

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA

v.

DEREK E. PONAMSKY

*** CRIMINAL NO.**

*** SECTION:**

*** VIOLATION: 18 USC §2197**

*** * ***

FACTUAL BASIS

Should this matter proceed to trial, the government would prove beyond a reasonable doubt the following facts through competent evidence and testimony:

A witness for the United States Coast Guard Marine Safety Office would testify that the defendant Derek E. Ponamksy (“Ponamksy”) was issued a Merchant Mariner’s License by the United States Coast Guard, License No. 11199280, on June 16, 2005, authorizing the defendant to serve as a Master of Steam or Motor Vessels of not more than 100 gross tons. At no time was the defendant issued a First Class Pilot’s Endorsement.

A representative of the New Orleans-Baton Rouge Steamship Pilots Association (“NOBRA”) located in Jefferson, Louisiana, would testify that in order to be employed by NOBRA an applicant must have a First Class Pilot Endorsement from the Coast Guard. The NOBRA representative would further testify that NOBRA employed Ponamksy as a pilot with a

First Class Pilot Endorsement from June 2005 until approximately February 2, 2008, based upon the defendant Ponamsky's presentation a copy of Coast Guard License, No. 1119280, which reflected a First Class Pilot's Endorsement. The NOBRA representative would also testify that NOBRA was unaware that the defendant did not have the proper licensure while employed by NOBRA.

The government and the defendant stipulate that for plea purposes the defendant's earnings are calculated to be approximately \$190,400 from June 16, 2005 to the time he resigned from NOBRA. For plea purposes, this calculation is based a day rate of \$350 a day which reflects the normal rate of other captains on the Mississippi, not those employed by NOBRA. The government would introduce into evidence the defendant's altered license, and the defendant's personnel file from NOBRA.

READ AND APPROVED:

DEREK E. PONAMSKY
Defendant

DATE

PATRICK FANNING, ESQ.
Attorney for the defendant

DATE

DOROTHY MANNING TAYLOR
Assistant U.S. Attorney

DATE