

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

UNITED STATES OF AMERICA
V.
NOKA SHIPPING COMPANY, LIMITED

JUDGMENT IN A CRIMINAL CASE
(For Organizational Defendants)

CASE NUMBER: 2:11CR00534-001

Dimitri P. Georgantas
Defendant Organization's Attorney

See Additional Aliases.

THE DEFENDANT ORGANIZATION:

- pleaded guilty to count(s) 1 and 2 of the Indictment on June 7, 2011
pleaded nolo contendere to count(s) which was accepted by the court.
was found guilty on count(s) 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 'Failure to Notify U.S. Coast Guard of Hazardous Condition'.

See Additional Counts of Conviction.

The defendant organization is sentenced as provided in pages 2 through 5 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.

June 7, 2011
Date of Imposition of Judgment

Janis Graham Jack
Signature of Judge

JANIS GRAHAM JACK
SENIOR U.S. DISTRICT JUDGE
Name and Title of Judge

June 20, 2011
Date

DEFENDANT ORGANIZATION: **NOKA SHIPPING COMPANY, LIMITED**

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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 1 and 2.

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 standard conditions that have been adopted by this court (set forth below). The defendant organization shall also comply with the additional conditions on the attached page (if indicated below).

STANDARD CONDITIONS OF SUPERVISION

See Special Conditions of Supervision.

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organization's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) 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;
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

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SPECIAL CONDITIONS OF SUPERVISION

- a. No Further Violations. The Defendant shall not commit violations of the 1. MARPOL Protocol, the Ports and Waterways Safety Act, federal, state, or local law, including the Act to Prevent Pollution from Ships and the Ports and Waterways Safety Act, and shall conduct its operations in accordance with the environmental laws of the United States.
- b. Payment. The Defendant will make payment in full of the monetary amounts set forth herein including all special assessments, fines and restitution, and community service.
- c. Vessels not permitted to trade in United States. In lieu of a court monitored environmental compliance plan, Noka agrees that the FLORIN and each and every vessel owned, operated, manned, or managed by Noka, or for which Noka is designated as an ISM manager (collectively "Banned Vessels") is barred and banned, for the entire term of probation, from entering into, mooring, anchoring, docking at, or being present upon any port or terminal, anchorage, internal waters, navigable waters, or territorial sea of the United States. However, Banned Vessels may transit the U.S. territorial sea if not bound for a port of place in the United States and the vessel is: (i) engaged in innocent passage; and (ii) it does not stop, linger, anchor, attach to a mooring, bunker, offload cargo, transfer fuel, take on supplies or cargo, conduct business with any Chandler, or call on any U.S. port, terminal, or offshore facility. Banned Vessels may also enter United States waters in cases force majeure. For purposes of this Plea Agreement, the "territorial sea" extends 12 nautical miles from any U.S. baseline, regardless of whether that baseline is located on the North American mainland or an island state, possession, territory, or commonwealth. Noka agrees that it shall immediately notify the Government and the U.S. Probation Office in writing when a vessel meets the requirements of being included on the Banned Vessel list. Any vessel, which is or becomes owned, operated, manned, or managed by Noka, or for which Noka is or becomes designated as an ISM manager shall be subject to the conditions of probation as set forth in this Plea Agreement throughout the remainder of the probation term. At the earlier of sentencing or the start of a commercial agreement with Noka, the Defendant must notify owners, charterers, and officers of Banned Vessels in writing of this condition and the condition in paragraph. This paragraph is enforceable against the Defendant and/or all Banned Vessels as of the date of sentencing.
- d. Other: The defendant and its subsidiaries, including all subsidiaries that technically manage and/or man vessels, including but not limited to Noka and all successors-in-interest, if applicable, and all successors and assigns, are bound by the Plea Agreement. During the five year probation period, the Defendant shall provide immediate, written notice to the Government and the United States Probation Office of any of the following: (i) any corporate name change; (ii) any purchase or sale of vessels; (iii) any agreement to operate, manage, be designated as an ISM manager for, or man any vessel; (iv) any change in the name, call sign, flag, owner, IMO number, or other identifying information of any vessel owned, operated, managed, ISM-managed, or manned by Noka; (v) any purchase, sale, reorganization, transfer of a plurality or controlling interest, or divestiture of Noka; and (vi) any other change impacting upon or affecting the Plea Agreement. No change in name, change in corporate or individual control, business reorganization, bankruptcy, change in ownership, merger, change in legal status, sale or purchase of assets, or similar action shall alter or diminish the Defendant's obligations under the Plea Agreement. Defendant will not engage in any business reorganization, transfer of ownership, corporate dissolution, or other business practice in order to avoid the obligations set forth in the Plea Agreement.

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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	\$ 900,000.00	\$

The special assessment consists of \$400 as to each of Counts 1 and 2, to be paid consecutively. The total fine is \$900,000. The fine consists of \$500,000 as to Count 1 and \$250,000 as to Count 2 to be paid consecutively and \$150,000 of this total is a community service payment.

- 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>
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- 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.

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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 in full by the close of the business day on June 10, 2011.
 The Court pursuant to 33 U.S.C. § 1908(a), orders that one-half of the fines as to Count One, \$250,000.00, be distributed to the whistleblower in this case. Additionally, the Court orders that \$150,000.00 of the fine in Count Two be wired, as a community service payment, to the National Marine Sanctuary Foundation for use in the Flower Garden and Stetson Banks National Marine Sanctuary.

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.