

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon.  
 :  
 v. : Crim. No. 15 -  
 :  
 VALERII GEORGIEV :

JOINT FACTUAL STATEMENT

The United States Attorney for the District of New Jersey and the Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice (collectively, “the United States”) and Defendant Valerii Georgiev (“Defendant” or “Georgiev”) agree and stipulate to: (a) facts, which the United States could prove at trial beyond a reasonable doubt, which provide a factual basis for Georgiev’s guilty plea to a violation of Title 33, United States Code, Section 1908(a) and 33 C.F.R. § 151.25; and (b) additional facts the United States could prove by a preponderance of the evidence, which provide a factual basis for Georgiev’s relevant conduct.<sup>1</sup>

1. The Motor Vessel Murcia Carrier (“*M/V Murcia Carrier*”) was a 9,538 gross ton ocean-going refrigerated cargo vessel. The vessel was registered in Panama, and owned by Giralda Shipping Corporation, a Cayman Islands domiciled Company. The vessel was operated or managed by Norbulk Shipping UK LTD, located in Glasgow, United Kingdom.

2. Georgiev was the Chief Mate on board the vessel. In this capacity, Georgiev oversaw all personnel and activities on the deck of the vessel, subject to the ultimate direction of the Master.

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<sup>1</sup> The United States and the Defendant stipulate to these facts with the understanding that certain vessel crew members whose statements have given rise to facts set forth in this Joint Factual Statement are Filipino nationals who will be repatriated and likely unavailable to testify at any subsequent sentencing hearing. These individuals include Ronald Aguilar, Marlon Torres, Jocarias Savilla, and George Geolina.

3. Georgiev had previously served as Chief Mate on the *M/V Murcia Carrier*. His first contract on the vessel was from July 2013 to November 2013. His second contract began on March 31, 2014.

### The Voyage

4. From on or about April 24, 2014, to on or about April 29, 2014, the *M/V Murcia Carrier* sailed from Costa Rica, to Gloucester, New Jersey.

5. On April 25, 2014, while the vessel was underway, Georgiev orally instructed the ship's Bosun Ronald Aguilar, to discard overboard several barrels that contained some hydraulic oil, which had been used to support the vessel's deck cranes.

a. Aguilar reported directly to Georgiev and was responsible for carrying out all orders given to him by Georgiev with respect to activities on the deck of the vessel.

b. This order was given on the bridge of the vessel during Aguilar's routine morning meeting with Georgiev, at which time Aguilar typically was given his daily orders.

c. The barrels had been on the vessel during Georgiev's first contract as Chief Mate in July 2013.

i. At that time, the barrels were rusted and leaking fluid. Georgiev attempted to have the barrels removed while in port but no one would take them from the vessel in their condition. In addition, stevedores who boarded the vessel to unload cargo complained about the leaking barrels.

ii. While Georgiev maintains that these considerations prompted him to order the at-sea discard of the barrels, Georgiev acknowledges that other legal and feasible means of disposing of these barrels were available.

6. The United States and the Defendant disagree on the number of barrels that Georgiev ordered be discarded.

a. Georgiev maintains that he ordered that no more than seven (7) barrels be thrown overboard.

b. Aguilar maintains that when the order to discard the barrels overboard was given, Georgiev provided him with a sheet of paper that

contained a hand-written drawing showing the barrels to be discarded. Aguilar claims that this drawing, which no longer exists because it was inadvertently destroyed by a crewmember (Savilla), identified approximately eight (8) barrels on top of Mass House #2 (the structure that supports one of the ship's cranes), and an additional eight (8) barrels on the main deck along the forward side of Mass House #2. Aguilar maintains that Georgiev also told him to discard any other oily barrels.

7. Georgiev instructed Aguilar to move the barrels to the starboard and port sides of the vessel for discharge later when the vessel was in international waters.

8. Georgiev was aware that the drums in question contained some hydraulic oil. According to Aguilar, when tasked with disposing of these barrels, he expressed concern doing so. In response, Georgiev told him not to worry, as it was only hydraulic oil.

9. On April 25, 2014, the morning he was first instructed to discard barrels, Aguilar met with two members of the deck crew whom he supervised, crew members Marlon Torres and Jocarias Savilla, and instructed them to carry out the dumping of the barrels.

10. In compliance with Georgiev's order, Torres and Savilla moved the barrels to the starboard and port sides of the vessel over the course of two days, beginning on or about April 25, 2014, and finishing on or about April 26, 2014.

a. Torres has stated that he readied sixteen (16) barrels for disposal. Torres believes the barrels contained oil from the cranes, although he was not sure where it actually came from.

i. Eight (8) of these barrels were located on top Mass House #2. Of these eight (8) barrels, Torres claims that four (4) contained "dirty fluid" and four (4) contained "clear oil". All but one of the eight (8) barrels was full. The barrels were rusty and leaked. In order to transfer the fluid in these barrels to the main deck, Torres and Savilla used an air pump and a clear hose, siphoning the fluid from each barrel on top of Mass House #2 into an empty barrel located on the main deck.

ii. The other eight (8) barrels were located on the main deck immediately forward of Mass House #2.

b. Savilla has stated that using an air pump, he and Torres transferred eight (barrels) from the top of Mass House #2 to the main deck for disposal.

c. Georgiev denies ordering the discard of more than seven (7) barrels.

11. The disposal of the barrels occurred on or about April 27, 2014, while the vessel was in international waters.

a. During his morning meeting with Georgiev, Aguilar was instructed to throw the barrels overboard. Aguilar then relayed the order to Torres and Savilla. Torres and Savilla both stated that Aguilar was not comfortable with giving the order to discharge the barrels, but that they needed to follow the order of the Chief Mate.

b. The barrels were thrown over the side of the vessel the morning of April 27, 2014, between approximately 9:00 a.m. and noon. They were thrown overboard by Torres and Savilla, assisted by crew member Aldren Reyes.

c. On the morning of April 27, 2014, the location of the vessel (based upon the position noted in the vessel's deck log), was in international waters approximately 280 nautical miles Northeast of Miami.

d. The United States and Georgiev disagree on the number of barrels thrown overboard and the exact contents of those barrels. Aguilar, Torres and Savilla all state that twenty (20) barrels were thrown overboard. Georgiev maintains that he ordered no more than seven (7) barrels be thrown overboard.

12. The discharge of four barrels was videotaped by crew member George Geolina, using his cell phone. When the United States Coast Guard ("U.S. Coast Guard") conducted its boarding, Geolina approached boarding officers to tell them what had happened and provided them with the cell phone. The video is approximately 20 minutes in length. It was narrated by Geolina, and showed the following relevant information:

a. The video showed Torres and Savilla dumping four (4) barrels over the starboard side of the vessel. According to Geolina, he was told at a coffee break on the morning of April 27, 2014, that the dumping was already in progress. By the time Geolina could get to that part of the vessel, all

but four (4) of the barrels already had been dumped.

b. Torres and Savilla dragged each of the four (4) barrels to a gap in the rail where the barrels could be discarded.

c. In the background of the video, Geolina could be heard to say that they had dumped twenty (20) barrels total, while in United States waters, with each barrel containing 200 liters (approximately 53 gallons) of hydraulic oil and bunker fuel (fuel oil). Geolina, however, only witnessed four (4) barrels discharged overboard. Before dumping, the caps for two of the barrels were opened up. The video does not show anything other than the surface of the two barrels. Geolina videotaped what was inside the barrels. According to Coast Guard personnel who have viewed the video, the color and texture of the fluid is consistent with hydraulic oil.

13. The *M/V Murcia Carrier* arrived in Gloucester, New Jersey, on April 29, 2014, departing again for Costa Rica on May 2, 2014. Although the U.S. Coast Guard had received information about this dumping incident prior to the vessel's arrival, it took no action during the Gloucester port call.

#### The U.S. Coast Guard Investigation

14. On May 14, 2014, the *M/V Murcia Carrier* again arrived in Gloucester, New Jersey, completing another voyage from Costa Rica. The vessel was again met by the U.S. Coast Guard, in part to investigate the dumping allegation. The U.S. Coast Guard inspection took place over the course of two days. During the inspection, the U.S. Coast Guard reviewed the vessel's Oil Record Book, which did not contain any entries revealing the discharge in international waters of barrels containing hydraulic oil residue.

15. During the inspection, the U.S. Coast Guard interviewed Georgiev, who was asked whether at-sea dumping had occurred. Georgiev stated that the crew did not throw any containers overboard and that he did not know of any containers being thrown overboard.


16. During the course of the boarding, Georgiev instructed deck crew members to deny that dumping had occurred:


a. Georgiev directly approached two crew members and told them that if asked by the U.S. Coast Guard about dumping, the two crew members should deny that dumping had occurred.


b. In addition to meetings with these two crew members, Georgiev convened a meeting of all deck crew on the deck of the vessel. During this meeting, he instructed the deck crew that if asked by the U.S. Coast Guard, the deck crew members should deny that oil had been dumped overboard.

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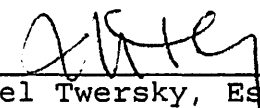
APPROVED:  
  
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I have received this Joint Factual Statement from my attorney, Michael Twersky, Esq. It has been translated for me into Russian and I understand it. I have carefully discussed every part of it with my attorney. I hereby stipulate that the above Joint Factual Statement is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

  
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Valerij Georgiev

27.04.2015  
\_\_\_\_\_  
Date

I am defense counsel for defendant Georgiev. I have carefully discussed every part of this Joint Factual Statement with my client. To the best of my knowledge this is a true and accurate factual statement and provides a sufficient factual basis for the charge set forth in the Criminal Information and defendant Georgiev's guilty plea as set forth in the Plea Agreement and for all relevant conduct.

  
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Michael Twersky, Esq.

4/27/15  
\_\_\_\_\_  
Date