

waters of the United States. The Coast Guard's implementing regulations serve to assure compliance with the MARPOL Protocol and to prevent pollution in United States waters. 33 U.S.C. §§ 1907(c)(1) and (c)(2); 33 C.F.R. §§ 151.01 et seq.

3. All ocean-going transport vessel exceeding 400 gross tons were required under MARPOL and applicable federal regulations to maintain an Oil Record Book (ORB). During a typical voyage, large amounts of oily water collect in a ship's bilges and must be discharged for the ship to remain seaworthy. To facilitate the discharge of oily bilge wastes without causing pollution, virtually all large ships were equipped with a pollution-control device known as an Oily-Water Separator which processes oil-contaminated bilge wastes by separating oil from water.

4. In addition, the normal operation of a ship produces a significant quantity of oil sludge through the purification of fuel oil and lubricating oil. This waste oil sludge, once it has been removed by the purifiers, cannot be processed through an Oily-Water Separator and must be either off-loaded to shore or burned in the ship's incinerator.

5. The MARPOL Protocol and regulations implemented pursuant to APPS provided that only water containing no more than fifteen parts per million (ppm) of oil may be discharged from certain vessels directly to the sea. 33 C.F.R. §§ 151.10(a)(5) and (b)(3). Oil residue created by the operation of an Oily-Water Separator must be properly disposed of, for example, by collecting it in a tank for proper disposal upon a ship's entry into port. 33 C.F.R. § 151.10.

6. To assure that oily bilge waste is properly processed and disposed of, the regulations implemented pursuant to APPS and the MARPOL Protocol provide that, with regard to non-tanker vessels of more than 400 gross tons, the person or persons in charge of an operation are required to fully record every operation, including all operations involving the transfer of oil-contaminated waste, on a tank to tank basis, in a special engineering log known as an Oil Record Book. Oil Record Book entries must include the date of each operation, the time of day when the operation began and ended, and the quantity of oil-contaminated water pumped from the bilges to the tank. Similarly, upon processing the oily bilge waste in the separator, the responsible officer is required to record the time and date of that operation, the quantity of oil-contaminated water processed, the latitude and longitude at which the operation began and ended, and to sign or initial his name after every entry in the Oil Record Book. Any transfer or disposal of waste oil sludge must also be recorded in the Oil Record Book. 33 C.F.R. §§ 151.25(a), (d), and (h).

7. The Coast Guard is authorized to conduct inspections to determine whether vessels in United States waters are in compliance with MARPOL, APPS and other applicable federal regulations. In connection with such inspections, the Coast Guard is 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 any danger to United States ports and waters, and whether the vessel had discharged any oil-contaminated water in violation of law. 33 C.F.R. §§ 151.23(a)(3) and 151.23©. In conducting inspections, the Coast Guard relies on a ship's Oil Record Book and statements of the crew to determine whether the vessel's crew was properly handling oil-contaminated water and its disposal. 33 C.F.R. § 151.23©.

8. The Coast Guard is authorized to detain a vessel, deny it entry into a United States port, or take other action with regard to vessels that were not in substantial compliance with MARPOL or APPS. 33 C.F.R. § 151.07(b).

THE DEFENDANT

9. Defendant B.NAVI SHIP MANAGEMENT SERVICES, is an Italian company headquartered in Carrara, Italy. Defendant B.NAVI SHIP MANAGEMENT SERVICES operated the *Motor Vessel (M/V) Windsor Castle* pursuant to a contract between B.NAVI SHIP MANAGEMENT SERVICES and the vessel's owners. Under that contract, B.NAVI SHIP MANAGEMENT SERVICES is responsible for hiring all crew members serving on the vessel, and is responsible for performing and paying for all maintenance for the vessel, including paying for the discharge of wastes to shore.

THE M/V WINDSOR CASTLE

10. The *M/V Windsor Castle* was an ocean-going bulk carrier ship weighing approximately 30,000 gross tons and was subject to APPS and the implementing regulations. The vessel was registered in the Cayman Islands and bore Registry number 80830. The *M/V Windsor Castle* had a crew of approximately 25 people. About ten seamen of different ranks worked in the vessel's engine department, including a Chief Engineer, First Engineer, Second Engineer, Third Engineer, Oiler, Wiper, and Electrician. The Oiler and Wiper typically assisted the engineers in cleaning and maintaining engineering machinery.

11. On or about August 17, 2007, in the Port of Houston, in the Southern District of Texas, and in the internal waters of the United States, the defendant, B.NAVI SHIP MANAGEMENT SERVICES, by and through senior crew members on board the *M/V Windsor Castle*, who were each acting within the scope of their employment and for the benefit of the defendant, did knowingly fail to maintain an Oil Record Book for the *M/V Windsor Castle* in which all operations involving the movement of oil, including all overboard discharges of waste oil sludge and oil-contaminated bilge waste, were fully recorded.

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

COUNT TWO

(False Statements - 18 U.S.C. §§ 1001 and 2)

12. The allegations contained in paragraphs 1 through 10 of Count One are realleged and incorporated herein.

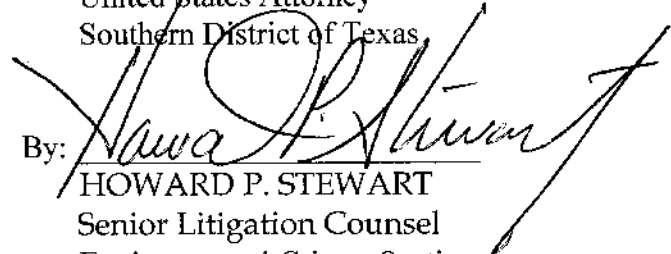
13. On or about August 17, 2007, in the Port of Houston, in the Southern District of Texas, and in the internal waters of the United States, the defendant B.NAVI SHIP MANAGEMENT SERVICES, by and through senior crew members on board the *M/V Windsor Castle*, who were each acting within the scope of their employment and for the benefit of the defendant, in a matter within the jurisdiction of the United States Coast Guard and the Department of Homeland Security, did knowingly and willfully make and cause to be made a materially false, fictitious, and fraudulent statements and representations, to wit: the Oil Record Book for the *M/V Windsor Castle*, falsely reported the volume of oil-contaminated bilge wastes that were processed in the vessel's Oily-Water Separator and that waste oil sludge had been

burned in the vessel's incinerator, when in truth and in fact, as the defendant then and there well knew, some volume of the oil-contaminated bilge wastes and waste oil sludge not recorded in the Oil Record Book had been discharged overboard through a bypass pipe and that no waste oil sludge had been disposed of in the vessel's incinerator.

All in violation of Title 18, United State Code, Sections 1001(a)(2) and 2.

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