

CAPTAIN FINED FOR NOT PROVIDING PROPER LOOKOUT

RESULTING IN THE GROUNDING OF HI'S VESSEL

Defendant: Captain PAWLUS in Kirkwall Sheriff Court on 10th January 2007

Date of Offence: 02nd January 2007

Offence: Breach of Section 58 of the Merchant Shipping Act 1995 - failure to provide proper lookout

Details: The Captain's New Year started with a bang when the Norwegian flag cargo ship SUNNA grounded on the island of Swona in the Pentland Firth. The Chief Officer who was on watch at the time admitted that he had fallen asleep shortly after altering course to transit the Pentland Firth on route to Iceland from Humberside with a cargo of 1900 tonnes of Serro Silicon. The ship was gripped by the ferocious Pentland tide and with the watch officer asleep no one was aware of the ship been driven onto the rocks.

The accident happened at 04.40 hours GMT, January 2nd 2007 on the north side of the notorious Pentland Firth, Isle of Swona. The ship was re-floated as the tide rose that morning and with the help of an Orkney harbour tug and the Longhope Lifeboat, it was towed into Lyness.

An investigation by the MCA revealed that although the ship only had a crew of seven, the captain had instructed that the seaman were to be used as day workers and not stand a watch.

The STCW code requires that during the hours of darkness there is a lookout on the bridge with no other duty but to keep a lookout. Had the Master used the crew in this role, this unfortunate grounding would not have occurred. The Captain's priority to keep the ship looking good was his down fall. Sheriff Napier said in his summing up that it is a basic but critical role for seamen to be employed as lookout especially in such dangerous waters as the Pentland Firth. He continued that he considered this offence to be at the high end of the severity of cases which are brought to the sheriff court. He told Captain Pawlus that he was foolishly misguided to try and impress his owner at the expense of the safety of the ship.

Penalty: Fine £2500

OWNER OF COCKLING VESSEL HEAVILY FINED FOR SAFETY MATTERS

Defendant: Christopher MOSSMAN in Ammanford Magistrates' court on 5th March 2007.

Date of offence: 12th,13th September and 23rd,24th October 2005.

Offence: Breaches of a Prohibition Notice in contravention of the Merchant Shipping Act 1995.

Details: In 2005 the intention was announced to open the cockle beds in an area of Carmarthen Bay known as "Three Rivers" for commercial fishing activity. Advice on the safety requirements for vessels operating in this fishery were promulgated prior to the opening on the cockle beds. A few weeks after the beds were opened a decision was made to inspect all vessels operating in the Three Rivers area. All vessels except one were found to be in possession of appropriate and valid certification. The exception was a vessel called the CONFIANCE. On the 2nd September the CONFIANCE was boarded by Officers of the MCA

supported by members of Dyfed Powys Police. During this visit a Prohibition Notice was issued which stopped the CONFIANCE from operating commercially until properly certificated. During this visit defects such as no lifebuoys, open and unguarded machinery and pipe work penetrating the boat's hull in poor condition were noted. An open bucket of fuel was also observed. The visit was cut short by the incoming tides as the officers had to make their way back to the shore on foot.

It later became apparent that the CONFIANCE was continuing to work the cockle beds. On four occasions the vessel was observed to be operating by officers from the MCA and South Wales Sea Fisheries Committee. The matter was handed over to the Enforcement Unit of the MCA for investigation.

During the investigation Mr Mossman failed to respond to any attempt by the MCA Enforcement Unit to discuss this matter. A decision was made to prosecute Mr Mossman as owner of the CONFIANCE for four breaches of a Prohibition Notice on 12th and 13th September 2005 and 23rd and 24th October 2005 in contravention of the Merchant Shipping Act 1995. Mr Mossman was due to appear at Ammanford Magistrates on 15th January 2007 but failed to attend and the matter was adjourned for a fortnight. He also failed to attend that second hearing. A court warrant was then issued. The name of the vessel has been changed and is now known as the DARCY LEIGH.

In passing sentence the magistrates said "We consider this matter very serious, the vessel was in significant disrepair, you put lives at significant risk for financial gain."

Mr Carl Graddage, Area Operation Manager for the MCA in South Wales, stated "a Prohibition Notice is issued to avoid risk to crew, passenger and the environment. Therefore a decision by an individual to ignore a Prohibition Notice is very serious and cannot be ignored.

The fine imposed in this case show how seriously the court viewed this particular matter. We would like to thank Dyfed Powys Police for the support on the 2nd September. We would particularly like to thank the South Wales Sea Fisheries Committee and their officers for their help and assistance in this matter throughout this investigation.

Penalty: Fine £10,000 and Costs of £250.00.

OWNER & SKIPPER OF DIVE BOAT PROSECUTED

Defendant(s): Mr Toby Douglas, director of Sovereign Diving Ltd., and Christopher Wilson, skipper of Sovereign II Newcastle Crown Court on 16th April 2007.

Date of offence: 13th August 2005.

Offence: Breach of the Code of Practice for Small Commercial Vessels, also known as the yellow code.

Details: On 13th August 2005, the dive boat Sovereign II owned by Sovereign Diving Limited and skippered by Christopher Wilson sailed on a diving trip from Seahouses to the Farne Islands with a party of nine divers.

The trip turned to tragedy when one of the divers Michael Ward of Loughborough in Leicestershire, was struck by the propellers as he was returning to the boat. He lost his left leg and suffered such severe injury to his right leg that it has been pinned and cannot be flexed.

The quick reactions of his dive buddy and nearby charter boat called Moby, ensured that Mr Ward was taken back to port quickly where a doctor and nurses who were passing by gave help. A trauma surgeon, who was diving nearby, also sped back to Seahouses where he took charge of the medical team and accompanied Mr Ward to Newcastle General Hospital. Investigations by the Maritime and Coastguard Agency (MCA) revealed that the skipper Christopher Wilson did not hold the necessary certificate of competence to be in charge of the boat. Mr Wilson was employed by Sovereign Divers Ltd as crew on their passenger boat Sovereign IV. However when the skipper of Sovereign II left in early July, Wilson was made skipper. He had been sailing as skipper without a certificate of competence for five or six weeks before the incident date.

In Newcastle Crown Court on Monday 16th April 2007, Mr Toby Douglas, a director of Sovereign Diving Ltd., and Christopher Wilson, the skipper of Sovereign II, pleaded guilty.

Penalty:

Sovereign Diving - fined £5,000 and Costs of £3,500

Christopher Wilson fined £500 and Costs of £500.

SKIPPER OF CABIN CRUISER PLEADED GUILTY TO

3 BREACHES OF THE COLREGS

Defendant: Mr Phillip COLVER, Truro Crown Court on 12th June 2007.

Date of Offence: 16 July 2005.

Offence: Rule 5 (Failure to keep a proper lookout), Rule 6 (Failure to proceed at safe speed) & Rule 20 (Failure to display appropriate navigation lights) of the International Regulations for preventing Collisions at Sea.

Details: On the 16 July 2005 at approximately 11pm, Mr Colver was in charge of the 6.5 metre cabin cruiser CARRIE KATE. He was returning to Falmouth after an evening outing with 3 friends in St Mawes. Darkness had fallen and the vessel was proceeding without any navigation lights and at speed. At the same time Mr Cochrane, his brother and a friend were returning to St Mawes in a 4.5 metre Dory. The Dory was also without navigation lights but going at a slower speed than the Cabin Cruiser. The two vessels collided, with the larger vessel appearing to go over the top of the Dory. Mr Cochrane was killed on impact. Two hours after the incident, Mr Colver was breathalysed and found to be approximately twice the legal limit allowed for driving a car.

Mr Colver was found Not Guilty to the charge of Manslaughter of Mr Ben Cochrane and Not Guilty to the charge of GBH to Mr Frazer Cochrane following a joint investigation by Devon and Cornwall Police and the Maritime and Coastguard Agency Enforcement Unit.

Detective Inspector Simon Selley, Devon and Cornwall Constabulary said: As in all cases that are brought before the courts involving alcohol, whether it is boats on the water, or cars on the road, there are no winners or losers. Many people can be affected by the outcome, and we would strongly encourage everyone to think first before making a decision that could affect the rest of their lives and others.

Jeremy Smart, Principal Enforcement Officer for the Maritime and Coastguard Agency said, This tragic event has had far reaching effects on many people and our sympathies go out to all concerned. The investigation of this case demonstrates how the MCA and the Devon and Cornwall Police can work closely together. The consumption of alcohol was a significant causal factor in this incident and its use combined with any water activity is to be avoided.

Penalty: 150 Hours of community Service, (50 Hours on each charge).

SKIPPER OF RACING YACHT FINED

Defendant: Dirk De RIDDER, Folkstone Magistrates Court on 02nd July 2007.

Date of offence: 13 May 2007.

Offence: Breach of the Convention on the International Regulations for Preventing Collisions at Sea 1972, Rule 10(b)(1)

Details: On 13th May 2007 the racing yacht MEAN MACHINE was on a positioning voyage from Portsmouth, UK to Scheveningen, Netherlands prior to taking part in a race. At about 1850 the MEAN MACHINE was detected slowly entering the South West lane on a heading of 055°t. She then proceeded for 6.5 miles in the wrong direction in the South West lane, contrary to Rule 10(b)(i) of the Colregs.

The yacht's plan had been to follow the separation line/zone between the South West lane and Inshore traffic Zone very closely. De Ridder failed to realise that wind shifts would cause him problem which they ultimately did. Soon after gybing it should have become apparent to De Ridder that his course was taking him into the South West lane. MEAN MACHINE passed close ahead of a crossing vessel before passing between two South West bound vessels.

The MEAN MACHINE was identified by a passing merchantman. Dover CNIS contacted the MEAN MACHINE by radio. The yacht then altered course and crossed the South West lane at right angles as required by rule 10 of the Colregs.

Penalty: Fine £6,000 and Costs of £4,200.

BREACH OF DETENTION NOTICE LANDS FISHING VESSEL

OWNER IN COURT

Defendant: Richard Fishleigh (owner), Barnstaple Magistrates Court on 05 July 2007.

Date of Offence: Various

Offence: Breach of Section 284 of the Merchant Shipping Act 1995 - Breach of detention Notice.

Details: The FV Pacemaker (GY 165) is 15.5 wooden fishing vessel based in Bideford, North Devon. On the 1st March 2007 the Maritime & Coastguard Agency (MCA) was informed that the FV Pacemaker (GY 165) had failed a stability survey. The detail and extent of the failure was such that the MCA immediately detained the vessel as "Dangerously Unsafe".

The appropriate notice was served on the owner of the FV Pacemaker, Richard Fishleigh. Despite this notice the Pacemaker continued to take his vessel to sea to fish on numerous occasions.

On investigation, it became apparent that the failure of the stability survey was due to a number of unauthorised alterations Richard Fishleigh had made to the vessel without considering the vessels buoyancy.

On 20th June 2007, and following professional advice, the FV Pacemaker underwent another stability survey. The results proved to be satisfactory. In order to achieve this result approximately 3.8 tons of top weight or 7.5% of the vessel overall weight had been removed. A further inspection was conducted which showed work to improve the vessels freeboard had been carried out. As a result the vessel was released from detention on 29 th June 2007.

Penalty: Fine £3,000 (£500 per count on 6 counts) and Costs of £3,000.

OVERLOADED FERRY LANDS OWNER IN COURT

Defendant: Lower Thames and Medway Passenger Boat Company Limited, Dartford Magistrates Court on 15 August 2007.

Date of Offence: 30th August 2006

Offence: Breach of the Merchant Shipping (Survey and Certification) Regulations 1995, Section 23 & 24.

Details: The Duchess M is a vessel which operates the Gravesend to Tilbury ferry service. On the evening of the 30th August 2006 the Duchess M was due to commence a voyage from Gravesend to Tilbury. The Port of London Authority (PLA) at Gravesend received a phone call stating that the Duchess M was carrying 90 passengers. On departing Gravesend terminal the Duchess M reported to PLA Gravesend that it was carrying 62 passengers. Observations using CCTV and crew on a nearby PLA launch confirmed that the Duchess M was carrying persons onboard well in excess of the permitted level of 60 passengers plus 2 or 3 crew. Estimates of the number carried as between 90 and 110. The matter was reported to the MCA who started an investigation into the incident which has led to this prosecution.

The owner of the ferry Duchess M pleaded guilty to one offence under the Merchant Shipping (Survey and Certification) Regulations 1995 for allowing the vessel to proceed on a voyage with a greater number of passengers onboard than that stated on the ships Passenger Certificate. In passing sentence the Magistrates made clear that they considered it a very serious offence.

Penalty: Fine £18,000 and Costs of £9,000.

DRUNKEN SHIP'S CAPTAIN IMPRISONED AFTER COLLISION WITH PLATFORM

Defendant: Zbigniew Krakowski

Date of Offence: 3 August 2007

Offence: Charged under the Railway and Transport Safety Act 2004 – over alcohol limits.
Charged under the Petroleum Act 1974 – breaching 500m zone around the gas platform.

Details: The vessel, MV JORK, was a 1922 gross tonne coaster and registered in Antigua and Barbuda. On the 3rd August 2007 she was en route from Germany to the Humber with a cargo of grain. At about 1800 hours she collided with an unmanned gas platform in the Viking field approximately 24 miles off Skegness. At the time of the collision the Master of the MV JORK, Captain Zbigniew Krakowski, was on watch. The vessel began to list heavily and the crew abandoned the vessel. All of the crew were rescued and taken ashore by helicopter. The vessel sank the following day.

Penalty: The Master was sentenced to 6 months on the first charge and 12 months on the second charge, to run concurrently.