

# JAPAN P&I NEWS

No. 754-15/08/12

組合員各位

## 米国－油排出による過怠金について

題記の件に関し、2015年6月9日付 Japan P&I News No. 735 をご参照下さい。

今般 New Orleans の法律事務所 Murphy, Rogers & Sloss, Gambel & Tompkins の Charles L. Whited, Jr 弁護士より、油分を含んだビルジを意図的に排出したことによる過怠金事案3件を新たに受領し、添付の通りまとめましたのでご参考下さい。

米国では意図的な油排出に対して高額な過怠金が科されることがありますので、組合員の皆様におかれましてはこのような過怠金を科されることのないよう関連規則の遵守徹底にご注意下さい。なお、当組合保険契約規定に基づき、本件のような意図的な排出による過怠金はてん補の対象とならないこと申し添えます。

以上

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## 【米国にて油等の排出により過怠金を課されたケース】

ケース	1	2	3
<b>タイトル</b>	ノルウエー船社及び4名の乗組員が、バイパスラインによるビルジ及びスラッジの排出、虚偽記載等、7件の容疑で起訴	油水を意図的に海上投棄したドイツ船社に対し、過怠金US\$750,000の支払判決	油圧オイルを海上投棄したイギリス船社に対し、過怠金US\$750,000の支払判決
<b>概要</b>	<p>2014年、米国海域を航行中、本船(オイルタンカー)はバイパスよりビルジ及びスラッジを船外に排出(Act to Prevent Pollution from Ships/船舶による汚染防止条例の違反)、更にこれをオイルレコードブックには記載せず、隠蔽しようとした疑いがかけられている。</p> <p>当局の調査によれば、本船はプラスチックバッグにスラッジタンク内のビルジを詰め込み、海上投棄した疑いがある。</p> <p>当局の調査の前には、バイパスラインを取り外し、新たなラインの設置や、ビルジを入れたプラスチックバックを海上投棄したことを隠すようにと、予め指示がなされていた。</p> <p>上記の他に、虚偽証言及び証人買収等を含め計7つの容疑をかけられ、係争中である。</p> <p>嫌疑をにかけている乗組員：ルーマニア人1名、中国人3名（全て機関部）</p>	<p>本船(コンテナ船)は韓国から米国、アラスカ、Dutch Harborへ航海中、20015年1月31日～2月6日の間、乗組員が1,430ガロン(6.7kl)の油水ビルジ(油水混合物)を意図的に船外へ排出。更に2月11日にDutch Harborの100マイル沖にて、350ガロン(1.3kl)の油水ビルジを排出。</p> <p>船主は正確なオイルレコードブックを保管しなければならないことを理解しながらも、虚偽のレコードブックを当局に提出していた。</p>	<p>本船(一般貨物船)がCosta RicaからNew Jerseyへ航行中、2014年4月27日にFlorida沖にて油圧オイルが入った20樽(バレル、約3.2KL)を海上投棄したが、油記録簿・廃棄物記録簿への記載が無く、不実記載が発覚。</p> <p>海上投棄した際に、油記録簿・廃棄物記録簿への記載は無く、当局の調査の際には誤った記録簿を提出し、不実記載が発覚。</p> <p>C/Oの指示で、上記海上投棄が行われた。</p> <p>有罪とされた乗組員：ロシア人（C/O）</p>
<b>判決</b>	有罪と判決が下された場合、起訴案件毎に最大\$500,000の過怠金及び虚偽証言をした各船員に対し、最長20年の懲役が科される可能性がある。	<p>2015年6月3日、連邦裁判所は本船のオペレータである船社に対し、Act to Prevent Pollution from Shipsの違反に対する過怠金US\$600,000及び社会奉仕賠償US\$150,000の合計 US\$750,000の支払判決を下す。</p> <p>更に、包括的な環境遵守計画の実行と3年間の保護観察処分。その上、保護観察の期間に、違法の疑いがあれば、本船だけでなく船社自身も監査されることとなる。</p>	2015年6月17日、Act to Prevent Pollution from Ships違反により船社に対し、US\$750,000.00の過怠金及び3年間の保護観察処分、C/Oに対しては懲役3ヶ月の判決が下された。
<b>その他</b>		<p>上記船社は、同社が2013年10月～2014年4月に運航していた別船の油記録簿の虚偽記載に対して、2014年4月、カリフォルニア州連邦地方裁判所より3年の保護観察と汚染防止違反の過怠金\$1,000,000、社会奉仕賠償US\$250,000及び特別審査費用US\$800の合計US\$1,250,800の支払いを命じる判決を受けている。</p> <p>昨年4月に言い渡された「3年の保護観察の期間」中に、今回「新たな3年の保護観察命令が」出たため、厳罰として、環境遵守計画の実行が追加されることとなった。</p> <p><b>社会奉仕賠償金(communitiy restitution payment )とは？</b></p> <p>社会奉仕賠償金の用途は、国立魚類野生生物財団に送金され、米国経済水域内で特にアラスカ付近の海洋環境保護に関する研究、教育、プロジェクト等に活用される。</p>	



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## JUSTICE NEWS

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Wednesday, May 13, 2015

#### **Norwegian Shipping Company and Engineering Officers Charged with Environmental Crimes and Obstruction of Justice**

A federal grand jury in Mobile, Alabama, has returned a seven-count indictment charging Det Stavangerske Dampskibsselskab AS (DSD Shipping) and four employees with violating the Act to Prevent Pollution from Ships (APPS), conspiracy, obstruction of justice and witness tampering, announced Assistant Attorney General John C. Cruden for the Department of Justice's Environment and Natural Resources Division and U.S. Attorney Kenyen R. Brown for the Southern District of Alabama. DSD Shipping is a Norwegian-based shipping company that operates the oil tanker M/T Stavanger Blossom, a vessel engaged in the international transportation of crude oil. Also indicted were four engineering officers employed by DSD Shipping to work aboard the vessel, Daniel Paul Dancu, 51, of Romania, Bo Gao, 49, of China, Xiaobing Chen, 34, of China, and Xin Zhong, 28, of China.

According to the indictment, in 2014, DSD Shipping and its employees conspired to bypass pollution prevention equipment aboard the M/T Stavanger Blossom and to conceal the direct discharge of waste oil and oil-contaminated waste water from the vessel into the sea. The operation of marine vessels, like the M/T Stavanger Blossom, generates large quantities of waste oil and oil-contaminated waste water. International and U.S. law requires that these vessels use pollution prevention equipment to preclude the discharge of these materials. Should any overboard discharges occur, they must be documented in an oil record book, a log that is regularly inspected by the U.S. Coast Guard. Despite these requirements, DSD Shipping and its employees used a bypass pipe to circumvent pollution prevention equipment and discharge waste oil and oil-contaminated waste water directly into the sea. DSD Shipping and its employees also filled plastic bags with waste oil from a sludge tank aboard the vessel and then discarded the oil-filled plastic bags overboard into the sea.

The indictment further alleges that prior to an inspection by the U.S. Coast Guard, Chen ordered crewmembers to remove the bypass pipe, install a new pipe and repaint the piping to hide the illegal discharges. Chen and Zhong then ordered crewmembers to lie to the U.S. Coast Guard and instructed them to say that no plastic bags containing waste oil were discarded overboard, that all plastic bags remained aboard the vessel and to provide the incorrect quantity of bags generated from the cleaning of the sludge tank. To further hide the illegal discharges of waste oil and oil-contaminated waste water, DSD Shipping and its employees maintained a fictitious oil record book that failed to record the disposal, transfer, or overboard discharge of oil from the vessel. The oil record book also contained false entries stating that pollution prevention equipment had been used when it had not.

DSD Shipping and the engineering officers were charged with violating the APPS for failing to record overboard discharges in the vessel's oil record book and garbage record book and with obstruction of justice and witness tampering for presenting false documents and deceiving the Coast Guard during an inspection. If convicted, DSD Shipping could be fined up to \$500,000 per count, in addition to other possible penalties. Dancu, Gao, Chen and Zhong face a maximum penalty of 20 years in prison for the obstruction of justice charges. An indictment is merely a formal charge that a defendant has committed a violation of criminal laws and every defendant is presumed innocent until and unless proven guilty.

This case was investigated by the Sector Mobile of the U.S. Coast Guard, Investigative Services of the U.S. Coast Guard and the Criminal Investigation Division of the Environmental Protection Agency. Assistant U.S. Attorney Mike D. Anderson, with the U.S. Attorney's Office for the Southern District of Alabama and ECS Trial Attorney Shane N. Waller are prosecuting the case.

15-608



Environment and Natural Resources Division

*Updated May 13, 2015*



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## JUSTICE NEWS

### Department of Justice

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Friday, June 12, 2015

#### **Norwegian Shipping Company and Engineering Officers Charged in Second Indictment with Environmental Crimes and Obstruction of Justice**

A federal grand jury in Lafayette, Louisiana, has returned a three-count indictment charging Det Stavangerske Dampskibsselskab AS (DSD Shipping) and four employees with violating the Act to Prevent Pollution from Ships (APPS) and obstruction of justice in connection with the illegal discharge of contaminated waste-water directly into the sea, announced Assistant Attorney General John C. Cruden for the Department of Justice's Environment and Natural Resources Division and U.S. Attorney Stephanie A. Finley for the Western District of Louisiana. DSD Shipping is a Norwegian-based shipping company that operates the oil tanker M/T Stavanger Blossom, a vessel engaged in the international transportation of crude oil. Also indicted were four engineering officers employed by DSD Shipping to work aboard the vessel: Daniel Paul Dancu, 51, of Romania; Bo Gao, 49, of China; Xiaobing Chen, 34, of China; and Xin Zhong, 28, of China.

The operation of marine vessels, like the M/T Stavanger Blossom, generates large quantities of waste oil and oil-contaminated waste water. International and U.S. law requires that these vessels use pollution prevention equipment to preclude the discharge of these materials. Should any overboard discharges occur, they must be documented in an oil record book, a log that is regularly inspected by the U.S. Coast Guard.

"Companies operating vessels in navigable waterways have a responsibility to prevent oil spills and protect the public and the environment," said U.S. Attorney Finley. "One of our priorities is to help preserve the natural resources of this state. Violators should be clear - charges will be filed against entities and persons who harm these resources and obstruct investigations."

According to the indictment, in 2014, DSD Shipping and its employees discharged oil-contaminated waste water generated aboard the M/T Stavanger Blossom directly into the sea. To hide the illegal discharges, DSD Shipping and its employees maintained a fictitious oil record book that failed to record the disposal, transfer, or overboard discharge of oil from the vessel. The indictment further alleges that prior to an inspection by the U.S. Coast Guard, Chen ordered crewmembers to remove piping connected to the vessel's overboard discharge valve, install new piping, and repaint the piping to hinder an inspection by the U.S. Coast Guard.

DSD Shipping and the engineering officers were charged with violating the APPS for failing to record overboard discharges in the vessel's oil record book and with obstruction of justice for presenting false documents and deceiving the Coast Guard during an inspection in the Port of Lake Charles. If convicted, DSD Shipping could be fined up to \$500,000 per count, in addition to other possible penalties. Dancu, Gao, Chen and Zhong face a maximum penalty of 20 years in prison for the obstruction of justice charges. An indictment is merely a formal charge that a defendant has committed a violation of criminal laws and every defendant is presumed innocent until and unless proven guilty.

This is the second indictment arising from a joint, multi-district investigation by the U.S. Coast Guard, Sector Mobile, U.S. Coast

Guard Investigative Services and the Criminal Investigation Division for the Environmental Protection Agency. DSD Shipping, Dancu, Gao, Chen and Zhong were previously indicted in the Southern District of Alabama with a seven-count indictment charging related conduct. Assistant U.S. Attorney Howard Parker with the U.S. Attorney's Office for the Western District of Louisiana, Assistant U.S. Attorney Mike Anderson with the U.S. Attorney's Office for the Southern District of Alabama and Trial Attorney Shane N. Waller Environmental Crimes Section are prosecuting the case.

15-739



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Wednesday, June 3, 2015

**Shipping Company Sentenced To Pay \$750K For Dumping Oil**

Anchorage, Alaska – Herm. Dauelsberg GmbH & Co. KG, a German company, was sentenced in federal court today to pay a total of \$750,000 in fines and community service payments for violating the Act to Prevent Pollution from Ships by intentionally discharging 1,780 gallons of oily water into the sea off the coast of Alaska and then presenting false records to the U.S. Coast Guard.

Herm. Dauelsberg was also ordered to implement a comprehensive Environmental Compliance Plan and was placed on probation for three years. During the term of probation, Herm. Dauelsberg will be subject to a heightened level of scrutiny, including warrantless searches of its vessels and places of business based upon a reasonable suspicion that it is violating the law. Of the total payment, Herm. Dauelsberg will pay \$600,000 in criminal fines and \$150,000 in community restitution. The community restitution payment will go to the National Fish and Wildlife Foundation to be used for research, projects, and education designed to study and/or benefit the marine environment within the Exclusive Economic Zone of the United States off the coast of Alaska and/or the natural resources or wildlife contained therein near Alaska.

Defendant Herm. Dauelsberg is the operator of the Motor Vessel Lindavia. The M/V Lindavia is a cargo container ship, built in 1996, that operates under the flag of the Republic of Liberia. It is a vessel of 23,825 gross tons, has a displacement of 40,932 metric tons, and is 617 feet long. On February 11, 2015, the vessel arrived in Dutch Harbor, Alaska and was boarded by the United States Coast Guard on February 12, 2015.

Between January 27, 2015 and February 11, 2015, the M/V Lindavia travelled from South Korea, to China, and thereafter travelled through the Exclusive Economic Zone of the United States off the coast of Alaska arriving in Dutch Harbor, Alaska the night of February 11, 2015. As the operator of the M/V Lindavia, Herm. Dauelsberg was responsible for operating the Oil Water Separator (OWS) and maintaining an accurate Oil Record Book (ORB).

During the transit from China to Dutch Harbor, Alaska between January 31, 2015 and February 6, 2015, on at least five separate days, Herm. Dauelsberg knowingly discharged at least 1,430 gallons of oily water directly overboard. Crewmembers used a pump system with hoses fed down through an overboard discharge point to illegally discharge oily water directly overboard. Crewmembers pumped oily water from a cargo hold into 55-gallon drums on the main deck and then pumped the oily water from the 55-gallon drums through the hoses directly overboard. On February 11, 2015, while the vessel was approximately 100 miles off the coast of Dutch Harbor, Alaska, crewmembers operated the fixed hydraulic bilge system for the bilge under the cargo hold and knowingly discharged at least 350 gallons of oily water directly into the sea. This illegal discharge occurred within the United States' Exclusive Economic Zone off the coast of

Alaska into the Bering Sea.

Herm. Dauelsberg knowingly failed to record the discharges of oil into the sea in the M/V Lindavia's ORB. Herm. Dauelsberg knowingly failed to maintain an accurate ORB as required by the Act to Prevent Pollution from Ships (APPS), and knowingly presented the false and fictitious ORB to the United States Coast Guard and had it available for inspection by the United States Coast Guard when the M/V Lindavia arrived in Dutch Harbor, Alaska on February 11, 2015. Herm. Dauelsberg knew that its use of the pump and hose system, its use of the cargo hold bilge system to discharge oil, and its failure to records the transfers and discharges of oil were illegal.

Herm. Dauelsberg was on probation at the time of these offenses. On April 4, 2014, Herm. Dauelsberg pled guilty in the Central District of California to Failing to Maintain an Accurate Oil Record Book, in violation of the Act to Prevent Pollution from Ships, and Failing to Report a Hazardous Condition Aboard a Vessel in violation of the Ports and Waterways Safety Act, related to Herm. Dauelsberg's operation of the M/V Bellavia between August 2013 and October 2013. On April 28, 2014, Herm. Dauelsberg was sentenced to three years' probation, a fine of \$1,000,000, a community service payment of \$250,000, and a special assessment of \$800.

In Federal Court today, Herm. Dauelsberg also admitted that it violated a condition of its probation in the Central District of California case by committing a new violation of the law. Herm. Dauelsberg's probation in that case has been revoked and a new three year term of probation has been imposed with a special condition that it fund and implement an Environmental Compliance Plan.

"This is the second conviction and sentence in the last 10 days stemming from the intentional and illegal discharge of oil from cargo ships into waters off the coast of Alaska," said Kevin Feldis, First Assistant United States Attorney. "There is no excuse for this conduct. Companies that seek to profit from transporting cargo across the world's oceans have a responsibility to likewise invest in following the law." In this case, Feldis described that "35,000 gallons of heavy fuel oil leaked into the ship's cargo hold because a bulkhead had corroded and a hole developed in a fuel tank. The ship left port in South Korea and headed to Alaska before this heavy fuel oil was cleaned from the bilge area below the cargo hold, ultimately resulting in the crew illegally and intentionally discharging a mix of sea water and heavy fuel oil that accumulated in that bilge area."

The M/V Lindavia was initially inspected and detained in Dutch Harbor, Alaska by the United States Coast Guard marine inspectors. This case was investigated by the U.S. Coast Guard Investigative Service and the U.S. Environmental Protection Agency Criminal Investigation Division.

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Admiralty & Maritime

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Updated June 8, 2015



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## JUSTICE NEWS

### Department of Justice

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Wednesday, June 17, 2015

#### Shipping Company Fined \$750,000 for Environmental Crimes

Norbulk Shipping UK Ltd, a company based in Glasgow, United Kingdom, and operator of the *M/V Murcia Carrier*, pleaded guilty to failing to maintain an accurate oil record book in violation of the Act to Prevent Pollution from Ships (APPS) and providing false statements to the U.S. Coast Guard concerning the vessel's garbage record book. The company was sentenced to pay a criminal penalty of \$750,000 and placed on three years of probation by the Honorable Joseph H. Rodriguez, the Department of Justice Environment and Natural Resources Division and the U.S. Attorney's Office for the District of New Jersey announced today.

"Our oceans are life giving and life sustaining resources that our country and our world depend upon," said Assistant Attorney General John C. Cruden for the Environment and Natural Resources Division. "Ignoring perfectly legal and feasible ways to dispose of waste, the defendants chose instead to dump directly into the ocean. Today the company will pay a price for this inexcusable and criminal act."

"Illegal discharges at sea damage our environment and endanger those who work in and enjoy our coastal waters," said U.S. Attorney Paul J. Fishman for the District of New Jersey. "As we have shown before, shipping companies that engage in these criminal practices and deliberately discharge oil – and then lie about it to the Coast Guard – will be prosecuted."

APPS requires vessels like the *M/V Murcia Carrier* to maintain a record known as an oil record book in which all transfers and disposals of oil-contaminated waste, including the discharge overboard of such waste, must be fully and accurately recorded. Additionally, vessels like the *M/V Murcia Carrier* must maintain a record known as garbage record book that fully and accurately records the discharge of all garbage into the sea from the vessel.

On April 27, 2014, crew members on board the *M/V Murcia Carrier* dumped overboard several barrels containing hydraulic oil, at the direction of the vessel's Chief Mate Valerii Georgiev. While Norbulk and Georgiev dispute the number of barrels dumped into the sea, the government believes that approximately 20 barrels were dumped overboard. The dumping occurred in international waters off the coast of Florida while the vessel was in transit from Costa Rica to New Jersey. The dumping was not recorded in either the ship's oil record book or garbage record book as required. In an effort to conceal the dumping, crewmembers presented a U.S. Coast Guard boarding team with a false oil record book and garbage record book when the vessel arrived in Gloucester, New Jersey.

On June 15, 2015, Georgiev also pleaded guilty to failing to maintain an accurate oil record book in violation of APPS. He is scheduled to be sentenced at a future date.

"Marine environmental protection is one of the Coast Guard's primary missions," said Captain Benjamin Cooper, the Sector Commander at Coast Guard Sector Delaware Bay. "The Coast Guard takes marine pollution seriously and works cohesively with our partner agencies to hold those who violate international law accountable for their actions. We anticipate the results of this case

will deter future brazen illegal oil discharges into the sea.”

The case was investigated by U.S. Coast Guard Sector Delaware Bay and the U.S. Coast Guard Investigative Service. The case was prosecuted by Joel La Bissonniere of the Environmental Crimes Section of the Department of Justice and Assistant U.S. Attorneys Kathleen P. O’Leary and Matthew Smith of the U.S. Attorney’s Office for the District of New Jersey.

15-751



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## JUSTICE NEWS

### Department of Justice

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Wednesday, July 8, 2015

#### Chief Mate Sentenced to Three Months in Prison for Environmental Crimes

Valerii Georgiev, 42, a Russian citizen, and the former chief mate of the ocean cargo vessel *M/V Murcia Carrier*, was sentenced to a term of three months prison for failing to maintain an accurate oil record book in violation of the Act to Prevent Pollution from Ships (APPS), by the Honorable Joseph Rodriguez, the Department of Justice Environment and Natural Resources Division and the U.S Attorney's Office for the District of New Jersey announced today.

APPS requires vessels like the *M/V Murcia Carrier* to maintain a record known as an oil record book in which all transfers and disposals of oil-contaminated waste, including the discharge overboard of such waste, must be fully and accurately recorded.

On April 27, 2014, at the direction of Georgiev, crew members on board the *M/V Murcia Carrier* dumped overboard several barrels containing some hydraulic oil. While Georgiev disputes the number of barrels dumped into the sea, the government believes that approximately 20 barrels of hydraulic oil were dumped overboard. The dumping occurred in international waters off the coast of Florida while the vessel was in transit from Costa Rica to New Jersey. The dumping was not recorded in the ship's oil record book. During the course of the Coast Guard boarding, Georgiev denied that dumping occurred and instructed crew members on board the vessel to deny that dumping had occurred.

On June 17, 2015, Norbulk Shipping UK Ltd, a company in Glasgow, United Kingdom and operator of the *M/V Murcia Carrier* pleaded guilty failing to maintain an accurate oil record logbook and providing false statements with respect to the vessel's garbage record book. The company was sentenced to pay a fine of \$750,000 and placed on probation for three years.

The case was investigated by U.S. Coast Guard Sector Delaware Bay and the U.S. Coast Guard Investigative Service. The case was prosecuted by Joel La Bissonniere of the Environmental Crimes Section of the Department of Justice and Assistant U.S. Attorneys Kathleen O'Leary and Matthew Smith of the U.S. Attorney's Office of the District of New Jersey.

15-859



Environment and Natural Resources Division

Updated July 8, 2015

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