

UNITED STATES DISTRICT COURTS
FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION and
DISTRICT OF ALASKA

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL NO.
	:	S.D.TX 4:12-CR-549-1
NIMMRICH UND PRAHM	:	D. ALASKA 4:12-CR-549
BEREEDERUNG GmbH & Co. KG and	:	
	:	
NIMMRICH UND PRAHM REEDEREI	:	
GmbH & Co. KG MS "SONJA,"	:	
	:	
Defendants	:	

PLEA AGREEMENT

The United States of America, by and through the United States Attorneys for the Southern District of Texas and the District of Alaska and the Environmental Crimes Section of the United States Department of Justice ("the Government"), and the Defendants, Nimmrich und Prahm Bereederung, GmbH & Co. KG ("Operator") and Nimmrich und Prahm Reederei, GmbH & Co. KG MS "Sonja" ("Owner") (collectively "the Defendants"), operator and owner, respectively, of the cargo vessel *M/V Susan K* ("*Susan K*"), by and through their authorized representative, and the Defendants' counsel, pursuant to Rules 11(c)(1)(C) and 11(c)(3) of the Federal Rules of Criminal Procedure, state that they have entered into an agreement, the terms and conditions of which are as follows:

TERMS OF THE AGREEMENT

1. The Defendants agree to give up the right to be indicted by a grand jury and agree to plead guilty to Counts One and Two of the Criminal Information filed in the Southern District of Texas in this case and to persist with that plea. Pursuant to Rule 20 of the Federal Rules of

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Criminal Procedure, the Defendants agree to give up the right to be indicted by a grand jury and agree to plead guilty to Count One of the Criminal Information filed in the District of Alaska in this case and to persist with that plea.

a. The Defendants agree that this plea agreement will be executed by a person authorized by law and the bylaws of the Defendants to execute agreements on behalf of the Defendants. The Defendants further agree that they will provide to the Government prior to entry of this plea agreement the original resolution from the board of directors (or equivalent written authorization as recognized by law) which gives the authority described above and which authorizes such person to execute the plea agreement on behalf of the Defendants.

b. The Defendants agree to pay a total criminal fine in the amount of one million dollars (\$1,000,000). The government and the Defendants agree and recommend that the Court aggregate said fine as follows: \$500,000 (five hundred thousand dollars) for Count One and \$250,000 (two hundred fifty thousand dollars) for Count Two of the Criminal Information filed in the Southern District of Texas and \$250,000 (two hundred fifty thousand dollars) for Count One of the Criminal Information filed in the District of Alaska.

c. The defendants agree to pay a special assessment of \$1,200 on the date of sentencing.

d. The Defendants shall also make an organizational community service payment in the total amount of Two Hundred Thousand Dollars (\$200,000), pursuant to 18 U.S.C. § 3553(a), payable to the National Marine Sanctuary Foundation ("Foundation") for use in the Flower Garden and Stetson Banks National Marine Sanctuary ("FGBNMS"), headquartered in Galveston, Texas, to support the protection and preservation of natural and cultural resources located in and adjacent to the FGBNMS, including the following: the study, research, and survey

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of resources; the abatement, cleanup, and remediation of pollution in the FGBNMS; and restoration of injured resources. The Foundation is established to solicit donations for the National Marine Sanctuaries Program (hereinafter the "Program") as authorized by 16 U.S.C. § 1442(b), and the Program is authorized to accept donations of funds pursuant to 16 U.S.C. § 1442(c) for the designation and administration of national marine sanctuaries. The Program is also authorized to accept grants from any federal agency or persons notwithstanding any provision of law which prohibits assistance otherwise. 16 U.S.C § 1442(f). The Program manages the FGBNMS, located approximately 75 miles from the Texas coast. The explicit goal of the Defendants' required community service is to fund environmental projects and initiatives designed for the benefit, preservation and restoration of the environment and the ecosystems of the Southern District of Texas. Because the community service payments are designated as community service by an organization, the Defendants further agree that they will not seek any reduction in its tax obligations as a result of these community service payments. In addition, since these payments constitute community service, the Defendants will not characterize, publicize or refer to these community service payments as voluntary donations or contributions.

e. The Parties agree that payment of the total criminal penalty (total criminal fine and community service payment) of \$1,200,000 shall be made in six (6) installments as follows: (1) \$200,000 due on date of sentencing, November 2, 2012; (2) \$200,000 due on November 2, 2013; (3) \$200,000 due on November 2, 2014; and (4) \$200,000 due on November 2, 2015; (5) \$200,000 on November 2, 2016; and (6) \$200,000 on ^{GLC OCTOBER 2017} ~~November~~ 2, 2017. The Defendants are joint and severally liable for the payment of the total criminal penalty. Payments will be made by the Owner through bank wire transfers. The first payment of \$200,000 shall be attributed to Count one of the Criminal Information Filed in the Southern District of Texas. The entire

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amount of \$200,000 that is due to the Foundation shall be paid from the second payment made by Defendant. To ensure payment of the fine and other obligations in this agreement, the Government will initially retain the \$1,250,000 bond (hereinafter, the "Initial Bond") previously posted by Defendants as described and provided for in the Agreement on Security between the Defendant and the Government dated June 15, 2012 (the "Security Agreement"), herein as Attachment A; provided, however, that on or before each anniversary date of the Security Agreement, the Defendant may post a replacement bond with the same terms and conditions as the Initial Bond except that the amount of each replacement bond may be adjusted so that it will be sufficient to cover only the amount of the unpaid fine as of the date the replacement bond is posted. The parties stipulate that a significantly greater criminal penalty would have been sought by the government in this case based upon the nature of the violations. However, the government agreed to accept a total criminal penalty of \$1,200,000 based upon the fact that the defendants did not have an apparent ability to pay a larger criminal penalty and provided detailed financial information to the government to support the inability to pay a larger penalty.

f. The Defendants agree to serve a term of probation of sixty (60) months in accordance with 18 U.S.C. §§ 3553(a), 3561, and 3562. In lieu of the Defendants' decision not to develop, adopt, implement and fund a comprehensive Environmental Compliance Plan ("ECP") during its term of probation to ensure its compliance with all applicable marine environmental protection requirements established under applicable international, flag state, port state, and coastal state law, and United States laws, including, but not limited to, the International Convention for Prevention of Pollution Ships (MARPOL), the Defendants agree that no vessels owned, operated, chartered, and/or manned by the Defendants or any of their subsidiaries or affiliated entities shall be operated in the Navigable Waters of the United States or call on any

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port or terminal under the jurisdiction of the United States during the term of probation. If at any time during the period of probation, the Defendants wish to resume operation in the Navigable Waters of the United States or call on any port or terminal in under the jurisdiction of the United States, the Defendants must first contact the United States and the Office of Probation for the Southern District of Texas and enter into an agreement with the United States to develop, adopt, implement, and fund an ECP as described above. No vessels owned, operated, chartered, or manned by the Defendants will be allowed to operate in the Navigable Waters of the United States or call on any port or terminal in under the jurisdiction of the United States until the United States agrees to the terms of the ECP. If the Defendants pay the total criminal penalty of \$1,200,000 by the end of forty-eight (48) months, the Defendants may request that the term probation be terminated at that time and reduced to a period of 48 months.

g. The Defendants understand and admit to the relevant conduct described in the Joint Statement of Facts, herein as Attachment B. The Parties agree that said facts, as set forth in the Joint Statement of Facts, are accurate and provide an adequate factual basis to support the Defendants' plea of guilty to the Informations.

2. Counts One and Two of the Information filed in the Southern District of Houston charge the Defendants with knowingly violating the Act to Prevent Pollution From Ships in violation of 33 U.S.C. § 1908(a) and 33 C.F.R. § 151.25, and Obstruction of Agency Proceedings in violation of 18 U.S.C. § 1505. Count One of the Information filed in the District of Alaska charge the Defendants with Destruction, Alteration, or Falsification of Records in Federal Investigations in violation of 18 U.S.C. § 1519.

3. The Defendants agree to continue to cooperate with the Government during any ongoing investigation and prosecution of individual crewmembers from the *Susan K*. The Defendants'

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cooperation will include, but is not limited to, production of documents requested by the Government, providing a custodian of records if requested by the Government to authenticate documents at any appropriate legal proceeding, providing a corporate representative if requested by the Government to describe corporate policies and use of produced documents, paying the cost of transportation to and from the Southern District of Texas of any crewmembers of the *Susan K* identified by name in the Agreement on Security to testify at the trial of crewmembers who have served on the *Susan K*, upon request of the Government, and to provide for the care, salaries, lodging, medical expenses, per diem and needed transportation for crewmembers previously described in the Agreement on Security.

4. This Agreement shall bind the Defendants, all successors-in-interest, if applicable, and all successors and assigns. This Agreement shall apply to all vessels which are owned, manned or operated by the Defendants that may call on ports or places in the United States during the period of probation. The Defendants shall provide to the Government with immediate notice of the following: any corporate name changes; any purchase or sale of vessels that call or may call at any port or place in the United States; any purchase, sale or reorganization of the ship management companies, or any other change impacting upon or affecting this Agreement. No change in name, corporate or individual control, business reorganization, change in ownership, merger, change in legal status, sale or purchase of assets, or similar action shall alter the Defendants' responsibilities under this Plea Agreement. The Defendants understand and agree that they shall not engage in any action to seek to avoid the obligations and conditions set forth in this Plea Agreement.

5. Provided that the Defendants comply fully with the terms of this Agreement, the Government agrees to forgo additional criminal prosecution of the Defendants for any other

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environmental or other offenses involving the *Susan K* that are related to the underlying Information in this matter and/or arise out of the conduct giving rise to the investigation of this matter, which occurred before the date of this Agreement and are known to the Government at the time of the execution of this agreement. The Defendants understand that this Plea Agreement affects only criminal charges and shall not be construed, in whole or in any part, as a waiver, settlement, or compromise of any remedies available to the United States, or any other civil or administrative remedies, including suspension and debarment, available to the United States by law. In the event that any other local, state or federal enforcement agency investigates conduct related to this Plea Agreement, the Government agrees to advise said agency of the terms of this agreement and the nature and extent of the Defendants' cooperation under this agreement upon request of the Defendants.

6. The Parties fully and completely understand that this Plea Agreement is submitted to the Court pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C). The Parties agree that Chapter 8 of the United States Sentencing Guidelines Manual ("U.S.S.G") governs this case with regard to any payment of restitution, community service, and probation. The provisions of § 8C2.2 and § 8C2.9 do not apply to counts for which the applicable guideline offense level is determined under Chapter Two, Part Q (Offenses Involving the Environment). For such cases, § 8C2.10 (Determining the Fine for Other Counts) is applicable. U.S.S.G. § 8C2.10 in turn, directs the Court to apply the provisions of Title 18, United States Code, §§ 3553, 3572 to determine the appropriate fine.

MAXIMUM PENALTIES

7. The maximum penalty for violations of 33 U.S.C. § 1908(a) and 18 U.S.C. §§ 1519 and 1505 include a maximum sentence of a fine of up to Five Hundred Thousand Dollars (\$500,000),

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or twice the gross gain or loss resulting from the unlawful conduct, pursuant to 18 U.S.C. § 3571(c) and (d), a term of probation of five (5) years, pursuant to 18 U.S.C. § 3561(c)(1), and a special assessment of Four Hundred Dollars (\$400.00), pursuant to 18 U.S.C. § 3013(a)(2)(B). Unless otherwise ordered, should the Court order a fine of more than \$2,500 as part of the sentence, interest will not accrue provided payments are made as required in Paragraph 1(e). If payments are not made in accordance with Paragraph 1(e), then interest will be charged on the unpaid balance of a fine amount not paid within fifteen (15) days after the judgment date, or when a fine payment installment becomes due, pursuant to Title 18, United States Code, Section 3612(f). Other penalties and fines may be assessed on the unpaid balance of a fine pursuant to 18 U.S.C. §§ 3572(h), (i), and 3612(g).

WAIVERS

8. The Defendants are aware that 18 U.S.C. § 3742 affords a Defendant the right to appeal the sentence imposed. Knowing that, the Defendants waive the right to appeal the plea, conviction and sentence (or the manner in which it was determined) on the grounds set forth in Title 18, United States Code, Section 3742. This agreement does not affect the rights or obligations of the United States as set forth in Title 18, United States Code, Section 3742(b).

9. The Defendants are also aware that the United States Constitution and the laws of the United States, including 28 U.S.C. § 2255, afford the Defendants the right to contest or collaterally attack its conviction or sentence after its conviction has become final. Knowing that, the Defendants knowingly waive the right to contest or collaterally attack the Defendants' plea, conviction, and sentence by means of any post-conviction proceeding.

10. The Defendants waive all defenses based on venue, speedy trial under the Constitution and Speedy Trial Act, and the statute of limitations, in the event that:

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- a. The Defendants' conviction is later vacated for any reason;
- b. The Defendants violate any provision of this Agreement; or
- c. The Defendants' plea is later withdrawn.

Further, the Defendants waive any and all constitutional and non-jurisdictional defects.

RIGHTS AT TRIAL

11. The Defendants represent to the Court that Defendants are satisfied that the Defendants' attorney has rendered effective assistance. The Defendants understand that by entering into this Agreement, the Defendants surrender certain rights as provided in this Agreement. The Defendants understand that the rights of Defendants include the following:

- a. If the Defendants persisted in a plea of not guilty to the charges, Defendants would have the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if the Defendants, the United States, and the court all agree.

- b. At trial, the United States would be required to present its witnesses and other evidence against the Defendants. The Defendants would be able to confront those witnesses and its attorney would be able to cross-examine them. In turn, the Defendants could, but would not be required to, present witnesses and other evidence on their own behalf. If the witnesses for the Defendants would not appear voluntarily, it could require their attendance through the subpoena power of the Court.

12. The Defendants understand that nothing in this plea agreement will restrict access by the United States Probation Office or the Court to information and records in the possession of the United States or any of its investigative law enforcement agencies, including State and local

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law enforcement agencies, as well as information, documents and records obtained from the Defendants.

FACTUAL BASIS

13. The Defendants are pleading guilty because the Defendants are in fact guilty of the charged offenses. The Defendants admit the facts set forth in the Joint Statement of Facts and agree that those facts establish guilt of the offense charged beyond a reasonable doubt. The statement of facts, which is hereby incorporated into this plea agreement, constitutes a stipulation of facts for purposes of Section 1B1.2(a) of the Sentencing Guidelines.

ELEMENTS OF THE OFFENSES

14. The Defendants understand the nature and elements of the offenses with which the Defendants have been charged and to which the Defendants are pleading guilty. The elements of Count One of the Information, 33 U.S.C. 1908(a), filed in the Southern District of Texas are:

- a. The *Susan K* was a cargo vessel of more than 400 gross tons;
- b. The Defendants, through their employees and/or agents, acting within the scope of their employment and for the benefit, at least in part, of the Defendants, were in charge of the *Susan K* including the machinery-space-operations and all overboard discharges and disposals of oily bilge water;
- c. The Defendants, through their employees and/or agents, knowingly failed to maintain an Oil Record Book for the *Susan K*, that contained entries for all discharges overboard and disposals otherwise of bilge water from the machinery space, and all emergency, accidental, or other exceptional discharges of oil or oily mixtures without delay; and

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- d. The failure to knowingly maintain the Oil Record Book occurred while the *Susan K* was in the navigable waters, or at a port or terminal of, the United States.

The elements of Count Two of the Information, 18 U.S.C. §1505, filed in the Southern District of Texas are:

- a. There was a pending proceeding before an agency of the United States, namely a United States Coast Guard (“Coast Guard”) inspection of the *Susan K*;
- b. The Defendants knew of the pending proceeding and endeavored to obstruct or influence it; and
- c. The Defendants, through their employees and/or agents, acting within the scope of their employment and for the benefit, at least in part, of the Defendants, acted corruptly.

The elements of Count One of the Information, 18 U.S.C. §1519, filed in the District of Alaska are:

- a. The Defendants, through their employees and/or agents, acting within the scope of their employment and for the benefit, at least in part, of the Defendants, knowingly altered, destroyed, mutilated, concealed, covered up, falsified, or made a false entry;
- b. In a record, document, or tangible record, namely the Oil Record Book for the *M/V Susan K*;
- c. With the intent to impede, obstruct, or influence; and

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d. The investigation or proper administration of any matter within the jurisdiction of any agency of the U.S. or in relation to or contemplation of any such matter, namely a Coast Guard inspection of the *M/V Susan K.*

15. This Agreement shall bind the Defendants, all successors-in-interest, if applicable, and all successors and assigns. This Agreement shall apply to all vessels which are owned, manned or operated by the Defendants that may call on ports or places in the United States during the period of probation. The Defendants shall provide to the Court, U.S. Probation Office, Coast Guard, and the Environmental Crimes Section of the U.S. Department of Justice immediate notice of the following: any corporate name changes; any purchase or sale of vessels that call or may call at any port or place in the United States; any purchase, sale or reorganization of the ship management companies, or any other change impacting upon or affecting this Agreement. No change in name, corporate or individual control, business reorganization, change in ownership, merger, change in legal status, sale or purchase of assets, or similar action shall alter the Defendants' responsibilities under this Plea Agreement. The Defendants understand and agree that they shall not engage in any action to seek to avoid the obligations and conditions set forth in this Plea Agreement.

16. The parties agree that this Plea Agreement was negotiated and agreed upon pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C). Should the Court refuse to accept this Plea Agreement for any reason, the entire agreement shall become null and void at the option of any party.

17. This Agreement is the complete and only agreement between the Parties. No promises, agreements or conditions have been entered into other than those set forth in this Agreement. This Agreement supersedes prior understandings, whether written or oral. This Agreement

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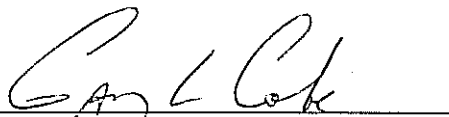
cannot be modified other than in a written memorandum signed by the parties or on the record in court.

18. The Defendants and their counsel certify that this Plea Agreement has been read in its entirety by (or has been read to) the Defendants and that the Defendants fully understand its terms.

DATED this ^{November} 2 day of ~~August~~, 2012.

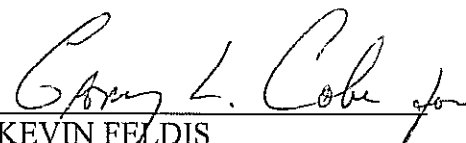
APPROVED:

KENNETH MAGIDSON
United States Attorney
Southern District of Texas



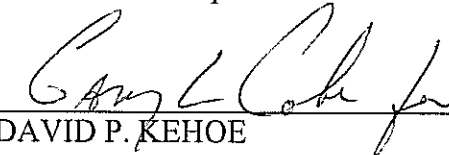
GARY COBE
Assistant United States Attorney
Southern District of Texas

KAREN L. LOEFFLER
United States Attorney
District of Alaska




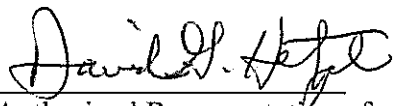
KEVIN FELDIS
Assistant United States Attorney

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Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice



DAVID P. KEHOE
Senior Trial Attorney
Environmental Crimes Section
United States Department of Justice

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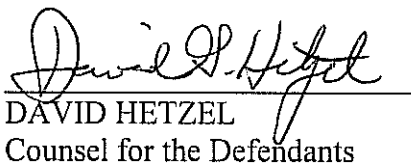
Authorized Representative of
The Defendants



DAVID HETZEL
Counsel for the Defendants

I, David Hetzel, have explained to the Defendants, their rights with respect to the pending Information and Plea Agreement. I have informed the Defendants that the Sentencing Guidelines and Policy Statement have been deemed as “advisory” to the court pursuant to the Booker decision. Further, I have reviewed the provisions of the Sentencing Guidelines and Policy Statements and I have fully explained to the Defendants the provisions of those guidelines that may apply in the case. I have carefully reviewed every part of the Information and Plea Agreement with the Defendants. To my knowledge, the Defendants’ decision to enter into this Agreement is an informed and voluntary one.

Dated: November 2, 2012



DAVID HETZEL
Counsel for the Defendants

Defendant’s Initials



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA	:		
	:		
v.	:	CRIMINAL NO.	
	:	S.D.TX	4:12-CR-549-1
NIMMRICH UND PRAHM	:	D. ALASKA	4:12-CR-549
BEREEDERUNG GmbH & Co. KG and	:		
	:		
NIMMRICH UND PRAHM REEDEREI	:		
GmbH & Co. KG MS "SONJA,"	:		
	:		
Defendants	:		

ATTACHMENT B - JOINT FACTUAL STATEMENT

The United States, by and through the United States Attorneys Office for the Southern District of Texas and the District of Alaska and the Environmental Crimes Section of the United States Department of Justice and the Defendants, Nimmrich und Prahm Bereederung, GmbH & Co. KG ("Operator") and Nimmrich und Prahm Reederei, GmbH & Co. KG MS "Sonja" ("Owner") agree and stipulate that this Joint Factual Statement is a true and accurate statement of the Defendants' criminal conduct, and that it provides a sufficient basis for the Defendants' pleas of guilty to the Informations in this case. At all times relevant to the Informations:

1. The *M/V Susan K* (hereinafter "*Susan K*"), was an approximately 3642 gross ton general cargo vessel registered under the flag administration of Antigua and Barbuda and bearing the IMO number 9344370. The *Susan K* was engaged in international commercial maritime operations and transported various materials to and from various ports in the United States of America, including the Port of Houston, and elsewhere.

2. Defendant Operator was a German corporation with offices at Hafenstr. 6b, 26789 Leer Germany. The Defendant, acting through its agents and employees, who were acting within

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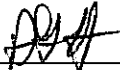
the scope of their agency and employment, and for the benefit, at least in part, of the Defendant, operated and managed the *Susan K*.

3. Defendant Owner was a German corporation with offices at Hafenstr. 6b, 26789 Leer Germany. The Defendant, acting through its agents and employees, who were acting within the scope of their agency and employment, and for the benefit, at least in part, of Defendant, owned the *Susan K*.

4. The Defendants, acting through their employees and agents, who acted within the scope of their employment and for the benefit, at least in part, of the Defendants, including Chief Engineer Rudolf Hofer and other crew members on board the *Susan K*, were responsible for the operation and supervision of the Engine Department on board the *Susan K*, including the management, treatment, storage, and disposal of oil residue, oily mixtures and machinery space operations.

5. The Defendants, acting through their employees and agents, who acted within the scope of their employment and for the benefit, at least in part, of the Defendants, including Chief Engineer Rudolf Hofer were also responsible for recording the movement, discharge, and disposal of oil residue, oily mixtures, and machinery space bilge water, including any non-accidental overboard discharges of oily waste from the *Susan K*, in the vessel's Oil Record Book (hereinafter "ORB").

6. Defendant Operator was responsible for the implementation and certification of the International Safety Management Code within the company's shore-side management operations and on board the vessels it operated to ensure that company policies and procedures were designed to ensure compliance with international safety and environmental requirements.

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7. The United States is a party to an international treaty, the International Convention for the Prevention of Pollution from Ships (hereinafter "MARPOL"). MARPOL was implemented in the United States by the Act to Prevent Pollution from Ships (APPS), 33 U.S.C. § 1908, et. seq. MARPOL and APPS set the legal standard for the maximum amount of oil permitted to be discharged overboard by a vessel, namely, 15 parts per million (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 (OWS), to prevent the discharge of a mixture containing more than the legally permitted concentration of oil. MARPOL Protocol Regulation 15; 33 C.F.R. § 151.10. APPS regulations require that each ship, other than an oil tanker, of more than 400 gross tons, such as the *Susan K*, maintain an ORB. The ORB must fully reflect all tank to tank transfers of oil, the disposal of sludge and waste oil, discharges of water from slop tanks, and overboard discharges of bilge water that has accumulated in machinery spaces, and thus may be contaminated with oil. MARPOL, Annex I Regulation 20 and 33 CFR § 151.25(h). The Coast Guard routinely inspects ORBs on board vessels to determine whether the vessel has been discharging any oil or oily mixtures in violation of MARPOL and APPS. 33 CFR § 151.23. The ORB must be maintained on board the vessel for three (3) years and be readily available for inspection at all times. MARPOL, Annex I, Regulation 20.

8. The evidence presented by the government shows that between on or about August 1, 2011, and August 20, 2011, Chief Engineer Rudolf Hofer, and other crew members on board the *M/V Susan K* welded a pipe connection to the ballast water ejector system of the *Susan K*. (Attachment C).

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9. The evidence presented by the government shows that from on or about or before August 1, 2011, through on or about March 4, 2012, Chief Engineer Rudolf Hofer, and other crew members on board the *Susan K* repeatedly discharged oily bilge water from machinery spaces on board the *Susan K* directly overboard into the sea, bypassing the ship's OWS and other required pollution control equipment and without making entries for the discharges in the ship's ORB. (Attachment D). The oily bilge water was discharged by using a flexible rubber hose that was connected from the ship's oily bilge water tank to the ballast water system on board the ship. (Attachment E).

10. The evidence presented by the government shows that on or about October 18, 2011, the *Susan K* entered the Port of New Orleans, Louisiana, with an ORB that failed to contain entries for the discharges of oily bilge water directly into the sea that bypassed the ship's OWS and other required pollution prevention equipment.

11. The evidence presented by the government shows that on or about January 24, 2012, the *Susan K*, entered the Port of Seward, Alaska, with an ORB that failed to make entries for the discharges of oily bilge water directly into the sea that bypassed the ship's OWS and other required pollution prevention equipment.

12. The evidence presented by the government shows that on or about January 27, 2012, the Coast Guard conducted a Port State Control boarding and inspection of the *Susan K* after the vessel arrived at the Port of Seward, Alaska, within the District of Alaska.

13. The evidence presented by the government shows that on or about January 27, 2012, during the course of the Port State Control boarding, Chief Engineer Rudolf Hofer on board the *Susan K* knowingly caused the vessel's false and inaccurate ORB to be used and presented to representatives of the Coast Guard.

14. The evidence presented by the government shows that on or about March 4, 2012, the *Susan K* entered the Port of Houston, Texas, with an ORB that failed to contain entries for the discharges of oily bilge water directly into the sea that bypassed the ship's OWS and other required pollution prevention equipment.

15. The evidence presented by the government shows that on or about March 6, 2012, the Coast Guard conducted a Port State Control boarding and inspection of the *Susan K* after the vessel arrived at the Port of Houston within the Southern District of Texas.

16. The evidence presented by the government shows that on or about March 6, 2012, during the course of the Port State Control boarding, Chief Engineer Rudolf Hofer on board the *Susan K* knowingly caused the vessel's false and inaccurate ORB to be used and presented to representatives of the Coast Guard.

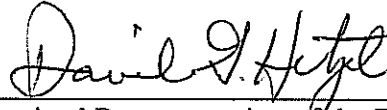
17. The evidence presented by the government shows that on or about March 7, 2012, in the Port of Houston, Texas, Chief Engineer Rudolf Hofer knowingly and falsely stated to the Coast Guard that the only way that the oily bilge waste tank on the *Susan K* was emptied was through the OWS.

18. The evidence presented by the government shows that on or about March 7, 2012, in the Port of Houston, Texas, Chief Engineer Rudolf Hofer knowingly and falsely stated to the Coast Guard that the hose and welded nipple on the ballast eductor system on the *Susan K* was not used for anything else than water to clean the sea strainers and deck plates.

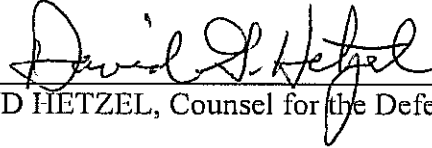
19. The evidence presented by the government shows that on or about March 6, 2012, in the Port of Houston, Texas, Chief Engineer Rudolf Hofer corruptly told the Oiler on the *Susan K* to lie to the Coast Guard about the hose that was used to pump oily bilge water into the ocean.

Defendant's Initials DRH

Executed on this 2^d day of ~~August~~^{November}, 2012.



Authorized Representative of the Defendants

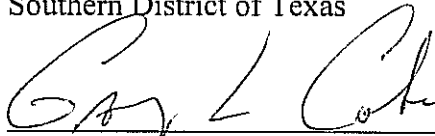


DAVID HETZEL, Counsel for the Defendants

AGREED AND APPROVED:

~~August~~^{November} 2, 2012

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Defendant's Initials 