

**United States District Court
Northern District of California**

AMENDED

UNITED STATES OF AMERICA
v.
TRANSMAR SHIPPING CO. S.A.

JUDGMENT IN A CRIMINAL CASE
(For Organizational Defendants)
Case Number: **CR-10-00552-03-DLJ**

Defendant Organization's Attorney **Brian McCarthy**

Date of Original Judgment: August 5, 2010

**Reason for amendment: regarding Fine
THE DEFENDANT ORGANIZATION:**

- pleaded guilty to count(s): 1 and 2 of the Information.
- pleaded nolo contendere to count(s) ___ which was accepted by the court.
- was found guilty on count(s) ___ after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offense(s).

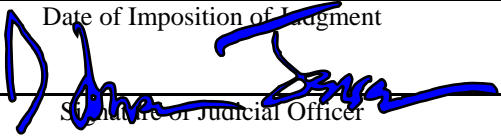
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
33 USC § 1908(a) and 33 C.F.R. § 151.25	Failing to Maintain an Oil Record Book	2/16/2010	One
18 USC § 1001	False Statement	2/16/2010	Two

The defendant organization is sentenced as provided in pages 2 through 7 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 must 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. If ordered to pay restitution, the defendant organization shall notify the court and United States attorney of material changes in economic circumstances.

July 30, 2010
Date of Imposition of Judgment


Signature of Judicial Officer

Honorable D. Lowell Jensen, U. S. District Judge
Name & Title of Judicial Officer

August 24, 2010
Date

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PROBATION

The defendant organization is hereby placed on probation for a term of 3 years.

The defendant organization shall not commit another federal, state, or local crime.

If the judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

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STANDARD 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 organizations'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; and
- 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

- 1) Transmar Shipping Co. S.A. is to comply with the Environmental Management System/Compliance Plan attached as Exhibit A to the Plea Agreement.
- 2) Transmar Shippin Co. S.A. shall commit no further violations of federal, state or local law, including those laws and regulations for which primary enforcement has been delegated to state authorities, and shall conduct all its operations in accordance with the MARPOL Protocol.
- 3) The Court imposes a fine of \$750,000.00 payable as follows: Transmar Co. S. A. to pay initial criminal fine of \$400,000.00 at time of sentencing.

Fine installments: Transmar Co. S. A. to pay subsequent additional criminal fine of \$350,000.00 payable as follows: First fine installment in the amount of \$125,000.00 payable no later than 12 months after the date of sentencing.

Second fine installment in the amount of \$125,000.00 payable no later than 24 months after the date of sentencing.

Third fine installment in the amount of \$100,000.00 payable no later than 36 months after the date of sentencing.

**\$200,000.00 of the Initial fine amount shall be paid through the Clerk's Office of the United States District Court for Northern District of California to the 3 individual crew members as follows:
\$66,666.68 to IR
\$66,666.66 to LR
\$66,666.66 to LC

- 4) The Court imposes the amount of \$100,000.00 as community service, payable to the National Fish and Wildlife Foundation Northern Coastal California Restoration Fund .

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CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments set forth in this judgment.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 800.00	\$ 750,000.00	\$

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 amounts listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportional 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 before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
<u>Totals:</u>	\$ _	\$ _	

Restitution amount ordered pursuant to plea agreement \$ _

The defendant organization shall pay interest on restitution or a fine 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 the Schedule of Payment Page, 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 restitution.

the interest requirement for the fine restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 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 are due as follows:

- A Lump sum payment of \$ due immediately, balance due
 - not later than ____, or
 - in accordance with () C, or () D; or
- B Payment to begin immediately (may be combined with () C, or () D 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 Special instructions regarding the payment of criminal monetary penalties:
Transmar Shipping Co. S.A. to pay total fine of \$750,000.00 payable as follows:
\$400,000.00 initial criminal fine due at time of sentencing.
 - ** 1) \$200,000.00 of the initial criminal fine to be paid through Clerk’s Office of the U.S. District Court Northern District of California to the three individual crew members as follows:
\$66,666.68 to IR
\$66,666.66 to LR
\$66,666.66 to LC
 - \$350,000.00 subsequent additional fine due in series of three payments:
 - 1) \$125,000.00 payable no later than 12 months after date of sentencing
 - 2) \$125,000.00 payable no later than 24 months after date of sentencing
 - 3) \$100,000.00 payable no later than 36 months after date of sentencing

All criminal monetary penalties are made to the Clerk of Court, U.S. District Court, 450 Golden Gate Avenue, San Francisco, CA 94102.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Case Number Defendant and Co- Defendant Names <u>(including Defendant Number)</u>	<u>Total Amount</u>	Joint and Several <u>Amount</u>	Corresponding Payee, <u>if appropriate</u>
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The defendant organization shall pay the cost of prosecution.

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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: