

61-18-524.13

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

UNITED STATES OF AMERICA)
)
 Plaintiff,)
)
 v.)
)
 M/V ELPIS, (O.M. 4162))
 HER ENGINES, APPAREL, TACKLE,)
 APPURTENANCES, ETC., IN REM,)
 and EFHI Compania Naviera, S.A.,)
 and Tsirikos Panagiotis,)
 in personam,)
)
 Defendants.)

CIVIL ACTION NO.
90-10011-CIV-JLK

STIPULATION OF SETTLEMENT AND RELEASE

IT IS HEREBY STIPULATED AND AGREED by and between the UNITED STATES OF AMERICA, plaintiff, and the M/V ELPIS, EFHI COMPANIA NAVIERA, S.A., and Captain Tsirikos Panagiotis, defendants, through their respective attorneys:

I.

That the forenamed plaintiff and defendants do hereby agree to settle and compromise this civil action pursuant to the terms stated herein.

II.

That the plaintiff UNITED STATES OF AMERICA agrees to accept from the defendants a sum of TWO MILLION THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$2,375,000.00) in full and complete compromise, without interest and without costs, of any and all causes of action held by plaintiff, UNITED STATES OF AMERICA, herein arising in any way from the grounding of the M/V ELPIS within the Key Largo National Marine Sanctuary in November, 1989,

regardless of whether such causes or cause of action are stated, implied, or omitted in the plaintiff's complaint or any amendment thereto.

III.

That defendants agree to pay the sum of TWO MILLION THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$2,375,000.00) in a single check payable to the UNITED STATES OF AMERICA, in full and complete compromise, without interest and without costs, of any and all causes of action held by plaintiff, UNITED STATES OF AMERICA, arising in any way from the grounding of the M/V ELPIS within the Key Largo National Marine Sanctuary in November, 1989, regardless of whether such causes or cause of action are stated, implied, or omitted in the plaintiff's complaint or any amendment thereto, said payment to be allocated in satisfaction of the United States' claims as follows:

A. In settlement of the United States' natural resource damages claims under the Marine Protection, Research, and Sanctuaries Act, 16 U.S.C. § 1443: \$2,075,000.00;

B. In settlement of the United States' forfeiture claim under the Marine Protection, Research, and Sanctuaries Act, 16 U.S.C. § 1437(d): \$100,000.00;

C. In settlement of the United States' civil penalty claim under the Marine Protection, Research, and Sanctuaries Act, 16 U.S.C. § 1437(c): \$100,000.00;

D. In settlement of the United States' claims for pollution

response costs under the Clean Water Act, 33 U.S.C. § 1321:
\$100,000.00.

IV.

In consideration of payment of said TWO MILLION, THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$2,375,000.00), the UNITED STATES OF AMERICA, all its agencies, and parts, First Parties, remise, release, acquit, satisfy, and forever discharge the M/V ELPIS, her owners, operators, managers, agents, charterers, master, officers, and crew, including but not limited to EFHI COMPANIA NAVIERA, S.A.; ADELFA SHIPPING ENTERPRISES, S.A.; ALPINE BULK TRANSPORT, INC.; E.D. & F. MAN (SHIPPING), LTD.; E.D. & F. MAN (SUGAR), LTD.; CAPTAIN TSIRIKOS PANAGIOTIS and CHIEF OFFICER NIKOLAOS LAZOS, and their respective protection and indemnity associations/insurers, including but not limited to the Sunderland Steamship Protecting and Indemnity Association, Second Parties, of and from all, and all manner of, action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, executions, claims, and demands whatsoever, in law, in admiralty, or in equity, which the First Parties ever had, now have, or which any personal representative, successor, heir, or assign of said First Parties, hereafter can, shall, or may have, against said Second Parties, for, upon, or by reason of the grounding of the M/V ELPIS within the Key Largo National Marine Sanctuary in November, 1989.

V.

That the plaintiff agrees to dismiss, with prejudice, this civil suit against defendants.

VI.

That this is a settlement compromise of disputed claims and shall not be, and shall not be construed to be, an admission of any obligation or liability by the Defendants, their agents, officers, employees, servants, representatives, insurers, related companies and/or successor companies, by whom this obligation or liability is expressly denied.

VII.

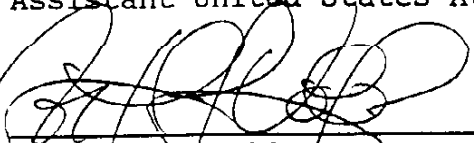
That the persons whose signatures are subscribed hereto so act as counsel for the parties noted and warrant that such signatures are subscribed hereto with full authority to compromise and settle all interests of the parties whom such counsel purport to represent herein.

Dated: July 26, 1991

STUART M. GERSON
Assistant Attorney General

DEXTER W. LEHTINEN
United States Attorney

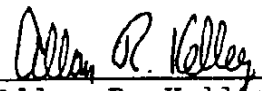
B.J. THRONE-CONTE
Assistant United States Attorney



Arthur J. Volkle Jr.
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
Post Office Box 14271
Washington, D.C. 20044-4271

Counsel for Plaintiff

Dated: ~~July~~ August 14, 1991.



Allan R. Kelley, Esq.
Fowler, White, Burnett,
Hurley, Banick &
Strickroot, P.A.
Courthouse Center
175 N.W. First Ave.
Miami FL 33128

Counsel for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 90-10011-Civ-King

UNITED STATES OF AMERICA,

Plaintiff,

vs.

M/V "ELPIS", (O.N. 4162)
her engines, apparel, tackle,
appurtenances, etc., in rem,
EPHI COMPANIA NAVIERA, S.A.,
Tsirikos Panagiotis, and E.D.F.
MAN (Shipping), Ltd., in personam,

Defendants.

STIPULATION FOR DISMISSAL

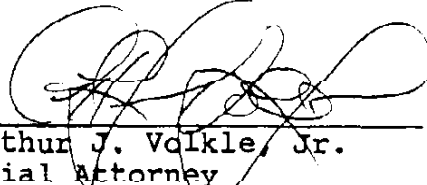
COME NOW the parties herein, by and through their under-
signed attorneys, and hereby stipulate and agree that all matters
and differences in dispute heretofore existing in the above-
styled cause have been settled, compromised, adjusted, released,
and discharged, with each party to bear its own attorney's fees,
costs and expenses. It is further stipulated and agreed that all
letters of undertaking and bonds posted herein may be discharged.

WHEREFORE, the parties pray that the Court enter an Order
dismissing this cause with prejudice with each party to bear its
own attorney's fees, costs, and expenses, discharging all letters
of undertaking and bonds posted herein, and releasing the prin-

cipals and sureties from any further liability on such bonds and letters of undertaking.



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 90-10011-Civ-King

UNITED STATES OF AMERICA,

Plaintiff,

vs.

M/V "ELPIS", (O.N. 4162)
her engines, apparel, tackle,
appurtenances, etc., in rem,
EFHI COMPANIA NAVIERA, S.A.,
Tsirikos Panagiotis, and E.D.F.
MAN (Shipping), Ltd., in personam,

Defendants.

ORDER OF DISMISSAL

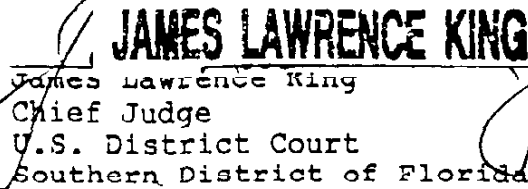
THIS CAUSE came before the Court on this date upon a Stipulation for Dismissal by and between the parties herein, by and through their respective counsel, wherein and whereby it was stipulated and agreed that all matters and differences in dispute heretofore existing in the above-styled cause have been settled, compromised, adjusted, released, and discharged, and that the cause should be dismissed with prejudice with each party to bear its own attorney's fees, costs and expenses, and the Court being otherwise duly and fully advised in the premises, it is

ORDERED AND ADJUDGED that this cause be and the same hereby is dismissed with prejudice with each party to bear its own attorney's fees, costs and expenses. It is

CASE NO. 90-10011-Civ-King

FURTHER ORDERED AND ADJUDGED that all letters of undertaking and bonds posted herein be and the same are hereby cancelled and their principals and sureties released from any further liability thereon.

DONE AND ORDERED in Chambers at Miami, Dade County, Florida, this 16 day of July, 1991.


JAMES LAWRENCE KING
James Lawrence King
Chief Judge
U.S. District Court
Southern District of Florida

Copies furnished to:

Allan R. Kelley, Esq.
Arthur J. Volkle, Jr., Esq.