



# Department of Justice

United States Attorney A. Brian Albritton  
Middle District of Florida

Tampa

Orlando

Jacksonville

Fort Myers

FOR IMMEDIATE RELEASE

February 24, 2009

<http://www.usdoj.gov/usao/flm/pr>

CONTACT: STEVE COLE

PHONE: (813) 274-6136

FAX: (813) 274-6300

## **JAPANESE CORPORATE OPERATOR OF CARGO VESSEL SENTENCED TO PAY \$1.75 MILLION IN FOR CONSPIRACY AND FALSIFYING RECORDS**

Tampa, Florida - U. S. District Judge Steven D. Merryday today sentenced the Japanese corporation Hiong Guan Navegacion Japan Co., Ltd., which operates the commercial cargo ship M/V Balsa-62, to three years' probation and \$1.75 million in penalties for conspiring to falsify and falsifying environmental compliance records.

\$400,000 of the \$1.75 million that Hiong Guan must pay will go to the National Fish and Wildlife Foundation, which partners locally with the Pinellas County Environmental Fund (PCEF). PCEF has funded numerous wide-ranging projects related to the protection, restoration, and enhancement of fish and wildlife habitat in the Tampa Bay area. The court also ordered Hiong Guan to implement a detailed environmental compliance plan, including monitoring of its fleet-wide operations for the next three years, training for crew members, and engineering alterations to protect gulf and ocean waters.

On November 20, 2008, Hiong Guan pleaded guilty to falsifying the "Oil Record Book" for the M/V Balsa-62. Federal and international law requires that all ships properly dispose of oily water and sludge by processing the oily water through an oily-water separator and burning the sludge in the ship's incinerator to avoid polluting ocean waters. Federal law also requires all ships traveling in United States waters to record accurately each disposal of oily water or sludge in an Oil Record Book, and to have the Book available

for inspection by the U.S. Coast Guard.

According to court documents, from Spring 2007 through February 2008, Francisco Bagatela, the chief engineer of the M/V Balsa-62, used a bypass pipe, which was referred to as a "magic pipe," to circumvent the pollution prevention equipment on board the ship and dump oily water and sludge directly overboard and into the ocean approximately twice a month. On February 25, 2008, Robert Racho replaced Bagatela as chief engineer and continued using the magic pipe. The engineers used the pipe to dump oily water and sludge at night when the ship was underway, and they further concealed the discharges by not recording them in the ship's Oil Record Book.

On October 31, 2007, and again on May 31, 2008, the M/V Balsa-62 arrived in the Port of Tampa with its falsified Oil Record Book. The U.S. Coast Guard conducted an inspection of the ship on May 31, 2008, based in part on information from the ship's crew. At that time, the officers on board presented the falsified book. The U.S. Coast Guard then located evidence on board the ship corroborating the crew members' allegation that the ship had been unlawfully discharging oily waste.

Chief Engineers Bagatela and Racho both already have pleaded guilty to felony offenses relating to their falsification of the M/V Balsa-62's Oil Record Book. In December 2008, the court sentenced Bagatela to three years' probation and a \$1,500 fine and Racho to one year's probation and a \$1,000 fine.

Upon Hiong Guan's sentencing, U.S. Attorney A. Brian Albritton stated, "Protecting our waters from pollution is crucial to our marine life as well as human life. The U.S. Coast Guard did a great job investigating and uncovering this filthy practice of allowing oily water to discharge from the Balsa-62. Fortunately, a large portion of the penalty the company has to pay will stay right here in the Tampa Bay area to restore and enhance our bay and

gulf waters.”

John C. Cruden, Acting Assistant Attorney General for the Justice Department’s Environment and Natural Resources Division, said, “Hiong Guan is paying for failing to follow the law by, among other things, attempting to mislead the Coast Guard with falsified environmental-compliance records. Today’s substantial criminal fine and extensive environmental compliance plan should serve as deterrents to shipping companies and mariners who may consider violating the environmental laws that protect our oceans.”

Captain Timothy Close, the Coast Guard Captain of the Port of Tampa, St. Petersburg and Manatee: "The successful investigation and prosecution of this case by the U.S. Coast Guard and Department of Justice sends a clear message to owners and operators of commercial vessels that those who choose to intentionally pollute our oceans will be met with swift repercussions and stiff penalties. This case highlights the importance of Coast Guard boarding teams inspecting vessels for compliance with U.S. and international pollution prevention standards."

"The National Fish and Wildlife Foundation is uniquely positioned to ensure the best possible application of these funds to address the specific nature of the environmental damage that occurred" said Mike Slattery, Eastern Partnership Office Director for the Foundation. "Through our Pinellas County Environmental Fund partnership, we can be certain that only the very best environmental restoration and water quality projects, as juried by a panel of local and regional environmental experts, will be selected for funding. And because of the nature of our process, and the broader availability of other pooled funds, the impact of this payment on the Tampa Bay environment will be much greater than could be made using these funds alone."

This case was investigated by the U.S. Coast Guard, Coast Guard Investigative Service. It was prosecuted by Cherie L. Krigsman, Assistant U.S. Attorney for the Middle District of Florida, Leslie E. Lehnert, Trial Attorney for the Justice Department's Environmental Crimes Section, and Lieutenant William George, U.S. Coast Guard.

///