

International Maritime Organization (IMO) number of 9129275. The vessel regularly transported cargo between various ports in Asia and ports in the United States, including Morehead City, North Carolina, located in the Eastern District of North Carolina.

4. *M/T Chem Faros* had an Engine Department headed by a Chief Engineer assisted by a Second Engineer, Third Engineer, and Fourth Engineer and other licensed engineers from time to time. The Engineers were assisted by laborers who are referred to in the industry as "fitters" and "oilers." 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, and verification that all systems, including the Oil Water Separator and incinerator, were functioning properly.

5. Engine Department operations on large marine vessels like the *M/T Chem Faros* generate large quantities of oil-contaminated waste created when water mixes in the bottom of the vessel, known as the bilges, with oil leaked and dripped from the engines' lubrication and fuel systems. These oily mixtures are also known as "bilge slops" and are collected, stored, and processed to separate the water from the oil and other wastes using a pollution prevention control device known as an Oily Water Separator and oil-sensing device known as an Oil Content

Meter. The Oil Content Meter is designed to evaluate the oil content in a sample of the effluent after passing through the Oily Water Separator. If the Oil Content Meter determines that the oil content of the effluent exceeds fifteen (15) parts per million ("ppm"), then an audio and visual alarm will sound and a solenoid three-way valve will be triggered to redirect the effluent to a storage tank aboard the vessel. If the Oil Content Meter determines that the oil content in the effluent is fifteen (15) ppm or less, then the effluent is discharged overboard.

6. The operation of large marine vessels like the *M/T Chem Faros* also produce large quantities of oil sludge generated onboard such vessels during the process of purifying fuel oil, lubricating oil, and other petroleum products so that these products can be used in the engines on the vessel. Under normal operations, the oil sludge generated as a result of this process is stored on board the vessel until it is either burned in the ship's incinerator or offloaded onto barges or shore-based facilities for disposal.

7. From March 4, 2010, until the present, Vaja Sikharulidze ("Sikharulidze"), was the Chief Engineer of the *M/T Chem Faros*. As Chief Engineer, Sikharulidze had overall responsibility for the operations of the Engine Department, including the supervision of daily operations, formulation and implementation of engine room procedures, and verification that all systems were

functioning properly. Sikharulidze was also responsible for keeping the ship's Oil Record Book, a required log regularly inspected by the United States Coast Guard. As Chief Engineer, Sikharulidze supervised and directed all lower level Engine Department crew members.

8. The United States Coast Guard was an agency of the United States Department of Homeland Security, a department within the government of the United States.

LEGAL FRAMEWORK

9. 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 (the "MARPOL Protocol"). The MARPOL Protocol is embodied in 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. 33 U.S.C. § 1908(a). 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. The MARPOL Protocol established an international regime for the treatment and disposal of oil-contaminated waste generated from the machinery spaces of a vessel. Under the MARPOL Protocol, machinery space waste may be discharged overboard into the ocean only if it does not exceed fifteen (15) ppm of oil and the ship has in operation required pollution prevention equipment, to include oil filtering equipment (e.g., an Oily Water Separator), an alarm, and an automatic stopping device (e.g., an Oil Content Monitor and a solenoid three-way valve) to prevent the discharge of a mixture containing more than the legally permitted concentration of oil.

11. Consistent with the requirements contained in the MARPOL Protocol, the APPS regulations require that a vessel, other than an oil tanker, of 400 gross tons or more, such as the *M/T Chem Faros*, maintain a record known as an Oil Record Book in which the transfer and disposal of all oil-contaminated waste and the discharge overboard and disposal otherwise, including disposals by transfer to other internal tanks, of oily mixtures, slops from bilges and bilge water that has accumulated in machinery spaces must be recorded. 33 C.F.R. §§ 151.25 (a) and

(d); MARPOL Annex I, Regulation 20 and Appendix III. Discharges from the machinery spaces of the ship must be fully and accurately recorded in the Oil Record Book without delay by the person in charge of the operations. 33 C.F.R. §§ 151.25(d) and (h). The Oil Record Book also must record any emergency, accidental, or other exceptional discharges of oil or mixtures, including a statement of the circumstances of, and reasons for, the discharge. 33 C.F.R. § 151.25(g). The Oil Record Book must be maintained onboard the vessel for not less than three years, and be readily available for inspection at all reasonable times. MARPOL Annex I, Regulation 20 (5).

12. Port States, such as the United States, conduct inspections, known as Port State Control examinations, to verify compliance with MARPOL requirements and other international standards in their ports and navigable waters. Failure to comply with MARPOL requirements can form the basis of an order to refuse to allow a ship to enter port, to prohibit the ship from leaving port without remedial action, or to refer the matter to the flag state or, where appropriate, prosecution in the United States. See MARPOL Articles 4, 5, 6.

13. The United States Coast Guard 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, including Port State Control examinations, of potential violations and to determine compliance with the MARPOL Protocol, APPS, and related regulations. In conducting these inspections and examinations, United States Coast Guard personnel rely on the statements of the vessel's crew and documents, including information contained in the Oil Record Book. The United States Coast Guard is specifically authorized to examine a vessel's Oil Record Book. 33 C.F.R. §§ 151.23(a)(3) and (c).

M/T CHEM FAROS PRACTICE OF OVERBOARD
DISCHARGE OF OIL CONTAMINATED WASTE

14. Beginning in or about September 2009, the exact date unknown, and continuing up to on or about March 29, 2010, engine department crew members aboard the *M/T Chem Faros* pumped oil-contaminated waste directly overboard by using a pipe that bypassed the Oil Water Separator on the vessel, thereby allowing the crew to discharge oil-contaminated waste that had accumulated in machinery spaces directly overboard.

15. On at least one occasion between March 4, 2010, and March 29, 2010, Chief Engineer Sikharulidze directed subordinate engine department crew members to pump oil-contaminated waste

directly overboard by using a pipe that by-passed the Oil Water Separator on the vessel. Chief Engineer Sikharulidze learned of the by-pass system from the prior chief engineer, under whom Sikharulidze had served from January 2010 through March 4, 2010.

16. Following Sikharulidze's orders, engine department crew members used the by-pass system for approximately 3 hours resulting in an estimated discharge of 50 cubic meters (13,200 gallons) of oil-contaminated waste directly overboard .

17. Between on or about March 4, 2010 and March 29, 2010, Chief Engineer Sikharulidze made false entries in the Oil Record Book to hide the true amount of oil-contaminated bilge waste that was stored in a certain tank aboard the ship. In so doing, Chief Engineer Sikharulidze was continuing the practice of false entries made by the prior chief engineer for that particular tank.

18. Between on or about March 4, 2010 and March 29, 2010, Chief Engineer Sikharulidze failed to record the improper overboard discharge of oil-contaminated waste.

THE OFFENSE

19. On or about March 29, 2010, in the Port of Morehead City, North Carolina, within the navigable waters of the United States and in the Eastern District of North Carolina, defendant

herein, COOPERATIVE SUCCESS MARITIME, S.A., acting through its agents and employees, who were acting within the scope of their agency and employment, and for the benefit of COOPERATIVE SUCCESS MARITIME, S.A., did knowingly fail to maintain an accurate Oil Record Book for the *M/T/ Chem Faros*, a ship of 400 gross tons and above (that is not an oil tanker) in which all disposals of oil residue and discharges overboard and disposals otherwise of oily sludges, oily mixtures, slops from bilges and bilge water that accumulated in machinery spaces were fully recorded. Specifically, the Oil Record Book failed to record discharges of oil-contaminated waste made without the use of the ship's pollution prevention equipment,

All in violation of Title 33, United States Code, Section 1908(a), and Title 33, Code of Federal Regulations, Section 151.25, and MARPOL Annex I, Regulation 20 and Appendix III(D).

COUNT TWO
(Material False Statements)


1. Paragraphs 1-18 of Count One above are re-alleged and incorporated by reference as if fully set forth herein.

2. Beginning in or about September 2009, the exact date unknown, and continuing up to and including on or about March 29, 2010, in the Port of Morehead City, North Carolina, within the navigable waters of the United States, and in the Eastern District of North Carolina and elsewhere, defendant herein,


COOPERATIVE SUCCESS MARITIME, S.A., acting through its agents and employees, who were acting within the scope of their agency and employment, and for the benefit of COOPERATIVE SUCCESS MARITIME, S.A., did knowingly and willfully make and use, and cause the making and use of materially false writings and documents, in a matter within the jurisdiction of the United States Coast Guard, an agency within the United States Department of Homeland Security, a department within the executive branch of the government of the United States,

All in violation of Title 18, United States Code, Section 1001(a)(3).

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