

JUN 15, 2010

STEVEN M. LARIMORE
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S. D. OF FLA. MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10-60158-CR-WPD (S)
18 U.S.C. § 371
18 U.S.C. § 1001(a)(2)
18 U.S.C. § 2
33 U.S.C. § 1908(a)

UNITED STATES OF AMERICA

v.

RONALD RAMON,
NORTHON ERASO,
HP MARITIME CONSULTANT, INC.,
and
HUGO PENA,
Defendants.

SUPERSEDING INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Superseding Indictment:

1. The M/V ISLAND EXPRESS I was a 155-foot cargo ship weighing 422 gross tons and home ported in Port Laudania, Florida. The M/V ISLAND EXPRESS I is currently registered in the Republic of Panama.
2. Defendant **RONALD RAMON** was a Honduran citizen who became Master of the M/V ISLAND EXPRESS I on or about March 15, 2010. As Master, **RAMON** was the highest ranking member of the crew of the M/V ISLAND EXPRESS I.
3. Defendant **NORTHON ERASO** was a Colombian citizen who became Chief Engineer of the M/V ISLAND EXPRESS I on or about February 7, 2010. As Chief Engineer, **ERASO** was the highest ranking engineer on board the vessel.

4. Defendant **HP MARITIME CONSULTANT, INC.** was a shipping services provider with a principal place of business of 2416 S. Andrews Ave., Fort Lauderdale, Florida 33316. It served as a subcontractor for classification societies in the performance of ship surveys and certifications.

5. Defendant **HUGO PENA** was an employee of **HP MARITIME CONSULTANT, INC.** and a classification surveyor. A classification society recognized by the government of Panama contracted **PENA** to perform classification surveys of and issue certifications to ships registered in Panama on behalf of the government of Panama.

BACKGROUND

6. The United States is a party to an international treaty that regulates the discharge of oil from vessels at sea: the International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978 ("MARPOL"). Congress implemented MARPOL in the United States through the Act to Prevent Pollution from Ships ("APPS"), 33 U.S.C. §§ 1901 *et seq.* APPS makes it a crime for any person to knowingly violate MARPOL, APPS, or regulations promulgated under APPS. 33 U.S.C. § 1908(a). These regulations apply to all commercial vessels operating in United States waters or at United States ports, including vessels operating under the authority of a country other than the United States.

7. MARPOL and APPS set the legal standards for the discharge of oil-contaminated water overboard by a vessel. "Bilge" is a mixture of oil and water that accumulates during the normal operation of a ship. Bilge, or any type of oil-contaminated water, may be discharged overboard into the ocean only if its oil content is less than 15 parts per million ("ppm"). 33 C.F.R. § 151.10. The principal technology utilized to lower the petroleum content of oil-contaminated water such as bilge is a centrifugal separation machine known as an Oil Water

Separator. A ship of 400 gross tonnage and above must have a functioning Oil Water Separator. MARPOL, Annex 1, Regulation 14. It must use its Oil Water Separator to discharge oil-contaminated water into the ocean. 33 C.F.R. § 151.10.

8. Consistent with the requirements contained in MARPOL, the APPS regulations require that a non-oil tanker ship of 400 gross tons and above maintain a record known as an Oil Record Book in which the disposal of oil residue and the discharge overboard or disposal otherwise of bilge that has accumulated in the machinery spaces must be recorded. Discharges from the machinery spaces of a cargo ship must be fully and accurately recorded in the Oil Record Book by the person in charge of the operations. 33 C.F.R. § 151.25(d). The Oil Record Book also must record any emergency, accidental, or other exceptional discharges of oil or mixtures. 33 C.F.R. § 151.25(g). The Oil Record Book must be maintained onboard the vessel for not less than three years, and be readily available for inspection at all reasonable times. 33 C.F.R. § 151.25(k). The master of a ship is responsible for the maintenance of the Oil Record Book. 33 C.F.R. § 151.25(j).

9. "Flag states" (*i.e.*, nations that register vessels) certify the compliance of vessels sailing under their authority with international laws such as MARPOL. The Republic of Panama ("Panama") is a party to MARPOL and is the flag state of the M/V ISLAND EXPRESS I. A flag state that is a party to MARPOL may issue an International Oil Pollution Prevention ("IOPP") Certificate for a ship after a survey of the ship reveals that it complies with MARPOL. MARPOL, Annex I, Regulation 6. A flag state may also delegate the authority to conduct surveys and issue certificates to a recognized classification society. MARPOL, Annex I, Regulation 6.

10. Classification societies are organizations that establish and apply technical standards in relation to the design, construction, and survey of marine facilities, including ships. A vessel designed and built to the appropriate rules of a society may apply for a certificate of classification from that society. The society issues this certificate upon completion of relevant classification surveys. The certificate is an attestation that, at the time of the survey, the vessel is in compliance with the standards that have been developed and published by the society issuing the classification certificate.

11. In order to issue an IOPP Certificate, the attending class surveyor must conduct a complete survey of the ship's structure, equipment, systems, fittings, arrangements, and material and ensure that they fully comply with the applicable requirements of MARPOL. MARPOL, Annex I, Regulation 6. A non-oil tanker of 400 gross tons or above must maintain its IOPP Certificate on board the ship. 33 C.F.R. § 151.19(b).

12. "Port states" (*i.e.*, nations visited by the ships), such as the United States, inspect vessels to assure compliance with the law within their ports and waters. An inspection of a foreign vessel by a port state is referred to as a "port state control inspection." The United States Coast Guard ("Coast Guard"), an agency of the United States Department of Homeland Security, is charged with enforcing the laws of the United States and is empowered with general authority under 14 U.S.C. § 89(a) to board vessels and conduct inspections and investigations of potential violations and to determine compliance with MARPOL, APPS, and related regulations. Additionally, under 46 U.S.C. § 3303, the Coast Guard has specific authority to perform foreign vessel inspections to determine compliance with United States and international law with regard to vessel safety. The Coast Guard is specifically authorized to inspect foreign vessels, while in

port or at terminals, to review their IOPP Certificate and their Oil Record Book, and to ensure that the ship complies with MARPOL. 33 C.F.R. § 151.23.

COUNT 1
Conspiracy to Commit an Offense Against the United States
(18 U.S.C. § 371)

1. Paragraphs 1 through 12 of the General Allegations and Background sections are realleged and incorporated by reference as though fully set forth herein.

2. From on or about February 7, 2010, and continuing through on or about May 4, 2010, in Broward County, in the Southern District of Florida, and elsewhere, the defendants,

RONALD RAMON,
NORTHON ERASO,
HP MARITIME CONSULTANT, INC.,
and
HUGO PENA,

did knowingly, and with intent to further the object of the conspiracy, combine, conspire, confederate, and agree with each other, and others known to the Grand Jury, to commit an offense against the United States, that is: to knowingly fail to maintain an accurate Oil Record Book on board the M/V ISLAND EXPRESS I, a ship of 400 gross tons and above, as required by 33 C.F.R. § 151.25 at a port or place in the United States, that is, Port Laudania, Florida, in violation of Title 33, United States Code, Section 1908(a); Title 33, Code of Federal Regulations, Section 151.25; and MARPOL, Annex I, Regulation 17.

Purpose of the Conspiracy

3. It was the purpose of the conspiracy for the defendants to keep the M/V ISLAND EXPRESS I in service, even though the ship's Oil Water Separator was inoperable, by, among other things: (a) discharging bilge from the M/V ISLAND EXPRESS I overboard into the ocean; (b) not processing the bilge through any equipment that could purify the bilge to an oil content of

less than 15 ppm; (c) concealing these overboard discharges by omitting them from the Oil Record Book; and (d) issuing an IOPP Certificate to the M/V ISLAND EXPRESS I irrespective of the ship's inoperable Oil Water Separator.

Manner and Means of the Conspiracy

The manner and means by which the defendants sought to accomplish the object and purpose of the conspiracy included, among others, the following:

4. Beginning as early as February 7, 2010, and continuing through on or about May 4, 2010, the Oil Water Separator on board the M/V ISLAND EXPRESS I did not function.

5. Beginning as early as February 7, 2010, and continuing through on or about May 4, 2010, the crew of the M/V ISLAND EXPRESS I, at the direction of **RONALD RAMON** and **NORTHON ERASO**, discharged bilge and oil-contaminated waste overboard into the ocean using the ship's bilge system without first determining the oil content of the effluent.

6. Beginning as early as February 7, 2010, and continuing through on or about May 4, 2010, the crew of the M/V ISLAND EXPRESS I, at the direction of **RONALD RAMON** and **NORTHON ERASO**, discharged bilge and oil-contaminated water overboard using two submersible, portable pumps that they placed directly into the ship's bilge spaces. These pumps sent bilge from the ship's bilge spaces overboard into the ocean without processing it through the Oil Water Separator.

Overt Acts in Furtherance of the Conspiracy

In furtherance of the conspiracy, and to accomplish its object and purpose, at least one of the conspirators committed and caused to be committed, in the Southern District of Florida, the following overt acts, among others:

7. On or about April 8, 2010, **RONALD RAMON** piloted the M/V ISLAND EXPRESS I from Dania, Florida to Freeport, Bahamas.

8. On or about April 8, 2010, **NORTHON ERASO** directed the discharge of bilge overboard through submersible, portable pumps without processing it through the Oil Water Separator.

9. On or about April 8, 2010, **NORTHON ERASO** omitted this overboard discharge from the Oil Record Book.

10. On or about April 8, 2010, **RONALD RAMON** signed the page of the M/V ISLAND EXPRESS I's Oil Record Book that omitted these discharges on a space entitled "Master Signature."

11. On or about April 15, 2010, **HUGO PENA** issued an International Oil Pollution Prevention Certificate for the M/V ISLAND EXPRESS I stating that the structure, equipment, systems, fittings, arrangements, and material of the vessel and the condition thereof were in all respects satisfactory and that the ship complied with Annex I of MARPOL, despite knowing that the ship's Oil Water Separator was inoperable.

All in violation of Title 18, United States Code, Section 371.

COUNTS 2 - 26
Act to Prevent Pollution from Ships
(33 U.S.C. § 1908(a))

1. On or about the dates listed below with respect to each Count, in Broward County, in the Southern District of Florida, the defendants listed below, did knowingly fail to maintain an accurate Oil Record Book as required by 33 C.F.R. § 151.25, in that, at a port and place in the United States, that is, Port Laudania, Florida, the M/V ISLAND EXPRESS I's Oil

Record Book failed to contain entries for the M/V ISLAND EXPRESS I's discharge overboard and disposal otherwise of bilge water that had accumulated in machinery spaces:

COUNT	DEFENDANT(S)	APPROXIMATE DATE
2	NORTHON ERASO	February 7, 2010
3	NORTHON ERASO	February 16, 2010
4	NORTHON ERASO	February 25, 2010
5	NORTHON ERASO	February 27, 2010
6	NORTHON ERASO	March 8, 2010
7	NORTHON ERASO	March 11, 2010
8	NORTHON ERASO	March 13, 2010
9	NORTHON ERASO	March 16, 2010
10	NORTHON ERASO and RONALD RAMON	March 18, 2010
11	NORTHON ERASO and RONALD RAMON	March 19, 2010
12	NORTHON ERASO and RONALD RAMON	March 22, 2010
13	NORTHON ERASO and RONALD RAMON	March 25, 2010
14	NORTHON ERASO and RONALD RAMON	March 27, 2010
15	NORTHON ERASO and RONALD RAMON	March 31, 2010
16	NORTHON ERASO and RONALD RAMON	April 2, 2010

COUNT	DEFENDANT(S)	APPROXIMATE DATE
17	NORTHON ERASO and RONALD RAMON	April 6, 2010
18	NORTHON ERASO and RONALD RAMON	April 8, 2010
19	NORTHON ERASO and RONALD RAMON	April 9, 2010
20	NORTHON ERASO and RONALD RAMON	April 11, 2010
21	NORTHON ERASO and RONALD RAMON	April 15, 2010
22	NORTHON ERASO and RONALD RAMON	April 19, 2010
23	NORTHON ERASO and RONALD RAMON	April 22, 2010
24	NORTHON ERASO and RONALD RAMON	April 26, 2010
25	NORTHON ERASO and RONALD RAMON	April 29, 2010
26	NORTHON ERASO and RONALD RAMON	May 3, 2010

In violation of Title 33, United States Code, Section 1908(a); Title 33, Code of Federal Regulations, Section 151.25; MARPOL, Annex I, Regulation 17; and Title 18, United States Code, Section 2.

COUNT 27
Act to Prevent Pollution from Ships
(33 U.S.C. § 1908(a))

1. On or about April 15, 2010, in Broward County, in the Southern District of Florida, the defendants,

HP MARITIME CONSULTANT, INC.
and
HUGO PENA,

did knowingly violate MARPOL, that is the defendant failed to conduct a complete survey of the M/V ISLAND EXPRESS I, a ship of 400 gross tonnage or above, such as to ensure that the structure, equipment, systems, arrangements, and material of the ship fully complied with MARPOL, in violation of Title 33, United States Code, Section 1908(a) and MARPOL, Annex I, Regulation 6; and Title 18, United States Code, Section 2.

COUNT 28
False Official Statement
(18 U.S.C. § 1001(a)(2))

1. On or about April 15, 2010, in Broward County, in the Southern District of Florida, in a matter within the jurisdiction of the Department of Homeland Security, United States Coast Guard, an agency of the executive branch of the Government of the United States, the defendants,

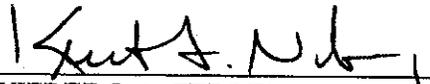
HP MARITIME CONSULTANT, INC.
and
HUGO PENA,

did knowingly and willfully make a materially false, fictitious, and fraudulent statement, in that the defendants certified that the structure, equipment, systems, fittings, arrangements, and material of the M/V ISLAND EXPRESS I and the condition thereof, were in all respects satisfactory and that the ship complied with Annex I of MARPOL, when in truth and in fact and

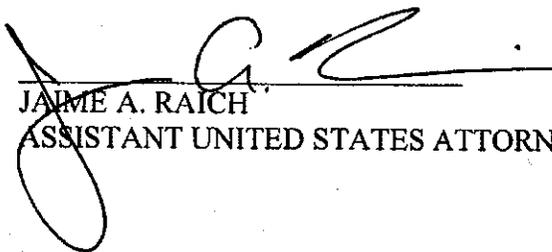
as the defendants then and there well knew, the structure, equipment, systems, fittings, arrangements, and material of the M/V ISLAND EXPRESS I were not in all respects satisfactory and did not comply with Annex I of MARPOL; in violation of Title 18, United States Code, Section 1001(a)(2).

A TRUE BILL 

FOREPERSON



WIFREDO A. FERRER
UNITED STATES ATTORNEY



JAIMÉ A. RAICH
ASSISTANT UNITED STATES ATTORNEY