

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

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UNITED STATES OF AMERICA :
 :
 v. : Crim. No. 13-
 :
 COLUMBIA SHIPMANAGEMENT LTD. : 33 U.S.C. § 1908(a)
 : 18 U.S.C. §§ 1505, 1519
 :

INFORMATION

The defendants having waived in open court prosecution by Indictment, the United States Attorney for the District of Delaware and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice charge:

COUNT ONE

(Act to Prevent Pollution from Ships - 33 U.S.C. § 1908(a))

1. At all times relevant to this Information, unless otherwise indicated:

The Defendant

a. Defendant COLUMBIA SHIPMANAGEMENT LTD. ("CSM-CY") was a company incorporated in the Republic of Cyprus with offices in Limassol, Cyprus. Defendant CSM-CY was a ship management company that managed and operated a fleet of ocean going vessels, including the *Motor Tanker (M/T) Nordic Passat*

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The Vessel

b. The *M/T Nordic Passat* was 84,586 gross ton ocean-going crude oil/product carrier built in South Korea and completed in 2002. The *M/T Nordic Passat* was approximately 899 feet in length, registered in The Republic of Marshall Islands, and has an International Maritime Organization (IMO) number of 9229386. The *M/T Nordic Passat* was commercially operated and managed by defendant CSM-CY and another related entity.

c. Ocean-going crude oil/product tankers, such as the *M/T Nordic Passat* generate large quantities of oil-contaminated waste, the proper disposal of which may result in costs to the vessel management company. The normal operation of an ocean-going vessel produces a significant quantity of oil sludge due to the process of purifying fuel oil and lubricating oil. In addition, the engineering machinery of virtually all ocean-going vessels leaks and drips large amounts of oil-contaminated waste that collects in the bottom of the ship, known as the bilges. This oil-contaminated waste must be regularly discharged to help ensure a vessel's seaworthiness. The discharge of oil-contaminated waste is regulated by International Treaties and United States law as set forth herein.

d. Crew members of different ranks worked in the Engine Department of the vessels. Each Engine Department

included a Chief Engineer, a Second Engineer, a Third Engineer, and various numbers of Oilers, Wipers, and Pipe Fitters, and sometimes a Fourth Engineer. Oilers typically assisted the engineers in cleaning and maintaining engine machinery. Wipers typically were responsible for cleaning equipment and assisting the engineers.

e. The Chief Engineer onboard each of the vessels had overall responsibility for the operation of the Engine Department, including the supervision of daily operations, formulation and implementation of engine room procedures, and verification that all systems, including the Oily Water Separator, a pollution prevention device required by law, were functioning properly. The Chief Engineer onboard each vessel was also responsible for maintaining an Oil Record Book that accurately recorded the handling, transfer, and discharge of oily waste aboard the ship.

The Act to Prevent Pollution from Ships and the MARPOL Protocol

f. The Act to Prevent Pollution from Ships ("APPS"), 33 U.S.C. §§ 1901 et seq., was enacted by Congress in 1980 to implement two related international treaties to which the United States is a signatory: the 1973 International Convention for the Prevention of Pollution from Ships and the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships. Together, these treaties were known as

"the MARPOL Protocol".

g. APPS made the MARPOL Protocol applicable to all commercial vessels operating in the navigable waters of the United States or while in a port or terminal under the jurisdiction of the United States, including vessels operating under the authority of a country other than the United States.

h. APPS also authorized the United States Coast Guard (the "Coast Guard"), an agency within the United States Department of Homeland Security, to promulgate regulations implementing the MARPOL Protocol, namely, Title 33, United States Code, Sections 1907(c)(1) and (c)(2). Pursuant to that authority, the Coast Guard established Title 33, Code of Federal Regulations, Sections 151.01 et seq., to ensure compliance with the MARPOL Protocol and to prevent pollution in United States waters.

Regulation of Oil-Contaminated Waste from Ocean-Going Vessels

i. The principal source of water pollution addressed by the APPS regulations and the MARPOL Protocol is the oil sludge and oil-contaminated waste generated in the machinery space of large vessels such as the *M/T Nordic Passat*.

j. The oil sludge and oil-contaminated bilge waste of such vessels is collected in tanks located on board the vessels designed to hold the oily waste for proper disposal.

Regulation 17 of MARPOL Annex I and Title 33, Code of Federal

Regulations, Sections 151.10(a)(5) and (b)(3), provides that waste generated in machinery spaces may be discharged overboard into the sea only if it contains less than 15 parts of oil per million ("ppm") parts of water. To facilitate the discharge of oil-contaminated water without causing pollution, large vessels are required to have a pollution control device known as an Oily Water Separator ("OWS"). The OWS is designed to remove oil contamination from bilge waste to produce water containing less than 15 ppm of oil, as measured by the Oil Content Monitor (OCM). If the OCM detects an oil content of greater than 15 ppm in the effluent, it sounds an alarm and shuts down the pumps or diverts flow back to the bilges in order to prevent a discharge of greater than 15 ppm of oil overboard. APPS and the MARPOL Protocol also require that oil sludge, which cannot be processed through pollution control equipment, be disposed of by either burning it in a vessel's incinerator or by off-loading it to shore for proper disposal.

The Requirement that Vessels Maintain an Oil Record Book

k. To ensure that oily waste is properly processed and disposed of, Regulation 20 of MARPOL Annex I, and Title 33, Code of Federal Regulations, Section 151.25(a), (d), and (h), provides that, with regard to certain vessels of more than 400 gross tons, the person or persons in charge of an operation involving the transfer or disposal of oily waste is required to

fully record every operation, without delay and on a tank-to-tank basis, in a log known as an Oil Record Book. All transfer or disposal of oily waste is required to be recorded in the Oil Record Book, and all emergency, accidental, or other exceptional discharges of oil or oil mixtures, including a statement of the circumstances of, and reasons for, the discharge, are also required to be recorded in the Oil Record Book, pursuant to Title 33, Code of Federal Regulations, Section 151.25(g). The Oil Record Book is required to be maintained on board the vessel for not less than three years and to be readily available for inspection at all reasonable times, pursuant to Title 33, Code of Federal Regulations, Section 151.25(k).

The Coast Guard's Authority

1. The Coast Guard is authorized to conduct inspections to determine whether vessels in U.S. waters were in compliance with MARPOL, APPS and other applicable federal regulations. In connection with its inspections, the Coast Guard is authorized to examine each vessel's Oil Record Book to determine, among other things, whether the given vessel had operable pollution prevention equipment, whether it posed a danger to United States ports and waters, and whether the vessel had discharged oily waste in violation of law, pursuant to Title 33, Code of Federal Regulations, Sections 151.23(a)(3) and 151.23(c). In conducting inspections, the Coast Guard relies on

the vessel's Oil Record Book and statements of the crew to determine whether the vessel's crew was properly handling oily waste, pursuant to Title 33, Code of Federal Regulations, Section § 151.23(c).

2. On or about October 22, 2012, in the Delaware Bay Big Stone Anchorage and the internal waters and ports of the United States, in the District of Delaware, and elsewhere, the defendant,

COLUMBIA SHIPMANAGEMENT LTD.

by and through the acts of its agents and employees, specifically senior ship engineers, who were acting within the scope of their agency and employment and with the intent to benefit the defendant, did knowingly fail to maintain an Oil Record Book (Part I) for the *M/T Nordic Passat* machinery spaces in which all disposals of oil residue, overboard discharges, and disposals otherwise of oily mixtures, slops from bilges, and bilge waste that accumulated in machinery space were fully recorded, in that the defendant failed to record in the Oil Record Book exceptional discharges overboard of oil residue, oily mixtures, and bilge waste made: (1) with the use of portable pump and rubber hose that was connected to the overboard discharge valve from the sewage system that bypassed the Oily Water Separator and Oil Content Monitor; and (2) with equipment and procedures that flushed the Oil bypassed the Oily

Water Separator and Oil Content Monitor Content Monitor with fresh water during overboard discharges using the Oily Water Separator.

In violation of Title 33, United States Code, Section 1908(a) and Title 33, Code of Federal Regulations, Section 151.25.

COUNT TWO

(Act to Prevent Pollution from Ships - 33 U.S.C. § 1908(a))

1. Paragraph 1 of Count One of this Information is re-alleged and incorporated herein.

2. On or about October 22, 2012, in the Delaware Bay Big Stone Anchorage and the internal waters and ports of the United States, in the District of Delaware, and elsewhere, the defendant,

COLUMBIA SHIPMANAGEMENT Ltd.

by and through the acts of its agents and employees, specifically senior ship engineers and senior deck officers, who were acting within the scope of their agency and employment and with the intent to benefit the defendant, did knowingly fail to maintain an Oil Record Book (Part 2) for the *M/T Nordic Passat* cargo operations in which all internal transfers and disposals otherwise of oil residue, and disposals otherwise of oily mixtures, slops from bilges, and bilge waste that had accumulated in machinery space were fully recorded, in that

defendant CSM-CY failed to record in the Oil Record Book (Part 2) internal transfers of sludge and oily waste from the machinery spaces to the slop tank and number 6 cargo tank.

In violation of Title 33, United States Code, Section 1908(a) and Title 33, Code of Federal Regulations, Section 151.25.

COUNT THREE

(Obstruction of Justice - 18 U.S.C. § 1505)

1. Paragraph 1 of Count One of this Information is re-alleged and incorporated herein.

2. On or about October 22, 2012, in the Delaware Bay Big Stone Anchorage and the internal waters and ports of the United States, in the District of Delaware and elsewhere, the defendant,

COLUMBIA SHIPMANAGEMENT LTD.

by and through the acts of its agents and employees, specifically senior ship engineers and senior deck officers, who were acting within the scope of their agency and employment and with the intent to benefit the defendant, did corruptly influence, obstruct, and impede, and endeavor to influence, obstruct, and impede, the due and proper administration of the law under a pending proceeding by the Coast Guard and the Department of Homeland Security, namely, an inspection of the

M/T Nordic Passat to determine the vessel's compliance with United States law, in that the defendant CSM-CY:

- a. Presented the Coast Guard with false, fictitious and misleading Oil Record Books (Part I) for the *M/T Nordic Passat* that did not fully record, and otherwise concealed, discharges overboard of bilge waste made without the use of the vessel's required pollution prevention equipment;
- b. Made material false, fictitious and misleading statements asserting the proper use of the Oily Water Separator and concealing the use of a hose used to bypass the Oily Water Separator;
- c. Made material false, fictitious and misleading statements claiming that the vessel's incinerator had been used to properly dispose of oil sludge waste when in fact the sludge waste had been transferred to a slop tank and to a cargo tank.
- d. Presented the Coast Guard with false, fictitious and misleading Oil Record Books (Part II) for the *M/T Nordic Passat* that did not fully record, and otherwise concealed, internal transfers of sludge and oily waste to the slop tank and number 6 cargo tank.

In violation of Title 18, United States Code, Section 1505.

COUNT FOUR

(Obstruction of Justice - 18 U.S.C. § 1519)

1. Paragraph 1 of Count One of this Information is re-alleged and incorporated herein.

2. On or about October 22, 2012, in the Delaware Bay Big Stone Anchorage and the internal waters and ports of the United States, in the District of Delaware, and elsewhere, the

defendant,

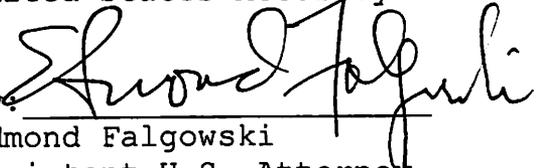
COLUMBIA SHIPMANAGEMENT LTD.,

by and through the acts of its agents and employees, specifically senior ship engineers, who were acting within the scope of their agency and employment and with the intent to benefit the defendant, with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of a department and agency of the United States, namely, the Coast Guard and the Department of Homeland Security, and in relation to and in contemplation of such matter, namely, an inspection of the *M/T Nordic Passat* to determine the vessel's compliance with United States law, did knowingly conceal, cover up, and falsify, and make false entries in a record and document, namely, an Oil Record Book (Part I) for the *M/T Nordic Passat* that concealed the overboard discharge of bilge waste and contained entries falsely indicating that required pollution prevention equipment had been used properly when, in fact, oil contaminated had been discharged overboard (1) with the use of portable pump and rubber hose that was connected to the overboard discharge valve from the sewage system that bypassed the Oily Water Separator and Oil Content Monitor; and (2) with equipment and procedures that flushed the Oil Content Monitor with fresh water during overboard discharges using the Oily Water Separator.

In violation of Title 18, United States Code, Section

1519.

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March 15, 2013