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The Law of Logbooks

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Federal law governs countless aspects of the maritime industry. It should come as no surprise then, that vessel logbooks have not escaped government regulation. This article explains some of the laws applicable to official vessel logs and the ramifications of non-compliance with them.

The Vessels Required to Have a Log

Title 46 of the United States Code sets forth the two categories of vessels required to maintain an official log: 1) a vessel on a voyage from a United States port to a foreign port (except a Canadian port); and 2) a vessel in excess of 100 gross tons on a voyage between a United States port on the Atlantic Ocean and a United States port on the Pacific Ocean. As a courtesy, blank logbooks are available free of charge from the United States Coast Guard. They can be obtained via an internet request. A master of a vessel that is required to maintain a log, who fails to maintain a log, is liable to the government for a civil penalty of \$200.

The Required Contents of the Official Log

Federal law also specifies what entries a vessel's master must make in the official log and when time-wise, the entries must be made. Contrary to what might be expected, federal statutory law does not require the official log to contain entries about the weather and/or sea conditions encountered by the vessel, the vessel's geographic position, or the vessel's work. Rather, the master must make entries about such things as pre-departure testing of the steering gear and propulsion systems, fire and boat drills, draft markings, hatch checks, and testing of lifeboat winches. The master must also make entries about the vessel's crew including among other things, convictions and punishments, deaths and illnesses, and the name of each seaman whose employment is terminated and the circumstances thereof. Finally, the official log must contain information about marine casualties. Some types of vessels, such as tankers and passenger vessels, have more particularized requirements for log entries.

United States federal statutory law does not require entries in the official log pertaining to navigation of the vessel. However, an international treaty to which the United States is a signatory, the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, does. It requires a proper record of the movement and activities during the watch relating to the navigation of the ship.

In addition to what must be put in the official log, federal statutory law dictates when and how the entries must be made. As a general rule, the log entries must be made as soon as possible after the occurrence of the event being entered. If the entry is not made on the date the event occurred, the entry must be dated and state when the event did occur. If an event being entered is about something that happened before the vessel arrived at the final port of discharge, the entry must be made within twenty-four hours after arrival.

Each entry in the official log must be signed by the master. It must also be signed by the chief mate or another seaman. A master failing to make the required entries in the official log is liable to the government for a civil penalty of \$200. Moreover, a person making an entry in the log more than twenty-four hours after the vessel's arrival at the final port of discharge, about something that happened before that arrival, is liable to the government for a civil penalty of \$150.

Commercial vessels and naval vessels often maintain a draft or "rough" log. The entries from the rough log are later put into the official or "smooth" log. Changes may be made in the "rough" log. However, entries in a vessel's official log should be made in ink and without erasures. If an entry in the official log must be corrected, it should be stricken with a single line and remain



legible. The correction should be initialed by the person required to sign the log for that watch.

Presumption of Accuracy and Binding Effect of Log Entries

As a general rule, entries made in a vessel's official log by the vessel's officers are binding on and considered an admission against the interest of the vessel owner. If the entry is made by someone who should have knowledge of the facts or an opportunity to determine the true facts, it will be held binding on the vessel owner unless a mistake is shown.

The entries in a vessel's logbook are presumed to be accurate, the rationale being a ship's officer would not have made a log entry unless he/she believed the entry to be true. However, under certain circumstances, the entries may be disregarded in later litigation and held not binding. A mistake sufficient to avoid the binding effect of a log entry must be proved by conclusive evidence, a high standard to meet.

For example, in *Texas Eastern Transmission Corp. v. Garber Brothers, Inc.*, 494 F.Supp. 832 (E.D. La. 1980), the master of a vessel owned by Garber Brothers made an entry in the vessel's log that while picking up the anchor and moving to another side of a drilling rig, "hung anchor in pipeline". Texas Eastern, the pipeline's owner, sued Garber Brothers for damage found in the pipeline. Texas Eastern argued the log entry was conclusive evidence of liability on the part of Garber Brothers. The court disagreed and held the log entry was not conclusive evidence of the anchor making contact with the pipeline. It reasoned that when the master made the entry, he did not know and could not have known what the true facts were. It further reasoned the entry was not based on the master's personal knowledge but on what the master had been told by someone on the drilling rig.

Ramifications of False or Missing Log Entries

The importance of maintaining a properly completed and accurate log cannot be overstated. When a log contains erasures or lacks the required entries, the consequences can be devastating for the vessel owner. While courts have held false log entries are not "gospel", false entries are likely to have a "considerable effect," as one court said, on the outcome of a case. Moreover, the absence of entries in the log that should be there, raises a presumption the entries would be unfavorable to the vessel owner. In what has become an often quoted summary of the law about logbooks, the judge in *Capehorn Steamship Company v. Texas Company*, 152 F.Supp. 33 (E.D. La. 1957) said:

Suffice it to say that under the law of the sea, when a party comes into court with log entries which will not stand the test of credibility, that party's chance of success in the litigation is little short of nonexistent.

In *The Silver Palm*, 94 F.2d 754 (9th Cir. 1937), a collision between a navy cruiser and a merchant ship was attributed to the reckless speed of the navy cruiser in the fog. The court found numerous erasures and alterations in the official log of the navy cruiser. In particular, when the fog whistle of the merchant ship was heard, the engines on the navy cruiser were ordered only to proceed at two-thirds speed. A log entry was made reflecting the speed reduction. That log entry was later erased and the words "all engines were ordered stopped" were inserted. The court held the alteration of the logbook "not only casts suspicion on the whole case of the vessel but creates a strong presumption the erased matter was adverse to her contention."

In an unreported federal case in San Francisco involving dock damage, the log did not contain an entry about the pre-voyage testing of the ship's steering and braking systems. Such testing and an entry confirming the testing were statutorily required. Those systems did not work as the



pilot expected and damage ensued. Because there was no record of the required tests having been done, the court concluded the testing had not been done. The court also disregarded the master's testimony that based on information he received from the chief mate, he was certain the required testing had been done. The court held the absence of a log entry about the required testing proved it had not occurred. Because the required testing had not occurred, the vessel owner was held to have breached a statute, which raised a presumption of fault. Because the steering and braking systems could have caused the accident, the vessel owner could not meet its burden of proof to avoid liability.

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