

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon.
 :
 v. : Crim. No. 15-
 :
 NORBULK SHIPPING UK LTD :

PLEA AGREEMENT

The United States of America, by and through the United States Attorney for the District of New Jersey, and the Environmental Crimes Section of the United States Department of Justice ("government" or the "United States"), and the Defendant, Norbulk Shipping UK LTD ("Defendant"), by and through its authorized representatives, enter into the following Agreement pursuant to Rule 11(c)(1)(C) and Rule 11(c)(3) of the Federal Rules of Criminal Procedure:

1. Waiver of Indictment and Criminal Charges. Defendant, having been advised through its representative of the right to be charged by Indictment, agrees to waive that right and enter a plea of guilty to the charges brought by the government in a Criminal Information filed in the District of New Jersey. Defendant also agrees to waive venue and have its conduct charged in the District of New Jersey. The plea of guilty shall be entered on behalf of Defendant through an individual who is authorized by resolution of Defendant's Board of Directors to enter pleas of guilty on Defendant's behalf and to appear and represent Defendant at sentencing. By entering this guilty plea, Defendant hereby waives all objections to the form of the charging

document, admits that it is in fact guilty of the offenses as set forth in the Criminal Information, and that the attached Joint Factual Statement (Attachment 1) dated this same date is an accurate statement of its conduct. Defendant agrees to enter a plea of guilty to the following charges with respect to the Motor Vessel Murcia Carrier ("*M/V Murcia Carrier*"):

Count One: Act to Prevent Pollution from Ships (APPS). On or about May 14, 2014, Defendant, through its Chief Mate, a senior deck officer acting within the scope of his employment and for the benefit of Defendant, knowingly failed to maintain an accurate Oil Record Book for the *M/V Murcia Carrier*, in violation of 33 U.S.C. § 1908(a) and 33 C.F.R. § 151.25. Specifically, Defendant knowingly maintained an Oil Record Book that failed to record the discharge of several steel drums containing oil residue, which occurred on or about April 27, 2014.

Count Two: False Statements and Entries. On or about May 14, 2014, Defendant, through its Chief Mate, a senior deck officer, acting within the scope of his employment and for the benefit of Defendant, knowingly and willfully made and used a false document, knowing the same to contain a materially false, fictitious, and fraudulent statement and entry, in violation of 18 U.S.C. § 1001(a)(3). Specifically, Defendant made and presented, during the course of a Coast Guard inspection, a false Garbage Record Book that failed to record the at-sea disposal of several steel drums, which occurred on or about April 27, 2014.

2. **The Penalties.** Defendant understands that the statutory penalties applicable to a corporate Defendant for each felony count of the offenses to which it is entering pleas of guilty are as follows: a maximum fine of either Five Hundred Thousand dollars (\$500,000), or twice the gross pecuniary gain or loss resulting from the unlawful conduct, pursuant to 18 U.S.C. § 3571(c) and (d); a term of probation of five (5) years, pursuant to 18 U.S.C. § 3561(c)(1); and a special assessment of Four Hundred dollars (\$400) per count, pursuant to 18 U.S.C. § 3013(a)(2)(B). Defendant understands

that, in addition to any other penalty, the Court may order the payment of restitution to any victim of the offenses pursuant to the provisions of 18 U.S.C. § 3663. At this time the parties are unaware of any identifiable victims or restitution due.

3. Rights Waived by Pleading Guilty. Through its authorized representatives, Defendant knowingly and voluntarily waives the following rights through its guilty plea: (a) the right to plead not guilty, and to persist in a plea of not guilty; (b) the right to a speedy and public trial before a jury; (c) the right to the effective assistance of counsel at trial; (d) the right to be presumed innocent until guilt has been established at trial, beyond a reasonable doubt; (e) the right to confront and cross-examine witnesses at trial; (f) the right to compel or subpoena witnesses to appear on Defendant's behalf at trial; (g) the right to testify or to remain silent at trial, at which trial such silence could not be used against Defendant; and (h) the right to appeal a finding of guilt or any pretrial rulings.

4. Applicability of Sentencing Guidelines. Defendant understands and acknowledges that, at sentencing, the Court is required to consider the United States Sentencing Guidelines ("U.S.S.G."), together with the other sentencing goals set forth in 18 U.S.C. § 3553(a). Defendant understands and acknowledges that the U.S.S.G., including Chapter Eight that provides guidance for the sentencing of corporate defendants, may be considered by the Court, except that pursuant to U.S.S.G. §§ 8C2.1 and 8C2.10, the U.S.S.G. that pertain to the sentencing of organizations do not determine the

fine range in cases involving environmental or obstruction crimes, including making false statements and the use of false documents in order to conceal environmental crimes. Instead, the fine is to be determined under 18 U.S.C. §§ 3553 and 3571(c). All other sections of Chapter Eight of the U.S.S.G. that are applicable to corporate defendants are applicable to this case, including provisions for probation and community service.

5. Sentencing Agreements.

a. Pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure, and 18 U.S.C. § 3571(c), in return for the complete fulfillment by Defendant of all of its obligations under this Agreement, the government and Defendant agree that the sentence to be imposed by the Court should be as follows:

i. Criminal Fine: Seven Hundred Fifty Thousand dollars (\$750,000), all of which shall be designated as a criminal fine. Of this total: Five Hundred Thousand dollars (\$500,000) shall be assessed for the violation of 33 U.S.C. § 1908(a); and Two Hundred Fifty Thousand dollars (\$250,000) shall be assessed for the violation of 18 U.S.C. § 1001(a)(3).

ii. Probation: Defendant will be placed on organizational probation for a period of three (3) years from the date of sentencing pursuant to 18 U.S.C. § 3561(c)(1), and U.S.S.G. §§ 8D1.1 and 8D1.2. The terms of probation shall require that Defendant commit no further violations of MARPOL 73/78, federal, state or local law.

iii. Mandatory Special Assessment: Defendant shall pay a special assessment of Four Hundred dollars (\$400) for each count of conviction. The total amount of special assessments is Eight Hundred dollars (\$800).

b. Payments: Defendant agrees that if the terms of this Rule 11(c)(1)(C) Plea Agreement are accepted by the Court, Defendant shall pay the criminal fine and special assessment in full, and any restitution that may be imposed, at sentencing. Payment is to be made in the form of a check payable to "United States District Court Clerk."

6. Application of the Agreement. This Agreement shall bind Defendant and its successors, assigns and parent corporations. Defendant or its successors-in-interest, if applicable, shall provide each undersigned prosecuting office and the United States Probation Office in the District of New Jersey with notice within ten (10) days of any name change, corporate reorganization, signing or termination of management contracts, or similar action affecting this Agreement. No change in name, change in corporate or individual control, corporate reorganization, change in ownership, merger, change of legal status, sale or purchase of vessels, or similar action shall alter the responsibilities of Defendant under this Agreement. Defendant shall not engage in any action to seek to avoid the obligations and conditions set forth in this Agreement.

7. Statements.

a. Subject to subparagraph (b) of this paragraph, this Agreement does not limit the right of Defendant or the government to speak at the time of sentencing consistent with the provisions set forth in this Plea Agreement and the Joint Factual Statement, and to provide the Court and the United States Probation Office with evidence of all relevant conduct committed by Defendant. The parties agree that at sentencing each will support the agreed disposition set forth in this Plea Agreement pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. Defendant will not make any contrary public statements regarding this Agreement or the attachments hereto.

b. Defendant agrees that it will neither contest nor otherwise speak against any reward the government may propose to give to any individual who provided information leading to the prosecution and conviction of the offenses that are the subject of this or any related Agreement.

8. Non-Prosecution of Additional Offenses. Provided that Defendant complies fully with the terms of this Agreement, the United States Attorney's Office for the District of New Jersey, and the Environmental Crimes Section of the United States Department of Justice, agree to forgo criminal prosecution against Defendant for any additional environmental offenses or related offenses, including but not limited to, falsification of oil record books, falsification of garbage record logbooks, violations of APPS, false statements,

or obstruction of justice, occurring before the date of this Plea Agreement and which are known to the government at the time of signing this Agreement.

Defendant understands and agrees that neither this paragraph nor this Plea Agreement limit the prosecuting authority of any other sections or divisions of the U.S. Department of Justice, including the United States Attorney of any judicial district not a party to this Agreement, or any other federal, state or local regulatory or prosecuting authorities. Furthermore, this Agreement does not provide or promise any waiver of any civil or administrative actions, sanctions, or penalties that may apply, including but not limited to: fines, penalties, claims for damages to natural resources, suspension, debarment, listing to restrict rights and opportunities of Defendants to contract with or receive assistance, loans, and benefits from United States agencies, licensing, injunctive relief, or remedial action to comply with any applicable regulatory requirement. The parties are not aware of any other claims, civil or administrative actions, sanctions, penalties that may apply, or claims for damages to natural resources except as set forth in this Plea Agreement. This Plea Agreement has no effect on any proceedings against any party not expressly mentioned herein, including the actual or potential criminal liability of any individuals.

9. Breach of the Agreement. If the government determines that Defendant has failed to comply with any provision of this Agreement, or has committed any crime within the jurisdiction of the United States during the pendency of this Plea Agreement, the government may, at its sole option, be

released from its commitments to such Defendant under this Plea Agreement in their entirety by notifying the Defendant, through counsel or otherwise, in writing. The government may also pursue all remedies available under the law against such Defendant irrespective of whether it elects to be released from its commitments under this Plea Agreement. Defendant recognizes that no breach by it of any obligation under this Plea Agreement shall give rise to grounds for withdrawing its guilty plea. Defendant understands that should it commit any such breach of this Agreement, then the government will have the right to use against Defendant before any grand jury, at any trial, hearing or for sentencing purposes, any statements made by Defendant's employees and agents, and any information, materials, documents or objects provided by Defendant to the government pursuant to this Agreement without any limitation. In this regard, Defendant hereby waives any defense to any charges which it otherwise has under any statute of limitations, pre-indictment delay, or the Speedy Trial Act for 120 days following any breach of the Agreement, except to the extent that such defenses existed as of the date of the signing of this Plea Agreement.

10. Probation Office Not Bound By Agreement. Defendant understands that the sentencing disposition agreed upon by the parties is not binding upon the United States Probation Office for the District of New Jersey.

11. Information for Probation Office. Defendant agrees to provide all available information requested by the United States Probation Office for the District of New Jersey.

12. Withdrawal of Plea Agreement. Defendant's plea will be tendered pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure. If the sentencing judge rejects this Plea Agreement, then it shall be null and void at the option of either the government or Defendant. In this regard, Defendant hereby waives any defense to any charges which it might otherwise have under any statute of limitations, pre-indictment delay, or the Speedy Trial Act for 120 days following any nullification or voiding of the Agreement, except to the extent that such defenses existed as of the date of the signing of this Plea Agreement.

13. Corporate Authorization. Defendant represents that it is authorized to enter into this Plea Agreement. At the time of signing this Agreement, Defendant shall provide to the United States a written statement certifying that Defendant is authorized to enter into and comply with all of the provisions of this Plea Agreement. The resolutions further shall certify that Defendant's Board of Directors has authorized these actions, and that all corporate formalities for such authorizations have been observed.

14. Waiver of Appeal. Defendant, through its authorized representatives, is aware that 18 U.S.C. § 3742 gives the right to appeal the sentence to be imposed, and that other federal statutes give a defendant the right to appeal other aspects of the conviction. In consideration of the

Agreement with the United States as set forth herein, Defendant knowingly and voluntarily agrees to waive the following rights: (a) the right, conferred by 18 U.S.C. § 3742, to appeal the sentence imposed by the Court for the conviction of these offenses, including any fine imposed; (b) the right to appeal any aspect of Defendant's conviction; and (c) the right to bring any collateral attack, or any other writ or motion, that challenges Defendant's conviction or sentence. No provision of this agreement, however, shall preclude Defendant from pursuing in an appropriate forum, when permitted by law, an appeal, collateral attack, writ, or motion claiming that Defendant received constitutionally ineffective assistance of counsel.

15. Voluntariness of the Plea. Defendant, through its authorized representatives, acknowledges that it has entered into this Agreement freely and voluntarily and that it has been fully advised by counsel, and that no threats or promises were made to induce Defendant to enter into the guilty pleas called for by this Agreement.


16. Statute of Limitations. In the event that this Agreement is not accepted by the Court for any reason, or Defendant has breached any of the terms of this Agreement, the statute of limitations shall be deemed to have been tolled from the date of the Plea Agreement to: (a) 120 days following the date of non-acceptance of the Plea Agreement by the Court; or (b) 120 days following the date on which a breach of the Plea Agreement by the Defendant is discovered by the government.


17. Completeness of Agreement. The government and Defendant acknowledge that these terms constitute the entire Plea Agreement between the parties. No promises, agreements or conditions have been entered into other than those set forth in this Plea Agreement. This Plea Agreement supersedes all prior understandings, whether written or oral. This Plea Agreement cannot be modified other than in a written memorandum signed by the parties or on the record in Court. This Plea Agreement is effective upon signature by Defendant and all of the attorneys for the government.

AGREED AND ACCEPTED

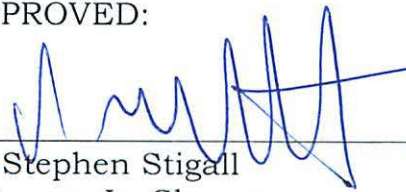
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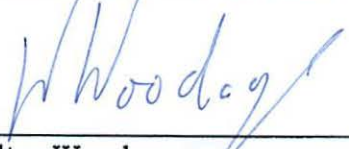
By: 
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Environmental Crimes Section
U.S. Department of Justice

APPROVED:


R. Stephen Stigall
Attorney-In-Charge
Criminal Division

I have received this letter from George Kontakis, Esq., attorney for Norbulk Shipping UK LTD. Mr. Kontakis and I have discussed the letter and all of its provisions, including the provisions addressing the charges, sentencing, stipulations and waiver. I understand the letter fully. Norbulk Shipping UK LTD accepts the terms and conditions set forth in this letter and acknowledges that it constitutes the Plea Agreement between the parties. Norbulk Shipping UK LTD understands that no additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties. Norbulk Shipping UK LTD wants to plead guilty pursuant to this Plea Agreement. On behalf of Norbulk Shipping UK LTD, I have been authorized by a corporate resolution to sign this Plea Agreement and bind Norbulk Shipping UK LTD.

AGREED AND ACCEPTED:



Walter Woodage
Director/General Manager
Norbulk Shipping UK LTD
Defendant

27/4/2015

Date

I am counsel for Norbulk Shipping UK LTD and have discussed with an authorized representative for Norbulk Shipping UK LTD this letter and all of its provisions, including the provisions addressing the charges, sentencing, stipulations, and waiver. My client understands the letter fully and wants to plead guilty pursuant to this Plea Agreement.



George Kontakis, Esq.
K&L Gates

4/28/2015

Date