

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA * **CRIMINAL NO.: 10-172**
V. * **SECTION: "C" (1)**
STANSHIPS, INC. *

**EX PARTE UNOPPOSED MOTION
IN SUPPORT OF STATUTORY MOIETY PAYMENTS**

Pursuant to the Act to Prevent Pollution from Ships ("APPS"), the United States of America, by Jim Letten, United States Attorney for the Eastern District of Louisiana, files its motion in support of whistle blower awards and hereby moves this Court to order a total award of \$137,500.00, which is half the criminal fine paid by defendant Stanships, Inc. ("Stanships") to count one, violation of the Act to Prevent Pollution from Ships (APPS), Title 33, United States Code, Sections 1901, *et seq.*, of the two-count Bill of the Information. Defense counsel has informed undersigned that the defendant does not object to this motion. The assistance of Kilker Chacon Gonzalez and Alan Nelson led to the successful prosecution of this case. In support of its motion, the United States submits the following:

Stanships's Fine and the Court's Award Authority

On June 23, 2010, Stanships pleaded guilty to a two-count Bill of Information charging a violation of the APPS, 33 U.S.C. § 1908, and a violation of the Clean Water Act, 33 U.S.C. §1319(c)(2)(A). Specifically, regarding the APPS violation, on or about May 14, 2010, Stanships knowingly failed to maintain an Oil Record Book (“ORB”) for the *M/V Doric Glory* in which all operations involving the movement of oil, including all overboard discharges of waste oil sludge and oil-contaminated bilge waste, were fully recorded. At sentencing on September 29, 2010, regarding the APPS violation in count 1, this Court imposed a \$275,000.00 criminal fine. APPS is designed to implement an international law treaty known as the MARPOL protocol, which sets forth international standards to protect the marine environment. In order to further this purpose, APPS grants a Court the discretion to issue a monetary award for up to one half of any criminal fine imposed to those who provide information that leads to a conviction under the Act.¹ Specifically, 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.

33 U.S.C. § 1908(a).

The APPS whistle blower award provision serves a valuable law enforcement purpose by encouraging those most likely to know of the illegal conduct, in this case engine room crew members,

¹The regulations implementing APPS contain the same provision. 33 C.F.R. § 151.04(c). The Rivers and Harbors Act contains a similar award provision. 33 U.S.C. § 411.

to report it. Because the discharge of oily waste typically takes place in the middle of the ocean in international waters and often at night, the only persons likely to know about the conduct and the falsification of the ORB are engine room crew members. Without crew members with firsthand knowledge of the illegal conduct coming forward, APPS violations are otherwise extremely difficult to uncover. The government's success in detecting the illegal activity and obtaining sufficient evidence to support investigations and prosecutions is dependent upon the willingness of crew members to step forward. In turn, crew members must assess the risks associated with coming forward, such as the possibility that the crew member will lose relatively lucrative employment and be blacklisted and barred from working in the marine shipping industry in the future. A substantial monetary award, as provided by APPS, both rewards the crew members for taking those risks and provides an incentive for other crew members to come forward and report illegal conduct on vessels in the future.

The Assistance Provided by Alan Nelson and Kilker Chacon Gonzalez

Crew members Alan Nelson and Kilker Chacon Gonzalez provided key information that substantially contributed to securing the convictions of corporate defendant Stanships. An award to these witnesses would be consistent with the valuable law enforcement purpose of APPS to encourage those with information about unlawful conduct to come forward and disclose that information to authorities, information that would otherwise be difficult, if not impossible, to obtain.

Mr. Chacon Gonzalez was the Third Engineer and Mr. Nelson was an Oiler onboard the *M/V Doric Glory*. Mr. Chacon first notified the Coast Guard by means of the National Response Center.

Mr. Nelson was the individual that came forward to the Coast Guard when the Coast Guard boarded the vessel and provided a copy of a video showing the discharge.

Mr. Nelson, a Honduran citizen, agreed to remain in the United States in order to assist with the investigation and provide testimonial evidence.² Without the initial contact by Mr. Gonzalez and the subsequent information provided by Mr. Nelson during his interviews, it is unlikely that the illegal conduct of the defendants would have been uncovered, investigated and brought to a plea.

The History of Awards

As set forth below, there have been many other cases in which an award has been issued pursuant to Section 1908 of APPS:

United States v. Kassian Maritime Navigation Agency Ltd. et al., No. 3:07-CR-00048 (M.D. Fla. August, 16, 2007): award of \$230,000 each to the Ship's Wiper and Cook and \$20,000 to two Third Engineers.

United States v. Sun Ace Shipping Company et al., No. 2:06-CR-00599 (D.N.J. December 2006): award of \$200,000 split evenly between three engine room crew members.

United States v. MK Shipmanagement Co., Ltd., Criminal Docket No. 2:06-cr-00307-WHW (D.N.J., Aug 7, 2006): award of one half of the \$200,000 fine to two crew member whistle blowers.

²Stanships agreed to pay for all witnesses' room, board, and salary under an agreement with the USCG, which was a condition for allowing the *M/V Doric Glory* to depart New Orleans. Stanships then agreed pursuant to the plea agreement to continue paying the crew members' expenses until the United States cleared them for repatriation to their respective countries.

United States v. Wallenius Ship Management PTE. Ltd, Criminal Docket No. 2:06-cr-00213-JAG-ALL (D.N.J., Aug. 3, 2006): award of one half of the \$5 million fine to four crew member whistle blowers.

United States v. OMI Corporation, Criminal Docket No. 2:04-cr-00060-KSH-ALL (D.N.J., Aug. 6, 2004): award of one half of the \$4.2 million fine to a crew member whistle blower.

Conclusion

This Court has discretion to award an amount up to one-half of the criminal fine imposed in connection with Count One of the Information to the two witnesses, Alan Nelson and Kilker Chacon Gonzalez, who provided critical evidence leading to the defendant's conviction. In light of the information provided by these witnesses, the United States respectfully moves this Court to find that an award in this matter would be consistent with the law enforcement purpose of the statute by encouraging those with information to come forward and disclose that information to appropriate authorities.

WHEREFORE, the United States respectfully requests that the Court award \$68,750.00 to Alan Nelson and \$68,750.00 to Kilker Chacon Gonzalez. Should the Court grant this motion, the Clerk of Court should be ordered to pay, or arrange to have a copy of this Order served upon the appropriate payer, with the following instructions:

- 1) A check payable to Mr. Alan Nelson in the amount of \$68,750.00, to be sent to the American Embassy in Tegucigalpa, Honduras, Attention DOJ Attache, for delivery

to Mr. Nelson. Mr. Nelson's contact information for the Embassy to notify him to pick up his check is:

Mr. Alan Nelson
Roatan spring garden #2 isla de la bahía
Rep. De Honduras C.A
allen03hn9@hotmail.com
phone number+ 504 99412302 cell / +504 451118 home

- 2) A check payable to Mr. Kilker Chacon Gonzalez in the amount of \$68,750.00, to be sent to Caracas, Venezuela to the attention of:

Commander Ronald Pailliotet
U.S. Coast Guard Attaché
Venezuela, E. Caribbean and Guyana
U.S. Defense Attaché Office Caracas
(work) 58.212.907.8372 | (fax) 58.212.907.8077 |

Mr. Kilker Chacon Gonzalez's contact information to notify him to pick up his check is:

Mr. Kilker Chacon Gonzalez
Urbanizacion la Suiza, Calle Los Alpes con Los Andes, Chalet Nosotros # 9, Los Salias, San Antonio de Los Altos, Miranda Venezuela.
kilkerchacon@hotmail.com
Home +58 212 3712372 / Cell +58 414 2192495

Respectfully submitted,
JIM LETTEN
UNITED STATES ATTORNEY

/s/ Dorothy Manning Taylor
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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2011, I electronically filed the foregoing with the Clerk of court by using the CM/ECF system which will send a notice of electronic filing to all defense counsel of record.

Dorothy Manning Taylor
Assistant United States Attorney

**UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA * **CRIMINAL NO.: 10-172**
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ORDER

Considering the foregoing motion,

IT IS HEREBY ORDERED that, pursuant to the Act to Prevent Pollution from Ships (APPS), Title 33, United States Code, Sections 1901, *et seq.*, the government's motion is **GRANTED** and that from the total \$275,000.00 fine paid by Stanships, Inc., the Clerk of Court shall pay, or arrange to have a copy of this Order served upon the appropriate payer with instructions to pay, \$137,500 (one-half of the total fine) to the following individuals equally as follows:

- 1) A check payable to Mr. Alan Nelson in the amount of \$68,750.00,
c/o American Embassy
Teguicigalpa, Honduras,
Attention: DOJ Attache

Mr. Nelson's contact information for the Embassy to notify him to pick up his check is:

Mr. Alan Nelson
Roatan spring garden #2 isla de la bahía
Rep. De Honduras C.A
allen03hn9@hotmail.com
phone number+ 504 99412302 cell / +504 451118 home

2) A check payable to Mr. Kilker Chacon Gonzalez in the amount of \$68,750.00,

c/o Commander Ronald Pailliotet
U.S. Coast Guard Attaché
Venezuela, E. Caribbean and Guyana
U.S. Defense Attaché Office Caracas
(work) 58.212.907.8372 | (fax) 58.212.907.8077 |

Mr. Kilker Chacon Gonzalez's contact information to notify him to pick up his check is:

Mr. Kilker Chacon Gonzalez
Urbanizacion la Suiza, Calle Los Alpes con Los Andes, Chalet Nosotros # 9, Los Salias, San Antonio de Los Altos, Miranda Venezuela.
kilkerchacon@hotmail.com
Home +58 212 3712372 / Cell +58 414 2192495

New Orleans, Louisiana, this _____ day of May, 2011.

HELEN G. BERRIGAN
UNITED STATES DISTRICT COURT JUDGE