

NELSON P. COHEN
United States Attorney

KAREN L. LOEFFLER
Assistant United States Attorney
Federal Building & U.S. Courthouse
222 W. 7th Avenue, #9, Room 253
Anchorage, Alaska 99513-7567
Phone: (907) 271-5071
Fax: (967) 271-1500
E-mail: karen.loeffler@usdoj.gov

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	No.
)	
Plaintiff,)	
)	GOVERNMENT’S MOTION
vs.)	FOR AWARD PURSUANT TO
)	33 U.S.C. § 1908(a)
POLAR TANKERS, INC.)	
)	
Defendant.)	
_____)	

The United States of America, through undersigned counsel, hereby moves this Honorable Court to order an award of \$250,000 pursuant to the Act To Prevent Pollution From Ships (“APPS”) to James Legg in connection with the captioned matter, and in support thereof, submits this memorandum in support of the award.

I. Award Authority

The Act to Prevent Pollution From Ships (“APPS”), Title 33, United States Code Sections 1901, *et seq.*, grants a Court discretion to issue a monetary award of up to one half of any criminal fine imposed to those who provide information which leads to a conviction under the Act. The purpose of APPS is to implement an international law treaty known as the MARPOL Protocol setting forth international standards to protect the marine environment. Upon review of the investigative record in this case, the government believes that Mr. Legg provided important information during the earliest phases of the investigation of this matter that significantly contributed to the conviction of the defendant. An award to this individual would be consistent with the purpose of the statute to encourage those with information about unlawful conduct to come forward and disclose that information to authorities -- information otherwise difficult, if not virtually impossible, to obtain.

Section 1908(a) of APPS provides that:

A person who knowingly violates the MARPOL Protocol, this chapter, or the regulations issued thereunder commits a class D felony. In the discretion of the Court, an amount equal to not more than ½ of such fine may be paid to the person giving information leading to conviction.

The regulations implementing the statute contain the same provision. 33 C.F.R. § 151.04(c).¹

II. Mr. Legg's Assistance

On October 23, 2007, Polar Tankers, Inc. intends to enter a guilty plea to a one-count Information charging a violation of the APPS statute. The defendant has also requested that sentencing be imposed on the same day. In pleading guilty, Polar Tankers, Inc. will admit that the company and its employees unlawfully failed to maintain an Oil Record Book on the T/V Polar Discovery and that the T/V Polar Discovery entered a United States' port in Valdez, Alaska, with the inaccurate Oil Record Book. The Oil Record Book was inaccurate because it failed to record that members of the T/V Polar Discovery's engine room crew discharged oily bilge water onto the deck of the ship and overboard into the ocean without logging the discharge as required.

The Coast Guard investigation into the illegal discharge from the T/V Polar Discovery was initiated when the United States Coast Guard Marine Safety Office in

¹ The Rivers and Harbors Act contains a similar award provision. 33 U.S.C. § 411. A more recent enactment pertaining to the operation of cruise ships in Alaska also has a similar provision, demonstrating continued Congressional interest in creating incentives to reward those who assist the government in bringing criminal prosecutions. Pub.L. 106-554, § 1(a)(4) [Div. B, Title XIV, § 1409(e)], Dec. 21, 2000, 114 Stat. 2763, 2763a-315, *enacting provisions set out as Historical and Statutory Notes to 33 U.S.C. § 1901.*

Valdez, Alaska, received a phone call from Mr. Legg. Mr. Legg resides in Olympia, Washington, holds a Third Engineer license, and is a former Engineman on the T/V Polar Discovery. In his phone call, Mr. Legg stated that an oil spill occurred while the ship was transferring oily bilge water from the bilges to a holding tank and a drain line was left open. The oil spilled onto the deck of the ship and ran out the scuppers (holes in the ship that allow water and other liquids to drain off the deck). Mr. Legg described the transfer process that lead to the discharge and ultimately sent a video that he had taken showing the ship's crew cleaning oil from the side of the ship.

The discharge of oily waste from the T/V Polar Discovery was not logged in the Oil Record Book and was not reported by the ship or Polar Tankers as required by law. This discharge would have been impossible to detect without the information provided by Mr. Legg. The United States is of the view that the violation would not have become known to the government had it not been for the information Mr. Legg provided.

In addition, Mr. Legg remained in contact with government investigators throughout the investigation of this case and agreed to meet in person with investigators.

Accordingly, in the opinion of the United States, it would be appropriate to consider Mr. Legg for an award of \$250,000 associated with the criminal fine

imposed in connection with Count One of the instant Information. The United States submits that such an award is properly within the scope of the Court's discretion in this case and that it is also wholly consistent with the legislative intent of the APPS award provision.

III. The History of Awards

There have been other cases in which an award has been issued pursuant to Section 1908(a), including two in this District. In U.S. v. Boyang, Ltd. (D. Ak.), the Court awarded a crew member with one half of the \$350,000 criminal fine for informing the government of unlawful discharges of waste oil in violation of APPS. The same was true in U.S. v. Holland America (D. Ak.), when the Court awarded a crew member with one half of the \$1 million criminal fine. In United States v. Princess Cruise Line (S.D. Fla.), the Court awarded a cruise ship passenger one half of the \$500,000 criminal fine for providing the government with a video tape of crew members dumping plastic bags of garbage into the Ocean. Likewise, in United States v. Regency Cruises, Inc., (M.D.Fla), the Court split one half of the \$350,000 fine among two different sets of witnesses who reported the pollution to the government. One group of witnesses on a fishing vessel retrieved a bag of garbage from the water that contained the cruise ship's refuse. The other witness was a cruise ship passenger who observed the crew dumping plastic bags of garbage. In U.S. v. Crescent Ship

U S v. Polar Tankers, Inc.

-5-

Services (E.D.LA), the Court rewarded an employee with half of the \$250,000 fine for conspiracy to violate APPS. In U.S. v. D/S Progress (D. Md.) the Court awarded two employees with half of the \$250,000 criminal fine under APPS for slipping a handwritten note to a U.S. Coast Guard inspector that disclosed a leak in the hull of an oil tanker and which resulted in the discovery of other violations similar to this case. Finally, in United States v. Botelho Shipping Corporation, et al. (D. Oregon), the Court awarded half of the \$450,000 criminal fine to the Second Engineer who reported to the Coast Guard that the ship on which he sailed was bypassing the ship's pollution prevention equipment and dumping oily wastes directly into the ocean.

IV. Conclusion

The Court has discretion to award Mr. Legg any amount up to one half of the criminal fine imposed in connection with the Counts related directly to the information the witnesses provided to government investigators. The United States respectfully submits that an award of \$250,000 to Mr. Legg is warranted in this case based upon the information provided and in order to further the Congressionally

// //

// //

established goal of providing an incentive to those who report similar fraudulent activity and environmental violations in the future.

RESPECTFULLY SUBMITTED this 18th day of October, 2007, at Anchorage, Alaska.

NELSON P. COHEN
United States Attorney

s/Karen L. Loeffler
Assistant United States Attorney
Federal Building & U.S. Courthouse
222 West Seventh Avenue, #9, Rm 253
Anchorage, Alaska 99513-7567
Phone: (907) 271-5071
Fax: (907) 271-1500
E-mail: karen.loeffler@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2007,
a copy of the foregoing GOVERNMENT'S
MOTION FOR AWARD PURSUANT
TO 33 U.S.C. § 1908(a) was served electronically
on Robert C. Bundy and by fax to:

George Terrwilliger (Attorney for Polar Tankers, Inc.)
White & Case, LLP
701 13th St., NW
Washington, DC 20005
Fax: (202) 639-9355

s/ Karen L. Loeffler

U S v. Polar Tankers, Inc.

-7-

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,) No.
))
 Plaintiff,) **ORDER**
))
 vs.))
))
POLAR TANKERS, Inc.,))
))
 Defendant.))
_____)

Having considered the Government's Motion for Award Pursuant to 33 U.S.C. § 1908(a) for the above captioned case, IT IS HEREBY ORDERED that the Government's request is **GRANTED**.

IT IS HEREBY ORDERED that a total payment in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) be awarded to James Legg. The award shall be funded from the criminal fine payable to the District of Alaska. The United States shall provide the clerk's office with payment instructions.

DATED this ____ day of October, 2007, at Anchorage, Alaska.

UNITED STATES DISTRICT JUDGE