

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.
)	
)	<u>COUNT 1:</u>
Plaintiff,)	FAILURE TO MAINTAIN AN
)	OIL RECORD BOOK
vs.)	Vio. of 33 U.S.C. §1908(a)
)	
POLAR TANKERS, INC.,)	
)	
Defendant.)	
_____)	

INFORMATION

The United States Attorney charges that:

INTRODUCTION

1. POLAR TANKERS, INC. (“Polar Tankers”) is a United States company with its corporate headquarters in Houston, Texas. Polar Tankers, acting

both directly and through their agents, affiliates and subsidiaries, operates and controls an all double-hulled fleet of tanker vessels that transport oil from Valdez, Alaska, to ports on the west coast of the United States. The tanker vessels in Polar Tanker's fleet currently are the Polar Adventure, Polar Discovery, Polar Endeavour, Polar Enterprise, and Polar Resolution.

2. The T/V Polar Discovery is an 895', 140,000-ton crude oil tanker vessel operated by Polar Tankers, Inc., a wholly-owned subsidiary of ConocoPhillips, and registered under the United States flag. It makes frequent voyages to transport crude oil from Alaska to markets in other states.

3. In January of 2004, the Polar Discovery departed Valdez, Alaska, with a load of crude oil. Between January and June of 2004 the Polar Discovery called on Valdez approximately sixteen times.

4. The two most senior officers who work in the Polar Discovery's engine room are the Chief and First Assistant Engineers. Together, they have primary responsibility for managing the ship's oily bilge water and other oil wastes generated on board the vessel.

LEGAL FRAMEWORK

5. Engine department operations on large marine vessels like the T/V Polar Discovery generate large quantities of waste oil due to leaks and drips from

the engine's 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.

6. The MARPOL Protocol ("MARPOL") is an international treaty 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 MARPOL, APPS, or the federal regulations promulgated under APPS. 33 U.S.C. §1908(a). These regulations apply to all non-military vessels, including vessels operating under the authority of a country other than the United States, when such vessels operate in United States waters or while at a port or terminal under the jurisdiction of the United States. 33 C.F.R. §151.09.

7. MARPOL sets forth the international standards for the maximum amount of oil permitted to be discharged overboard from vessels. This standard is 15 parts per million ("ppm") of oil. MARPOL Annex I, Reg. 9.

8. APPS requires that each oil tanker of more than 150 gross tons, such as the Polar Discovery, maintain a record known as an Oil Record Book. Entries must be made in the Oil Record Book for certain engine room operations including the disposal of oil residue or the discharge overboard or disposal otherwise of bilge water that has accumulated in machinery spaces. 33 C.F.R. §151.25(d). The Oil Record Book must

also record any emergency, accidental, or other exceptional discharges of oil or oily mixtures. 33 C.F.R. §151.25(g). The Oil Record Book must be maintained on board the vessel for not less than three years, and it must be kept on board the vessel readily available for inspection at all reasonable times. 33 C.F.R. §151.25(k).

9. The United States Coast Guard is charged with enforcing the laws of the United States and is empowered under 14 U.S.C. § 89(a) to board vessels and conduct inspections and investigations of potential violations. The Coast Guard is 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 has discharged any oil or oily mixtures in violation of MARPOL, APPS, or any applicable federal regulations. 33 C.F.R. §§151.23(a)(3), 151.23(c).

10. The Coast Guard also has the authority to issue subpoenas to require the attendance of witnesses or the production of documents or other evidence to determine whether a vessel is in violation of MARPOL or APPS. 33 C.F.R. §151.07(d). If the Coast Guard finds evidence that a vessel is not in substantial compliance with MARPOL or APPS, the Coast Guard is empowered to deny a vessel's entry to a United States Port or detain a vessel until it determines that the vessel does not present an unreasonable threat to the marine environment. 33 C.F.R. §§151.07(b), 151.25(b).

Coast Guard inspectors have additional enforcement tools at their disposal against vessels and persons found to be in violation of applicable laws, including civil-administrative penalty actions, civil-administrative penalty adjudications, and revocation of customs clearance. 46 U.S.C. §91; 33 C.F.R. §1.07.

FACTUAL BACKGROUND

11. On January 16, 2004, the Polar Discovery's engineering crew conducted a transfer of engine room sludge from tanks in the vessel's engine room, through the hard piping system, to a slop tank on deck. A system valve on the deck of the ship was open and resulted in the sludge spilling onto the deck of the ship rather than entering the slop tank as it should have. Additionally, a scupper (a hole on the deck that allows water to drain overboard) was open, thereby potentially allowing the spilled sludge to drain overboard into the ocean.

12. The T/V Polar Discovery has a crew of approximately twenty-two personnel. Four crew members of different rank work in the engine room. The engine room crew members are: Chief Engineer, First Engineer, Second Engineer, and Third Engineer. Each engineer works two four-hour shifts each day. The engineers are responsible for the operation of the ship's engineering spaces and for managing the waste oil and bilge waste that is a regular byproduct of the vessel's operation.

13. On January 16, 2004, members of the Polar Discovery's engine room crew potentially discharged oily sludge overboard into the ocean without recording this transfer of oil in the ship's Oil Record Book. Between January 16 and June 9, 2004, the Polar Discovery sailed to Valdez, Alaska, approximately sixteen times. Each time it carried a falsified oil record book that failed to reveal the potential discharges of oily waste that had been conducted during the previous ocean transit in January 2004.

14. The Chief Engineer was the person who was primarily responsible for keeping the ship's Oil Record Book. As Chief Engineer, he not only knew that the Polar Discovery was required to maintain an Oil Record Book, but he also knew that the Oil Record Book must accurately record the handling and transfer of oily waste on the ship, including the transfer of sludge through the vessel's hard piping system to a storage tank on deck. The Chief Engineer did not record the potential discharge of sludge in the Polar Discovery's Oil Record Book. Likewise, the Chief Engineer knew that no other crew member was recording this discharge in the Oil Record Book. The Chief Engineer's actions and omissions caused the Oil Record Book to contain false entries and to be inaccurate by failing to record these discharges of oily waste.

15. As of result of his skills and experience as a vessel captain, the Captain of the Polar Discovery was aware of requirements to maintain an Oil Record Book. In order to hide the fact that he and his crew discharged this oily sludge directly into the

ocean, the Captain used his knowledge and skill to manipulate the entry he made in the bridge log book to make it appear legitimate. Rather than recording that the vessel slowed down and turned away from the wind so that the ship's crew could clean oil from the side of the ship, the Captain instead recorded that the ship had performed a man overboard drill.

COUNT 1

False Oil Record Book

16. On or about June 9, 2004, in the District of Alaska, the defendant, POLAR TANKERS, INC., by and through the actions of its agents and employees, did fail to maintain, and did cause the failure to maintain an Oil Record Book.

All in violation of Title 33, United States Code, Section 1908(a) and Title 33, Code of Federal Regulations, Section 151.25.

s/ Karen L. Loeffler
KAREN L. LOEFFLER
Assistant U.S. Attorney
Federal Building & U.S. Courthouse
222 West 7th Avenue, Room 253, #9
Anchorage, Alaska 99513-7567
Phone:(907) 271-5071
Fax: (907) 271-1500
Email: karen.loeffler@usdoj.gov

DATE: October 17, 2007