

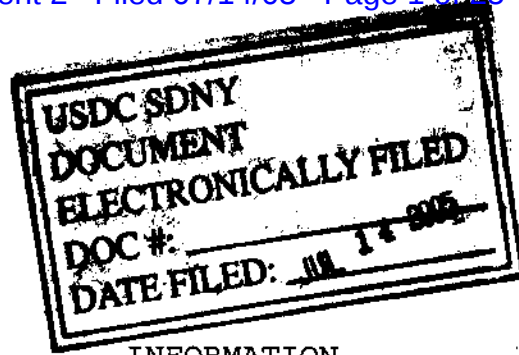
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

FAIRDEAL GROUP MANAGEMENT SA
and FAIR VOYAGER MARITIME SA,

Defendants.



INFORMATION

05 Cr.

JUDGE PESONA

05CRIM. 750

COUNT ONE

(Conspiracy to Violate APPS, to Make
False Statements, and to Obstruct Justice)

The United States Attorney charges:

BACKGROUND

I. Relevant Individuals and Entities

1. At all times relevant to this Information, the Motor Tanker (M/T) Fair Voyager (the "Fair Voyager") was a 50,600 gross-ton, 598-foot Liberian-registered oil tanker staffed by a crew of approximately twenty-nine individuals. The Fair Voyager's call sign was A8AJ7 and its vessel identification number was 8321395.

2. At all times relevant to this Information, the Fair Voyager was owned by FAIR VOYAGER MARITIME SA ("FAIR VOYAGER MARITIME"), the defendant, a limited liability company incorporated in Liberia in or about July 2001.

3. At all times relevant to this Information, FAIRDEAL GROUP MANAGEMENT SA ("FAIRDEAL GROUP MANAGEMENT"), the defendant, directed the operations of the Fair Voyager on behalf of FAIR VOYAGER MARITIME. FAIRDEAL GROUP MANAGEMENT was headquartered in Greece and managed the operations of approximately 15 tankers.

II. Legal Requirements for Disposal of Oil-Contaminated Bilge Water and Sludge

4. At all times relevant to this Information, the Fair Voyager's engines were powered by heavy fuel oil. Before fuel was sent to the engines for combustion, impurities were removed and collected as sludge. The Fair Voyager's engine room was equipped with a system for collecting, storing and processing the sludge generated by the purification of heavy fuel oil. This system permitted the sludge to be collected in storage tanks until such time as it could be incinerated in one of the ship's boilers or offloaded to a shore or barge disposal facility.

5. At all times relevant to this Information, the Fair Voyager produced waste oil as a result, among other things, of the operation of machinery in the engine room. Quantities of this waste oil regularly accumulated, along with water and other liquids, in the lowermost compartments of the ship, commonly known as the "bilges." The Fair Voyager was equipped with a system designed to collect the oil-contaminated water from the bilges and separate the oil from that water. This system

included a device commonly known as an "Oily Water Separator" ("OWS"). The OWS was designed to purify oil-contaminated bilge water until the water contained less than 15 parts per million ("ppm") of oil. The OWS was designed to direct water that had been purified to this standard into the overboard discharge valve for discharge directly into the sea, while directing the waste oil that had been removed from the water into storage tanks for later incineration or offloading to a shore or barge disposal facility.

6. At all times relevant to this Information, the United States was a party to several multinational treaties, collectively known as the "MARPOL Protocol," that governed the extent to which ships were permitted to discharge waste oil and oil-contaminated bilge water at sea. Specifically, the MARPOL Protocol established an international standard that prohibited the discharge of oil-contaminated bilge water directly into the sea unless that bilge water contained less than 15 ppm of oil. The MARPOL Protocol also prohibited the discharge of sludge directly into the sea.

7. At all times relevant to this Information, the Act to Prevent Pollution from Ships ("APPS"), 33 U.S.C. § 1908(a), made it a federal crime to knowingly violate either the MARPOL Protocol or a series of similar regulations promulgated pursuant to APPS. Under regulations promulgated pursuant to APPS, an oil

tanker of 150 gross tons or more, or a non-tanker vessel of more than 400 gross tons, was required to maintain a record known as an "Oil Record Book." 33 C.F.R. § 151.25.(a). Entries were required to be made in the Oil Record Book for certain engine room operations, including the disposal of oil residue (such as sludge or waste oil that has been removed from oil-contaminated bilge water) or the discharge overboard or disposal otherwise of bilge water that accumulated in machinery spaces. 33 C.F.R. § 151.25(d). Each of these engine room operations was required to be fully recorded without delay and signed by the person or persons in charge of the operation. 33 C.F.R. § 151.25(h). These regulations applied to foreign-flagged ships when they were in the navigable waters of the United States, or while at a port or terminal under the jurisdiction of the United States. 33 C.F.R. § 151.09.

8. At all times relevant to this Information, the United States Coast Guard (the "Coast Guard") was the federal agency charged with enforcing the aforementioned treaties, statutes, and regulations. In carrying out this responsibility, the Coast Guard was authorized to board ships and conduct regular inspections and investigations. See 14 U.S.C. § 89(a). In conducting these inspections, the Coast Guard relied on the accuracy of ships' documents, including ships' Oil Record Books, and on the accuracy of statements made by crew members. It was

widely known within the maritime industry that the Coast Guard regularly inspected ships' Oil Record Books during port state inspections, in order to determine compliance with U.S. law and the MARPOL Protocol, and to assure that ships were not an environmental threat to U.S. ports and waters.

III. Overboard Dumping of Oil-Contaminated Bilge Water and Sludge, and Concealment by Falsifying Oil Record Book

9. On or about April 21, 2004, a co-conspirator not named as a defendant herein (the "Chief Engineer") assumed the position of Chief Engineer of the Fair Voyager. The Chief Engineer continued in that role until on or about December 21, 2004.

10. During his tenure as Chief Engineer of the Fair Voyager, the Chief Engineer directed members of the crew to engage in the regular practice of dumping oil-contaminated bilge water and sludge into the sea in violation of the MARPOL Protocol. In order to accomplish this task, the Chief Engineer directed members of the crew to attach a pipe (the "Bypass Pipe") to the bilge piping system for the purpose of permitting oil-contaminated bilge water to bypass the Oily Water Separator. With the Bypass Pipe installed, oil-contaminated bilge water was not cleansed by the Oily Water Separator before being pumped overboard. Rather, oil-contaminated bilge water was pumped out of the bilges, through the overboard discharge valve, and directly into the sea. The Bypass Pipe also provided a channel

through which the crew could pump sludge out of the sludge holding tanks, through the overboard discharge valve, and directly into the sea.

11. At the direction of the Chief Engineer, the Bypass Pipe was typically removed and hidden shortly before the Fair Voyager entered any port and reinstalled shortly after the Fair Voyager exited port. The purpose of removing the Bypass Pipe before entering port was to prevent governmental or other inspectors from discovering that sludge and oil-contaminated bilge water generated on the Fair Voyager was being pumped directly into the sea in violation of the MARPOL Protocol.

12. Between on or about April 21, 2004, and on or about November 20, 2004, the crew of the Fair Voyager, acting at the direction of the Chief Engineer, dumped as much as approximately 60 tons of sludge and as much as approximately 40 tons of oil-contaminated bilge water directly into the sea, in violation of the MARPOL Protocol.

13. During his tenure as Chief Engineer of the Fair Voyager, the Chief Engineer was required to, and did, maintain the Fair Voyager's Oil Record Book. In an effort to obscure the fact that oil-contaminated bilge water and sludge generated on the Fair Voyager were being pumped directly into the sea, the Chief Engineer routinely made false entries in the Fair Voyager's Oil Record Book. In particular, the Chief Engineer routinely

made entries in the Fair Voyager's Oil Record Book that falsely stated that oil-contaminated bilge water had been processed by the Fair Voyager's Oily Water Separator when, in fact, the oil-contaminated bilge water had been pumped directly into the sea without having been processed. Likewise, the Chief Engineer repeatedly made entries in the Fair Voyager's Oil Record Book that falsely stated that specific quantities of sludge generated on the Fair Voyager had been incinerated in the ship's boiler when, in fact, the sludge had been pumped directly into the sea. Finally, notwithstanding the requirement that the disposal of oil residue (including sludge) and oil-contaminated bilge water be recorded in the Fair Voyager's Oil Record Book, the Chief Engineer intentionally omitted from his entries in the Oil Record Book any reference to the fact that sludge and oil-contaminated bilge water were pumped directly into the sea.

IV. The Fair Voyager's Arrival in New York and the Crew's Initial Efforts to Obstruct Justice

14. On or about November 20, 2004, members of the Fair Voyager's crew, at the direction of the Chief Engineer, removed the Bypass Pipe in anticipation of the Fair Voyager's upcoming arrival in New York Harbor. The Bypass Pipe was hidden in a storage area.

15. On or about November 21, 2004, the Fair Voyager arrived in New York Harbor from Algeciras, Spain with a cargo of approximately 36,000 metric tons of gasoline.

16. Upon the Fair Voyager's arrival in New York Harbor, Coast Guard inspectors boarded the Fair Voyager to perform a port state control examination for the purpose of ensuring that the ship was in compliance with various domestic and international regulations. This examination included an inspection of the engine room - where the bilge piping system was located - and a review of the Fair Voyager's Oil Record Book.

17. During the port state control examination, one of the Coast Guard inspectors (the "Inspector") discovered the hidden Bypass Pipe and quickly identified its purpose. The Inspector immediately returned to the ship's deck to obtain the assistance of other inspectors, leaving the Bypass Pipe in the Fair Voyager's engine room. Upon the Inspector's departure from the engine room, the Chief Engineer directed the Fair Voyager's Third Engineer (the "Third Engineer") to take the Bypass Pipe to the Fair Voyager's machine shop and bend it in an effort to obscure the Bypass Pipe's purpose. The Third Engineer took the Bypass Pipe to the Fair Voyager's machine shop where he and another crew member unsuccessfully attempted to bend it. After failing to bend the Bypass Pipe, the Third Engineer returned the Bypass Pipe to the engine room.

18. After discovering the Bypass Pipe and reviewing the Oil Record Book, inspectors and investigative agents from the Coast Guard and Environmental Protection Agency ("EPA")

interviewed the Chief Engineer. During his interview, the Chief Engineer falsely stated that he had first seen the Bypass Pipe approximately two months prior to the Fair Voyager's arrival in New York and that the pipe had been in storage at the time. In fact, the Chief Engineer had first seen the bypass pipe shortly after becoming Chief Engineer of the Fair Voyager on or about April 21, 2004. The Chief Engineer also falsely stated that sludge generated on the Fair Voyager was regularly disposed of by incinerating it in the ship's boiler, and that the most recent incineration had taken place on or about November 18, 2004. In fact, as the Chief Engineer was aware, sludge generated on the Fair Voyager was rarely, if ever, disposed of by incineration during the Chief Engineer's tenure as Chief Engineer. Moreover, as the Chief Engineer was aware, no sludge had been incinerated on or about November 18, 2004, and the Chief Engineer's entry in the Oil Record Book reporting that sludge had been incinerated on November 19, 2004 was false.

19. Coast Guard and EPA inspectors and investigative agents also interviewed other members of the Fair Voyager's crew. During those interviews, members of the Fair Voyager's crew deliberately made false statements about numerous material matters, including whether and how often they had observed the Bypass Pipe and how they had disposed of sludge and oil-contaminated bilge waste generated on the Fair Voyager.

20. In the days immediately following the Coast Guard's inspection, while the crew of the Fair Voyager was still aboard the ship, the Chief Engineer convened at least two meetings of the Fair Voyager's engine room crew. At these meetings, the Chief Engineer directed the engine room crew that if Coast Guard investigators or other authorities asked about whether the Bypass Pipe had been used, the sailors should lie and say that the Bypass Pipe had not been used. The Chief Engineer explained, in sum and substance, that if the sailors denied having used the Bypass Pipe, there would be no proof that oily waste had been dumped into the sea.

21. On or about December 16, 2004, a United States Magistrate Judge in the Southern District of New York issued material witness arrest warrants for thirteen members of the Fair Voyager's crew (collectively, the "Material Witnesses"). The affidavit submitted by the Coast Guard in support of the application for the warrants explained that the Material Witnesses' testimony was required by a grand jury investigating the dumping of oily waste from the Fair Voyager, and that the Material Witnesses' testimony would be lost if the Material Witnesses were permitted to sail with the Fair Voyager to the Fair Voyager's next destination.

22. On December 21, 2004 - pursuant to arrangements negotiated in advance by the Government and representatives of

the Material Witnesses - the Material Witnesses surrendered to special agents of the Coast Guard Investigative Service at a predetermined time and location in New York Harbor. Pursuant to the negotiated arrangements, the Material Witnesses - along with the luggage they had packed in anticipation of the surrender - were brought to the United States District Court for the Southern District of New York, where they were met by attorneys who had been retained to represent them. The Material Witnesses were presented that afternoon to a United States Magistrate Judge. At the recommendation of the Government, the Material Witnesses were released on their own recognizance, subject only to the conditions that they limit their travel to the Eastern and Southern Districts of New York (which encompass all five boroughs of New York City, Long Island, and several counties north of New York City) and that they appear as needed to testify before the grand jury. The Material Witnesses were then taken to a local hotel (the "Hotel") where, pursuant to the negotiated arrangements, they were provided food, lodging, and their regular salaries until completion of their obligation to provide testimony before the grand jury.

V. The Crew's Efforts to Obstruct the Grand Jury Investigation

23. Between on or about December 21, 2004 and the present, while the Material Witnesses were housed together at the Hotel, the Chief Engineer repeatedly approached several of the

Material Witnesses and directed them to lie to the grand jury about the dumping of oily waste from the Fair Voyager.

24. Between on or about December 21, 2004 and on or about January 11, 2004, while housed at the Hotel, at least four of the Material Witnesses (the "Four Engineers") met and conspired to lie to the grand jury about the dumping of oily waste from the Fair Voyager. Among other things, the Four Engineers agreed that, if asked, they would tell the grand jury that: (a) they had only observed the Bypass Pipe in an attached state on a small handful of occasions (when, in fact, they had each observed that the Bypass Pipe was a near-permanent fixture); (b) they were unaware that the Bypass Pipe had been used to pump sludge overboard (when, in fact, they were each aware that the Bypass Pipe had been used to pump sludge overboard); (c) the bypass pipe was removed more than one month before the Fair Voyager arrived in New York Harbor (when, in fact, they were each aware that the Bypass Pipe had been removed approximately one day before the Fair Voyager arrived in New York Harbor).

25. Between on or about January 11, 2004 and on or about January 20, 2004, each of the Four Engineers appeared before the grand jury pursuant to a court-ordered grant of immunity. During their appearances, each of the Four Engineers provided perjurious testimony that substantially conformed to the

false account they had previously conspired to provide the grand jury.

STATUTORY ALLEGATIONS

Conspiracy

26. From at least in or about April 2004, through at least in or about February 2005, in the Southern District of New York and elsewhere, FAIRDEAL GROUP MANAGEMENT SA and FAIR VOYAGER MARITIME SA, the defendants, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit, to violate Title 33, United States Code, Section 1908(a) and Title 18, United States Code, Sections 1001 and 1512(b).

Objects of the Conspiracy:

I. Violation of the Act to Prevent Pollution From Ships

27. It was a part and an object of the conspiracy that FAIRDEAL GROUP MANAGEMENT SA and FAIR VOYAGER MARITIME SA, the defendants, and others known and unknown, unlawfully, willfully, and knowingly, would and did violate the MARPOL Protocol, Annex IV to the Antarctic Protocol, Chapter 33 of Title 18, United States Code, and the regulations issued under Chapter 33 of Title 18, United States Code, in violation of Title 33, United States Code, Section 1908(a).

II. Making of False Statements

28. It was a further part and object of the conspiracy that FAIRDEAL GROUP MANAGEMENT SA and FAIR VOYAGER MARITIME SA, the defendants, and others known and unknown, unlawfully, willfully, and knowingly, in a matter within the jurisdiction of the executive branch of the Government of the United States, would and did (a) falsify, conceal, and cover up by trick, scheme, and device, material facts; (b) make materially false, fictitious, and fraudulent statements and representations; and (c) make and use false writings and documents knowing the same to contain materially false, fictitious, and fraudulent statements and entries, in violation of Title 18, United States Code, Section 1001.

III. Obstruction of Justice

29. It was a further part and object of the conspiracy that FAIRDEAL GROUP MANAGEMENT SA and FAIR VOYAGER MARITIME SA, the defendants, and others known and unknown, unlawfully, willfully, and knowingly, would and did use intimidation, threaten, and corruptly persuade another person, and would and did attempt to do so, with intent to (a) influence, delay, and prevent the testimony of a person in an official proceeding; (b) cause and induce a person to (i) withhold testimony, and withhold a record, document, and other object, from an official proceeding, and (ii) alter, destroy, mutilate, and conceal an

object with intent to impair the object's integrity and availability for use in an official proceeding; and (c) hinder, delay, and prevent the communication to a law enforcement officer and judge of the United States of information relating to the commission and possible commission of a Federal offense, in violation of Title 18, United States Code, Section 1512(b).

Means and Methods of the Conspiracy

30. Among the means and methods by which FAIRDEAL GROUP MANAGEMENT SA and FAIR VOYAGER MARITIME SA, the defendants, and their co-conspirators would and did carry out the conspiracy were the following:

a. FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager), FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager), and their co-conspirators engaged in the regular practice of dumping oil-contaminated bilge water and sludge from the Fair Voyager into the sea in violation of the MARPOL Protocol.

b. FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager), FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager), and their co-conspirators made entries in the Fair Voyager's Oil Record Book that falsely stated, among other things, that oil-contaminated bilge water had been processed by the Fair Voyager's Oily Water Separator and that specific quantities of sludge

generated on the Fair Voyager had been incinerated in the ship's boiler.

c. FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager), FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager), and their co-conspirators omitted from the entries in the Oil Record Book any reference to the fact that sludge and oil-contaminated bilge water were dumped from the Fair Voyager into the sea.

d. FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager), FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager), and their co-conspirators attempted to cause the destruction of evidence that sludge and oil-contaminated bilge water had been dumped from the Fair Voyager into the sea.

e. FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager), FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager), and their co-conspirators made false statements to Coast Guard and EPA investigators about the dumping of sludge and oil-contaminated bilge water from the Fair Voyager into the sea.

f. FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager), FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager),

and their co-conspirators directed and encouraged others to lie to federal investigators and a federal grand jury about the dumping of sludge and oil-contaminated bilge water from the Fair Voyager into the sea.

Overt Acts

31. In furtherance of the conspiracy and to effect its unlawful objects, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about September 28, 2004, the Chief Engineer made an entry in the Fair Voyager's Oil Record Book stating that 4.0 cubic meters of oil-contaminated bilge water had been purified by the Fair Voyager's Oily Water Separator and discharged into the sea.

b. On or about November 19, 2004, the Chief Engineer made an entry in the Fair Voyager's Oil Record Book stating that 2.2 cubic meters of sludge had been incinerated in the Fair Voyager's boiler.

c. On or about November 21, 2004, the Chief Engineer directed a member of the Fair Voyager's crew to bend the Bypass Pipe.

d. On or about November 21, 2004, FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager) and FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager) presented the Fair Voyager's Oil

Record Book to the Coast Guard for inspection.

e. Between on or about November 21, 2004, and on or about November 23, 2004, the Chief Engineer convened a meeting of the Fair Voyager's engine room crew.

(Title 18, United States Code, Section 371.)

COUNT TWO
(APPS VIOLATION)

The United States Attorney further charges:

32. From at least in or about April 2004, through in or about November 21, 2005, in the Southern District of New York and elsewhere, FAIRDEAL GROUP MANAGEMENT SA and FAIR VOYAGER MARITIME SA, the defendants, unlawfully, willfully, and knowingly did violate the MARPOL Protocol, Annex IV to the Antarctic Protocol, Chapter 33 of Title 18, United States Code, and the regulations issued under Chapter 33 of Title 18, United States Code, to wit, FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager) and FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager) maintained and presented to Coast Guard inspectors an Oil Record Book that: (a) falsely reported that oil-contaminated bilge water had been processed by the Fair Voyager's Oily Water Separator when, in fact, the oil-contaminated bilge water had been dumped directly into the sea without having been processed; (b) falsely reported that specific quantities of sludge generated on the Fair Voyager had been incinerated in the ship's boiler when, in fact, the

sludge had been dumped directly into the sea; and (c) failed to include required entries reflecting that sludge and oil-contaminated bilge water had been dumped directly into the sea.

(Title 33, United States Code, Section 1908(a).)

COUNT THREE
(FALSE STATEMENTS - OIL RECORD BOOK)

The United States Attorney further charges:

33. From at least in or about April 2004, through in or about November 21, 2004, in the Southern District of New York and elsewhere, FAIRDEAL GROUP MANAGEMENT SA and FAIR VOYAGER MARITIME SA, the defendants, unlawfully, willfully, and knowingly did (a) falsify, conceal, and cover up by trick, scheme, and device, material facts; (b) make materially false, fictitious, and fraudulent statements and representations; and (c) make and use false writings and documents knowing the same to contain materially false, fictitious, and fraudulent statements and entries, to wit, FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager) and FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager) maintained and presented to Coast Guard inspectors an Oil Record Book that: (a) falsely reported that oil-contaminated bilge water had been processed by the Fair Voyager's Oily Water Separator when, in fact, the oil-contaminated bilge water had been dumped directly into the sea without having been processed; (b) falsely reported that specific quantities of sludge generated

on the Fair Voyager had been incinerated in the ship's boiler when, in fact, the sludge had been dumped directly into the sea; and (c) failed to include required entries reflecting that sludge and oil-contaminated bilge water had been dumped directly into the sea.

(Title 18, United States Code, Section 1001.)

COUNT FOUR
(FALSE STATEMENTS - COAST GUARD/EPA INTERVIEWS)

The United States Attorney further charges:

34. On or about November 21, 2004, in the Southern District of New York and elsewhere, FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager) and FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager), the defendants, unlawfully, willfully, and knowingly did (a) falsify, conceal, and cover up by trick, scheme, and device, material facts; (b) make materially false, fictitious, and fraudulent statements and representations; and (c) make and use false writings and documents knowing the same to contain materially false, fictitious, and fraudulent statements and entries, to wit, multiple members of the crew of the Fair Voyager made false statements to Coast Guard and EPA investigators about the dumping of sludge and oil-contaminated bilge water from the Fair Voyager into the sea.

(Title 18, United States Code, Section 1001.)

COUNT FIVE
(OBSTRUCTION OF JUSTICE)

The United States Attorney further charges:

35. From on or about November 21, 2004, through at least on or about November 23, 2004, in the Southern District of New York and elsewhere, FAIRDEAL GROUP MANAGEMENT SA and FAIR VOYAGER MARITIME SA, the defendants, unlawfully, willfully, and knowingly did use intimidation, threaten, and corruptly persuade another person, and would and did attempt to do so, with intent to (a) influence, delay, and prevent the testimony of a person in an official proceeding; (b) cause and induce a person to (i) withhold testimony, and withhold a record, document, and other object, from an official proceeding, and (ii) alter, destroy, mutilate, and conceal an object with intent to impair the object's integrity and availability for use in an official proceeding; and (c) hinder, delay, and prevent the communication to a law enforcement officer and judge of the United States of information relating to the commission and possible commission of a Federal offense, to wit, FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager) and FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager) directed sailors on the Fair Voyager to destroy the Bypass Pipe and to falsely deny to Coast Guard investigators that the Bypass Pipe had been used.

(Title 18, United States Code, Section 1512(b).)

COUNT SIX
(FALSE STATEMENTS - EXPLOSIVE GASOLINE VAPORS)

The United States Attorney further charges:

36. At all times relevant to this Information, the policy aboard the Fair Voyager was to conduct daily tests to monitor whether potentially explosive gasoline vapors had leaked from the ship's cargo hold into the ship's non-cargo spaces. The presence of gasoline vapors, if found, was reported in the ship's safety logbook as a percentage of gasoline's "lower explosive limit" ("LEL"). A substance's LEL is the minimum concentration of that substance in the surrounding air sufficient to sustain ignition or explosion. When the concentration of a substance in the surrounding air reaches 100% of the substance's LEL, the substance can burn or explode. According to the Fair Voyager's safety logbook, gasoline vapors in the non-cargo spaces were typically present, if at all, in amounts less than 0.1% of the LEL.

37. From on or about November 16, 2004, through on or about November 20, 2004, as the Fair Voyager was approaching New York Harbor, the daily test for the presence of gasoline vapors in the Fair Voyager's non-cargo spaces was not performed. The safety logbook in which the test results were typically recorded stated that the daily tests were not performed due to "heavy weather."

38. On or about November 18, 2004, the Fair Voyager's Master (also known as the Captain; hereinafter, the "Master")

completed and submitted to the Coast Guard a form requesting permission for the Fair Voyager to offload its cargo in New York Harbor. In the form, the Master stated that the level of gasoline vapors in the Fair Voyager's non-cargo spaces was at 0% of the LEL. In the form, the Master falsely stated that the most recent test had been performed on November 18, 2004, when, in fact, the most recent test had been performed on November 15, 2004. Based on the Master's statements, the Coast Guard, on or about November 19, 2004, approved the Fair Voyager's request to offload its cargo in New York Harbor.


39. On or about November 21, 2004, the Fair Voyager arrived in New York Harbor. During a port state control examination performed that day, Coast Guard inspectors discovered that the level of gasoline vapors in the Fair Voyager's non-cargo spaces was approximately 100% of the LEL. Because the presence of gasoline vapors at a level of 100% of the LEL created the possibility that the ship could explode, the Coast Guard ordered the Fair Voyager to leave the harbor and anchor offshore until the vapors dissipated.

Statutory Allegations

40. On or about November 18, 2004, in the Southern District of New York and elsewhere, FAIRDEAL GROUP MANAGEMENT SA and FAIR VOYAGER MARITIME SA, the defendants, unlawfully, willfully, and knowingly did (a) falsify, conceal, and cover up by trick,

scheme, and device, material facts; (b) make materially false, fictitious, and fraudulent statements and representations; and (c) make and use false writings and documents knowing the same to contain materially false, fictitious, and fraudulent statements and entries, to wit, in filing a request for permission for the Fair Voyager to offload its cargo in New York Harbor, FAIRDEAL GROUP MANAGEMENT SA (by and through the actions of the crew of the Fair Voyager) and FAIR VOYAGER MARITIME SA (by and through the actions of the crew of the Fair Voyager) falsely reported that a test had been performed on November 18, 2004 for the presence of gasoline vapors in the Fair Voyager's non-cargo spaces when, in fact, no such test had been performed that day.

(Title 18, United States Code, Section 1001.)



DAVID N. KELLEY
United States Attorney

