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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Case No.: 15-cv-00098-HSG
)	
Plaintiff,)	
vs.)	IN ADMIRALTY
)	
ALECIO SHIPPING INC.; FAM)	
MARINE SERVICES, INC.; SHOTON)	
MARITIME, LTD; SERAFIM)	CONSENT JUDGMENT
SOFIANTIS, an individual;)	
KONSTANTINOS PAPAGEORGIOU, an)	
individual; and UNKNOWN)	
DEFENDANTS 1-10)	
)	
Defendants.)	
)	

I. PARTIES

This Consent Judgment is made and entered into by and among the following parties (hereinafter referred to collectively as “the Settling Parties” and individually as “Party”):

A. Plaintiff United States of America on behalf of: the Department of Homeland Security, United States Coast Guard (“USCG”), National Pollution Funds Center (“NPFC”), and the Oil Spill Liability Trust Fund (“OSLTF”);

B. Defendants FAM Marine Services, Inc., and Konstantinos Papageorgiou (“Settling Defendants”).

II. INTRODUCTION

A. On January 8, 2015, the United States filed a Verified Complaint under provisions of, *inter alia*, the Oil Pollution Act (“OPA”), 33 U.S.C. §§ 2701 *et seq.*, against defendants Alecio Shipping Inc. (“Alecio”); FAM Marine Services, Inc. (“FAM”), Shoton Maritime, Ltd (“Shoton”), Serafim Sofiantis (“Sofiantis”), and Konstantinos Papageorgiou (“Papageorgiou”).

B. On February 27, 2015, Defendants FAM and Papageorgiou filed an Answer (Docket No. 20) to the Verified Complaint.

C. On February 21, 2017, Default Judgments pursuant to Rule 55(b)(1) of the Federal Rules of Civil Procedure were entered against Defendants Alecio and Shoton (Docket No. 90).

D. Based on the representations of the Settling Parties, Defendant Sofiantis is believed to be in Greece and, in any event, the United States has been unable to serve the Summons and Verified Complaint upon Sofiantis.

1 E. Settling Parties United States, FAM, and Papageorgiou, by and through their
2 respective undersigned counsel, entered into a settlement agreement that has been approved by
3 all Settling Parties and the respective principals having full and final settlement authority.

4 F. The Settling Parties agree, and the Court, by entering this Consent Judgment
5 finds, that the Settling Parties' settlement and this Consent Judgment effectuating the settlement
6 has been negotiated by the Settling Parties in good faith, and that it is fair and reasonable.
7

8 **NOW THEREFORE, WITH THE UNDERSIGNED CONSENTS OF THE**
9 **SETTLING PARTIES, IT IS HEREBY ADJUDGED, ORDERED AND DECREED AS**
10 **FOLLOWS:**

11 **III. JURISDICTION AND VENUE**

12
13 1. This Court has jurisdiction over the subject matter of this action pursuant to, *inter*
14 *alia*, 28 U.S.C. §§ 1331 and 1345, and OPA, 33 U.S.C. § 2717(b). Venue is proper in this Court
15 pursuant to 28 U.S.C. § 1391(b) and 33 U.S.C. § 2717(b). The Court has personal jurisdiction
16 over the Settling Defendants, who do not contest the Court's jurisdiction and do not contest the
17 propriety of venue in this judicial district.
18

19 **IV. APPLICABILITY**

20 2. The obligations of this Consent Judgment apply to and are binding upon the
21 Settling Parties, and each of them, and upon the Settling Defendants' successors, assigns, or
22 other entities or persons otherwise bound by law.
23

24 **V. SETTLEMENT**

25 3. Judgment shall be, and the same is, entered in favor of the United States
26 and against Settling Defendants FAM Marine Services, Inc., and Konstantinos
27 Papageorgiou, jointly and severally, in the principal amount of \$225,000 (Two Hundred
28

Twenty-Five Thousand Dollars, and Zero Cents), plus simple interest of 2.5 % *per annum* on any unpaid portion of the foregoing principal amount of \$225,000, said principal amount to be paid as follows:

(a) An up front initial payment of \$15,000 (the “Initial Payment”) to paid to the United States within 90 days of the Court’s execution of this Consent Judgment;

(b) In addition to the foregoing Initial Payment, Semi-Annual Payments (2 payments per year) shall be made to the United States as follows:

(i) Years 1-4 = \$12,500 each payment (Total = \$100,000 for Years 1-4);

(ii) Years 5-7 = \$21,479 each payment (Total = \$130,495 Years for 5-7);

(iii) The Semi-Annual Payments (the Semi-Annual Payment Dates) shall be due each year on January 15th and July 15th. The first Semi-Annual Payment shall commence on the earliest Semi-Annual date following 90 days after the payment of the Initial Payment of \$15,000;

4. No pre-payment penalties apply.

5. The foregoing monetary obligation of \$225,000, plus accrued interest, is a joint and non-severable debt and obligation of Settling Defendants FAM and Papageorgiou to the United States. Thus, in the event of default and/or non-payment of any portion of the debt by one of the Settling Defendants, the other Settling Defendant shall not be relieved from paying the full sum remaining to be paid from the original

1 amount of principal and interest, less amounts previously paid down as of the date of
2 default or non-payment.

3 6. All payments shall be made in U.S. Dollars (\$) and shall be made payable
4 to “**United States Dept. of Justice**” and shall be identified by reference to “U.S. v.
5 Alecio Shipping, FAM Marine, Papageorgiou, et al., DJ No. 62-1102”, and sent to the
6 following:
7

8 If sent by regular, certified, or registered mail:

9 Attn: Attorney in Charge
10 Vickey L. Quinn, Trial Attorney
11 West Coast Office
12 Torts Branch, Civil Division (Admiralty)
13 U.S. Department of Justice
14 P.O. Box 36028
15 450 Golden Gate Avenue
16 San Francisco, California 94102-3463

17 If sent by overnight mail, e.g., FedEx, UPS:

18 Attn: Attorney in Charge
19 Vickey L. Quinn, Trial Attorney
20 West Coast Office
21 Torts Branch, Civil Division (Admiralty)
22 U.S. Department of Justice
23 7th Floor, Room 7-5395
24 450 Golden Gate Avenue
25 San Francisco, California 94102-3463

26 7. With respect the payments set forth in Section V, sub-paragraphs (a) and
27 (b) above, the Settling Defendants shall have a 30 (thirty) day grace period on each such
28 payment.

8. In the event that the Settling Defendants, or either of them, fail to make full
amount of payment of the Initial Payment (\$15,000) or any Semi-Annual Payment
thereafter in accordance with the schedules and grace periods set out above (any such
non-payment(s) to constitute a “Default”), then the full amount of the \$225,000 and

1 accrued interest awarded by this Consent Judgment shall immediately be accelerated,
2 due, owing, and payable to the United States without further notice or demand, plus
3 interest continuing to accrue, plus costs, plus the United States' attorneys' fees, less any
4 amounts paid up to the time of the missed payment date/Default.
5

6 9. If the Settling Defendants fully and completely comply with all terms and
7 final payment provisions specified in this Consent Judgment, then, notwithstanding any
8 other provision in this Consent Judgment regarding the total Consent Judgment entered in
9 the amount of \$225,000, the United States shall, upon request, file a Satisfaction and
10 Discharge of this Consent Judgment herein as against the Settling Defendants.
11

12 **VI. ADDITIONAL MONETARY CONDITIONS TO BE ENFORCED UPON THE**
13 **HAPPENING OF CERTAIN CONTINGENCIES**
14

15 10. If the real estate owned at 2910 Ocean Mist Court, Seabrook, Texas, is sold over
16 the course of the settlement period, Settling Defendant Papageorgiou shall pay the United States
17 50% of any net sales proceeds. Net sales proceeds are defined as gross sales proceeds less any
18 outstanding mortgages, less sales commissions, less any other sales related expenses. No
19 mortgages, liens, or encumbrances of any kind may be placed upon said property without prior
20 written notice to, and the written approval of, the United States. In determining whether to grant
21 approval to such a proposed mortgage, lien, or encumbrance on the said property, the United
22 States will give particular consideration to such request(s) in the event that Defendant
23 Papageorgiou warrants to the United States' satisfaction that the purpose of requested
24 encumbrance is to be used as security for necessary maintenance and repairs to the said property
25 and/or for loans of funds to be used to pay for necessary medical services and related health care
26 expenses for Settling Defendant Papageorgiou, his wife (Marilyn Papageorgiou), his daughter
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(Angela Marie Papageorgiou), or his mother-in-law (Mary Ann Hendron). By signing this agreement, Settling Defendant Papageorgiou expressly warrants that there are currently no liens, mortgages, or other encumbrances on said property.

11. Except as provided in paragraph 10 above, if either or both Settling Defendants place liens, encumbrances, or mortgages on the aforesaid real property without the express written consent of the United States, such action(s) shall be a condition of Default and entitle the United States to take the actions described above in Section V in the event of Defaults.

12. The foregoing payment in paragraph 10 above shall be in addition to any and all sums set forth in Section V above, *i.e.*, they shall be in addition to the foregoing \$225,000 principal obligation set forth in Section V.

VII. ADDITIONAL CONDITIONS

13. If real estate owned at 6601 Springer St., Houston, Texas, is sold over the course of the settlement period, Settling Defendant FAM agrees to pay the United States 50% of any net sales proceeds, said proceeds to be used to pay down any remaining principal and accrued interest then remaining due and owing on the original \$225,000 obligation set forth in Section V above. Net sales proceeds are defined as gross sales proceeds less any outstanding mortgages, less sales commissions, less any other sales related expenses. No mortgages, liens, or encumbrances of any kind may be placed upon said property without prior written notice to, and the written approval of, the United States, approval for which will not be unreasonably withheld by the United States (*i.e.* as examples only, said encumbrance(s) requested as security for necessary maintenance and repairs to the said property and/or for loans of funds to be used to pay for necessary medical services and related health care expenses for Settling

1 Defendant Papageorgiou, his wife Marilyn Papageorgiou, his daughter Angela Marie
2 Papageorgiou, or his mother-in-law, Mary Ann Hendron.)

3 14. If Settling Defendant Papageorgiou receives any payments from Settling
4 Defendant FAM on the shareholder loan during the settlement period, Settling Defendant
5 Papageorgiou agrees to pay the United States 25% of any and all such payments, said
6 proceeds to be used to pay down any remaining principal and accrued interest then remaining
7 due and owing on the original \$225,000 obligation set forth in Section V above.
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10 **VIII. SECURITY AND DEFAULT**

11 15. As part of the settlement and this Consent Judgment, the United States shall
12 take a first priority mortgage lien on the property at 2910 Ocean Mist Court, Seabrook,
13 Texas, said mortgage to secure the full amount of principal and interest on the obligation of
14 \$225,000 set forth in Section V above.
15

16 16. Except as specifically stated in paragraph 17 below, in the event of Default on
17 any payment obligation under this settlement agreement, the United States shall have the
18 right to foreclose and sell said property and apply the proceeds of sale to any and all such
19 sums then remaining due and owing by Settling Defendants FAM and Papageorgiou.
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21 17. If, however, a Default on any payment obligation under the settlement and this
22 Consent Judgment is occasioned by the involuntary incapacitation of Settling Defendant
23 Papageorgiou resulting in his inability to make such payments, then the right of the United
24 States to foreclose and sell said property and apply the proceeds of sale to any and all such
25 sums then remaining due and owing by Settling Defendants FAM and Papageorgiou as
26 provided in paragraph 16 above, shall be suspended and held in abeyance until the passing(s)
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1 of Marilyn Papageorgiou, Mary Ann Hendron, and Defendant Papageorgiou, who otherwise
2 shall have a life estate in the residence at 2910 Ocean Mist Court, Seabrook, Texas.

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4 **IX. ACCEPTANCE OF RESPONSIBILITY OF RESPONSIBLE PARTIES**

5
6 **UNDER OPA**

7 18. Pursuant to the requirements of Section 1017(f)(2) of OPA, 33 U.S.C. §
8 2717(f)(2), the Settling Defendants acknowledge and stipulate, for purposes of giving effect to
9 this Consent Judgment and to satisfy the requirements of § 1017(f)(2) of OPA, 33 USC §
10 2717(f)(2), that they are Responsible Parties within the meaning of OPA.

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12 **X. NOTICES**

13 19. Unless otherwise specified herein, whenever modifications, submissions, or
14 communications are required by this Consent Judgment, they shall be made in writing and
15 addressed as follows:

16 To the United States:

17
18 Re: DOJ Number 62-1102
19 Attn: R. Michael Underhill (mike.underhill@usdoj.gov)
20 Attorney in Charge
21 Vickey Quinn (vickey.l.quinn@usdoj.gov)
22 Trial Attorney
23 West Coast Office and Pacific Rim Office
24 Torts Branch, Civil Division
25 United States Department of Justice
26 7th Floor Federal Building, Room 7-5395
27 P.O. Box 36028
28 450 Golden Gate Avenue
San Francisco, California 94102-3463
Tel: 415-436-6630
Fax: 415-436-6632

And to:

Re: FPN No. A12002
National Pollution funds Center
Attn: Director, National Pollution Funds Center
LaCresha Johnson

4200 Wilson Blvd., Ste. 1000
Arlington, VA 22203-1804
1-800-280-7118

To Settling Defendants FAM and Papageorgiou:

Joseph A. Walsh II (Joe.Walsh@Clydeco.us)
Clyde & Co.
301 East Ocean Boulevard, Suite 1550
Long Beach, CA, 90802
Tel: 562-317-3300
Fax: 562-317-3399

20. Any Settling Party may, by written notice to other Settling Parties, change its designated notice recipient or notice address provided above.

21. Notices submitted pursuant to this Section shall be deemed submitted upon mailing, unless otherwise provided in this Consent Judgment or by mutual agreement of the Settling Parties in writing.

XI. EFFECTIVE DATE

22. The Effective Date of this Consent Judgment shall be the date of the Entry of this Consent Judgment by the Court.

XII. RETENTION OF JURISDICTION

23. The Court shall retain jurisdiction over this case until termination of this Consent Judgment, for the purpose of effectuating or enforcing compliance with the terms of this Consent Judgment.

XIII. MODIFICATION

24. The terms of this Consent Judgment may be modified only by a subsequent written agreement signed by all Settling Parties. Where the modification constitutes a material

1 change to any term of this Consent Judgment, it shall be effective only upon approval by the
2 Court.

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5 **XIV. SIGNATORIES/SERVICE**

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7 25. Each undersigned representative of the Settling Defendants, together with the
8 attorneys for the United States, certifies that he or she is fully authorized to enter into the terms
9 and conditions of this Consent Judgment and to execute and legally bind the respective Settling
10 Party he or she represents to the terms of this Consent Judgment.

11 **XV. INTEGRATION**

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13 26. With the exception of the limited class of documents specified in paragraph 27
14 below, this Consent Judgment constitutes the final, complete, and exclusive agreement and
15 understanding among the Settling Parties with respect to the settlement embodied in the Consent
16 Judgment, and this Consent Judgment supersedes all prior agreements and understandings,
17 whether oral or written, concerning the settlement embodied therein. No other document, nor
18 any representation, inducement, agreement, understanding, or promise (other than documents
19 specified in paragraph 27 below), constitutes any part of this Consent Judgment or the settlement
20 it represents, nor shall it be used in construing the terms of this Consent Judgment.

21
22 27. As set forth in Section VIII, paragraph 15 above, as part of the settlement and
23 this Consent Judgment the United States shall take a first priority mortgage lien on the
24 property at 2910 Ocean Mist Court, Seabrook, Texas, said mortgage to secure the full amount
25 of principal and interest on the obligation of \$225,000 set forth in Section V above. In order to
26 give effect to the United States' rights thereunder, the Settling Parties shall draft, exchange,
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execute and file, as appropriate, the necessary documents to give full force and effect to the United States' rights under said Section VIII, paragraph 15.

XVI. FINAL JUDGMENT

28. The Court hereby determines that there is no just reason for delay of entry of this Judgment and, upon approval and Entry of this Consent Judgment by the Court, this Consent Judgment shall constitute a final judgment of the Court, in accordance with Rules 54 and 58 of the Federal Rules of Civil Procedure.

IT IS SO ADJUDGED.

Dated: August 31, 2017


UNITED STATES DISTRICT JUDGE

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THE UNDERSIGNED SETTLING PARTIES enter into this Consent Judgment in
the matter of UNITED STATES OF AMERICA v. FAM MARINE SERVICES, INC.;
KONSTANTINOS PAPAGEORGIOU, *et. al*:

FOR THE UNITED STATES OF AMERICA:

Date: August 23, 2017.

CHAD A. READLER
Acting Assistant Attorney General
R. MICHAEL UNDERHILL
Attorney in Charge
West Coast Office, Torts Branch, Civil Division
U.S. Department of Justice

/s/ Vickey L. Quinn
VICKEY L. QUINN
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice

Attorneys for Plaintiff
United States of America

FOR FAM MARINE SERVICES, INC., AND KONSTANTINOS PAPAGEORGIOU:

Date: August 23, 2017.

CLYDE & CO.

/s/ Joseph A. Walsh II
Joseph A. Walsh II
Ellen McGlynn
Conte Cicala

Attorneys for Settling Defendants
FAM MARINE SERVICES, INC., and
KONSTANTINOS PAPAGEORGIOU