

CLAIM SUMMARY / DETERMINATION ON RECONSIDERATION

Claim Number:	N14026-0002
Claimant:	Princess Cruise Lines, Ltd.
Type of Claimant:	BUSINESS
Type of Claim:	Loss of Profits and Impairment of Earnings Capacity
Claim Manager:	██████████
Amount Requested:	\$3,886,000.00

Incident:

On March 22, 2014, at about 1235 central daylight time, the Tug MISS SUSAN was pushing two barges from Texas City to Port Bolivar on the eastern side of the Houston Ship Channel. The bulk carrier M/V SUMMER WIND with a Houston pilot on board was headed north, inbound from the Gulf of Mexico toward Houston. The SUMMER WIND and the forward barge, KIRBY 27706, collided in the Houston Ship Channel causing a discharge from the barge. The barge discharged heavy marine fuel oil into Lower Galveston Bay at the Texas City Y, the intersection of the Texas City Ship Channel and the Houston Ship Channel. Coast Guard Marine Safety Unit Texas City initially responded. On the same day, the CG closed the Houston Ship Channel, the Texas City Ship Channel, and the Intracoastal Waterway in the area. The waterways were reopened to commercial traffic in the early afternoon on March 25, 2014.

The identified responsible party (RP) is KIRBY INLAND MARINE LP (Kirby or RP), as owner and operator of the KIRBY 27706.

Claimant:

The Claimant, Princess Cruise Lines, Ltd. (Claimant or Princess), is a passenger cruise line that operates the CARIBBEAN PRINCESS out of the port of Houston, sailing on Caribbean cruise itineraries.

RP Presentment:

The Claimant initially presented its claim to the responsible party via letter dated April 21, 2014, seeking \$3,228,000 in damages and expenses. The demand letter was two pages plus a summary of the claimed damages with no details or supporting documentation. In response, the RP requested information and documentation from the Claimant via four separate letters in 2014 and 2015. The Claimant provided no responsive information or documentation. Then, via letter dated February 19, 2016, Princess submitted its lost profits claim for \$3,886,000 to the Oil Spill Liability Trust Fund (OSLTF or Fund). The claim was received by the NPFC on February 24. Because the Claimant had not properly presented its sum certain or supporting documentation to the RP, the NPFC required Princess to submit its increased claimed sum certain and documentation to the RP. According to the RP's attorney, Kirby received the increased claim along with some documentation on March 11, 2016. The parties have been communicating regarding the claim ever since.

Procedural History

On September 22, 2016, the NPFC issued its decision to Princess, offering \$360,668.48 as full compensation for the claim. The remaining balance of \$3,525,331.52 was denied for reasons explained in that determination.¹ The Claimant's attorney, [REDACTED] at Fowler Rodriguez, emailed his letter to the NPFC on October 21, 2016, in which the Claimant requested reconsideration of the NPFC's initial decision.

On April 5, 2017, the NPFC received notice from Princess' attorney that Kirby settled Princess' claim for damages relating to the incident.² Both Kirby and Princess stated that the terms of the settlement are confidential.

DETERMINATION:

The Claimant notified the NPFC that it reached settlement of its claim with Kirby on April 5, 2017, and no longer seeks reimbursement of losses from the OSLTF. The Claimant requested that its claim be dismissed with prejudice. Having been compensated for its losses, Princess no longer has a compensable claim before the Fund. Therefore, the NPFC denies the claim.

Claim Supervisor: [REDACTED]

Date of Supervisor's review:

4/6/17

Supervisor Action: ***Denial Approved***

Supervisor's Comments:

¹ See initial Claim Determination.

² See email from [REDACTED] dated April 5, 2017.