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Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

KEOJE MARINE CO. LTD. ,)

Defendant.)

CR. NO. **CR11 01258 LEK**

INFORMATION

Count 1: 33 U.S.C. § 1908(a)

Count 2: 18 U.S.C. § 1519

Count 3: 33 U.S.C. §§ 1319(c)(2)(A)
1321(b)(3)

INFORMATION

The United States Attorney charges:

At all times material to this Information,

A. THE CORPORATE DEFENDANT

1. Defendant KEOJE MARINE CO. LTD. ("KEOJE") was a Korean corporation with offices at 4th Floor, Woolim Building, 12, Daepyeong-dong 1-ga, Yeongdo-gu, Busan, 150-968, South Korea. Defendant KEOJE, acting through its agents and employees, who were acting within the scope of their agency and employment and on behalf of Defendant KEOJE, owned and operated the motor tank vessel *Keoje Tiger* (hereinafter "*M/T Keoje Tiger*").

B. THE MOTOR TANK VESSEL KEOJE TIGER

2. The *M/T Keoje Tiger*, a 4,228 gross ton oil tanker vessel, registered under the flag administration of the Republic of Korea and bearing the International Maritime Organization number 9106340, was owned and operated by KEOJE. The *M/T Keoje Tiger* was engaged in international commercial maritime operations and provided diesel fuel and supplies from Honolulu, Hawaii, Barbers Point, Hawaii, and other locations, to fishing vessels in the South Pacific.

3. The *M/T Keoje Tiger* had an Engine Department headed by a Chief Engineer assisted by a First Engineer and Second Engineer. The Engineers were assisted by laborers (also known as "ratings") who are referred to in the industry as "oilers" and "wipers." 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.

4. The operation of large marine vessels like the *M/T Keoje Tiger* generates large quantities of oily sludge and oily wastewater. Oily sludge is generated during the process of purifying fuel oil, lubricating oil, and other petroleum products so that these products can be used in the engines on board the vessel. The oily sludge generated as a result of this process must be stored on board the vessel in sludge tanks until it is either burned on board the vessel through the use of an incinerator or auxiliary boiler or offloaded onto barges or shore-side facilities for disposal. Engine department operations also generate large quantities of waste oil due to leaks and drips from the engines' lubrication and fuel systems. This waste oil combines with water, detergents, solvents, and other wastes that accumulate in the bottom or the "bilges" of the vessel to form oily wastewater. This oil-contaminated bilge waste must be collected, stored, and then processed to separate the water from the oil and other wastes using a pollution prevention control device known as an Oil Water Separator. After passing through the Oil Water Separator, engineering space wastewater containing less than fifteen (15) parts per million ("ppm") of oil may be discharged overboard. If a sensor detects more than 15 ppm oil in the waste after it has been processed through the Oil Water Separator, it will send a signal to a three-way valve which will then redirect that waste to a storage tank onboard the vessel.

C. LEGAL FRAMEWORK

**INTERNATIONAL CONVENTION FOR THE PREVENTION OF
POLLUTION FROM SHIPS AND THE ACT TO PREVENT
POLLUTION FROM SHIPS**

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. 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 that 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 oil tanker vessel of more than 150 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 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 onboard 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. APPS also requires that the master or person in charge a ship while at a port of the United States or in the navigable waters of the United States report a discharge, probable discharge, or presence of oil in accordance with MARPOL and Coast Guard regulations. 33 U.S.C. § 1906(b). Coast Guard regulations prescribe that when a discharge that is greater than 15 ppm, or not made through proper oil separation equipment, is made within 12 nautical miles of the nearest land of the United States, a detailed report must be made to the nearest United States Coast Guard Captain of the Port. 33 C.F.R. § 151.15.

9. 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) & (c).

CLEAN WATER ACT

10. In the Federal Water Pollution Control Act (the “Clean Water Act”), Congress has declared that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States or the adjoining shorelines. 33 U.S.C. §1321(b)(1).

11. The Clean Water Act makes it a crime for a person to knowingly discharge oil into the Exclusive Economic Zone of the United States in such quantities as may be harmful to the natural resources of the United States. 33 U.S.C. §§ 1319(c)(2) and 1321(b)(3).

12. The Clean Water Act defines a “discharge” as any spilling, leaking, pumping, pouring, emitting, emptying or dumping. 33 U.S.C. § 1321(a)(2). The Clean Water Act defines “oil” as oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge and oil residue. 33 U.S.C. § 1321(a)(1).

13. Federal regulations promulgated under the Clean Water Act define a “harmful” quantity of oil as including any discharges of oil that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or adjoining shorelines. 40 C.F.R. § 110.3.

14. The natural resources of the United States include the Exclusive Economic Zone that extends 200 nautical miles from the baseline from where the territorial sea is measured.

Proclamation No. 5030, 42 Fed. Reg. 10605 (March 10, 1983).

D. THE CRIMINAL CHARGES

COUNT ONE

(Knowing Failure to Maintain Accurate Oil Record Book – Act to Prevent Pollution from Ships,
33 U.S.C. § 1908(a))

15. Paragraphs 1 through 14 of this Information are specifically incorporated and re-alleged herein.

16. On or about October 12, 2011, and within the navigable waters of the United States in the United States and in the District of Hawaii, the Defendant,

KEOJE MARINE CO. LTD,

acting through its agents and employees, who were acting within the scope of their agency and employment, and on behalf of Defendant, did knowingly fail to maintain an Oil Record Book for the *M/T Keoje Tiger* in which all disposals of oil residue, overboard discharges, and disposals of bilge water were required to be fully recorded. Specifically, the Defendant maintained an Oil Record Book that (1) falsely and affirmatively claimed discharges of bilge waste had been made through the use of an Oil Water Separator; and (2) failed to disclose overboard discharges of oily bilge waste made through the use of a hose connected to the vessel's boiler blowdown overboard discharge valve, and without the use of a properly functioning Oil Water Separator and oil monitoring equipment.

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

(Obstruction of Justice – 18 U.S.C. § 1519)

17. Paragraphs 1 through 14 are specifically incorporated and re-alleged herein.

18. During a voyage ending on or about October 12, 2011, terminating in and within the navigable waters, internal waters, and ports of the United States in the District of Hawaii, the Defendant,

KEOJE MARINE CO. LTD,

acting through its agents and employees, who were acting within the scope of their agency and employment, and for the intended benefit, at least in part, of Defendant, with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of a department and agency of the United States, namely the United States Coast Guard and the Department of Homeland Security, and in relation to and in contemplation of such matter, namely, a Port State Control vessel examination and inspection to determine compliance with MARPOL and United States law, did knowingly conceal, cover up, and falsify, and make a false entry in a record and document, that is, a false, fictitious and misleading Oil Record Book for the *M/T Keoje Tiger* that concealed the overboard discharge of oil contaminated waste and contained entries falsely stating that required pollution prevention equipment had been used when it had not.

All in violation of Title 18, United States Code, Section 1519, and Title 18, United States Code, Section 2.

COUNT THREE

(Clean Water Act – 33 U.S.C. §§ 1319(e)(2)(A) and 1321(b)(3))

19. Paragraphs 1 through 14 of this Information are specifically incorporated and re-alleged herein.

20. During a voyage to Honolulu, Hawaii, ending on or about October 12, 2011, in the District of Hawaii, the Defendant,


KEOJE MARINE CO. LTD,


acting through its agents and employees, who were acting within the scope of their agency and employment, and on behalf of Defendant, knowingly discharged oil in the form of oily bilge waste into the Exclusive Economic Zone of the United States in such quantities as may be harmful to the natural resources of the United States.

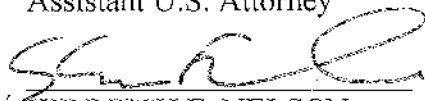
All in violation of Title 33, United States Code, Sections 1319(c)(2)(A) and 1321(b)(3).

Dated: December 29, 2011 at Honolulu, Hawaii.

FLORENCE T. NAKAKUNI
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