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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

United States of America,

NO. CR 11-0828 JW

Plaintiff,

**ORDER GRANTING GOVERNMENT’S
MOTION FOR WHISTLEBLOWER
AWARD; APPOINTING SPECIAL
MASTER**

v.

Dianik Bross Shipping Corp., S.A.,

Defendant.

On November 15, 2011, Defendant pleaded guilty to one count of Failing to Maintain an Accurate Oil Record Book, in violation of 33 U.S.C. § 1908(a). As part of Defendant’s sentence, Defendant was required to pay a \$500,000 fine. At the same hearing, the government moved the Court to grant its Motion for Whistleblower Award.¹ The government requests that the Court authorize payment of \$250,000 to Mr. Francisco Engay, a crew member aboard one of Defendant’s vessels who provided information to the government leading to the successful prosecution of illegal activities. (Id. at 1.)

Title 33 U.S.C. § 1908(a) provides that “[i]n the discretion of the Court, an amount equal to not more than ½ of [the] fine may be paid to the person giving information leading to conviction.”

Here, the government seeks payment of the full \$250,000 authorized by the statute, contending that Mr. Engay took a substantial risk by coming forward and likely will not be able to find future work in the shipping industry as a result. (Motion at 5-7.) Upon review and for the

¹ (Government’s Motion for Whistleblower Award, hereafter, “Motion,” Docket Item No. 11.)

1 reasons stated on the record, the Court finds that such an award is appropriate. Accordingly, the
2 Court GRANTS the government's Motion for Whistleblower Award.

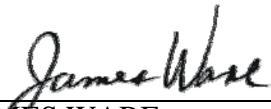
3 Mr. Engay is a citizen of the Philippines and is scheduled to travel back to his home country.
4 It has come to the Court's attention that Mr. Engay might experience difficulties in receiving the
5 award once he has returned to his home country. To facilitate payment of the award, the Court finds
6 that an appointment of a Special Master to facilitate the transfer of the award money to Mr. Engay in
7 a secure and efficient manner is appropriate. Accordingly, the Court ORDERS as follows:

- 8 (1) The Court APPOINTS George Fisher to serve as Special Master in this matter. No
9 bond is required;
- 10 (2) Pursuant to 33 U.S.C. § 1908(a) and this Order, the United States Treasury is ordered
11 to pay \$250,000 to Francisco Engay as follows: "George Fisher in trust of Francisco
12 Engay";
- 13 (3) The Special Master is authorized to:
 - 14 (a) Collect the award;
 - 15 (b) Open a trust account for purposes of carrying out this Order;
 - 16 (c) Deposit the award into a trust account;
 - 17 (d) Charge a reasonable fee and incur reasonable expenses for carrying
18 out his duties under this Order;
 - 19 (e) Upon approval by the Court of any fees or expenses charged or
20 incurred in carrying out this Order, deduct from the award any court-
21 approved fees and expenses;
 - 22 (f) Identify the best method of securely transferring the funds to Mr.
23 Engay and executing a transfer; and
 - 24 (g) Transfer the net award to Mr. Engay or Mr. Engay's designee.
- 25 (4) The United States Attorney for the Northern District of California is ordered to assist
26 the Special Master in arranging a meeting with Mr. Engay before Mr. Engay departs
27

1 the United States so that the Special Master can gather information necessary to carry
2 out his duties as specified in this Order.

- 3 (5) To complete the appointment, Mr. Fisher shall immediately file the affidavit required
4 by Rule 53(b)(3) of the Federal Rules of Civil Procedure.

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7 Dated: November 15, 2011



8 JAMES WARE
9 United States District Chief Judge
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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Stacey P. Geis Stacey.Geis@usdoj.gov
Jonathan Howden howdenlaw@gmail.com
3 Thomas M. Russo russo@freehill.com
Daniel J. Fitzgerald fitzgerald@freehill.com
4

5 **Dated: November 15, 2011**

Richard W. Wieking, Clerk

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7 **By: /s/ JW Chambers**
8 **Susan Imbriani**
9 **Courtroom Deputy**
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