2009 [forsikringsmægler] approached Alpha Insurance A/S who agreed to take on the risk of all existing policyholders, but with a new schedule and a price increase; terms & conditions remained the same. You were written to by [forsikringsadministrator 1] (Administrator) on 28th April 2009 (Attachment 1) to advise of this and gave 30 days in which to cancel your policy. The data supplied to [forsikringsadministrator 1] was given by [tidligere forsikringsselskab]. This letter was never returned to [forsikringsadministrator 1] by Royal Mail.
>
> In January 2010, the administration of all [forsikringsmægler] policies were transferred from [forsikringsadministrator 1] to [forsikringsadministrator 2]. [Forsikringsadministrator 2] wrote to you on 22nd January 2010 to advise they were taking over the administration and a change of company would appear on your bank statement from June 2010. It also advised that there would be guaranteed premiums annually and review letters would be sent on an annual basis for you to review your cover. The transfer letter was returned by Royal Mail to [forsikringsadministrator 2] which stated 'Addressee gone away'.

You have stated that you moved address in August 2008 and had a redirection of two years setup with Royal Mail, however perhaps you need to contact Royal Mail as your post was being returned after 17 months."

I forsikringsbetingelserne hedder det blandt andet:

"2. Insurance Contract
The policy is a legal contract between **You** and **Us**. This is a monthly renewable policy which will automatically renew each month unless **You** cancel or stop paying **Your Premium**, or if **We** cease offering this policy, as per clause 13.

…

13. General Conditions & Cancellations

…

You can cancel the policy by writing to **Us**. If **You** do this within the first 30 days of the **Start Date** and as long as **You** have not made a claim, **We** will give **You** a full refund of any **Premiums You** have paid.

…

If **You** cancel the policy no further **Premium** will be collected and no refund of **Premium** will be made.

We reserve the right to cease offering this policy at any time by giving **You** at least 30 days written notice at **Your** last known address. **We** may also change the terms and conditions of the policy and the **Premium** amount. **We** will give **You** at least 30 days written notice of any change. **You** should attach the notice to **Your** policy.

…

Cancellations will not be backdated for any reason."

Nævnet udtaler:

Det fremgår af sagen, at klageren tegnede forsikringen via en forsikringsmæglers hjemmeside i juli 2007. Klageren modtog en e-mailbekræftelse på anmodningen samme dag.

Klageren er utilfreds med, at forsikringen i 2009 er overdraget fra et andet forsikringsselskab til det indklagede selskab, og at præmien er steget, uden at han er blevet informeret herom eller har accepteret dette. Klageren har oplyst, at han i august 2007 flyttede adresse, og at selskabet har sendt breve til den forkerte adresse, hvilket selskabet har været bekendt med i hvert fald siden 2010, hvor et brev er blevet returneret til selskabet. Han har også anført, at selskabet har været i besiddelse af hans e-mailadresse og telefonnummer, hvorfor selskabet kunne have kontaktet ham i stedet for at fortsætte med at sende breve til den forkert adresse.

Af klagerens brev af 8/3 2017 til en forsikringsadministrator fremgår det blandt andet, at præmien oprindeligt var £48.75 og i 2009 steg til £90.25.

Selskabet har anført, at klageren tegnede forsikringen via en mægler uden forudgående rådgivning, og at han således selv har vurderet, at der var et behov for tegningen af forsikringen. Selskabet har også anført, at der den 28/4 2009 er sendt brev til klageren om ændring af hans forsikring inklusiv oplysning om, at selskabet havde overtaget dækningen fra et andet selskab, og at der i juni 2009 blev fremsendt en police med vilkår. Selskabet har anført, at disse breve ikke er returneret til selskabet. Herudover har selskabet oplyst, at betalingerne er sket månedligt, og at klageren i perioden har været dækket i tilfælde af, at der indtrådte en forsikringsbegivenhed.

Selskabet har anført, at det påhviler forsikringstageren at holde selskabet informeret om den aktuelle kontaktinformation, da det ikke ligesom i Danmark er muligt at finde en persons adresse ud fra et cpr-nummer. Selskabet har videre anført, at så længe præmien blev indbetalt, kunne det ikke vide, at der var et problem. I relation til brevet der blev returneret til selskabet i 2010, har selskabet forklaret, at der på daværende tidspunkt var praksis for, at breve blev sendt til den sidst kendte adresse, og at kontakt via e-mail eller telefon ikke var proceduren. Selskabet har anført, at øvrige fremsendte breve ikke er returneret.

Nævnet lægger efter en gennemgang af sagen til grund, at klageren tegnede forsikringen via en forsikringsmæglers hjemmeside uden forudgående rådgivning. Nævnet lægger også til grund, at præmiebetalingen er sket automatisk månedligt, og at klageren først i november 2016 har opsagt forsikringen.

Det fremgår af sagen, at forsikringsmægleren løbende i perioden 2009-2015 har sendt breve til klagerens tidligere adresse med oplysninger om fornyelse af policen og ændringer. Der foreligger ikke oplysninger om, at disse breve er returneret. Klageren har oplyst, at han fraflyttede adressen i august 2007, og at han havde aftale med postvæsenet om videresendelse af post i et år, og med de nye ejere om videresendelse af yderligere 2 år.

Af forsikringsbetingelserne fremgår det blandt andet i section 2, at "The policy is a legal contract between **You** and **Us**. This is a monthly renewable policy which will automatically renew each month unless **You** cancel or stop paying **Your Premium**, …". I section 13 er det anført, at "**We** reserve the right to cease offering this policy at any time by giving **You** at least 30 days written notice at **Your** last known address. **We** may also change the terms and conditions of the policy and the **Premium** amount".

Nævnet finder efter en gennemgang af sagen ikke grundlag for at kritisere, at selskabet har afvist at tilbagebetale præmie til klageren.

Nævnet har ved afgørelse blandt andet lagt vægt på oplysningerne om, at klageren selv tegnede forsikringen, at præmien fra tegningstidspunktet i 2007 er betalt månedligt og derfor må have figureret på klagerens kontooversigter, at selskabet har været i risiko i hele perioden, og at klageren først har opsagt forsikringen i november 2016.

Nævnet har også lagt vægt på, at det fremgår af forsikringsbetingelserne, at der er tale om en løbende forsikringsaftale, der automatisk fornyes, medmindre den opsiges af klageren. Videre har nævnet lagt vægt på, at det i betingelserne er anført, at information sendes til klagerens sidst kendte adresse.

Nævnet har også lagt vægt på, at der løbende er dannet og sendt breve til klageren vedrørende ændringer i forsikringsaftalen vedrørende blandt andet prisen, og at disse breve er fremsendt i overensstemmelse med selskabets procedurer. I en situation, hvor adresser ikke kan fremfindes ved søgning på cpr-nummer eller tilsvarende, som tilfældet er i Danmark, er det klageren, der er nærmest til sørge for, at selskabet er i besiddelse af rette kontaktinformation.

Det forhold, at selskabets breve er sendt til en adresse, hvor klageren er fraflyttet, og at selskabets forsikringsadministrator i 2010 fik et brev retur med oplysning om, at klageren var ubekendt på adressen, kan ikke føre til andet resultat.

11. 90896

Som følge heraf

b e s t e m m e s :

Klageren får ikke medhold.

Svend Bjerg Hansen
Udskriftens rigtighed bekræftes

Mette Eisenhardt