MCIB
Marine Casualty Investigation Board

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REPORT OF INVESTIGATION INTO FATAL INCIDENT ON BOARD MV "ARKLOW WILLOW" AT KINGS DOCK, SWANSEA, WALES, 2nd DECEMBER 2007

The Marine Casualty Investigation Board was established on the 25th March, 2003 under The Merchant Shipping (Investigation of Marine Casualties) Act 2000

REPORT No. MCIB/154

Report MCIB/154 published by The Marine Casualty Investigation Board
7th October 2009

CONTENTS

1. SYNOPSIS

1.1 At approximately 03.30 hrs. on the morning of 2nd December 2007 on board the Irish Registered Vessel MV "Arklow Willow" at Kings Dock, Swansea, Mr. Brian Daly, a Trainee Cadet went missing while on duty.

1.2 Approximately three days later on 5th December 2007 his body was recovered from the dock.

1.3 A post mortem examination found that the cause of death was drowning.

2. FACTUAL INFORMATION

2.1 Mr. Brian Daly was 20 years old at the time of his death. He was Irish and a native of Co. Offaly and was the second eldest of a family of four boys.

2.2 He joined the MV "Arklow Willow" at Aughinish as a Deck Trainee (Seamanship Programme) on 29th October 2007 just over a month prior to his death.

2.3 Mr. Daly had previously attended the National Maritime College of Ireland (Ringaskiddy) for a year as a student of Nautical Science and further attended a Pre-Sea Induction Course from 17th September to 29th October 2007.

2.4 There were 13 crewmembers on board at the time of the incident: Master (British); Chief Officer; 2nd Officer; Chief Engineer; Second Engineer; Bosun; Cook; 3 Able Seamen (Polish); Engineer Cadet and 2 Deck Cadets.

Vessel Details

Name of Vessel:	MV "Arklow Willow".
Registered Owners:	BBS Bulk V Ireland Limited, The Yard House, Kilruddery Estate, Southern Cross Road, Bray, Co. Wicklow.
Technical Manager/ Operators:	Arklow Shipping Limited, North Quay, Co. Wicklow.
Gross Tonnage:	8935
Net Tonnage:	4815
Year of Build:	2004, Japan
Length O.A.	136.40 metres
Breadth:	21.60 metres
Load Draft:	8.35 metres
IMO No.	9314600

3. EVENTS PRIOR TO THE INCIDENT

3.1 The MV "Arklow Willow" arrived at Kings Dock, Swansea on Friday 30th November 2007 to discharge a cargo of cement which was loaded at Aalborg, Denmark.

3.2 Mr. Daly worked from 14.00 hrs. until 20.00 hrs. on 1st December 2007 as part of his gangway watch and cargo duties. Mr. Daly was due back on duty at 02.00 hrs. on 2nd December 2007.

3.3 Mr. Daly worked on watch at night with the Second Officer at sea.

3.4 Mr. Daly went ashore with Mr. Michael Doherty (Engineer Cadet) at approximately 21.00 hrs. on 1st December 2007. According to Mr. Doherty both he and Mr. Daly had a beer before they went ashore. According to Mr. Doherty, the Chief Officer knew they were going ashore and they also saw the Chief Engineer before leaving.

3.5 Mr. Daly returned to the vessel between 02.30 hrs. and 02.45 hrs. on 2nd December 2007.

3.6 According to the Second Officer, Mr. Tomasz Zajaczkowski, he organised for a shift of the vessel in order for the cargo discharge spout to be realigned. On completion of the vessel shift he and the other Deck Cadet Mr. Edgars Embergs both met Mr. Daly at the gangway.

3.7 Mr. Daly, soon after his return, changed into his working gear (orange coveralls, high visibility jacket, working shoes and a woolly hat) and reported to the Second Officer at the gangway at about 03.00 hrs. He apologised to Mr. Embergs for being late.

3.8 As it was raining and there were no cargo operations taking place the Second Officer left Mr. Daly at the gangway area at about 03.10 hrs. and went to the Navigational Bridge to do some tasks. He left instructions with Mr. Daly to call him if the rain stopped.

3.9 According to the Second Officer, he went to the mess room about twenty minutes to a half an hour later (about 03.40 hrs.) to make a cup of tea. He proceeded to the top of the gangway area and noticed a can of soft drink on the deck and nearby there was a packet of cigarettes on the port side vent cover (see Appendix 6.2). The Second Officer said he noticed earlier that Mr. Daly had a can of soft drink with him. There was no sign of Mr. Daly. The Second Officer said he saw what he thought at the time was a rag on the quayside but was later found to be the woolly hat of Mr. Daly.

3.10 The Second Officer said he started to look around the vessel for Mr. Daly and looked towards the quayside but could not see him. He said he then went into the accommodation and met Mr. Doherty in the messroom and said he asked Mr. Doherty if he had seen Mr. Daly. According to the Second Officer, Mr. Doherty said he had not seen Mr. Daly.

3.11 The Second Officer stated that he went on the quayside about 03.50 hrs. and found the woolly hat. The Second Officer at this time spoke to the stevedores ashore to check if they had seen Mr. Daly. At about 04.00 hrs. the Second Officer woke the other Deck Cadet, Mr. Embergs and asked him if Mr. Daly was in his cabin but there was no one else present.

3.12 According to the Second Officer at about 04.30 hrs. he woke up the Chief Officer in order to get a master pass key to access the cabin of Mr. Daly, which was found empty. At this time the Second Officer first considered that Mr. Daly may have fallen overboard.

3.13 At around 05.00 hrs. to 05.10 hrs. the Second Officer again called the Chief Officer and told him he was going to call the Master.

3.14 A complete search of the ship and waters near the ship was made.

3.15 The Master decided to wait to see if Mr. Daly had gone ashore again. At about 14.50 hrs. on 2nd December 2007 the Master called the Company (Arklow Shipping Limited) and also called Swansea Police to notify them that Mr. Daly was missing.

3.16 Mr. Daly's body was recovered from the water on 5th December 2007.

4. FINDINGS/CONCLUSIONS

4.1 According to what is known there are no witnesses as to how Mr. Daly ended up in the water. The Police at Swansea do not suspect foul play.

4.1.1 According to the Second Officer the wind was blowing from forward to aft and slightly onshore which kept the vessel hard to the quay. This would make it unlikely, that Mr. Daly fell between the ship and shore. However, as the cargo being discharged was cement, there is a possibility that the deck may have been slightly slippery when damp with rain. The MV "Arklow Willow" is constructed so that in the normal course of events, whilst the vessel is alongside in port (and at sea), that it is improbable that anyone can fall over the side. However, if for whatever reason one chooses to go to certain areas of the vessel such as near the liferafts or climb onto bulwarks then it is possible that one could fall overboard. A person is in more danger of falling overboard in areas where chain rails are in place e.g. near liferafts (see Appendix 6.3).

4.1.2 The fact that the woolly hat of Mr. Daly was found on the shore may indicate that he fell from the quayside into the water.

4.1.3 The results of the post mortem examination indicate that the alcohol level in Mr. Daly's body was at a level "*expected to have a detrimental effect on motor and cognitive function*." (see Appendix 6.4). There were no additional positive toxicological findings.

4.1.4 According to the Master, he controlled the sale of alcohol on board. Up to this time Mr. Daly had purchased one case of beer (24 per case) since joining the vessel.

4.1.5 According to Arklow Shipping Limited, the operators of the vessel, they have Company Standing Orders which are part of their International Safety Management (ISM) system. The following Standing Order is in place regarding drunkenness:

"*The Master shall report promptly to the Owners or Arklow Shipping Limited any case of drunkenness or drug taking, theft or violence on the part of any Officer or any member of the Ship's Company. Every individual occurrence whilst on duty and persistent occurrences off duty shall be recorded in the Official Log Book to provide evidence to the Department of Communications the Marine and Natural Resources. Being under the influence of any drug or drink whilst on duty will in all cases constitute gross misconduct which shall warrant immediate dismissal without notice.*"

In the introduction to their Standing Orders the following paragraphs are noted:

"The Master and each Officer must make themselves thoroughly conversant with, and comply with, the requirements of this Handbook, the Company's

Fleet Memos and with all laws, regulations and directions which may apply to him and/or to the vessel, from time to time and place to place. They must all be strictly observed and complied with. It is each Officer's duty to read this handbook and the Company's Fleet Memos on joining the vessel and thereafter on every occasion when signing on and changing rank. The Master is responsible for ensuring that this requirement is complied with together with the other requirements of this Handbook and the Company's Fleet Memos."

4.1.6 Mr. Daly attended a Pre-Sea Induction Course at the National Maritime College of Ireland (NMCI) from 17th September to 29th October 2007. According to an NMCI lecturer the dangers of drinking excessively whilst on board are highlighted at this time.

4.1.7 On 10th October 2007 as part of Mandatory Basic Training, Mr. Daly completed and was issued with a Certificate of Proficiency in Personal Safety and Social Responsibility at the NMCI. Part of the course leading to issue of this certificate deals with the dangers of drug and alcohol abuse.

4.1.8 On 19th November 2007 Mr. Daly signed a Ship Specific Shipboard Familiarisation Checklist indicating that he had read the Company literature on the Drug and Alcohol Policy.

4.1.9 According to Arklow Shipping Limited they met Mr. Daly at the NMCI in October 2007 and completed an interview record with him which mentions the Company's Policy regarding drugs and alcohol.

4.1.10 Arklow Shipping Limited indicate that they have an active testing system for alcohol in place and over a hundred tests were carried out in 2008.

4.1.11 The Drug and Alcohol Policy of Arklow Shipping Limited indicates that consumption of alcohol is prohibited before any scheduled work period.

4.1.12 According to Arklow Shipping Limited, if the procedures as specified in their Standing Orders had been followed Mr. Daly would have been dismissed from the vessel.

4.2 The exact circumstances of the death of Mr. Daly are unknown.

4.2.1 Despite Pre-Sea Training and Onboard Familiarisation Training Mr. Daly did not comply with guidance or Company Standing Orders when he reported for duty after consuming alcohol. As per the Safety, Health and Welfare at Work Act, 2005:

"an employee shall, while at work ensure that he or she is not under the influence of an intoxicant ("intoxicant" includes alcohol and drugs and any combination of drugs or of drugs and alcohol) to the extent that he or she is in such a state as to endanger his or her own safety, health or welfare at work or that of any other person."

4.2.2 The Company's Policy with respect to alcohol consumption was not effective. In order for the system to be effective it has to be implemented in a positive manner. There should have been no doubt in the mind of Mr. Daly that when he came back on board that he would have not been allowed go on duty, that the matter would be reported to the Master who would have reported it to the Company who would have taken appropriate disciplinary action. As per the Safety, Health and Welfare at Work Act, 2005 the employer's duty extends a number of particular listed items and includes:

"managing and conducting work activities in such a way as to prevent, so far as is reasonably practicable, any improper conduct or behaviour likely to put the safety, health or welfare at work of his or her employees at risk."

5. RECOMMENDATIONS

5.1 It is recommended that the Department of Transport highlight the danger of the consumption of alcohol by Masters and crews of any vessel. The Department should consider the promotion of legislation to introduce a breath test. The legislation should set maximum blood alcohol levels for seafarers on duty.

5.2 The International Maritime Organisation has also addressed this issue. Section B of the 1995 revised International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW 78/95) includes the following:

"Drug and alcohol abuse directly affects the fitness and ability of a seafarer to perform watchkeeping duties. Seafarers found to be under the influence of drugs or alcohol should not be permitted to perform watchkeeping duties until they are no longer impaired in their abilities to perform those duties."

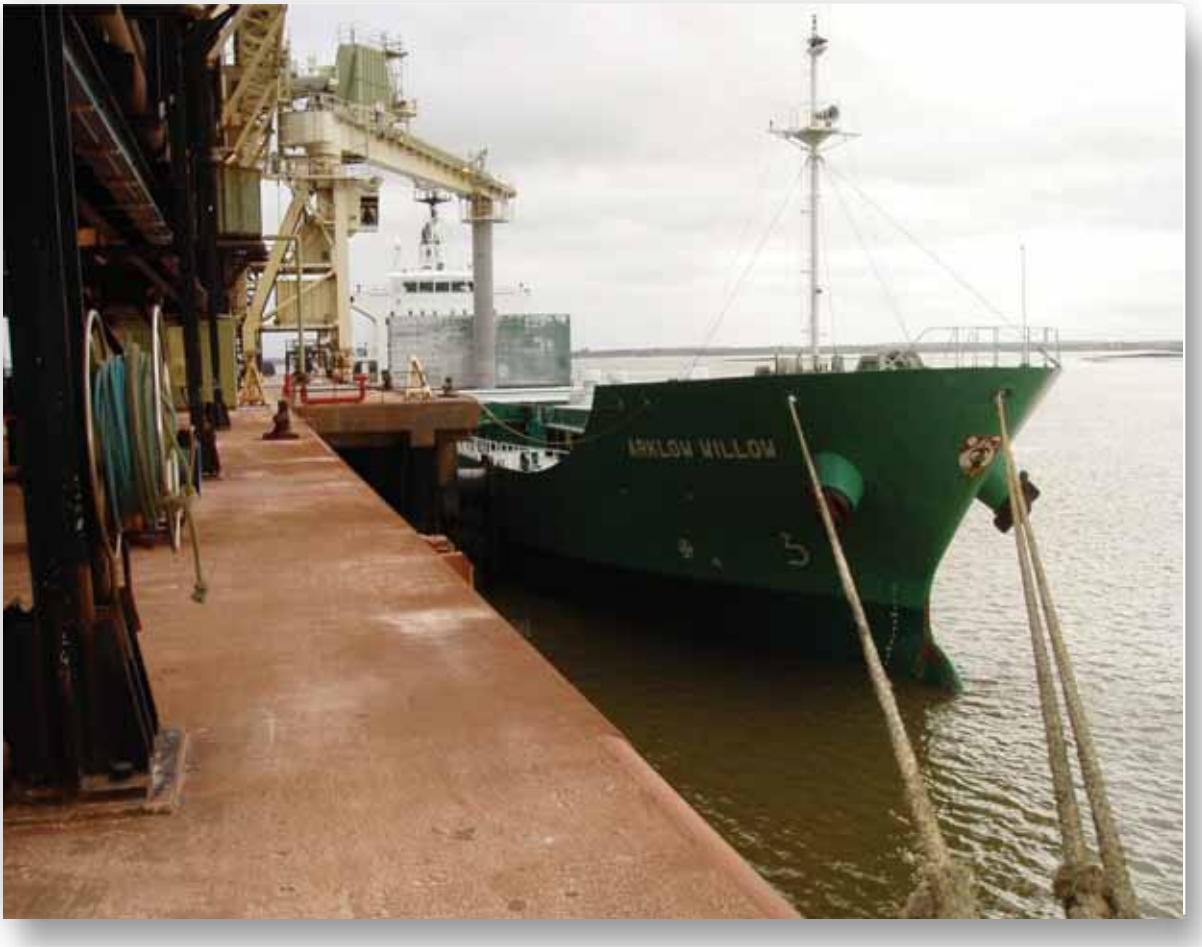
STCW 78/95 came into effect in February 1997. Administrations (including Ireland) are asked to consider developing national legislation prescribing a maximum of 0.08% blood alcohol level (i.e. 80 milligrammes of alcohol in 100 millilitres of blood) during watchkeeping duty as a minimum safety standard on their ships and prohibiting the consumption of alcohol within 4 hours prior to serving as a member of a watch. Adequate measures should be taken to prevent alcohol and drugs from impairing the ability of watchkeeping personnel and administrations should establish screening programmes.

5.3 In the absence of legislation, shipping companies should provide onboard alcohol test kits to conduct both random alcohol tests, and tests on other occasions when called upon to do so in accordance with company policy.

5.4 Companies should review their alcohol and drug policies. Clear policies should be set out in writing and kept on board to deal with the situation when a vessel is in port and where crewmembers take shore leave. Companies should monitor the effectiveness of such a policy.

6. LIST OF APPENDICES

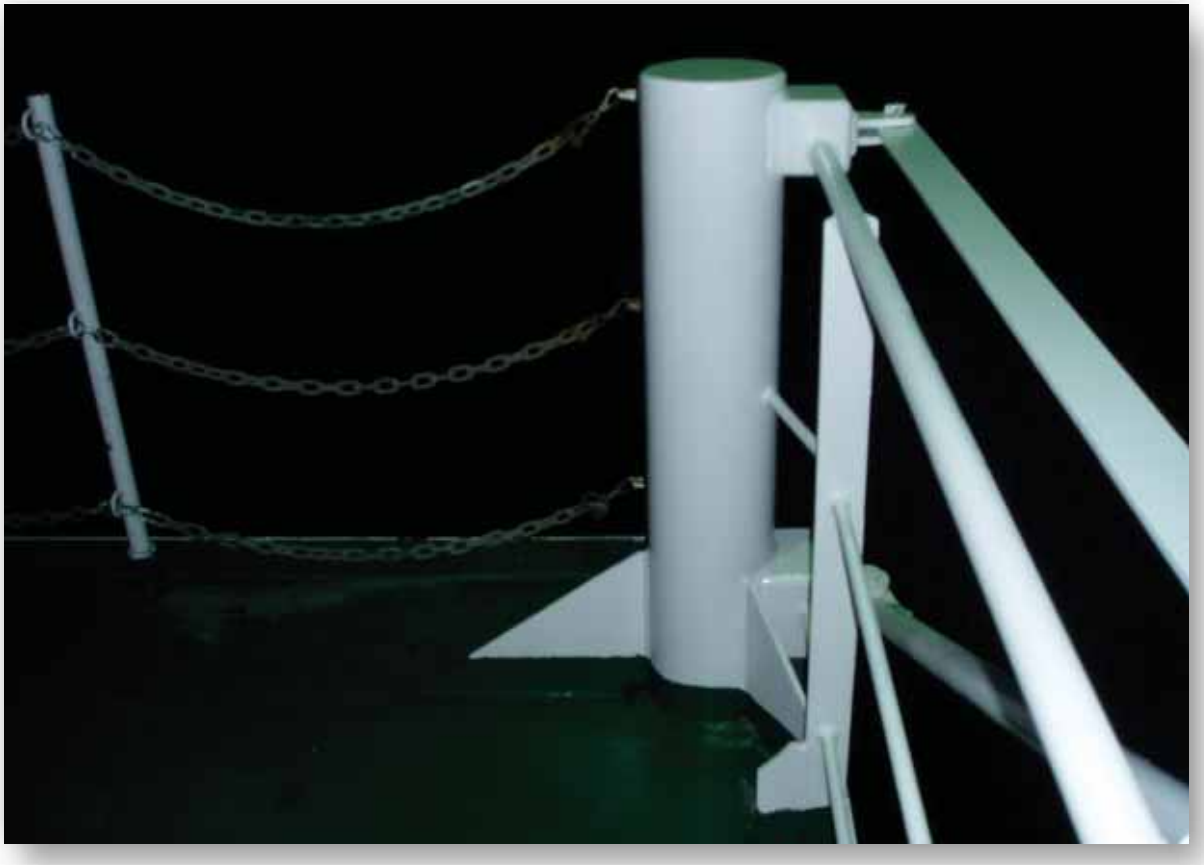
Appendix 6.1 Photograph of MV "Arklow Willow" alongside at Aughinish.



APPENDIX 6.2

Appendix 6.2 Photograph - port side vent cover where Mr. Daly's cigarettes were found.

Appendix 6.3 Photograph of area where chain rails are in place e.g. on upper deck port side.



Appendix 6.4 Toxicology Report – Sheffield Teaching Hospitals.

Sheffield Teaching Hospitals NHS
NHS Foundation Trust

S MORLEY MD, MRCP, MRCPath
Consultant in Clinical Chemistry
Direct Line No: **0114 271 3905**
Fax No: **0114 226 1043**

SM/CAS 16 January 2008

Report concerning the death of Brian Cornelius DALY (aged 20 years)

To:	Mr P Rogers	H M Coroner	West Glamorgan
Copy:	Dr M Brotto	Consultant Histopathologist	Singleton Hospital

Sample dated: 10.12.07
STH Lab Number: 54/08
Report issued: 16.01.08

	Blood	Urine
Ethanol	156mg/100ml	230mg/100ml
Paracetamol	Not detected	-
Salicylate	Not detected	-
Opiates	-	Not detected
Benzodiazepines	-	Not detected
Barbiturates	-	Not detected
Cannabinoids	-	Not detected
Methadone	-	Not detected
Cocaine metabolites	-	Not detected
Phenethylamine group	-	Not detected

There were no additional toxicological findings in blood or urine by gas chromatography/mass spectrometry.

Comments: The alcohol is at a level expected to have a detrimental effect on motor and cognitive function.

No other significant toxicological findings.

S MORLEY MD, MRCP, MRCPath

Cost Band: E	Total No of Tests: 13	Total Cost: £270

Reproduced by permission of H.M. Coroner for the City and County of Swansea.

9. LIST OF CORRESPONDENCE RECEIVED

William and Susan Daly
Willow Lodge
Tichy Hill
Rhode
Co Offaly.

We refer to your draft report concerning the circumstances surrounding the death of our son Brian on 2nd of December 2007 on board the MV "Arkelow Willow". We would like to thankyou for the opportunity to respond to the draft findings and we wish to make the following comments/observations We take no issue with the first three parts of the report as follows, Synopsis, Factual Information and The events prior to the incident. In Paragraph 4.1.3 of the report you make reference to the post mortem examination results which indicated that the alcohol level in Brian's body was such that it would have been "expected to have a detrimental effect on motor and cognitive function". We feel that this is too vague to be included in the report. As far as we are aware the amount of alcohol in Brian's system is known and you should deal with the actual amount or omit this comment from the report. Our information is that the amount of alcohol found in Brian's body was somewhere in excess of the British drink driving limit which we think equates to one or two drinks. We also feel that the second sentance of paragraph 4.1.4 is gratuitous and superfluous to your investigation. The fact that Brian may have bought a case of beer since he arrived on the boat in 2007 has in our view no bearing on your investigation to ascertain the facts. The case of beer may have been consumed long before

the date of 2nd of December or in fact it may not have been consumed at all before this date. In any event we feel that this sentence should be omitted as its only effect is to link out son with the consumption of alcohol on the night of his tragic death. In paragraphs 4.1.5 to 4.1.12 you deal with Company Policy, Procedures and Training of Arklow Shipping Limited in relation to the consumption of alcohol by the ships crew. We have no objection to you highlighting company policy concerning alcohol consumption however we feel this leads to a general imbalance in the report, in that other factors that could have played a part in Brian's tragic death have been overshadowed and effectively excluded.

The Recommendations paragraphs 5.1 to 5.4 only serve to emphasise this in that they deal only with alcohol related matters. The other factors we feel should be included in the report are as follows. The weather conditions that night were bad. It was pouring heavily and there were high winds and underfoot conditions would clearly have been slippery. We feel that this issue is not dealt with in the report in sufficient depth. Despite being a trainee Brian was left on duty in these conditions on his own. We would like to know if this was keeping with procedures and if so are these procedures adequate? In addition you make no comment on the advisability of a trainee being left to go off the boat at 9pm which we consider to be prime pub/nightclub time when he was due to go back on duty at 2:00 am. While you state in Paragraph 4.2.2. "The company policy with effect to alcohol consumption

was not effective" you have not dealt with the issue of Brian being allowed back on duty by the second officer if he was under the influence of alcohol. If Brian had been suspended from duty the accident would not have happened. Accordingly the breakdown in company procedures should be addressed in your report.

We feel that the emphasis in your report places the exact circumstances of Brian's death as unknown yet we feel that the thrust of your report is placing all the emphasis on Brian's alcohol consumption with little weight been given to the other factors. We feel that this approach is unbalanced and we ask that you address these other factors in your report. We request that our submissions get published and appear in the Appendices of your report.

We await hearing from you in due course

William and Susan Daly.

MCIB RESPONSE

The MCIB notes the contents of this response and has made amendments as required.

The MCIB wishes to make the following points.

a) The alcohol level is as found in the Toxicology Report.

b) The MCIB believes that the report is not imbalanced in highlighting the alcohol issue.

c) Whilst there are issues relating to bad weather it should be pointed out that the MV "Arklow Willow" was berthed, no cargo work was being carried out and that the Second Officer was nearby on the navigational bridge.

d) Mr. Daly was twenty years old, had undergone pre-sea training and had signed to confirm that he had completed shipboard familiarisation and was aware of company policy. Therefore it is unreasonable to expect that he would have been prevented from going ashore at 9 pm.

e) The comment that "if Brian had been suspended from duty the accident would not have happened" is correct. However, this is hindsight. The matter is covered in point 4.2.2.

South Wales Police Heddlu De Cymru

Working with the Community
Cydweithio Gyda'r Gymuned

CHIEF CONSTABLE BARBARA WILDING, CBE,QPM,CCMI,FRSA PRIF GWNSTABL

Direct Line/Llinell Uniongyrchol: 01792 450605
Extention No./Rhif Estyniad: 01792 456999 Ext: 52 409

Date: 3rd June 2009

Marine Casualty Investigation Board
Leeson Lane
DUBLIN 2

Marine Casualty Investigation Board
5 JUN 2009
Bord Imscrúdú Tasimi Muiri

Ref: MCIB/154

Thank you for you letters dated 24th April 2009 and 19th May 2009 in respect of the Incident on Board the MV Arklow Willow on 2nd December 2007.

I have no comment or observation to make in respect of this matter.

Peter AZZOPARDI DCI 1449
Cockett Police Station
John Street, Cockett,
Swansea SA2 OFR.

Direct line: 01792 450605

MCIB RESPONSE
The MCIB notes the contents of this letter.

For the attention of -

Ms Teresa Walsh, secretariat, Marine Casualty investigation board.

Good day. I offer an apology for delay to confirm Draft report into incident on board MV Arklow Willow on 2nd December 2007.
Please be informed that in connection with sea time I am doing during this time of year - I couldn't send immediate answer to present Draft report.
The present letter serves to inform you, that I have been credibly informed and referring to this Draft report fully read and understood all information about investigation into incident on Board Arklow Willow at Swansea dock on December 2007.
Due to the fact that I do not have any rewards, comments or observations to make on this draft report - I am concordant to all information you have been given me on this Draft report.

Best regards:
Edgars Embergs.

Marine Casualty Investigation Board
5 JUN 2009
Bord Imscrúdú Tasimi Muiri

X

MCIB RESPONSE
The MCIB notes the contents of this letter.

18th May, 2009

Jerzy Adamski

Poznańska
str. 25/4,
84 - 230
Rumia,
Poland.

Ms. Teresa Walsh,

Secretariat,
Marine Casualty Investigation Board,
Leeson Lane,
Dublin 2.

Re: **DRAFT REPORT INTO INCIDENT ON BOARD m/v " ARKLOW WILLOW "
AT SWANSEA DOCK, WALES ON 02/12/2007.**

I would like do draw your attention to 3.1 EVENTS PRIOR TO THE INCIDENT :
.....discharge a cargo of cement which was loaded at the Danish Port of Alborg.

Eventually I have no additional findings, comments or observations to offer concerning
the DRAFT REPORT.

Yours faithfully

Jerzy Adamski
Chief Officer

Marine Casualty Investigation Board
28 MAY 2009
Bord Imscrúdú Tasimi Muiri

MCIB RESPONSE
The MCIB notes the contents of this letter and has made the necessary change.

I have no comments or observations to make on this draft Report.

Signature: Michael Doherty

Marine Casualty Investigation Board
15 MAY 2009
Bord Imscrúdú Tasimí Muirí

MCIB RESPONSE
The MCIB notes the contents of this letter.

Arklow Shipping Limited

NORTH QUAY, ARKLOW, CO. WICKLOW, IRELAND
TELEPHONE: +353 (0) 402 39901. TELEFAX: +353 (0) 402 39902. EMAIL: chartering@asl.ie

Your ref: MCIB/154

12th May 2009

John G. O'Donnell, B.L.
Chairman
Marine Casualty Investigation Board
Leeson Lane
Dublin 2

RESPONSE to DRAFT Report into incident on board MV Arklow Willow on 2nd December 2007

Dear Mr. O'Donnell,

After reviewing your draft report into the incident on board Arklow Willow I have the following corrections and/or comments to submit for your consideration.

1. Synopsis: No Comments

2. Factual Information:

2.2 Mr. Daly joined Arklow Willow as Deck Trainee, not Deck Cadet

2.3 Mr. Daly previously attended NMCI for a year as a student of Nautical Science. He further attended NMCI from 17th Sept to 29th Oct 2007 for Pre Sea Induction Course

Vessel Details:

Owners: Ownership of Arklow Willow passed from Coastal Shipping PLC to BBS Bulk V Ireland on the 25th July 2007

At the time of this incident Registered Owners were BBS Bulk V Ireland Limited
The Yard House
Kilruddery Estate
Southern Cross Road
Bray
County Wicklow

3. Events Prior to the Incident

3.1 The cargo of cement was loaded at Aalborg, Denmark, not Marseille.

4. Findings/Conclusions (Suggested amendments)

4.1.12 "..... Mr. Daly **could** have been dismissed

4.2.2 The Company's Policy with respect to alcohol consumption was not effective, **in this case**.

5. Recommendations

5.2 With reference to Blood Alcohol Level (80mg alcohol/100ml blood) it should be noted that in other jurisdictions different levels of blood/alcohol are enforced e.g. Norway where zero is the only acceptable level and crewmembers on ships trading in these jurisdictions must comply with the acceptable national level.

5.3 Regarding the carriage of alcohol test kits on board. The company did consider the carriage of these kits, but after some research of suppliers and other shipping companies, which highlighted such problems as reliability of test equipment, adequate training in the use of test equipment and claims of victimisation, it was decided that it was more equitable for all on board when external contractors were employed to perform random drug and alcohol tests on all crewmembers, including Master and Officers, when a vessels is chosen for test

Yours sincerely,

David J. Elliott
Marine Superintendent
Arklow Shipping Limited

Marine Casualty Investigation Board
14 MAY 2009
Bord Imscrúdú Tasimi Muirí

MCIB RESPONSE

The MCIB notes the contents of this letter and has made the necessary factual changes.