

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

DEC -8 AM 10

UNITED STATES OF AMERICA

v.

CASE NO. 8:14-CR-

500 T 33 TGW

CARBOFIN S.P.A.

INFORMATION

The United States Attorney charges:

COUNTS ONE THROUGH THREE

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

A. Introduction

The Defendant

1. Defendant CARBOFIN S.P.A. (CARBOFIN) is a Republic of Italy domiciled company with offices at Via Gabriele D'Annunzio 2/108-16121, Genova, Italy. CARBOFIN owns and operates commercial liquefied petroleum gas (LPG) vessels. CARBOFIN owned and operated the Motor Tanker (M/T) Marigola.

The Vessel

2. The M/T Marigola was a 12,500 gross ton ship registered in Italy bearing International Maritime Organization (IMO) number 9173070.

3. The M/T Marigola had an Engine Department headed by a Chief Engineer, assisted by a Second Assistant Engineer, and a Third Assistant Engineer. The engineers were assisted by laborers who are referred to in the

industry as "fitters," "wipers," and "engineering cadets." The Chief Engineer reported directly to the Master of the vessel and to shore-based managers and had overall responsibility for the operations of the Engine Department, including the supervision of daily operations, formulation and implementation of Engine Department procedures, verification that all systems, including the Oil Water Separator and incinerator, were functioning properly, and ensuring all sludge, waste oil and machinery space bilge water were disposed of lawfully.

4. On vessels like the M/T Marigola, oily engine room waste known as sludge, waste oil, and bilge water are generated on a regular basis. Sludge is the by-product of the purification of the vessel's lubrication and fuel oils that are used in the electrical generation machinery and the main propulsion engine. Waste oil is the result of oil leakages from various machinery as well as from replacing lubrication oils in the machinery. Bilge water refers to the accumulation in the bilge, which is the bottom-most portion of the engine room, of oil and water that drips and leaks from the machinery. Sludge and waste oil can only be disposed of in two manners: (1) incineration in the vessel's onboard incinerator; or (2) disposal to a barge or other shore-based disposal facility. Bilge water can also be disposed of in only two manners: (1) process through the onboard Oil Water Separator and Oil Content Meter resulting in an overboard discharge of water with no more than 15 parts per million ("ppm") of oil, or (2) disposal to a barge or other shore-based disposal facility. Bilge water is transferred to, and stored in, the vessel's bilge water holding tank. All disposals and transfers of sludge, waste oil,

or bilge water, whether through incineration, use of the Oil Water Separator, or transfer to a shore-based facility, must be recorded by the person or persons in charge of those operations in the vessel's Oil Record Book. The senior engineers on the M/T Marigola were the person or persons in charge of these operations and required to accurately maintain the vessel's Oil Record Book.

B. Legal Framework

5. The United States is part of an international regime 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 (hereafter, the "MARPOL Protocol"). The MARPOL Protocol is embodied in numerous agreements that the United States has ratified and has been implemented in the United States by 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 the MARPOL Protocol, APPS, or regulations promulgated under APPS. These regulations apply to all commercial vessels operating in United States waters or while at 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.

6. MARPOL and APPS set the legal standard for the maximum amount of oil permitted to be discharged overboard by a vessel, namely, 15 ppm of oil to water. Therefore, under MARPOL, wastes can be discharged overboard into the ocean only if they contain less than 15 ppm of oil. MARPOL also requires that vessels use an oil-sensing device (or oil content meter), such as those found on an

Oil Water Separator, to prevent the discharge of a mixture containing more than the legally permitted concentration of oil.

7. Consistent with the requirements contained in MARPOL, the APPS regulations require that each ship of more than 400 gross tons maintain a record known as an Oil Record Book. In this Oil Record Book, transfers of oil, the disposal of sludge and waste oil, and overboard discharges of bilge water that have accumulated in machinery spaces, and thus are contaminated with oil, must be fully and accurately recorded by the person or persons in charge of the operations. 33 C.F.R. § 151.25(d). The Oil Record Book must also 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 on board 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).

8. The United States Coast Guard (U.S. 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 under Title 14, United States Code, Section 89(a) to board vessels and conduct inspections and investigations of potential violations and to determine compliance with the MARPOL Protocol, APPS, and related regulations. The U.S. Coast Guard can conduct Port State Control Examinations, which involve boarding a vessel and conducting inspections and investigations of potential violations of the law. Failure to comply with international standards, including MARPOL, can form the basis of an order to

refuse to allow a vessel to enter port, or to prohibit the vessel from leaving port without remedial action until it determines that the vessel does not present an unreasonable threat to the marine environment. 33 C.F.R. § 151.07(b) and 151.25(b). In conducting their inspections, U.S. Coast Guard personnel rely on the statements of the vessel's crew and documents, including information contained in the Oil Record Book. The U.S. Coast Guard is specifically authorized to examine a vessel's Oil Record Book to determine, among other things, whether the vessel has operable pollution prevention equipment and appropriate procedures, whether it poses any danger to United States ports and waters, and whether the vessel had discharged any oil or oily mixtures in violation of MARPOL, APPS, or any other applicable federal regulation. 33 C.F.R. § 151.23(a)(3) and (c).

C. The Violations

Count One

9. On or about June 16, 2013, and within the navigable waters of the United States in the Middle District of Florida, the defendant,

CARBOFIN,

acting through its employees who were acting within the scope of their employment for the benefit of CARBOFIN, at least in part, did knowingly fail to maintain an accurate Oil Record Book for the M/T Marigola in which all disposals of oil residue, overboard discharges, and disposals of bilge water were required to be fully recorded. Specifically, the defendant knowingly caused to be maintained

and maintained an Oil Record Book that failed to disclose overboard discharges of oily sludge, waste oil, and machinery space bilge water made through bypass equipment and without the use of a properly functioning Oil Water Separator and oil monitoring equipment and incinerator, and that created the overall false and misleading impression that the vessel was being operated properly and was fully maintaining an accurate Oil Record Book.

All 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.

Count Two

10. On or about September 24, 2013, and within the navigable waters of the United States in the Middle District of Florida, the defendant,

CARBOFIN,

acting through its employees who were acting within the scope of their employment for the benefit of CARBOFIN, at least in part, did knowingly fail to maintain an accurate Oil Record Book for the M/T Marigola in which all disposals of oil residue, overboard discharges, and disposals of bilge water were required to be fully recorded. Specifically, the defendant knowingly caused to be maintained and maintained an Oil Record Book that failed to disclose overboard discharges of oily sludge, waste oil, and machinery space bilge water made through bypass equipment and without the use of a properly functioning Oil Water Separator and oil monitoring equipment and incinerator, and that created the overall false and

misleading impression that the vessel was being operated properly and was fully maintaining an accurate Oil Record Book.

All 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.

Count Three

11. On or about April 16, 2014, and within the navigable waters of the United States in the Middle District of Florida, the defendant,

CARBOFIN,


acting through its employees who were acting within the scope of their employment for the benefit of CARBOFIN, at least in part, did knowingly fail to maintain an accurate Oil Record Book for the M/T Marigola in which all disposals of oil residue, overboard discharges, and disposals of bilge water were required to be fully recorded. Specifically, the defendant knowingly caused to be maintained and maintained an Oil Record Book that failed to disclose overboard discharges of oily sludge, waste oil, and machinery space bilge water made through bypass equipment and without the use of a properly functioning Oil Water Separator and

oil monitoring equipment and incinerator, and that created the overall false and misleading impression that the vessel was being operated properly and was fully maintaining an accurate Oil Record Book.

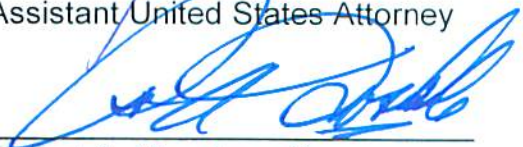
All in violation of Title 33, United States Code, Section 1908(a), Title 18, United States Code, Section 2 and Title 33, Code of Federal Regulations, Section 151.25.

A. LEE BENTLEY, III
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By:


Matthew J. Mueller
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By:


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