

UNITED STATES DISTRICT COURT

WESTERN

District of

WASHINGTON

UNITED STATES OF AMERICA
V.

JUDGMENT IN A CRIMINAL CASE
(For Organizational Defendants)

CALYPSO MARINE CORPORATION

CASE NUMBER: CR07-5142FDB

Barbara L. Holland and Robert C. Weaver, Jr.
Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:

- pleaded guilty to count(s) 1 and 2 of the Information (Plea Date: June 25, 2007)
- pleaded nolo contendere to count(s) _____
which was accepted by the court.
- was found guilty on count(s) _____
after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the organizational defendant is guilty of the following offense(s):

| <u>Title & Section</u> | <u>Nature of Offense</u> | <u>Date Offense Concluded</u> | <u>Count Number(s)</u> |
|---|-------------------------------------|-------------------------------|------------------------|
| 18 U.S.C. §§ 1001 & 2 | False Writing or Document | May 21, 2007 | 1 |
| 33 U.S.C. §§ 1908(a) & 33 C.F.R. § 151.25 | Act to Prevent Pollution from Ships | May 21, 2007 | 2 |

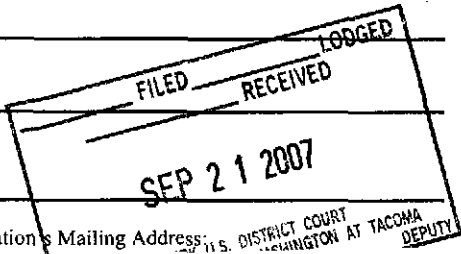
The defendant organization is sentenced as provided in pages 2 through 6 of this judgment.

- The defendant organization has been found not guilty on count(s) _____
Count(s) _____ is are dismissed on the motion of the United States.

IT IS ORDERED that the defendant organization shall notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization shall notify the court and United States attorney of any material change in the organization's economic circumstances.

Defendant Organization's Federal Employer I.D. N/A

Defendant Organization's Principal Business Address:



Defendant Organization's Mailing Address: _____

James D. Oesterle
JAMES D. OESTERLE
Signature of Assistant United States Attorney

SEPTEMBER 21, 2007
Date of Imposition of Judgment

Franklin D. Burgess
Signature of Judicial Officer

HONORABLE FRANKLIN D. BURGESS, United States District Judge
Name and Title of Judicial Officer

9/21/07
Date



DEFENDANT ORGANIZATION: CALYPSO MARINE CORPORATION
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PROBATION

The defendant organization is hereby sentenced to probation for a term of Four (4) YEARS

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of probation that the defendant organization pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant organization shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant organization shall also comply with the additional conditions on the attached page (if indicated below).

STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organizations's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees;
- 7) ~~the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.~~

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ADDITIONAL PROBATION TERMS

1. The defendant organization is placed on probation for a period of four (4) years, subject to the conditions of probation for organizations outlined in Chapter 8, Part D for Organizational Probation and the terms of the plea agreement entered June 25, 2007.
2. Additional conditions of probation, as set forth in U.S.S.G. § 8D1.4©, are encompassed in the Plea Agreement. These conditions include provisions that the defendant organization commit no further violations of federal, state, or local law and shall conduct all its operations in accordance with the MARPOL Protocol; develop, adopt, implement, and fund a comprehensive Environmental Management System/Compliance Plan (EMS) filed as set forth in Exhibit A to the Plea Agreement; provide the United States with full access to its vessels listed in the EMS; pay a **fine in the amount of One Million Dollars (\$1,000,000)**, to include a **community service payment in the amount of Four Hundred Thousand Dollars (\$400,000)** as specified on pages 4 and 5 of this Judgment.
3. The defendant organization shall commit no further violation of federal, state, or local law.
4. The defendant organization shall conduct all its operation in accordance with MARPOL Protocol.
5. The defendant organization shall be responsible for all costs associated with the development, implementation, maintenance, and monitoring of the EMS.
6. The defendant organization shall pay a fine in the amount of \$1,000,000.
7. The defendant shall pay a special assessment in the amount of \$800.00 as to Counts 1 and 2, which shall be due immediately.

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CRIMINAL MONETARY PENALTIES

The defendant organization shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 4.

| | <u>Assessment</u> | <u>Fine</u> | <u>Community Service Payment</u> |
|---------------|-------------------|-----------------------|--|
| | \$ 400 (Count 1) | \$ 500,000* (Count 1) | \$ *\$400,000 of the fine shall be suspended for the express purpose of applying this amount to community service (see Page 5) |
| | \$ 400 (Count 2) | \$ 500,000 (Count 2) | |
| TOTALS | \$ 800 | \$ 1,000,000 | |

- The determination of restitution is deferred until _____
 An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
 - The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.
- If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(I), all nonfederal victims must be paid in full prior to the United States receiving payment.

| <u>Name of Payee</u> | <u>*Total Amount of Loss</u> | <u>Amount of Restitution Ordered</u> | <u>Priority Order or Percentage of Payment</u> |
|----------------------|------------------------------|--------------------------------------|--|
| | | | |
| TOTALS | \$ _____ | \$ _____ | |

- If applicable, restitution amount ordered pursuant to plea agreement \$ _____
- The defendant organization shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:
 - the interest requirement is waived for the fine and/or restitution.
 - the interest requirement for the fine and/or restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

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ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

1. Pursuant to Title 33, United States Code, Section 1908(a), the Court, in its discretion, hereby awards the sum of Two Hundred Fifty Thousand Dollars (\$250,000), or one half of the criminal fine imposed for the APPS violation, to be divided into two equal awards of One Hundred Twenty Five Thousand dollars (\$125,000) to Robert Estrella and Leonardo Viloan for information they provided to the United States that led to the conviction of defendant CALYPSO MARINE CORPORATION. The clerk of this court is directed to make payment of Robert Estrella and Leonardo Viloan's award to Michael Martin, Messrs. Estrella and Viloan's counsel, in accordance with an "Authorization To Receive Payment" executed by Messrs. Estrella and Viloan.

2. The Court agrees defendant shall make a community service payment of Four Hundred Thousand Dollars (\$400,000) pursuant to U.S.S.G. § 8B1.3, and in furtherance of the sentencing principles provided in 18 U.S.C. § 3553(a). Specifically, the community service payment shall be applied as follows:

Columbia River Estuarine Coastal Fund

Four Hundred Thousand Dollars (\$400,000) shall be deposited into the Columbia River Estuarine Coastal Fund to be administered by the National Fish and Wildlife Foundation, a Congressionally created organization. The deposited funds shall be used to finance projects that benefit, preserve, and restore the environment and ecosystems in the waters of the United States adjoining the coastline of Washington State.

In accordance with paragraph 7(e) of the Plea Agreement, defendant organization shall provide the clerk of this court with a check in the amount of Four Hundred Thousand Dollars (\$400,000) made payable to "National Fish and Wildlife Foundation re: Columbia River Estuarine Coastal Fund. A check shall be sent to:

Krystyna Wolniakowski, Director
Northwest Region
National Fish and Wildlife Foundation
806 SW Broadway, Suite 750
Portland, OR 97205

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SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- PAYMENT IS DUE IMMEDIATELY.** Any unpaid amount shall be paid:
 - During the period of imprisonment, pursuant to the Bureau of Prison's Inmate Financial Responsibility Program.
 - During the period of supervised release, in monthly installments amounting to not less than _____% of the defendant's gross monthly household income, to commence 30 days after the release from imprisonment.
 - During the period of probation, in monthly installments amounting to not less than 10% of the defendant's gross monthly household income, to commence 30 days after the date of this judgment.

X Special instructions regarding the payment of criminal monetary penalties:

RS 900
No interest shall accrue on deferred payment.

Defendant may defer payment of \$250,000 of the criminal fine for eighteen (18) months from the date of entry of this judgment.

MAKE CHECK(S) FOR ALL CRIMINAL MONETARY PENALTIES, INCLUDING SPECIAL ASSESSMENTS, FINES, AND RESTITUTION, PAYABLE TO:

United States District Court Clerk, Western District of Washington. For restitution payments, the Clerk of the Court is to forward money received to the party(ies) designated to receive restitution specified at page 5 of this Judgment.

- 1. The payment schedule above is the minimum amount that the defendant is expected to pay towards the monetary penalties imposed by the Court. The defendant shall pay more than the amount established whenever possible.*
- 2. The defendant must notify the Court, the United States Probation Office, and the United States Attorney's Office of any material change in the defendant's financial circumstances that might affect the ability to pay restitution.*

All criminal monetary penalties are made to the clerk of the court, unless otherwise directed by the court, the probation officer, or the United States attorney.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant Name, Case Number, and Joint and Several Amount:

- The defendant organization shall pay the cost of prosecution.
- The defendant organization shall pay the following court cost(s):
- The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest (7) penalties, and (8) costs, including cost of prosecution and court costs.