

## **Prosecution Report 2015**

### **Tug Boat Owner Jailed after Death of Crew Member**

**Defendant:** Mr Martin Richley at Southampton Crown Court

**Date of Hearing:** 20 February 2015

**Offence:** Failure to discharge duties under S58(4) of the Merchant Shipping Act 1995 and Failure to discharge duties under S100(1) and S277 of the Merchant Shipping Act 1995.

**Details:** On 3 February 2013 the Endurance set sail from Rochester towards Brighton with Martin Richley and one other crew member. The voyage was to tow another vessel, the Sirius M which was unmanned during the tow. During the voyage Mr Richley was warned of heavy weather forecast on his route. The certification of the Endurance limited it to operating only in favourable weather. On 4 February 2013 the weather and sea state was increasing and as the vessel was just off Beachy Head it made a 180 degree turn when it lost the tow line to the other vessel. The other crew member attempted to board the Sirius M to reattach the tow line. He fell overboard and was later found at Beachy Head about 6 weeks later. He was not wearing a lifejacket. The Endurance was later surveyed and found to have 13 defects.

**Penalty:** 8 months custodial sentence.

### **Dutch Chief Mate Sentenced for Fatal Collision**

**Defendant:** Mr Gerardus Chapel at Ipswich Crown Court

**Date of Hearing:** 26 February 2015

**Offence:** Failure to discharge duties under S58(4) Merchant Shipping Act 1995

**Details:** On 8 June 2014 the Shoreway, a 98 metre 5000 tonne dredger collided with a Moody 31 sailing yacht Orca at the entrance to the River Orwell. At the helm of the Shoreway was Mr Gerardus Chapel who was employed as Chief Mate. The Shoreway had just finished dredging in Felixstowe and was heading out to sea to dump spoils when it left the deep water channel for an unknown reason and entered into an area frequented by pleasure vessels. The Shoreway hit the Orca head on and cut a large hole in the vessel's starboard side. The Orca sank almost immediately with the wife of the owner on board. When interviewed by MCA Enforcement Officers, Mr Chapel, who had been a qualified Captain for several years, admitted that he just did not see the yacht, even though it was clearly visible and on the radar.

**Penalty:** Nine months, reduced to six months and suspended for 18 months.

### **Fisherman breaches MCA Prohibition Notice**

**Defendant:** Mr Luke Copperthwaite

**Date of Hearing:** 23<sup>rd</sup> March 2015

**Location:** Weymouth Magistrates Court

**Offences:** 2x Breach of a Prohibition Notice under s266 of the Merchant Shipping Act 1995. Breach of Regulation 6 of the Fishing Vessels (Code of Practice) Regs 2001 (SI 9). Breach of Regulation 114(2) of the MS (Registration of Ships) Regs 1993 (SI 3138).

**Verdict & Sentence:**

Mr Luke Copperthwaite – Plead Guilty – Fine of £500, £1000 Costs, £50 victim surcharge.

**Overview:**

Mr Copperthwaite was the Owner and Skipper of the fishing vessel Frey May. This vessel is constructed of wood and is 6.5m in length. It had been inspected in 2012 by an MCA Surveyor when a number of defects were noted. These included a lack of safety training and that Mr Copperthwaite did not hold a valid Short Range Radio Certificate. Also identified were structural problems with the vessel's Wheelhouse.

Although some of these defects were subsequently cleared, Mr Copperthwaite did not notify the MCA, and the vessel inspection certificate expired. Attempts to contact Mr Copperthwaite brought no response, and eventually a Prohibition Notice was issued preventing the Freya May from sailing as a commercial fishing vessel.

No response was received by the MCA from Mr Copperthwaite, who was then interviewed by the MCA Enforcement Unit. He stated that the vessel was now out of the water and that he was working ashore.

The Freya May was then seen working at sea with Mr Copperthwaite on several occasions. It was also observed that the vessel fishing numbers had become unreadable. Attempts to contact Mr Copperthwaite did not evoke a response, and he was subsequently prosecuted.

### **Fishing Vessel Skipper charged over collision at Carlingford Lough**

**Defendant:** Mr Lindsay Haugh

**Date of Hearing:** 20<sup>th</sup> April 2015      **Location:** County Court Division, South Down, NI.

**Offences:** Section 58 of the Merchant Shipping Act 1995

**Verdict & Sentence:** Mr Lindsay Haugh – Plead Guilty – Fine of £2,500 plus £231 costs.

**Overview:** On 12<sup>th</sup> September 2014 at approximately midnight the fishing vessel Onward N336 was heading back from fishing grounds in thick fog to its home port of Killkeel when it collided with the Clipper Pennant, a Seatruck Ferries vessel at anchor off Carlingford Lough, Northern Ireland.

Lindsay Haugh from Killkeel pleaded guilty to unlawful conduct endangering ships, structures or individuals off Carlingford Lough, contrary to section 58 of the Merchant Shipping Act 1995, as he omitted to monitor the recognised VHF channels, omitted to view radar in reduced visibility and omitted to keep a proper lookout. It was found that these omissions were deliberate and amounted to a breach, or neglect of duty.

In passing sentence His Worship District Judge King said “Haugh fully accepted his responsibility and pleaded guilty at the first opportunity.

“Sea collisions are a serious responsibility. You as a captain at sea are responsible for the boat, the crew and other persons at sea.

“This is a serious matter and thankfully there was no serious damage or loss of life.”

### **Owner of Thames Cruise vessel fined for No Passenger Safety Certificate**

**Defendant:** Mr Colin Bullock (Director of River Thames Boat Hire Ltd and Skipper of Kingswood)

**Date of Hearing:** 24<sup>th</sup> March, 2014      **Location:** City of London Magistrate’s Court

**Offences:** Two charges under the Merchant Shipping Act 1995 (Operating without a valid Passenger Safety Certificate) and sailing as Master without a valid Boat Master’s Licence.

**Verdict & Sentence:** Mr Colin Bullock – Plead Guilty – Two fines of £3,000, £5,000 costs, £120 victim surcharge.

**Overview:** The vessel MV Kingswood is a Thames steamer cruise boat built in 1915. At approximately 9:00 PM on New Year’s Eve 2013, the vessel MV Kingswood was involved in a stern-to-stern collision whilst attempting to berth at Greenwich Pier.

It was due to be used that night as a party boat for passengers paying £140 per head. 99 tickets had been sold. The vessel’s Passenger Safety Certificate had expired the previous January. It was owned and skippered by Mr Colin Bullock at the time. The cruise was subsequently abandoned.

Mr Bullock admitted to MCA Enforcement Officers that he had carried out 30 cruises without a valid Passenger certificate. It was further discovered that Mr Bullock’s MCA Boat Master Licence had expired two years previously. Mr Bullock admitted to having carried out 90 trips without a valid BML.

Mr Bullock plead guilty and was ordered to pay a total of £11,120.

### **Skipper found guilty of failing to keep a good lookout**

**Defendant:** Mr Robert Trueman

**Date of Hearing:** 13 April 2015, South Shields Magistrates Court

**Offence:** Breach of the International Regulations for Preventing Collisions at Sea 1974, Rule 5

**Verdict:** Pleaded Guilty, Fined £5,000, with £4,536.18 costs, £60 victim surcharge and 120 hours of community service

**Details:** On the morning of 17 December 2013, the UK registered fishing vessel Grenaa Star left the North Shields Fish Quay bound for the North Sea fishing grounds. Shortly after leaving, the Grenaa Star struck the south breakwater, began taking in water and was quickly grounded on the nearby Littlehaven Beach to prevent it sinking. The incident was reported by a passing vessel. At the time of the collision the Grenaa Star had a crew of three on board.

The vessel was attended by Officers from the Marine Unit of Northumbria Police. Once on board they ascertained that Trueman had been alone in the wheelhouse with two other crewmen being below decks at the time of the collision. Trueman was found in the wheelhouse and had sustained an injury to his head which was bleeding, and there was blood on the wheelhouse instrument panel.

Trueman said that he had been thrown onto it on impact. The officer could smell alcohol and requested a breath test. Trueman refused, saying that he was concerned about the vessel and the crew. He admitted at the time of the collision the vessel had been on autopilot. When Trueman left the vessel two and a half hours later after the collision he failed a breath test, giving a reading of 58 (legal limit 35 mg/l).

When interviewed by the police on the 24 December 2013, Trueman denied he was in the wheelhouse, saying another member of the crew had been in charge of the vessel, while he had been below in the engine room. At the time of the collision Trueman said, he had been returning to the wheelhouse. Once the results of the alcohol testing were known, the police handed over the investigation to the Enforcement Unit of the Maritime and Coastguard Agency. In June 2014 Trueman provided a voluntary statement admitting he had been alone in the wheelhouse at the time of the collision.

### **Failure to declare Dangerous Goods on Passenger Ferry**

**Defendant:** Mr Paulius Kazukaukas

**Date of Hearing:** 21<sup>st</sup> April 2015      **Location:** Canterbury Magistrate's Court

**Offence:** Breach of Regulations 10(1), 10(9), and 24 of the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997 and Sections 85 and 86 of the Merchant Shipping Act 1995.

**Verdict & Sentence:** Mr Paulius Kazukaukas – Plead Guilty – Fine of £100 plus £120 costs.

**Overview:** Mr Kazukaukas was stopped by Port of Dover Police as he disembarked from the "Pride of Kent" in Dover on 21<sup>st</sup> November 2014. At the time he was driving a Lithuanian-registered Mercedes Van.

The Police conducted a search of the van and found 9 undischarged airbags, which are class 9 Dangerous Goods under the IMO regulations. Mr Kazukaukas failed to declare these items when he boarded the ferry and did not have the appropriate paperwork.

The matter was referred to the MCA Enforcement Unit and Mr Kazukaukas was prosecuted under the Merchant Shipping Act 1995.

### **Diver pleads guilty to recovery of wreck fraud**

**Defendant:** Mr Vincent Woolsgrove at Southampton Crown Court

**Date of Hearing:** Guilty plea on 15 June 2015, sentencing on 4 September 2015

**Offence:** Breach of the Fraud Act 2006, s2

**Details:** Mr Woolsgrove, a commercial diver, entered a droit to the Receiver of Wreck for the Maritime and Coastguard Agency for three historic bronze cannons, claiming that he found them in International waters and was awarded title. In 2011 a search warrant was executed on Mr Woolsgrove's property in relation to other suspected wreck offences and evidence was obtained that contradicted Mr Woolsgrove's claim on the cannons. Digital evidence showed that these cannons were in fact recovered from the wreck of the London, Charles II flagship that sank 1665, off Southend, in UK territorial waters. Through extensive research conducted by the Maritime and

Coastguard Agency and World Renowned Historic Experts the Maritime and Coastguard Agency were able to prove beyond all reasonable doubt the origins of the cannons. Mr Woolsgrove pleaded guilty to one count of fraud. Another sixty offences were taken into consideration.

**Penalty:** 2 years custodial sentence, £51,000 fine under the Proceeds of Crime Act 2002 and £35,000 costs

### **Man fined after collision results in vessel sinking**

**Defendant:** Mr Malcolm Edmunds at Newtonards Magistrates' Court

**Date of Hearing:** 8 June 2015

**Offence:** Breach of Merchant Shipping Distress Signals and Prevention of Collision Regulations 1996 regulation 5; Breach of Merchant Shipping Act 1995 s58; Breach of Fishing Vessels Safety Training Regulations 1989 regulation 2

**Details:** The Sapphire Stone is a fishing vessel that operated in the waters between Northern Ireland and Scotland. All on board held the appropriate certification apart from James McCormick who held no certification.

The Sapphire Stone was fishing in the same area as the Karen and while neither vessel saw any target on their radar, the Sapphire Stone collided with the Karen in the early afternoon on the 22<sup>nd</sup> January 2014.

The Karen capsized and sank in about two minutes. The crew abandoned ship without lifejackets as the skipper decided that it was too dangerous to fetch them and instead made sure that the liferaft was available for the crew.

It is clear that the skipper of the Sapphire Stone, Mr Malcolm Edmunds, had ample time to identify a target between 3 and 4 miles ahead and to identify if a risk of collision existed. He failed to identify the Karen which was still fishing and resulted in his striking and sinking of the boat.

**Penalty:** Mr Edmunds entered a guilty plea and was fined £3000 for failure to keep a lookout, £2000 for breach of s58 and £500 for breach of fishing training regulations.

### **Failure to properly plan passage results in vessel grounding**

**Defendant:** Captain Joao Manuel Fernandes Simoes

**Date of Hearing:** 16 June 2015

**Offence:** Breach of the Merchant Shipping (Navigation Requirements) Regulations 2002 s5(2) and failure to report the incident contrary to The Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004 s12

**Details:** On 11 May 2015 the cruise liner MV Hamburg called into Tobermory whilst on the way to Hamburg. On the approach to port, the vessel grazed alongside rocky shoals and the port engine could no longer be used.

The ship continued to port and after an internal inspection, the owners instructed the ship to proceed to Belfast without an underwater survey of the damage or notifying the appropriate authorities.

At 6pm the same day, the mother of a crew member had spoken to her daughter and been told what had happened. She lost the phone signal and fearing the worst called the Irish Coastguard. They in turn called the UK Coastguard, who contacted the ship.

**Penalty:** Captain Simoes was fined £400 for each breach and £13 costs, totalling a fine of £813.

### **North Sea Company pleads guilty to Health and Safety Breaches**

**Defendant:** Technip UK Ltd at Aberdeen Sheriff's Court

**Date of Hearing:** 19 June 2015

**Offence:** Failure to discharge their duty under Regulation 5 of the Merchant Shipping and Fishing Vessel (Health and Safety at Work) Regulations 1997

**Details:** The vessel Wellservicer was sailing from the Netherlands to Aberdeen and stopped three miles outside to perform tests, including testing the forward bell. There was found to be problems with the buoyancy blocks attached to the dive bell. The victim put on a safety harness and a fall arrestor, then climbed onto the top of the forward dive bell and as he started to remove the bolts, the cursor descended towards the forward dive bell. The victim tried to jump out of the way, but his safety harness locked and he was struck by the cursor and pinned down. He was then medevaced to Aberdeen Royal Infirmary but was pronounced dead.

**Penalty:** Fined £160,000.

### **Company fined after the death of a Deckhand**

**Defendant:** Serco Ltd at Inner London Court

**Date of Hearing:** 21 October 2015

**Offence:** Breach of duty under Regulation 24 of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997

**Details:** On 3 August 2011, a deck hand working on the Woolwich Free Ferry, Ernest Bevin, sustained severe head injuries and drowned when he was dragged overboard by a mooring line while releasing lines that were securing the ship to a mooring buoy. An investigation opened by the Maritime and Coastguard Agency showed that the risk assessment and procedures in operation at the time had not recently been updated and did not cover the work being carried out. It was also found that the crew were not being monitored to ensure compliance with procedures.

**Penalty:** Fined £200,000 with £200,000 costs

### **Owner fined after sailing with unqualified crew**

**Defendant:** Mr Darren Larkham at Truro Magistrates Court

**Date of Hearing:** 21 October 2015

**Offence:** Breach of duty under S100 of the Merchant Shipping Act 1995

**Details:** On 11 June 2014 the large landing craft Arromanches was boarded by Maritime and Coastguard Agency Surveyors and found that the crew of four were not qualified to operate the vessel. Mr Larkham, the owner, was instructed not to go to sea without a qualified crew. On 16 June 2014 the Arromanches was observed leaving Newlyn Harbour with a load bound for the Isles of Scilly. It was found that the crew on board on the 16<sup>th</sup> were not qualified crew.

**Penalty:** Fined £5,000 with £800 costs and £120 victim costs

### **Fishing Vessel owner pleads guilty after crew member died from inhaling dangerous fumes**

**Defendant:** Mr James Strachan Thores at Elgin Sherrif Court

**Date of Hearing:** 5 November 2015

**Offence:** Breach of Regulation 5 of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulation 1997

**Details:** On 23 August 2011 James Thores instructed the ships engineer to pump out the bow thrust space, which was only accessed by a small hatch at the fore end of the fish hold. The vessel's fitted pump systems were not operational and a petrol fired pump was used instead. The ships engineer and another crewman rigged the pump and attempted to pump the water out. The crewman assisting started to feel unwell and got out of the hold. When he returned he found the ships engineer unconscious. A rescue helicopter was dispatched and airlifted the ships engineer to hospital, but he died.

**Penalty:** Fined £20,000

### **Fisherman sent to prison for food hygiene and safety offences**

**Defendant:** Mr Michael Stimson at Southampton Crown Court

**Date of Hearing:** 10 November 2015

**Offence:** Two counts of failure to comply with the relevant provisions of Annex III Section VII Chapter IIA (6) of EC Regulation 853/2004, contrary to Regulation 19(1) of the Food safety and Hygiene (England) Regulations 2013, failure to comply with the provisions of the International Regulations for Preventing Collisions at Sea 1972, contrary to regulation 4 and 6 of the Merchant Shipping (Distress Signal and Prevention of Collisions) Regulations 1996, failure to comply with S284(2A) and (2B) of the Merchant Shipping Act and failure to comply with S15(3) and (5) of the Merchant Shipping Act 1995.

**Details:** On 20 October 2013 the fishing vessel Alicia was approached by fisheries patrol. During the approach the Alicia turned off its navigational lights. When boarded, the fisheries officer noted that the decks were awash. Concerns were passed to the Maritime and Coastguard Agency who detained the vessel as dangerously unsafe on the grounds that it had insufficient freeboard and stability to operate safely as a fishing vessel. Investigations showed that the crewmen on board had no safety

training and that the vessel was not correctly registered. The vessel was later seen fishing in waters closed due to high e-coli levels on at least two occasions in 2013 and 2014.

**Penalty:** 6 months imprisonment, £180 court charge, £80 victim surcharge and forfeiture of all interest in the boat under S143 of the Power of the Criminal Court (Sentencing) Act 2003.