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

UNITED STATES OF AMERICA * **CRIMINAL NO. 25-138**

v. * **SECTION: E**

EAGLE SHIP MANAGEMENT, LLC *

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* * *

FACTUAL BASIS

The United States of America, by and through the United States Attorney for the Eastern District of Louisiana and the Assistant Attorney General of the Environment and Natural Resources Division (Environmental Crimes Section) of the United States Department of Justice (collectively referred to herein as “the United States” or “the Government”) and undersigned counsel, and Defendant Eagle Ship Management, LLC (“ESM”), by and through undersigned counsel, jointly and hereby agree that this Factual Basis is a true and accurate statement of the Defendant’s criminal conduct and that it provides a sufficient basis for the Defendant’s plea of guilty to the Bill of Information.

The Defendant agrees that had this matter proceeded to trial, the United States would have proven the below facts beyond a reasonable doubt and that it is pleading guilty because it is guilty. ESM is pleading guilty because it recognizes that it is criminally liable for the acts and omissions of its employees and agents committed within the scope of their employment and, with an intent to benefit the Defendant, at least in part. The parties are not aware of evidence in this case suggesting that any shoreside employee, manager, superintendent or officer of the Defendant directed the criminal conduct. The facts set forth herein and the proposed plea agreement recognize



that the Defendant has admitted to its responsibility for the acts and omissions of its officers and crew. The following are not all of the facts known to the Defendant and the government but are sufficient to support the Defendant's guilty plea.

Background

Defendant ESM was the technical manager of the *M/V Gannet Bulker* ("the *Gannet Bulker*" or "the Vessel"), a foreign-flagged bulk carrier registered in the Marshall Islands. On or about March 11, 2021, the 623-foot long, 33,045 gross ton ship arrived at an anchorage near the Southwest Pass to await its transit into the Port of New Orleans for the purpose of picking up cargo. The officers and crew of the Vessel were all employed by or on behalf of ESM. On January 15, 2021, the Chief Engineer boarded the Vessel on his first contract with ESM. Like all ocean-going commercial ships, ESM and the *Gannet Bulker* were required to have a safety management program that included environmental compliance and prohibited any improper discharges from a vessel. Prior to joining the Vessel, the Chief Engineer received a virtual pre-joining briefing on the company's Safety and Environmental Protection Policy and signed MARPOL Compliance Declarations confirming his understanding that ESM had a policy of strict compliance with MARPOL. Due to his short tenure and the complexities created by the Covid pandemic, the Chief Engineer had not attended ESM's in-person training program.

On large commercial vessels such as the *Gannet Bulker*, machinery space bilge water is generated on a regular basis. Machinery space bilge water refers to water and other liquids that drip and leak from machinery and mechanical systems and accumulates in the bilge, which is the bottom-most portion of the engine room. Machinery space bilge water is defined for purposes of U. S. law in 33 C. F. R. § 151. 05 as "water which may be contaminated by oil resulting from things such as leakage or maintenance work in machinery spaces. Any liquid entering the bilge

system including bilge wells, bilge piping, tank tops or bilge holding tanks is considered oily bilge water. ”

Oily bilge water can be lawfully disposed of in two manners: (1) it may be processed through the onboard Oily Water Separator and Oil Content Monitor resulting in an overboard discharge of water with no more than 15 parts per million (“ppm”) of oil, or (2) it may be disposed of to a barge or a shore-based disposal facility. An Oily Water Separator system utilizes an Oil Content Monitor (also known as an Oil Content Meter) which measures the quantity of oil present as water is being processed through the system. When an Oil Content Monitor detects oil in concentrations greater than 15 ppm from a sample of the overboard discharge, the Oily Water Separator system alarms and triggers a three-way valve to stop discharging overboard and to recirculate the water to a storage tank on board the vessel to await further treatment.

All disposals and transfers of machinery space bilge water must be accurately recorded in the vessel’s Oil Record Book by the person or persons in charge of those operations. 33 C. F. R. § 151. 25. Each completed page must be signed by the Master or other person having charge of the ship. The Oil Record Book must be kept on board for three years and made available for inspection. The U. S. Coast Guard (“Coast Guard”) regularly inspects Oil Record Books and is authorized to do so pursuant to the Act to Prevent Pollution from Ships (“APPS”).

On March 14, 2021, a crew member aboard the Vessel messaged the Coast Guard through social media and alleged that the engine room bilges of the Vessel had flooded on March 13, 2021, and that the resulting oil-contaminated bilge water had been deliberately pumped overboard in U. S. waters through equipment and procedures that bypassed the Vessel’s required pollution prevention equipment. At the time, the *Gannet Bulker* was in an anchorage near the Southwest Passage of the Port of New Orleans near the mouth of the Mississippi River and within the

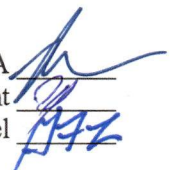
navigable waters and territorial sea of the United States. The Coast Guard conducted an inspection of the Vessel upon its arrival at the Port of New Orleans and an investigation ensued.

In sum and substance, the Coast Guard conducted an inspection of the ship at the Southwest Passage anchorage. A senior Deck Department officer and the Chief Engineer were aware that the ballast water system was not working as designed, that an internal leak had flooded the engine room bilges, and that the resulting oil-contaminated bilge waste had been deliberately discharged overboard. None of these facts were reported to the Coast Guard or logged in the Oil Record Book or other official logs. As part of its guilty plea, ESM acknowledges that certain officers and crew of the *Gannet Bulker* engaged in various acts of obstruction of justice in an effort to conceal the flooding of the engine room bilges and the illegal discharge into U. S. waters.

On or about March 13-14, 2021, ESM – by and through the acts of its agents and employees, including senior ship officers, acting within the scope of their agency and employment and for the intended benefit of the Defendant, at least in part – discharged and caused the discharge overboard of oily bilge water using a fire pump and without the use of required pollution prevention equipment (i. e. , without the use of an Oily Water Separator and Oil Content Monitor). No effort was made to contact the Coast Guard or to transfer the contaminated bilge water into onboard tanks. As part of its guilty plea, the Defendant admits that the amount accumulated in the engine room bilges and discharged overboard was at least approximately 39 cubic meters (approximately 10,303 gallons), and that no entry was made in the Oil Record Book that would have revealed the problem and overboard discharge.

Flooding of the Engine Room Bilges

Since approximately December 2019, following the installation of a ballast water treatment system (“BWTS”), the *Gannet Bulker* had experienced difficulties with removing the last



remaining ballast water from certain ballast tanks, a process referred to as “stripping.” The ability to remove the water in ballast tanks is essential to conducting ballast water exchanges. The inability to strip the last remaining content from ballast tanks can also have commercial impact because it can limit the volume of cargo that can be carried. From December 2019 through March 2021, ESM’s Technical Department worked with various crew of the *Gannet Bulker*, the manufacturer of the ballast water system, the shipyard in which the system was installed, and dispatched shoreside technicians to the Vessel to troubleshoot and resolve these issues. These attempts had ultimately not remedied the stripping problem and efforts were continuing.

The owner and operator of the *Gannet Bulker* and the Vessel’s crew planned to replace certain valves on the piping of the segregated ballast water system once the Vessel arrived in New Orleans as part of the effort to fix the problem. However, the valves provided to the Vessel by the vendor were not the correct size and could not be installed. On the same date, the Chief Engineer and other engineering crew members initiated their own effort to address the longstanding problem. They did so without notifying shoreside managers. When the crew began to open a ballast water valve to determine whether it was clogged with debris, water pressure from a ballast tank caused the top of the valve (referred to as a “bonnet”) to burst off and fly across the engine room. The crew had not first secured and depressurized the line to ensure that there was no upstream pressure. The result was an uncontrolled flow of water that flooded the bilge spaces in the engine room. The crew then isolated the ballast water line that had burst, located the valve bonnet, and reinstalled it to secure the valve.

By the time the valve was closed, approximately 39 cubic meters of ballast water had spilled into the bilge spaces. The ballast water mixed with waste oil in the bilges and oil sheens could readily be seen floating on top of the bilge water. The flooding of the bilges can pose a

serious threat to the safety of the ship and crew. Flooding can result in electrocution and loss of power, including inability to steer a vessel. After the flooding was stopped, all but one member of the engineering crew went to dinner or their cabins. Later that night, the contaminated bilge water was deliberately discharged overboard by the Chief Engineer and a subordinate crew member.

Deliberate Discharge Made in Violation of APPS/MARPOL

The ballast water that accumulated in the engine room bilges mixed with waste oil in the bilges and oil sheens could readily be seen floating on top of the bilge water. Having stopped the internal leak of ballast water into the bilges, the Vessel was required to either store the oil-contaminated bilge water onboard for future processing to remove the oil or offload the waste in port to a barge or tank truck for proper disposal.

Instead, at the direction of the Chief Engineer the oil contaminated water in the bilges was intentionally discharged overboard at night. The discharge did not pass through the Oily Water Separator and Oil Content Monitor and therefore violated MARPOL Annex I and APPS. No record of the discharge was entered into the Oil Record Book, a required log in which all discharges of oily mixtures must be fully and accurately recorded. Consequently, the log was false in that it omitted and thus concealed the fact that an illegal discharge had been made. The knowing failure to accurately maintain the Oil Record Book also violated MARPOL Annex I and APPS.

Neither the Coast Guard nor shoreside ESM personnel were informed about the flooding of the engine room bilges or the overboard discharge at the time. Similarly, the discharge of ballast water was not reported to the U. S. Environmental Protection Agency. At the time of the discharge, the *Gannet Bulker* was at an anchorage near the Southwest Pass at the mouth of the Mississippi River and within U. S. waters. At least approximately 39 cubic meters (10,303 gallons) were

intentionally discharged overboard. The Chief Engineer knew that the bilge water being discharged overboard contained oil.

Obstruction of Justice

On March 15, 2021, after receiving the whistleblower allegation of the discharge of oil contaminated machinery space bilge water without processing in U. S. waters, the Coast Guard issued a Notice of Federal Interest to the Vessel under the Oil Pollution Act of 1990. After receiving word of the impending Coast Guard inspection, ship officers and crew engaged in a variety of obstructive acts both to conceal the internal flooding and overboard discharge, as well as to retaliate against the whistleblower whose identity was known to the crew.

In summary, senior ship officers and crew members made false statements to the Coast Guard during the agency's inspection of the *Gannet Bulker*. The Chief Engineer met with subordinate crew members and suggested that they should lie. The obstructive acts also involved the destruction of evidence. In particular, the Chief Engineer directed a subordinate engineer to remove and conceal the engine control room alarm printout from the engine control room computer in order to prevent the Coast Guard from learning the truth about the Vessel's problems and the overboard discharge in U. S. waters. Multiple crewmembers denied knowing what had happened to the missing printout.

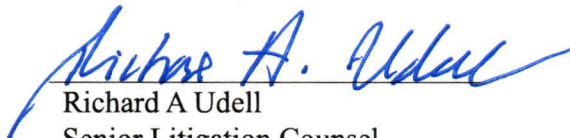
Coast Guard inspectors were presented with false and misleading records including the Oil Record Book that omitted mention of the internal flooding and overboard discharge. The ship's officers and crew did not inform the Coast Guard during its inspection or prior to the ship's departure from New Orleans that oil contaminated waste had been deliberately discharged overboard or that the flooding of the bilges originated from a ballast water tank.

Additionally, senior ship officers sought to retaliate against the whistleblower, who had made himself known to his fellow crewmates. This effort included the creation of false and backdated personnel evaluations that were handed to the Coast Guard during the inspection and intended to discredit the whistleblower.

These and other obstructive acts occurred despite the fact that the ESM Operations Department had instructed the Master to fully cooperate with the Coast Guard and provide a full report on the repairs done onboard. ESM also engaged counsel to attend the Vessel, and this attorney, at the direction of ESM, instructed the officers and crew to cooperate fully with the Coast Guard investigation. When this attorney learned that a whistleblower feared for his personal safety, he recommended to the Coast Guard that the whistleblower be allowed to disembark from the Vessel and offered that ESM would voluntarily pay for his shoreside lodging. The Coast Guard agreed with this recommendation.

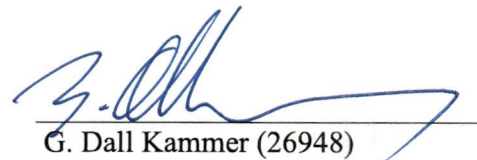
Very truly yours,

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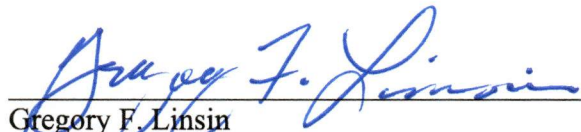
FOR THE DEFENDANTS

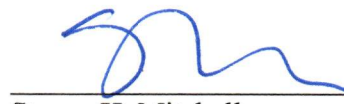
As an authorized representative of Eagle Ship Management, LLC, I have read this joint Factual Basis and carefully discussed every part of it with the company's defense counsel. I hereby stipulate that the above Factual Basis is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

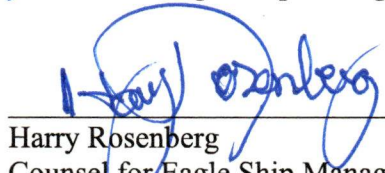


Bo Westergaard Jensen, President
Eagle Ship Management, LLC

We are counsel for Defendant Eagle Ship Management, LLC. We have carefully discussed every part of this joint Factual Basis with the authorized representatives of each company. To the best of our knowledge, this is a true and accurate factual statement and provides a sufficient factual basis for charges set forth in the Bill of Information and Defendant's guilty plea as set forth in the Plea Agreement dated this same day.



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