

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**THE DISTRICT COURT OF GUAM**

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
vs.  
  
PACIFIC INTERNATIONAL LINES  
(PRIVATE) LIMITED,  
  
Defendant.

CRIMINAL CASE NO. 20-00030

**MEMORANDUM OPINION IN  
FURTHERANCE OF THE ATTACHED  
JUDGMENT OF CONVICTION AGAINST  
DEFENDANT PACIFIC INTERNATIONAL  
LINES (PRIVATE) LIMITED**

**MEMORANDUM OPINION**

This matter was brought before the court after Defendant Pacific International (Private) Lines committed several violations of federal environmental pollution and book-keeping laws. Defendant is a Singaporean corporation that owns, operates and/or manages containerized cargo ships trading in many global seaports including Asia, Guam, and Saipan. The court accepted Defendant’s guilty plea and sentenced Defendant to four years of probation and imposed a \$3,000,000.00 penalty, of which the court designated \$2,000,000.00 as community service. This instance reflects the very first time this court will be issuing such a community service order in an environmental crime case, let alone one of this magnitude. Thus, the Court wishes to highlight and provide context for the funds Defendant will have to pay in this extraordinary environmental crime case affecting our island.

This is not the first time Defendant Pacific International Lines has found itself in hot water. Defendant pled guilty in 2013 in another federal court on similar charges which involved a different

1 shipping vessel, the *M/V SOUTHERN LILY 2*. In that proceeding, Defendant was placed on 3 years'  
2 probation and required to pay a two million dollar fine, \$200,000.00 of which was designated as  
3 community service by the court. Additionally, Defendant was required to formulate and execute an  
4 Environmental Compliance Plan for eight of its vessels trading in the United States' ports;  
5 Defendant later expanded the Plan to its entire fleet. Since that time, Defendant has received the  
6 "The United States Coast Guard's Quality Shipping for the 21st Century program" designation from  
7 the United States Coast Guard. This designation recognizes and rewards vessels, as well as their  
8 owners and Flag Administrations, for their commitment to safety and quality. The criteria for  
9 inclusion are very strict and only a small percentage of all foreign-flagged ships that operate in the  
10 U.S. have earned the designation.  
11

12 Notwithstanding Defendant's prior criminal conviction eight years ago, the strict conditions  
13 of probation, and the great rehabilitative efforts which lead to the United States Coast Guard  
14 designation, local stevedores from the Port Authority of Guam observed crewmembers on the *M/V*  
15 *Kota Harum*, a shipping vessel owned by Defendant, knowingly discharge oily bilge water into the  
16 waters of Apra Harbor on October 4, 2019. The Port Authority of Guam stevedores notified the  
17 United States Coast Guard, which ultimately led to the federal prosecution of Defendant and the  
18 *Kora Harum's* first and second engineer for violations of federal environmental law. Both the first  
19 and second engineer pled guilty and were sentenced on January 19, 2021.  
20

21 On February 19, 2021, Defendant was sentenced by this court after it pled guilty to one count  
22 of violating the Clean Water Act and five counts of violating the Act to Prevent Pollution from  
23 Ships. As set forth in the attached Judgment, the court placed Defendant on four years' probation,  
24 and as a condition of probation, required Defendant to pay a three-million-dollar penalty,  
25 representing a \$500,000.00 penalty for each of the six counts of conviction. The court also imposed  
26 a \$2,400.00 special assessment fee. Defendant will also be required to execute another  
27  
28

1 Environmental Compliance Plan, referenced in Attachment A in ECF No. 7-1, and must file an  
2 account of its compliance directly to the court every six months. The court fully expects Defendant's  
3 complete adherence to the new environmental compliance plan, and that the plan will establish long-  
4 lasting compliance with environmental laws, as the first plan was apparently unsuccessful.

5 As highlighted below and also explained in the attached Judgment, it was recommended<sup>1</sup> that  
6 the court designate a portion of the community service payment to several projects being organized  
7 and funded by the National Fish and Wildlife Foundation that would benefit the people and the  
8 tropical beauty of our small island. The Foundation was created by the United States Congress as a  
9 grantmaking organization and is involved in both current and upcoming environmental projects in  
10 and around Guam which focus on water quality improvement, pollution prevention, and coral  
11 restoration. The background information for these environmental projects indicates that each has the  
12 proper nexus of harm to the six crimes perpetrated by Defendant Pacific International Lines (Private)  
13 Limited. For example, the project which relates to water quality and coral quality is close in nexus to  
14 the harm caused by the violations of the Clean Water Act. In addition, the violations of the Act to  
15 Prevent Pollution from Ships stem from improper recordkeeping for oil discharges occurring at sea  
16 without the proper and required treatment from the Oily Water Separator. This is related in nexus to  
17 the projects which aim to improve environmental safety and compliance with the Act to Prevent  
18 Pollution from Ships and the International Convention for the Prevention of Pollution from Ships  
19 (commonly referred to as APPS/MARPOL).  
20  
21

22 Consequently, the Court has accepted the recommendations provided and hereby allocates  
23 the community service funds to the National Fish and Wildlife Foundation as more fully described in  
24 the attached Judgment. These projects relate to the following:  
25

26 \_\_\_\_\_  
27 <sup>1</sup> The court commends Defendant Pacific International Lines (Private) Limited, the United States Probation Office, and  
28 Timothy DiCintio for submitting the substantial research work memorialized in Defendant's sentencing memorandum  
which proposes numerous community service projects. *See* Def.'s Mem. 8-12, ECF 16.

- 1 • funding for a grant to develop and implement at sea and shoreside personnel compliance and  
2 education to be sponsored by a non-profit organization with a proven track record;
- 3 • funding for a University of Guam project designed to improve the watershed health and  
4 water quality throughout our island;
- 5 • funding for the project undertaken by the Department of Defense and the National Oceanic  
6 and Atmospheric Administration to restore the Manell-Geus watershed and the Piti Bomb  
7 Hole Marine Preserve;
- 8 • funding for an ongoing “Tools for Effective Environmental Compliance” project designed to  
9 educate seafarers and shoreside personnel on the reasoning behind and the importance of  
10 environmental compliance including compliance with APPS/MARPOL;
- 11 • funding for projects in the Apra Harbor and surrounding areas for direct remedial action  
12 against future pollution by seafarers on commercial cargo, ocean going local tugs, and  
13 environmental shipping vessels, and application for shoreside personnel involved in port  
14 operations;
- 15 • funding for projects aiming to develop a genetic toolkit to find reefs under stress, determine  
16 the cause of such stress, and implement restorative solutions;
- 17 • funding for the restoration of staghorn coral and ecosystem services on reef flats of Guam in  
18 conjunction with future climate conditions.

15 As related to the payment schedule, the court highlights that \$1,500,000.00 shall be paid out within  
16 thirty days of the entry of the Judgment, with the remaining balance of \$1,500,000.00 to be paid by  
17 three equal payments of \$500,000.00 to be made at the end of each of the first three years of  
18 Defendant’s probation. Of this amount, the following applies:

- 19 • \$500,000.00 is designated as a criminal fine and attributed to Count 1 charged in the  
20 Information, as a violation of the Clean Water Act, and shall be paid to the Oil Spill Liability  
21 Trust Fund. This fine will provide immediate funds for federal spill response efforts and  
22 compensation for certain damages.
- 23 • \$2,000,000.00 is designated as an organizational community service amount and shall be  
24 paid to the National Fish and Wildlife Foundation as set forth above and more fully described  
25 in the Attached Judgment. Of significance, \$1,000,000.00 of the total community service  
26 amount must be paid within thirty days of entry of Judgment, and the first two installment  
27 payments of \$500,000.00 will be applied towards the organizational community service.
- 28 • \$500,000.00 is designated as a criminal fine and shall be paid to the Crime Victims Fund and  
will consist of the last installment payment.

1 Lastly, the court orders that Defendant issue a letter of apology to the local community, by  
2 way of sending the letter to the Governor of Guam.

3 The court specially notes that the penalty assessed here is intended to send a strong message  
4 that the chemical, physical, and biological integrity of Guam’s waters is of utmost importance to the  
5 island community, and that such grave misconduct inflicts serious harm upon all individuals and  
6 wildlife that call Guam home. This message is not only intended for Defendant as a repeat offender,  
7 but also to other shipping companies traversing the beautiful Pacific Ocean’s waters, and particularly  
8 those that call on ports in and around the harbors of Guam.  
9

10 **SO ORDERED.**



/s/ Frances M. Tydingco-Gatewood  
Chief Judge  
Dated: Feb 24, 2021