

UNITED STATES DISTRICT COURT
Southern District of Texas
Holding Session in Corpus Christi

UNITED STATES OF AMERICA
V.

JUDGMENT IN A CRIMINAL CASE
(For Organizational Defendants)

GENERAL MARITIME MANAGEMENT, (Portugal) L.D.A.

CASE NUMBER: 2:08CR00393-001

Brian T. McCarthy, Michael G. Chalos, and Frank L. McNiff, Jr.
Defendant Organization's Attorney

See Additional Aliases.

THE DEFENDANT ORGANIZATION:

- pleaded guilty to count(s)
pleaded nolo contendere to count(s) which was accepted by the court.
was found guilty on count(s) 1 and 2 on November 25, 2008 after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant organization is guilty of the following offenses:

Table with 4 columns: Title & Section, Nature of Offense, Date Offense Concluded, Count Number(s). Rows include offenses like 'Failure to Maintain an Oil Record Book' and 'Use and Cause to be Used a Materially False Writing'.

See Additional Counts of Conviction.

The defendant organization is sentenced as provided in pages 2 through 8 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.

March 13, 2009
Date of Imposition of Judgment

Janis Graham Jack
Signature of Judge

JANIS GRAHAM JACK
UNITED STATES DISTRICT JUDGE
Name and Title of Judge

April 7, 2009
Date

DEFENDANT ORGANIZATION: **GENERAL MARITIME MANAGEMENT, (Portugal) L.D.A.**

CASE NUMBER: **2:08CR00393-001**

PROBATION

The defendant organization is hereby sentenced to probation for a term of 5 years.

This term consists of 5 years as to each of Counts One and Two.

See Additional Probation Terms Sheet.

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

See Additional Mandatory Conditions Sheet

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 mandatory and standard conditions set forth below. The defendant organization shall also comply with the additional conditions on the attached page (if indicated below).

DEFENDANT ORGANIZATION: **GENERAL MARITIME MANAGEMENT, (Portugal) L.D.A.**
CASE NUMBER: **2:08CR00393-001**

MANDATORY CONDITIONS OF SUPERVISION

MANDATORY CONDITION: Pursuant to 18:3563(a)(2), the organization shall reside in a specified place or area and maintain their offices where their headquarters are located in Portugal and New York.

DEFENDANT ORGANIZATION: **GENERAL MARITIME MANAGEMENT, (Portugal) L.D.A.**

CASE NUMBER: **2:08CR00393-001**

STANDARD CONDITIONS OF SUPERVISION

1. The organization shall designate, by corporate resolution, a responsible corporate officer to be personally responsible for implementing and overseeing the fulfillment of the conditions of probation.
2. The organization shall report to the probation officer and shall submit a truthful and complete written report within the first five days each month, or as otherwise instructed by the probation officer.
3. The organization shall answer truthfully all inquiries by the probation officer and its agents and follow the instructions of the probation officer and its agents.
4. The organization shall not associate with any persons, individual or organization, engaged in criminal activity, and shall not associate with any individual person convicted of a felony unless granted permission to do so by the probation officer.
5. The organization is required to provide the probation officer access to any requested financial information.
6. The organization shall submit to unannounced examinations of its books and records at appropriate business premises by the probation officer, and questioning of knowledgeable individuals within the organization.
7. The organization shall be required to notify the court or probation officer immediately upon learning of any adverse change in its business or financial conditions, prospects, or the commencement of any bankruptcy proceedings, major civil litigation, criminal prosecution, or administrative proceedings against the organization, or any investigation or formal inquiry by governmental authorities regarding the organization.
8. The organization shall abide by their environmental compliance program, and fully cooperate with the U.S. Coast Guard in regards to any concerns.
9. 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.
10. Should Edgar Limos, Richard Mipa Ramos, Ramoncito Umali and Ruben Buenbrazo reapply for employment with the defendant, the defendant shall immediately rehire these individuals in the next possible vacancies of lateral positions in which they were previously employed by the defendant, under the same conditions of their prior employment. Should these individuals apply elsewhere, the defendant shall not provide negative references to other organizations regarding these individuals.
11. The defendant shall submit to an initial review, three random independent audits of each vessel managed by the defendant and three random independent audits of the defendant's office in Portugal, all of which are to be entirely funded by General Maritime Management, (Portugal) L.D.A. The specific terms of this condition, which have been submitted by the Government and defendant and approved by the Court, are as follows:
 - a) The parties agree that Mr. Richard Wigger of Compliance Systems, Inc. shall act as the Court Appointed Monitor (hereinafter "CAM"). The CAM shall, after conducting any necessary initial reviews of vessels and management offices, review the existing Environmental Management System of General Maritime Management (Portugal) Ltda. (hereinafter "General Maritime Portugal") which is currently in use in respect to the vessels operated by General Maritime Portugal, and the government's recommended Environmental Compliance Plan and, if he in his discretion deems it necessary, shall recommend modification of General Maritime Portugal's existing Environmental Management System using those portions of the government recommended ECP that he deems appropriate for best compliance practices, and shall during the term of probation fully implement and monitor said modified Compliance Plan of General Maritime Portugal.

DEFENDANT ORGANIZATION: **GENERAL MARITIME MANAGEMENT, (Portugal) L.D.A.**
CASE NUMBER: **2:08CR00393-001**

- b) During the five (5) year term of probation, the CAM shall, in addition to any initial review of the vessels or offices, conduct three (3) audits of each vessel managed by General Maritime Portugal as well as three (3) audits of General Maritime Portugal's Lisbon office.
- c) The CAM's primary duties shall be to oversee the implementation of a comprehensive Environmental Compliance Plan (ECP), conduct vessel and management audits and to ensure that General Maritime Portugal is in compliance with United States and international law and regulations. The CAM shall also report to and advise the United States Probation Officer supervising General Maritime Portugal's term of probation with respect to any and all audit findings and implementation of the ECP. It is expressly understood by the United States Department of Justice and General Maritime Portugal that the CAM shall not be an agent or fiduciary of either General Maritime Portugal or the United States Department of Justice and shall report directly to the United States District Court for the Southern District of Texas through the United States Probation Office.
- d) The CAM shall conduct a review and evaluation of General Maritime Portugal's shoreside operations and all twenty three (23) vessels that it currently operates. The audit and evaluation shall include (but not be limited to) the environmental compliance of the vessels operated by General Maritime Portugal. The CAM, in its discretion or at the suggestion of the United States Probation Office, shall select which vessels it will attend as part of an initial review and evaluation, and communicate such information to General Maritime Portugal no later than five (5) days prior to the scheduled initial audit of any vessel. Thereafter, audits of vessels shall be in the sole discretion of the CAM. General Maritime Portugal shall designate a corporate representative whose responsibility shall be to coordinate with the CAM and obtain appropriate clearances/permissions with authorities and terminals as required. General Maritime Portugal's management staff will be allowed to attend audits and will abide by protocols for attendance as established by the CAM. Every audit aboard a vessel should include both an opening and closing meeting conducted by the CAM. The CAM shall review and evaluate the operation of each vessel's pollution control equipment (including the use, capabilities and condition of the Oil Water Separators and Incinerators), waste disposal practices and record keeping, management systems, including General Maritime Portugal's Environmental Management System (EMS) Manual (Manual M-12 of the Safety Management System), and relevant log books as they relate to such issues to ensure that the environmental operations of the vessels operated by General Maritime Portugal comply with United States and international laws and regulations.
- e) Within one hundred-twenty days (120) after the entry of judgment, the CAM shall prepare a Preliminary Report of Findings regarding its initial review and evaluation of General Maritime Portugal's Environmental Compliance Plan and vessels. The CAM's Preliminary Report of Findings shall contain the following information: (a) the scope of the initial review and evaluation; (b) the names of the vessels that were included in the initial review and evaluation; (c) the dates the initial review and evaluation of each vessel was conducted; (d) the identity and credentials of the initial review and evaluation team members; (e) the distribution list for the initial review and evaluation; (f) a summary of the initial review and evaluation for each particular vessel audited; (g) a detailed discussion of the initial review and evaluation findings for each vessel which was audited; (h) a list of any initial review and evaluation findings that were corrected during the initial review and evaluation, and a description of the corrective actions taken by General Maritime Portugal's shoreside or vessel staff; and (i) a certification that the initial review and evaluation was conducted in accordance with accepted audit principles. The Preliminary Report of Findings shall be provided to General Maritime Portugal, the Department of Justice Environmental Crimes Section, the United States Coast Guard, and the United States Probation Office. If the CAM believes that additional time is needed to analyze available information or to gather additional information, or to prepare and submit the Preliminary Report of Findings, the CAM may, for good cause shown, request additional time from the United States District Court through the United States Probation Office.
- f) Within ninety (90) days of receiving the Preliminary Report of Findings from the CAM, General Maritime Portugal shall prepare a revised ECP Manual, which complies with the requirements established by the CAM and which shall describe and document the revisions to the ECP Manual that were made in response to the Preliminary Report of Findings. The revised ECP Manual shall be provided by General Maritime Portugal to the Department of Justice Environmental Crimes Section, the United States Coast Guard, and the United States Probation Office. General Maritime Portugal may, upon good cause shown, petition the district court for a reasonable extension of the time limit stated above.

DEFENDANT ORGANIZATION: **GENERAL MARITIME MANAGEMENT, (Portugal) L.D.A.**
CASE NUMBER: **2:08CR00393-001**

g) Beginning no earlier than sixty (60) days following the implementation of the revised ECP manual, the CAM shall, in its discretion, audit those General Maritime Portugal's vessels and its Lisbon office as the CAM selects. These audits shall focus on technical operations, pollution prevention equipment and waste stream management, to verify compliance with the requirements of the revised ECP Manual, as well as all applicable United States and international laws and regulations. The CAM will, in its discretion, determine the scheduling of each audit and will communicate this information to General Maritime Portugal no less than five (5) days prior to the scheduled audit or inspection. General Maritime Portugal's management staff will be allowed to attend audits and will abide by protocols for attendance as established by the CAM. Every audit aboard a vessel should include both an opening and closing meeting conducted by the CAM.

h) Within thirty (30) days of completing each vessel audit, the CAM shall provide a vessel audit report to General Maritime Portugal, the Department of Justice Environmental Crimes Section, the United States Coast Guard and the United States Probation Office. The Audit Report shall present the audit findings, and shall contain the following information: (a) the audit's scope, including the time period covered by the audit; (b) the dates the audit was conducted; (c) the identity and credentials of the audit team members; (d) the distribution list for the audit report; (e) a summary of the audit process; (f) a detailed audit finding, including the basis for each finding and the area of concern, if any, identified; (g) any audit findings that were corrected or areas of concern addressed during the audit, and a description of the corrective actions taken by General Maritime Portugal shoreside or vessel staff; and, (h) a certification that the audit was conducted in accordance with accepted audit principles. If the CAM believes that additional time is needed to analyze available information or to gather additional information, the CAM may request additional time as needed to prepare and submit the audit report.

i) Within thirty (30) days from the submission of the vessel audit report, General Maritime Portugal shall develop and submit to the CAM, the Department of Justice Environmental Crimes Section, the United States Coast Guard, and the United States Probation Office, a specific action plan to expeditiously bring the vessel into full compliance with the requirements of the revised ECP, and all applicable United States and international laws. General Maritime Portugal may, upon good cause shown to the district court, request a reasonable extension of the time on a case by case basis.

DEFENDANT ORGANIZATION: **GENERAL MARITIME MANAGEMENT, (Portugal) L.D.A.**
CASE NUMBER: **2:08CR00393-001**

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 3, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 800.00	\$ 1,000,000.00	\$

The special assessment consists of \$400.00 as to each of Counts One and Two, to be paid consecutively. The fine consists of \$500,000.00 as to each of Counts One and Two, to be paid consecutively.

- See Additional Terms for Criminal Monetary Penalties Sheet.
- 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>

- See Additional Restitution Payees Sheet.

TOTALS	\$0.00	\$0.00	
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- 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:
- Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

* 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.

DEFENDANT ORGANIZATION: **GENERAL MARITIME MANAGEMENT, (Portugal) L.D.A.**
CASE NUMBER: **2:08CR00393-001**

SCHEDULE OF PAYMENTS

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

- A Lump sum payment of _____ due immediately, balance due
 - not later than _____, and/or
 - in accordance with C, D, and/or E, below; or
- B Payment to begin immediately (may be combined with C, D, or E below); or
- C Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Special instructions regarding the payment of criminal monetary penalties:
 Make all payments payable to: U.S. District Clerk, 1133 N Shoreline Blvd Ste 208, Corpus Christi, TX 78401
 The special assessment and fine are due and payable immediately.
 The Court, pursuant to 33U.S.C. § 1908(a), orders that one half of the fine as to Count One, \$250,000.00, be distributed among the whistleblowers in this case as follows: \$30,000.00 to Edgar Limos; \$90,000.00 to Romulo Loquero; \$30,000.00 to Richard Mipa Ramos; \$30,000.00 to Ramoncito Umali; and \$70,000.00 to Ruben Buenbrazo.

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

**Case Number
(Including Defendant Number)**

Defendant Name

**Joint and Several
Amount**

See Additional Defendants Held Joint and Several sheet.

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:

See Additional Forfeited Property Sheet.

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.