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Attorneys for Plaintiff  
UNITED STATES OF AMERICA

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII**

\_\_\_\_\_)  
UNITED STATES OF AMERICA, )

	)	
<b>Plaintiff,</b>	)	
	)	
v.	)	
	)	
<b>AZURE FISHERY LLC,</b>	)	
<b>HANH THI NGUYEN,</b>	)	
<b>KHANG QUANG DANG,</b>	)	
<b>ANDY NGOG HOANG,</b>	)	<b>COMPLAINT</b>
<b>TUAN HOANG, and</b>	)	
<b>LINH FISHERY LLC,</b>	)	
	)	
<b>Defendants.</b>	)	
_____	)	

**COMPLAINT**

Plaintiff, the United States of America, acting at the request of the United States Coast Guard, files this Complaint and alleges the following:

**NATURE OF THE ACTION**

1. This is a civil action brought by the United States against the defendants for civil penalties and injunctive relief stemming from numerous violations of Section 311 of the Clean Water Act (“CWA”), 33 U.S.C. § 1321, and for recovery of the value of fraudulently transferred assets under the Federal Debt Collection Procedures Act (“FDCPA”), 28 U.S.C. § 3001 *et seq.* The Complaint addresses willful discharges of oil, including oily bilge water, from the commercial longline fishing vessel *Jaxon T* into the ocean offshore of Hawaii, related violations of the Coast Guard’s pollution control regulations, and the fraudulent transfer of the *Jaxon T* from Azure Fishery LLC to Linh Fishery LLC after the

United States discovered the CWA violations. In particular, the United States seeks CWA penalties from Defendants Azure Fishery LLC, Hanh Thi Nguyen, Khang Quang Dang, and Andy Ngog Hoang; CWA injunctive relief from these same defendants and Defendant Linh Fishery LLC; and FDCPA remedies from Defendants Linh Fishery LLC, Hanh Thi Nguyen, Khang Quang Dang, and Tuan Hoang.

### **JURISDICTION, AUTHORITY, AND VENUE**

2. This Court has jurisdiction over this matter pursuant to Section 311(b)(7)(E), (e), and (n) of the CWA, 33 U.S.C. § 1321(b)(7)(E), (e) and (n), and 28 U.S.C. §§ 1331, 1345, and 1355.

3. Authority to bring this action is vested in the United States Department of Justice by, *inter alia*, 28 U.S.C. §§ 516 and 519.

4. Venue is proper in this District pursuant to Section 311(b)(7)(E), (e), and (n) of the CWA, 33 U.S.C. § 1321(b)(7)(E), (e), (n), and 28 U.S.C. §§ 1391 and 1395(a), because each Defendant conducts business in this District and the events giving rise to the claims alleged herein occurred in this District.

### **DEFENDANTS**

5. Defendant Linh Fishery LLC is a Hawaii limited liability company with its business address and registered agent in Honolulu, Hawaii. The company owns the U.S.-flagged *St. Joseph* f/k/a *Jaxon T* (Official Number: 916657) (“the

*Jaxon T*).<sup>1</sup> The vessel is homeported in Honolulu and authorized to fish for species such as tuna and swordfish. The vessel measures approximately 91 feet long, is approximately 198 gross tons, and is configured for longline fishing. Linh Fishery LLC acquired the *Jaxon T* in April 2017.

6. Defendant Azure Fishery LLC was a Hawaii limited liability company with its business address and registered agent in Honolulu, Hawaii. The company owned the *Jaxon T* from October 2015 to April 2017. Azure Fishery LLC filed Articles of Termination on April 30, 2017.

7. Defendant Hanh Thi Nguyen (“Nguyen”) was a member-manager of Azure Fishery LLC. At times relevant to this Complaint, Nguyen was an operator and person in charge of the *Jaxon T* and was a responsible corporate officer for the CWA violations alleged herein. Nguyen is also a member or corporate officer of several other entities that own and operate longline fishing vessels and fishing supply businesses. Nguyen resides in Honolulu, Hawaii.

8. Defendant Khang Quang Dang (“Dang”) was a member-manager of Azure Fishery LLC. At times relevant to this Complaint, Dang was an operator and person in charge of the *Jaxon T* and was a responsible corporate officer for the CWA violations alleged herein. Dang is also a member or corporate officer of

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<sup>1</sup> The vessel was named the *Jaxon T* from January 20, 2006, until April 7, 2017, when Linh Fishery LLC changed the vessel’s name to the *St. Joseph*. For ease of reference, the Complaint refers to the vessel as the *Jaxon T*.

several other entities that own and operate longline fishing vessels and fish and fishing supply businesses. Dang resides in Honolulu, Hawaii.

9. Defendant Tuan Hoang was a member of Azure Fishery LLC. Tuan Hoang resides in Los Angeles, California, and conducted his business with Azure Fishery LLC in Honolulu, Hawaii.

10. Defendant Andy Ngog Hoang (“Andy Hoang”) acted as “captain” of the *Jaxon T* and was an operator or person in charge of the vessel at times relevant to this Complaint. Andy Hoang resides in Honolulu, Hawaii.

### **FACTS**

11. Tuan Hoang owned the *Jaxon T* from October 24, 2005, until October 9, 2015, when he sold the vessel to Azure Fishery LLC. The sales agreement granted Tuan Hoang membership in Azure Fishery LLC.

12. Azure Fishery LLC owned the *Jaxon T* from October 9, 2015, until April 4, 2017, when it sold the vessel to Linh Fishery LLC.

13. The *Jaxon T* has a history of violations of the Coast Guard’s pollution control regulations.

14. At times relevant to this Complaint prior to April 2017, Nguyen and Dang were the operators and persons in charge of Azure Fishery LLC and the *Jaxon T*. They managed and oversaw the operations of the *Jaxon T* by, *inter alia*, approving expenses for vessel maintenance; coordinating with Andy Hoang;

supplying the vessel with fuel, bait, and gear before fishing voyages; handling the sale of the fish; coordinating foreign crewmember travel with immigration authorities; and monitoring operational costs, such as the cost of equipment and storage and disposal of oily mixtures.

15. Subject to a reasonable opportunity for further investigation or discovery, Nguyen and Dang knew or had reason to know before December 1, 2016, that the *Jaxon T* lacked the equipment and capacity to retain oily mixtures generated while underway and that the *Jaxon T* regularly discharged oil overboard during fishing voyages rather than disposing of the waste at a shore reception facility.

16. Nguyen and Dang nonetheless allowed the *Jaxon T* to get underway for fishing voyages between at least December 1, 2016, and March 10, 2017.

17. Nguyen and Dang had responsibility and authority to prevent or promptly correct the violations alleged in this Complaint.

18. Nguyen and Dang failed to take action to correct the violations alleged in this Complaint.

### **Recent Fishing Voyages**

19. The *Jaxon T* left port and was underway to fish for tuna from on or about December 8 to December 28, 2016, January 1 to January 19, 2017, and February 19 to March 10, 2017.

20. Andy Hoang acted as “captain” of the *Jaxon T* and directed the crew’s work and conduct during each of the fishing voyages.

21. Fuel oil and lube oil routinely leaked from machinery into the *Jaxon T*’s engine room bilge. Water and other waste fluids that entered the engine room bilge commingled with the oil and formed an oily mixture.

22. Pathways for excess water to enter the engine room included breaches in a metal bulkhead that allowed free flow of fluids between the engine room bilge and the fish hold.

23. When ice melted in the vessel’s fish hold, water flowed through the breaches in the bulkhead into the engine room bilge. Bilge water containing oily waste and other bilge contaminants could also flow from the engine room to the fish hold.

24. Substantial amounts of water from ice melt regularly flowed into the engine room and mixed with the oily waste in the bilge, which led crewmembers to activate a pump to discharge the bilge’s contents, including oily mixtures, overboard.

25. During voyages that occurred between December 1, 2016, and March 10, 2017, crewmembers, including Andy Hoang, used a portable electric water pump and flexible hose to illegally discharge oil and other waste from the *Jaxon T*’s engine room bilge overboard one or more times per day.

### **Coast Guard Law Enforcement Boarding**

26. At approximately 11:20 a.m. on March 10, 2017, a law enforcement team from Coast Guard Sector Honolulu conducted a dockside boarding of the *Jaxon T*. The boarding occurred at Pier 38 as the *Jaxon T* was returning to port from a 20-day fishing voyage.

27. The Coast Guard boarding team discovered a portable electric water pump in the vessel's engine room bilge.

28. The pump was connected to a system of flexible hoses and pipes that ran from the engine room up to the *Jaxon T*'s exterior weather deck and overboard. A hose at the discharge end of the system protruded through a scupper and hung over the vessel's side, and a valve on the hose was found in the open position.

29. Oil was present and visible in the discharge end of the hose hanging over the vessel's side.

30. Although the *Jaxon T* had been at sea for 20 days, the Coast Guard boarding team found virtually no fluids in the vessel's engine room bilge, except some oil that remained present and visible.

31. The *Jaxon T* did not have an oil-water separating system on board, and the vessel lacked the capacity to store the quantity of oily mixtures generated during a 20-day fishing voyage.



32. Crewmembers had used the portable electric pump to discharge the engine room bilge contents overboard each day of the fishing voyage, including about five hours before the Coast Guard's boarding began.

33. During the inspection, the Coast Guard also identified violations of longstanding pollution control regulations, including failure to have the capacity to store oily mixtures on board and failure to display required "Discharge of Oil Prohibited" placards.

34. The Coast Guard issued a Commercial Fishing Vessel Boarding Report (CG-4100F) to Azure Fishery LLC, listing violations the law enforcement team discovered during the inspection.

#### **Transfer of Ownership and Continuing Violations**

35. Azure Fishery LLC sold the *Jaxon T*, its sole asset, to Linh Fishery LLC on April 4, 2017.

36. Azure Fishery LLC filed Articles of Termination on April 30, 2017.

37. Subject to a reasonable opportunity for further investigation or discovery, the *Jaxon T* was and is worth at least \$500,000.

38. According to the official bill of sale submitted to the Coast Guard, Azure Fishery LLC sold the *Jaxon T* to Linh Fishery LLC for \$1.

39. Subject to a reasonable opportunity for further investigation or discovery, since April 2017 Linh Fishery LLC has paid Nguyen and Dang directly,

or is paying business entities owned by Nguyen and Dang, up to \$300,000 for the vessel.

40. Between May and October 2017, Nguyen and Dang, or business entities owned by Nguyen and Dang, transmitted \$295,000 to Tuan Hoang.

41. Since purchasing the *Jaxon T* in April 2017, Linh Fishery has directed the vessel to get underway for numerous fishing voyages.

42. Subject to a reasonable opportunity for further investigation or discovery, the *Jaxon T* continues to lack the capacity to lawfully store on board the quantity of oily mixture generated during a typical fishing voyage.

## **CAUSES OF ACTION**

### **FIRST CAUSE OF ACTION**

#### **Civil Penalties for Violation of CWA Section 311(b)(3), 33 U.S.C. § 1321(b)(3) – Discharges of Oil**

43. The preceding paragraphs are incorporated herein.

44. Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), prohibits the discharge of oil “into or upon,” *inter alia*, “the navigable waters of the United States . . . the contiguous zone . . . or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson-Stevens Fishery Conservation and Management Act) in such quantities as may be harmful . . . .”

45. Congress directed the President to determine by regulation “those quantities of oil and any hazardous substance the discharge of which may be harmful to public health or welfare or the environment of the United States.” 33 U.S.C. § 1321(b)(4). The President delegated authority to the Administrator of the Environmental Protection Agency under CWA § 311(b)(3) and (b)(4) for determining quantities of oil the discharge of which may be harmful. Exec. Order No. 12777, Section 8(a), 56 Fed. Reg. 54757, 54768 (1991). The EPA determined that discharges of oil that “violate applicable water quality standards, or cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines” are, for purposes of Section 311(b)(4) of the CWA, discharges of oil in such quantities that may be harmful to the public health or welfare or the environment of the United States. 40 C.F.R. § 110.3.

46. Pursuant to Section 311(b)(7)(A) of the CWA, “[a]ny person who is the owner, operator, or person in charge of any vessel . . . from which oil . . . is discharged in violation of paragraph (3), shall be subject to a civil penalty . . . .” 33 U.S.C. § 1321(b)(7)(A).

47. Civil penalties will be increased pursuant to Section 311(b)(7)(D) of the CWA if the violation results from “gross negligence or willful misconduct.” 33 U.S.C. § 1321(b)(7)(D).

48. Azure Fishery LLC, Nguyen, Dang, and Andy Hoang are each a “person” within the meaning of Section 311(a)(7) of the CWA. 33 U.S.C. § 1321(a)(7).

49. Azure Fishery LLC, Nguyen, Dang, and Andy Hoang were at times relevant to this Complaint the owners, operators, and persons in charge of the vessel from which oil was discharged within the meaning of Section 311(a)(6) of the CWA. 33 U.S.C. § 1321(a)(6). Nguyen and Dang also are the responsible corporate officers for these CWA violations.

50. The *Jaxon T* is a “vessel” within the meaning of Section 311(a)(3) of the CWA. 33 U.S.C. § 1321(a)(3).

51. Each incident in which oily mixtures were pumped overboard constitutes a “discharge” of oil within the meaning of Section 311(a)(2). 33 U.S.C. § 1321(a)(2). For the purposes of Section 311(a)(2) of the CWA, “discharge” is defined to include “any spilling, leaking, pumping, pouring, emitting, emptying or dumping . . . ,” subject to certain specified exceptions not applicable here. 33 U.S.C. § 1321(a)(2).

52. The discharges were of “oil” within the meaning of Section 311(a)(1) of the CWA. 33 U.S.C. § 1321(a)(1).

53. Oil discharges were into or upon the ocean offshore of Hawaii, including the exclusive economic zone (“EEZ”).

54. Multiple discharges occurred while the *Jaxon T* was fishing in and traveling through the habitat of numerous types of natural resources. The oil discharges may have affected natural resources, including water, fish, dolphins, sea turtles, whales, sharks, birds, and other biota, belonging to, appertaining to, or under the United States' exclusive management authority.

55. Discharging oil into and upon waters that these species inhabit is known to cause them harm.

56. The oil discharges were in a quantity "as may be harmful" within the meaning of Section 311(b)(3) and (4) of the CWA, 33 U.S.C. § 1321(b)(3)-(4), and 40 C.F.R. § 110.3.

57. The oil discharges violated Section 311(b)(3) of the CWA. 33 U.S.C. § 1321(b)(3).

58. The oil discharges resulted from the willful misconduct or gross negligence of Azure Fishery LLC, Nguyen, Dang, and Andy Hoang. Azure Fishery LLC, Nguyen, Dang, and Andy Hoang knew discharging oily mixtures overboard is unlawful. Discharging oil overboard during fishing voyages enabled the *Jaxon T* to stay at sea longer to catch more fish, thereby increasing profits, and it allowed Azure Fishery LLC, Nguyen, Dang, and Andy Hoang to avoid the costs of proper waste management and disposal and the costs of proper operation and maintenance of the vessel.

59. Azure Fishery LLC, Nguyen, Dang, and Andy Hoang are each liable for civil penalties of up to \$46,192 per day of violation or \$1,848 per barrel discharged under CWA Section 311(b)(7)(A), or under Section 311(b)(7)(D) if it is proved that the violations are the result of gross negligence or willful misconduct, a minimum of \$184,767 and up to \$5,543 per barrel discharged. *See* 83 Fed Reg. 13826 (April 2, 2018) (updating 33 C.F.R. § 27.3 and listing these inflation-adjusted penalty rates for violations occurring after November 2, 2015).

## **SECOND CAUSE OF ACTION**

### **Civil Penalties for Regulatory Violations under CWA Section 311(b)(7)(C), 33 U.S.C. § 1321(b)(7)(C) – Failure to Have Capacity to Retain Oily Mixtures On Board**

60. The preceding paragraphs are incorporated herein.

61. Any person who fails or refuses to comply with any regulation issued under Section 311(j) of the CWA, 33 U.S.C. § 1321(j), shall be subject to a civil penalty of up to \$46,192 per day for each violation pursuant to Section 311(b)(7)(C). 33 U.S.C. § 1321(b)(7)(C); *see also* 83 Fed Reg. 13826 (April 2, 2018).

62. The Coast Guard has promulgated pollution control regulations under the authority of Section 311(j) of the CWA, including 33 C.F.R. § 155.350. Pursuant to 33 C.F.R. § 155.350, no person may operate an oceangoing vessel less than 400 gross tons unless the vessel: (1) “[h]as the capacity to retain on board all

oily mixtures and is equipped to discharge these oily mixtures to a reception facility;” or (2) “[h]as approved oily-water separating equipment . . . .”

63. The *Jaxon T* is less than 400 gross tons.

64. The *Jaxon T* does not have an oil-water separating system on board.

65. Azure Fishery LLC, Nguyen, Dang, and Andy Hoang operated the *Jaxon T* between at least December 1, 2016, and March 10, 2017, without the capacity to retain on board the oily mixtures generated during fishing voyages.

66. Azure Fishery LLC, Nguyen, Dang, and Andy Hoang are each liable for civil penalties of up to \$46,192 per day for each violation under Section 311(b)(7)(C) of the CWA.

### **THIRD CAUSE OF ACTION**

#### **Civil Penalties for Regulatory Violations under CWA Section 311(b)(7)(C), 33 U.S.C. § 1321(b)(7)(C) – Failure to Display a Proper Oil Discharge Placard**

67. The preceding paragraphs are incorporated herein.

68. Any person who fails or refuses to comply with any regulation issued under Section 311(j) of the CWA, 33 U.S.C. § 1321(j), shall be subject to a civil penalty of up to \$46,192 per day for each violation pursuant to Section 311(b)(7)(C). 33 U.S.C. § 1321(b)(7)(C); *see also* 83 Fed Reg. 13826 (April 2, 2018) (listing this inflation-adjusted penalty amount for violations occurring after November 2, 2015).

69. The Coast Guard has promulgated pollution control regulations under the authority of Section 311(j) of the CWA, including 33 C.F.R. § 155.450. Pursuant to 33 C.F.R. § 155.450, a vessel 26 feet in length or greater must conspicuously display in each machinery space or at the bilge and ballast pump control station a “Discharge of Oil Prohibited” placard printed in the language or languages understood by the crew.

70. The *Jaxon T* is 91 feet in length.

71. On March 10, 2017, a Coast Guard boarding team found no “Discharge of Oil Prohibited” placard displayed in the *Jaxon T*’s engine room or at the bilge and ballast pump control station. Instead, Coast Guard officers found a “Discharge of Oil Prohibited” placard affixed to a bulkhead in the crew’s mess.

72. The *Jaxon T* did not conspicuously display a “Discharge of Oil Prohibited” placard in the engine room or at the bilge and ballast pump control station between at least December 1, 2016, and March 10, 2017.

73. On March 10, 2017, a Coast Guard boarding team found on the *Jaxon T* a “Discharge of Oil Prohibited” placard printed in English and no other language.

74. The *Jaxon T* did not display a “Discharge of Oil Prohibited” placard written in a language other than English between at least December 1, 2016, and March 10, 2017.



75. One or more foreign crewmembers working aboard the *Jaxon T* between December 1, 2016, and March 10, 2017, were unable to read English.

76. Azure Fishery LLC, Nguyen, Dang, and Andy Hoang failed to comply with the requirement to conspicuously display in each machinery space or at the bilge and ballast pump control station a “Discharge of Oil Prohibited” placard printed in a language or languages understood by the crew. 33 C.F.R. § 155.450(c).

77. Azure Fishery LLC, Nguyen, Dang, and Andy Hoang are each liable for civil penalties of up to \$46,192 per day for each violation under Section 311(b)(7)(C) of the CWA.

#### **FOURTH CAUSE OF ACTION**

##### **Injunctive Relief under CWA Section 311(e), 33 U.S.C. § 1321(e)**

78. The preceding paragraphs are incorporated herein.

79. In addition to civil penalties for the violations identified above, the United States seeks injunctive relief to prevent future discharges of oil and other violations. Section 311(e) of the CWA authorizes the Coast Guard to act when it determines there “may be an imminent and substantial threat[s] to the public health or welfare of the United States . . . because of an actual or threatened discharge of oil or a hazardous substance from a vessel or facility in violation of subsection (b).” 33 U.S.C. § 1321(e).

80. Section 311(e)(1)(A) of the CWA authorizes the Attorney General to secure “any relief from any person . . . as may be necessary to abate such endangerment.” 33 U.S.C. § 1321(e)(1)(A). District courts have “jurisdiction to grant any relief under this subsection that the public interest and the equities of the case may require.” 33 U.S.C. § 1321(e)(2).

81. Azure Fishery LLC, Nguyen, Dang, Andy Hoang, and Linh Fishery LLC are each a “person” within the meaning of Section 311(e) of the CWA.

82. Discharges of oil into the ocean by the Defendants and from the *Jaxon T*’s engine room bilge pose an imminent and substantial threat of injury to natural resources and to public health or welfare. Such practice is likely to continue unless corrective measures are imposed by the Court.

83. As the current owner of the *Jaxon T*, Linh Fishery LLC is uniquely positioned to implement corrective measures and is a necessary party to stop future oil discharges from the vessel and abate endangerment.

#### **FIFTH CAUSE OF ACTION**

##### **Fraudulent Transfer of Assets under the FDCPA, 28 U.S.C. § 3301 *et seq.***

84. The preceding paragraphs are incorporated herein.

85. Under the FDCPA, “a transfer made . . . by a debtor is fraudulent as to a debt to the United States which arises before the transfer is made . . . if” (1) the debtor makes the transfer “without receiving a reasonably equivalent value in

exchange for the transfer” and (2) the debtor is insolvent at the time of the transfer or becomes insolvent as a result of the transfer. 28 U.S.C. § 3304(a).

86. Under the FDCPA, “a transfer made . . . by a debtor is fraudulent as to a debt to the United States, whether such debt arises before or after the transfer is made . . . if the debtor makes the transfer . . . with actual intent to hinder, delay, or defraud a creditor,” or if the debtor does not receive reasonably equivalent value in exchange for the transfer and “believed or reasonably should have believed that [the debtor] would incur [] debts beyond [its] ability to pay as they became due.” 28 U.S.C. § 3304(b).

87. The FDCPA provides the United States with several remedies for a fraudulent transfer: “(1) avoidance of the transfer . . . to the extent necessary to satisfy the debt to the United States; (2) a remedy [under the FDCPA] against the asset transferred or other property of the transferee; or (3) any other relief the circumstances may require.” 28 U.S.C. § 3306(a).

88. The FDCPA provides that “judgment may be entered against the first transferee of the asset or the person for whose benefit the transfer was made.” 28 U.S.C. § 3307(b)(1).

89. The United States has a “claim” for civil penalties under the CWA against Azure Fishery LLC within the meaning of 28 U.S.C. § 3301(3) (defining “claim” as “a right to payment, whether or not the right is reduced to judgment,

liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured”).

90. The United States is a “creditor” within the meaning of 28 U.S.C. § 3301(4).

91. The United States’ claim to recover civil penalties from Azure Fishery LLC is a “debt” within the meaning of 28 U.S.C. § 3002(3)(B) (defining “debt” to include a penalty or fine).

92. Azure Fishery LLC is a “debtor” to the United States within the meaning of 28 U.S.C. § 3002(4).

93. Azure Fishery LLC’s debt to the United States arose when the Coast Guard boarded the *Jaxon T* on March 10, 2017, and discovered numerous violations of the CWA and regulations issued under the CWA.

94. Azure Fishery LLC reportedly transferred the *Jaxon T* to Linh Fishery LLC for \$1 on April 4, 2017.

95. One dollar is not reasonably equivalent to the value of the *Jaxon T*.

96. Following transfer of the *Jaxon T*, Linh Fishery LLC reportedly paid or is paying Nguyen and Dang, or businesses owned by Nguyen and Dang, up to \$300,000, from which Nguyen and Dang, or businesses owned by Nguyen and Dang, have transmitted \$295,000 to Tuan Hoang.

97. Three hundred thousand dollars is not reasonably equivalent to the value of the *Jaxon T*.

98. Azure Fishery LLC received no other consideration from Linh Fishery LLC for the *Jaxon T*.

99. Subject to a reasonable opportunity for further investigation or discovery, the *Jaxon T* was Azure Fishery LLC's only asset at the time of the transfer.

100. Azure Fishery LLC was "insolvent" within the meaning of 28 U.S.C. § 3302 at the time it transferred the *Jaxon T* to Linh Fishery LLC.

101. Azure Fishery LLC became "insolvent" within the meaning of 28 U.S.C. § 3302 because it transferred the *Jaxon T* to Linh Fishery LLC without receiving a reasonable sum for the vessel.

102. Azure Fishery LLC believed or had reason to believe at the time of the transfer that it would incur debt—at a minimum, debt connected to the CWA violations the Coast Guard discovered on March 10, 2017—beyond its ability to pay.

103. Azure Fishery LLC intended to hinder the United States' collection of the debt by transferring its sole asset before the United States could recover civil penalties arising from the March 10, 2017 Coast Guard boarding.

104. Linh Fishery LLC was the first transferee of the *Jaxon T* and a beneficiary of the fraudulent transfer of the vessel.

105. Nguyen, Dang, and Tuan Hoang are direct recipients of money paid by Linh Fishery LLC after transfer of the *Jaxon T* and persons for whose benefit the transfer was made.

106. Linh Fishery LLC, Nguyen, Dang, and Tuan Hoang are liable to the United States for the value of the *Jaxon T* to the extent necessary to satisfy Azure Fishery LLC's debt. 28 U.S.C. §§ 3306(a) and 3307(b).

### **REQUEST FOR RELIEF**

WHEREFORE, the United States respectfully requests that this Court:

A. Assess civil penalties against Azure Fishery LLC, Nguyen, Dang, and Andy Hoang, separately and individually, for the oil discharge violations of Section 311(b)(3) of the CWA, 33 U.S.C. § 1321(b)(3), in the amount of up to \$46,192 per day of violation under CWA Section 311(b)(7)(A) or, if it is proved that the violations are the result of gross negligence or willful misconduct, in the amount of at least \$184,767 per discharge and up to \$5,543 per barrel discharged under Section 311(b)(7)(D);

B. Assess civil penalties against Azure Fishery LLC, Nguyen, Dang, and Andy Hoang, separately and individually, of up to \$46,192 per day for each

violation of the Coast Guard's pollution control regulations, as authorized under Section 311(b)(7)(C);

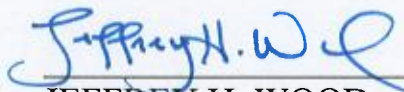
C. Order Azure Fishery LLC, Nguyen, Dang, and Andy Hoang to take all steps necessary to redress or mitigate the impacts of the violations alleged herein;

D. Enjoin Azure Fishery LLC, Nguyen, Dang, Andy Hoang, and Linh Fishery LLC from continuing illegal oil discharges, and order Azure Fishery LLC, Nguyen, Dang, Andy Hoang, and Linh Fishery LLC to perform other appropriate injunctive relief to prevent future oil discharges and related violations;

E. Enter judgment pursuant to 28 U.S.C. §§ 3306(a) and 3307(b) in favor of the United States and against Linh Fishery LLC, Nguyen, Dang, and Tuan Hoang, voiding the transfer of the *Jaxon T* to Linh Fishery LLC or ordering Tuan Hoang, Nguyen, Dang, and Linh Fishery LLC to pay to the United States the value of the *Jaxon T* to the extent necessary to satisfy Azure Fishery LLC's debt under the FDCPA; and

F. Award such other and further relief as the Court may deem just and proper.

Respectfully submitted,



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\_\_\_\_\_  
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