

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Susan D. Wigenton
: :
v. : Crim. No. 19-
: :
D'AMICO SHIPPING ITALIA S.P.A. : 33 U.S.C. § 1908(a)
: 18 U.S.C. § 2

INFORMATION

The defendant having waived in open court prosecution by Indictment and any challenge based on venue, the United States Attorney for the District of New Jersey and the Deputy Assistant Attorney General for the Environment and Natural Resources Division of the United States Department of Justice charges:

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

The Defendant

1. Defendant D'AMICO SHIPPING ITALIA S.p.A., an Italian-domiciled shipping company with registered offices in Palermo, Italy, was the registered owner of the *Motor Tanker (M/T) Cielo di Milano*. As the owner of the vessel, D'AMICO SHIPPING ITALIA S.P.A. had responsibility for the *M/T Cielo di Milano's* compliance with safety and environmental regulations. The *M/T Cielo di Milano's* officers and crew members were hired by, and paid employees of, defendant D'AMICO SHIPPING ITALIA S.p.A. As such, they were agents and employees of defendant D'AMICO SHIPPING ITALIA S.p.A. and acted within the scope of that agency and employment and for the intended benefit, at least in part, of defendant D'AMICO SHIPPING ITALIA S.p.A.

The M/T Cielo di Milano

2. The *M/T Cielo di Milano* was an Italian-registered 25,382 gross ton ocean-going product tanker with an International Maritime Organization (“IMO”) number of 9241815 that transported petroleum products between the United States and Canada.

3. Crew members of different ranks worked in the *M/T Cielo di Milano*’s Engine Department, including a Chief Engineer, a First Assistant Engineer, a Second Assistant Engineer, a Third Assistant Engineer, an Engine Cadet, two Oilers, and two Pipe Fitters (hereinafter, collectively, the “Engine Department crew members”). In addition to having specific responsibilities assigned based on their rank, Engine Department crew members were required to carry out orders from any crew member of superior rank.

4. The Chief Engineer on board the *M/T Cielo di Milano* reported directly to the Master, who was in charge of the vessel overall. The Chief Engineer had 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 was also responsible for maintaining an Oil Record Book that accurately recorded the transfer and disposal of sludge, oil residue, oil and oily mixtures, and machinery space bilge water on board the vessel.

5. The First Assistant Engineer on board the *M/T Cielo di Milano* reported to the Chief Engineer and directly supervised junior crew members of the Engine Department, including the Second and Third Assistant Engineers. The First Assistant Engineer was also responsible for the operation and maintenance of the main engines, the Oily Water Separator, and the incinerator. The Second Assistant Engineer was responsible for operation and maintenance of the generators and boilers. The Third Assistant Engineer was responsible for operation and maintenance of the fuel and oil purifiers and the vessel's sewage system, including the sewage treatment plant and Sewage Holding Tank. The Engine Cadet took the daily soundings, that is the measurements indicating the volume of liquid in engine room storage tanks on board the vessel, and provided those soundings to the Chief Engineer for entry in the Oil Record Book. The Oilers and the Cadet assisted the engineering officers in cleaning and maintaining the vessel's engine and other machinery. The Pipe Fitters welded and fabricated pipes on board the vessel.

6. The operation of large marine vessels, such as the *M/T Cielo di Milano*, generate large quantities of oil residue, oily mixtures, and machinery space bilge water. Machinery space bilge water results from the mixing of water in the bottom of the vessel, known as the bilges, with oil that has accumulated from maintenance work or that has leaked or dripped from engines or from pipes and hoses that run throughout the vessel. In order to maintain the amount of liquid in the bilges at safe levels, this oil-contaminated machinery

space bilge water must be emptied from the bilges and discharged periodically. To accomplish this, machinery space bilge water is collected in tanks designed to hold it for proper treatment, discharge, or disposal. The *M/T Cielo di Milano* was fitted with an Oily Bilge Water Holding Tank designed for the collection and storage of oil-contaminated machinery space bilge water prior to discharge.

7. The *M/T Cielo di Milano's* Soot Tank was designed to collect waste from the cleaning of the main engine exhaust gas boiler, also referred to as the economizer. From at least on or about September 22, 2014, through on or about January 16, 2015, the Soot Tank was not used by the Engine Department crew members for its intended purpose. It instead was used to receive condensation that had collected in a horizontal section of a vent line emanating from the Incinerator Waste Oil Tank. This condensation would collect in the vent line whenever the Incinerator Waste Oil Tank was heated. To prevent the condensation from building up in the Incinerator Waste Oil Tank and blocking the vent line, an unapproved pipe was fashioned to run from the vent line to the Soot Tank, thus allowing the condensation, which contained oil residue, to drain into and collect in the Soot Tank.

The Act to Prevent Pollution from Ships and the MARPOL Protocol

8. 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. *See also* 33 C.F.R. §§ 151.01 *et seq.* Together, these treaties, which sought to minimize pollution from ocean-going vessels, were known as the “MARPOL Protocol” or “MARPOL.”

9. APPS made it a crime for any person to knowingly violate MARPOL, APPS, or the regulations promulgated under APPS. These regulations apply 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.

10. APPS also authorized the United States Coast Guard (hereinafter, the “Coast Guard”), an agency within the United States Department of Homeland Security, to promulgate regulations implementing the MARPOL Protocol, pursuant to Title 33, United States Code, Section 1903(c)(1). Under that authority, the Coast Guard established Title 33, Code of Federal Regulations, Sections 151.01 *et seq.*, to ensure compliance with APPS and the MARPOL Protocol.

Regulation of Oil-Contaminated Waste from Ocean-Going Vessels

11. A principal source of water pollution addressed by the MARPOL Protocol, APPS, and APPS regulations, was the oil residue, oily mixtures, and oil-contaminated bilge water generated in the machinery space of large vessels such as the *M/T Cielo di Milano*.

12. The oil residue, oily mixtures, and machinery space bilge water of such vessels are collected in tanks located on board vessels that are designed to hold oily waste for proper disposal. Regulation 15 of MARPOL Annex I, and Title 33, Code of Federal Regulations, Sections 151.10(a)(5), provided that waste generated in machinery spaces could be discharged overboard into the sea only if it contained no more than 15 parts of oil per million parts of water by volume ("15 ppm"). To facilitate the discharge of machinery space bilge water in conformance with these requirements, all large vessels were required to have a pollution control device known as an Oily Water Separator. The Oily Water Separator was designed to filter oil contamination from bilge waste to produce effluent containing no more than 15 ppm of oil, as measured by an Oil Content Monitor. If the Oil Content Monitor detected an oil content of greater than 15 ppm in the effluent, it sounded an alarm, and shut down the pumps or diverted 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 required that oil residue, and other oily mixtures, which could not be processed through pollution control equipment, be disposed of by either burning such oily waste in a vessel's incinerator or by off-loading it to shore for proper disposal.

Requirement that Vessels Maintain an Oil Record Book

13. To ensure that oily waste was properly processed and disposed of, Regulation 17 of MARPOL Annex I and Title 33, Code of Federal Regulations, Section 151.25(a), (d), and (h), provided that, with regard to oil

tankers of 150 gross tons and above, the person or persons in charge of an operation involving the transfer or disposal of oily waste was 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 transfers or disposals of oily waste, including machinery space bilge water and oil residue, were required to be recorded in the Oil Record Book, and all emergency, accidental, or other exceptional discharges of oil or oily mixtures, including a statement of the circumstances of, and reasons for, the discharge, were 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 was required to be maintained on board the vessel for not less than three years and be readily available for inspection at all reasonable times, pursuant to Title 33, Code of Federal Regulations, Sections 151.25(i) and (k).

United States Enforcement of APPS

14. The United States Coast Guard was authorized to conduct inspections to determine whether vessels in U.S. waters were in compliance with MARPOL, APPS, and other applicable federal laws and regulations. In conducting its inspections, the Coast Guard was authorized to examine the vessel's Oil Record Book to determine, among other things, whether the 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

relied on the vessel's Oil Record Book, and statements of the crew to determine whether the vessel's crew was acting in accordance with MARPOL, pursuant to Title 33, Code of Federal Regulations, Section 151.23(c).

The Violations

15. From in or about August 2014, through on or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through senior officers of the *M/T Cielo di Milano*, ordered Engine Department crew members to transfer machinery space bilge water from bilge wells to the Sewage Holding Tank, either via the bilge pump and the Oily Bilge Water Holding Tank, or via a portable pneumatic pump, known as a Wilden pump, and flexible hoses, in order to bypass the vessel's Oily Water Separator and Oil Content Meter. The Sewage Holding Tank was designed to hold only the effluent from the *M/T Cielo di Milano's* approved sewage treatment plant and was not intended for storage or treatment of oily waste.

16. In compliance with these orders, Engine Department crew members, using either the bilge pump and the Oily Bilge Water Holding Tank or a Wilden pump and flexible hoses, routinely pumped machinery space bilge water and oily mixtures from the bilges to the Sewage Holding Tank prior to entering port, thus bypassing the vessel's Oily Water Separator and Oil Content Monitor. At times, Engine Department crew members also pumped machinery space bilge water and oily mixtures from the bilges into the Sewage Holding Tank while the vessel was underway and when the levels of the bilges were

high.

17. From in or about August 2014, through on or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through senior officers of the *M/T Cielo di Milano*, ordered Engine Department crew members to discharge machinery space bilge water and oily mixtures that had been pumped into the Sewage Holding Tank into the sea through the tank's overboard discharge valve, without processing or monitoring by an Oil Content Monitor.

18. In compliance with these orders, Engine Department crew members subsequently discharged machinery space bilge water and oily mixtures into the sea through the Sewage Holding Tank discharge valve, without processing or monitoring by an Oil Content Monitor.

19. From on or about September 22, 2014, through on or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through senior officers of the *M/T Cielo di Milano*, ordered Engine Department crew members to set up the Wilden Pump and flexible hoses whenever the vessel departed a port and to store them in the steering gear room whenever the vessel entered a port.

20. In compliance with these orders, Engine Department crew members of the *M/T Cielo di Milano*, set up the Wilden Pump and flexible hoses whenever the vessel departed a port and stored them in the steering gear room whenever the vessel entered a port.

21. On at least three occasions, between on or about September

22, 2014, through on or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through senior officers of the *M/T Cielo di Milano*, directed Engine Department crew members to place fresh water into the Oily Bilge Water Holding Tank to make it appear to governmental authorities that the tank had been properly used to store oily bilge water when, in fact, it had not.

22. Approximately every two weeks, from on or about September 22, 2014, through on or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through senior officers of the *M/T Cielo di Milano*, ordered Engine Department crew members to transfer the contents of the Soot Tank, including the oily mixtures from the vent line referenced in Paragraph 7, *supra*, to the Sewage Holding Tank, via a Wilden pump and a set of flexible hoses.

23. In compliance with these orders, Engine Department crew members transferred the contents of the Soot Tank, including the oily mixtures from the vent line, to the Sewage Holding Tank, via a Wilden pump and a set of flexible hoses, which the Engine Department crew members stored in vessel's steering gear room while the vessel was in port.

24. From on or about September 22, 2014, through on or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through senior officers of the *M/T Cielo di Milano*, ordered Engine Department crew members to discharge the oily mixtures that had been pumped from the

Soot Tank into the Sewage Holding Tank overboard into the sea, instead of disposing of the oily mixtures at a shore-side reception facility.

25. In compliance with these orders, Engine Department crew members discharged the oily mixtures that had been pumped from the Soot Tank into the Sewage Holding Tank overboard into the sea instead of disposing of the oily mixtures at a shore-side reception facility.

26. From in or about August 2014, through on or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through senior officers of the *M/T Cielo di Milano*, failed to record in the Oil Record Book the transfers of machinery space bilge water and oily mixtures from the bilge wells to the Sewage Holding Tank, and the subsequent discharges of machinery space bilge water and oily mixtures from the Sewage Holding Tank directly into the sea.

27. From on or about September 22, 2014, through on or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through senior officers of the *M/T Cielo di Milano*, failed to record in the Oil Record Book the transfers of oil residue and oily mixtures from the Soot Tank to the Sewage Holding Tank, and the subsequent discharges of oil residue and oily mixtures from the Sewage Holding Tank directly into the sea.

28. On or about the following dates, in or around the following ports, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through senior officers of the *M/T Cielo di Milano*, maintained, and caused to be maintained, a

false and misleading Oil Record Book for the *M/T Cielo di Milano*:

Date	Port
September 20, 2014	Paulsboro, New Jersey
October 3, 2014	Bayonne, New Jersey
October 27, 2014	Bayonne, New Jersey
November 12, 2014	Bayonne, New Jersey
November 16, 2014	Baltimore, Maryland
November 18, 2014	Bayonne, New Jersey
December 18, 2014	Port Everglades, Florida
December 29, 2014	Bayonne, New Jersey
January 12, 2015	Bayonne, New Jersey

29. On or about January 16, 2015, in or around Bayonne, New Jersey, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through senior officers of the *M/T Cielo di Milano*, maintained, and caused to be maintained, and had available for inspection, a false and misleading Oil Record Book for the *M/T Cielo di Milano*.

30. On or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through senior officers of the *M/T Cielo di Milano*, directed Engine Department crew members to lie to the Coast Guard, which those crew members subsequently did.

31. On or about January 16, 2015, defendant D'AMICO

SHIPPING ITALIA S.P.A., by and through the Chief Engineer of the *M/T Cielo di Milano*, falsely stated that: 1) the Chief Engineer took his own soundings of on-board tanks because the Engine Cadet's soundings were inaccurate; 2) the Chief Engineer was not aware of any illegal discharges; 3) the Chief Engineer was not aware of the pumping of bilge water to the Sewage Holding Tank; 4) the Chief Engineer had not seen any hoses going to the Sewage Holding Tank; and, 5) the Chief Engineer had never seen the Wilden pumps used for anything other than to transfer lube oil from drums to the vessel or water to other tanks.

32. On or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through the First Engineer of the *M/T Cielo di Milano*, falsely denied both that the crew had engaged in any illegal activity and that he had knowledge of transfers of bilge water to the Sewage Holding Tank.

33. On or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through the Chief Engineer of the *M/T Cielo di Milano*, destroyed a notebook containing tank soundings that had been prepared and maintained by the Engine Cadet, by ripping out the pages, rolling them up, and burning them in the *M/T Cielo di Milano's* boiler pilot flame in order to conceal the notebook from the Coast Guard.

34. On or about January 16, 2015, defendant D'AMICO SHIPPING ITALIA S.P.A., by and through the Chief Engineer of the *M/T Cielo di Milano*, instructed the Engine Cadet not to disclose the burning of the sounding notebook to the Coast Guard.

35. On or about January 16, 2015, in the Port of Bayonne, in the District of New Jersey, and elsewhere, defendant

D'AMICO SHIPPING ITALIA S.p.A.,

by and through Engine Department crew members, including the Chief Engineer, of the *M/T Cielo di Milano*, who were acting within the scope of their agency and employment, and with the intent to benefit defendant D'AMICO SHIPPING ITALIA S.P.A., at least in part, knowingly failed to maintain an Oil Record Book for the *M/T Cielo di Milano* in which all disposals, transfers, and overboard discharges of oil residue, oily mixtures, and machinery space bilge water, were fully recorded, namely: (1) the overboard discharges into the sea of oily mixtures; (2) the overboard discharges of machinery space bilge water without the use of a properly functioning Oil Water Separator and oil monitoring equipment; and, (3) the transfers of machinery space bilge water and oily mixtures to the Sewage Holding Tank:

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


CRAIG CARPENITO
United States Attorney
District of New Jersey