

Prosecution Report 2016

Owner Fined for 'Dangerously unsafe' vessel

Defendant: Joseph O'Connor at Southampton Magistrates Court

Date of Hearing: 12 February 2016

Offence: Guilty to one charge of breaching Section 100 of the Merchant Shipping Act 1995.

Details: In March 2009 the Wadestone (which was then known as the Humber Star) sank at its berth on Weston Wharf in the River Solent.

As a result, the vessel was detained by the Maritime & Coastguard Agency (MCA) as being dangerously unsafe on 26th March, 2009. On 31st October 2011, the Wadestone called the UK Coastguard for help as it had a hole and was taking on water. At the time it was about 34 nautical miles south-west of Portland Bill in the Casquet Traffic Separation Scheme, while en route to Malta. The Wadestone had left Southampton in the early hours of the previous day, and was escorted back by RNLI Lifeboat to the port, arriving on 1st November. After the Wadestone arrived at Southampton, it was boarded by two MCA surveyors. During the course of their inspection, they found a number of serious deficiencies including hull cracking, corrosion and lack of vessel and crew certification for the intended voyage. The vessel was detained by the MCA as being dangerously unsafe.

Penalty: £3000 fine with £7182.20 costs

Judge tells skipper he had a callous regard for the law as he sentences him to prison

Defendant: Alexander Baird

Date of Hearing: 21st April 2016

Offence: Not operating his ship in a safe manner.

Details: Mr Baird was skipper of the vessel between November 2007 and April 2012. During that period St Amant was inspected on nine occasions and a number of problems found. These included safety equipment not working or not ready for immediate use, cluttered deck, failure to brief crew on emergency procedures or holding drills and making sure they had taken legally-required safety courses. In the early hours of 13th January 2012, a member of the crew Steven Robertson, was lost overboard. No charges have been brought in connection with that fatality and there is no suggestion that the deficiencies found are linked to his loss. However, prosecution on behalf of the

Maritime & Coastguard Agency (MCA) said the death was relevant to the seriousness of the offences because after the loss of a crewman, it would be expected that a skipper would do everything to make sure the vessel was safe for those who worked on it. The deck was cluttered when inspected in June 2010. It was still cluttered on 14th February 2012, a month after Mr Robertson's death. Failing to brief crew on emergency procedures was first highlighted in June 2010, it was still a problem in February, March and April 2012. Similarly, crew weren't being properly trained nor was safety equipment checked that it would be ready for use in an emergency.

Penalty: 9 Month custodial prison sentence.

Prison term for man who admitted causing fatal ferry crash off Rosyth, Scotland

Defendant: Pasquale Miccio

Date of Hearing: 25th April 2016

Offence: Breach of Section 58 of the Merchant Shipping Act 1995 as amended.

Details: At the time Mr Miccio (49) was serving as second officer aboard a ferry named the MV Scottish The ship was on a regular service between Rosyth in Scotland and Zeebrugge in Belgium. He was the navigating officer on 5th August 2010, when the Scottish Viking sailed from Rosyth at around 4.30pm. At around 6.10pm, the lookout reported seeing fishing vessels ahead and to starboard and the second officer made a small alteration of course. The lookout continued to point out the proximity of the fishing vessels and at 6.35pm, a further slight alteration of course was made. Despite these warnings the second officer made no further alterations of course or speed. Daniel McNeil was the brother of skipper Joseph McNeil and working onboard the family fishing vessel Homeland. They sailed from Eyemouth along with other vessels of the local fishing fleet at around 6pm. Joseph McNeil was working on the deck mending a net when, about thirty minutes later, he heard a warning blast from a nearby boat, the Achieve and heard the skipper calling to him on the VHF. He went forward and looked out of his wheelhouse to see the Scottish Viking just seconds before it struck. He and his brother managed to clamber onto the wheelhouse roof but the boat went down very quickly. The Serene y Don - another local boat - threw Joseph a life ring and pulled him to safety but Daniel could not be found.

Penalty: A 12 month prison sentence reduced to 8 months.

Boat skipper prosecuted for dumping rubbish at sea

Defendant: Mark Tamburrano

Date of Hearing: 10th October 2016

Offence: Dumping rubbish at sea

Details: On the morning of 26 May this year, the barge Beta was enroute from Exmouth to Plymouth. The intention was to move the barge to Plymouth for conversion into a floating fish restaurant. As the vessel passed close to Torquay Bay, witnesses from the Food Standards Agency and local Environment Health department, who were visiting shell beds nearby, saw rubbish being thrown from the barge. This included a number of bin bags with plastic in them, along with gas canisters and a chemical toilet. The witnesses approached the barge and the dumping stopped.

Penalty: £500 Fine, £50 surcharge and full costs of £2291.31

Skipper sentenced for incident off Shetland Islands that caused death of crewman

Defendant: Christopher Smith

Date of Hearing: 12th October 2016

Offence: Contravention of Section 58(2) of the Merchant Shipping Act 1995.

Details: on 25th March 2014 the fishing vessel Diamond sank after striking a rock in West Burra Firth in the Shetland Islands. It had set off from Scalloway at around 5.30pm bound for fishing grounds 20 miles to the West. At first the vessel was sheltered from the full force of the weather, but as she moved north, she became exposed to wind and sea. The decision was made to shelter in West Burra and as the pair approached the outer channel leading to the Firth, Mr Smith handed over the navigation to Mr Scollay and went to check the engine room where he encountered and dealt with a minor leak of diesel fuel. Both the inner and outer channel are marked with leading lights and the vessel was fitted with operational radar and electronic plotters. Mr Smith returned to the wheelhouse and altered course to port to follow the inner channel to West Burra. Shortly after altering course, the vessel struck the rocks and issued a Mayday. A nearby fishing vessel responded and Mr Scollay was found and recovered, before being transferred to the HM Coastguard search and rescue helicopter. Mr Smith was recovered by a lifeboat.

Penalty: Six months in prison

Fine for company and master after incident at Inverness

Defendant: Jacobite Cruises Limited & Master Andrew Paul Lach.

Date of Hearing: 27th October 2016

Offence: Breach of section 58(2)(b)(ii) of the Merchant Shipping Act as amended/ Contravention of Section 2 (1) and section 33 (1) (a) of the Health and Safety at Work Act 1974.

Details: On 20th June 2012, the Loch Ness cruise ship Jacobite Queen was returning to her berth at Tomnahurich Bridge, Inverness when the incident happened in Dochgarroch Locks. Aurelia Thabert, then aged 25, was working as a crew member onboard the Jacobite Queen. She was attempting to release a rope from the side of the lock when her right foot became entangled in a bight of the rope. The ship moved forward tightening the rope around her leg. Ms Thabert was treated at Raigmore Hospital in Inverness where because of the damage caused to her leg, an amputation had to be carried out. Andrew Paul Lach pleaded guilty to omitting to ensure all mooring ropes had been removed from the hooks at the side of Dochgarroch Locks, before putting the engines ahead. The company Jacobite Cruises Ltd pleaded guilty to failing to ensure the health, safety and welfare of its employee and failing to make sure there was an appropriate means of communication available between the master and crew while mooring ropes were being handled.

Penalty: £6000 fine. Andrew Paul Lach fined £2000.

Princess Cruise Lines To Pay Largest-Ever Criminal Penalty For Deliberate Vessel Pollution

Defendant: Princess Cruise Lines Ltd

Date of Hearing: 1st December 2016

Offence: Deliberate Vessel Pollution and Illegal dumping of oil contaminated waste from the Caribbean Princess Cruise Ship

Details: According to papers filed in court, the *Caribbean Princess* had been making illegal discharges through bypass equipment since 2005, one year after the ship began operations. The discharge on Aug. 26, 2013, involved approximately 4,227 gallons, 23 miles off the coast of England within the country's Exclusive Economic Zone. At the same time as the discharge, engineers simultaneously ran clean seawater through the ship's overboard equipment in order to create a false digital record for a legitimate

discharge. *Caribbean Princess* used multiple methods over the course of time to pollute the seas. In addition to the use of a magic pipe to circumvent the oily water separator and oil content monitor required pollution prevention equipment, the U.S. investigation uncovered two other illegal practices which were found to have taken place on the *Caribbean Princess* as well as four other Princess ships – *Star Princess*, *Grand Princess*, *Coral Princess* and *Golden Princess*. According to papers filed in court, Princess has undertaken remedial measures in response to the government's investigation, including upgrading the oily water separators and oil content monitors on every ship in its fleet and instituting many new policies.

Penalty: \$40 Million Penalty. \$10 million of the \$40 million criminal penalty devoted to community service projects to benefit the maritime environment; \$3 million of the community service payments to environmental projects in South Florida; \$1 million earmarked for projects to benefit the marine environment in United Kingdom waters. Additionally, a court supervised Environmental Compliance Programme (ECP) for five years.