

Arca I (2017)

Location: Sydney Mines, Nova Scotia

Case number: 120-702-C1

The Incident

On January 8, 2017, the small Panamanian registered bunkering tanker *Arca I* lost propulsion in heavy sea and swell conditions. The vessel was forced aground about six miles from the entrance to Sydney Harbour, Nova Scotia. The 53-metre double-hull tanker was in ballast with 15 tonnes of propulsion fuel aboard. Once aground, and considering the winter gale warning in effect, the Master decided to abandon ship; Search and Rescue efforts included a Department of National Defence Cormorant helicopter and the Canadian Coast Guard (CCG) ships *Spindrift* and *Earl Grey*. The crew of the *Arca I* were airlifted and transported ashore.

Shortly after the grounding, the owners contracted with their certified oil spill response contractor Eastern Canada Response Corporation Ltd. (ECRC) to provide the services to monitor the vessel and, if necessary, clean any resulting oil spill. The ECRC mobilized a response crew and equipment, while the owner also contracted McKeil Marine Ltd to deploy two tugboats from Sydney Harbour to salvage the vessel from its grounded location and tow it to a port of refuge.

Throughout the week, several attempts to refloat the vessel were made but were unsuccessful due to adverse weather conditions. Finally, on January 15 the *Arca I* was refloated and towed into Sydney Harbour. The hull of the vessel was undamaged and there was no fuel oil pollution other than the previously reported 3.4 litre hydraulic oil sheen observed by the Transport Canada surveillance aircraft.

Measures taken by the Administrator

The vessel was insured by an insurer which was not a P&I Club from the International Group. The Administrator instructed counsel to seek a security, failing which an action *in rem* would be introduced in the Federal Court and the vessel would be arrested, as provided under Section 102 of the *Marine Liability Act*. On February 28, counsel confirmed that the vessel had been arrested. On March 16, 2017, the Administrator accepted the issue of the Bail Bond as security and on March 27, 2017, the executed Bail Bond was filed with the Federal Court and the vessel was released.

The Claim

On March 28, 2017, the CCG on behalf of the Department of Fisheries & Oceans (DFO/CCG) filed a claim with the Administrator in the amount of \$100,649.50 (later reduced by CCG, after a re-evaluation, to \$94,933.65), pursuant to the *Marine Liability Act*.

The Administrator determined that the claim was admissible under Part 7 of the Act.

Assessment and Offer

On April 7, 2017, CCG's Assistant Commissioner for the Atlantic region advised the Administrator's Office that CCG would contact the owner/insurer to settle the claim, and the assessment was put in abeyance. However, on July 21, the CCG requested that the Administrator resume his assessment.

After investigation and assessment of the claim, the Administrator made an offer to the CCG on November 23, 2017. On December 7, 2017, this offer was withdrawn by the Administrator and deemed to be a draft offer open for comment.

On January 25, 2018 the Administrator made a new offer to the CCG for the established amount of \$54,998.13 plus interest. The difference between the claim and the established amount was due to various elements that were disallowed by the Administrator. These included among others, several non-consumable sundry items, as well as the salaries and overtime of certain personnel, which were found to be outside the mandate of the Fund – notably, the cost of communications personnel that provided external communications or internal briefing to the headquarters, was rejected.

The CCG accepted the offer on February 16, 2018, with the caveat that “this acceptance should not be construed as an admission of facts or an agreement with any argument and /or conclusions contained” in the letter of offer.

On or about February 27, 2018, a payment of \$56,878.61 including interest (\$1,880.48) was made to DFO/CCG.

Recovery Action

Upon payment of CCG's claim, the Administrator instructed counsel to seek recovery of this amount with the insurer. On March 15, 2018, counsel advised that a settlement of \$57,000 had been reached with the insurer. On April 5, 2018, the payment of \$57,000 was received.

Status

The file was closed on April 12, 2018.