

**AVERAGE ADJUSTERS SEMINAR  
VIEWPOINTS ON A MARINE DISASTER  
ST. JOHN'S UNIVERSITY  
OCTOBER 5, 2005**

On the morning of October 5, 2005, the M/T OIL CARRIER, a 570 foot long, 40,000 ton Singapore tanker carrying 3.2 million gallons of no. 2 oil as cargo, 200,000 gallons of no. 6 oil and 53,000 gallons of diesel fuel was proceeding in international water approximately 15 miles east of Staten Island en route to IMTT Bayonne. At this time, the M/V TESTBANK, a 480 foot long American flag container ship carrying containers of hydrobromic acid, computer equipment and other general cargo had completed discharging 100 containers at Port Newark and was outbound for Baltimore after passing under the Verrazano Bridge. Tropical Storm Raymond had taken an unexpected turn to the west a few hours earlier and now there were heavy winds, high seas and low visibility in the vicinity of both vessels. Although the managers of both vessels subscribed to weather tracking services, the officers on watch had not reviewed the latest messages and neither were aware of the change in weather. The watch officer on the TESTBANK saw the OIL CARRIER visually and on radar and called on the radio to propose a port-to-port passing. He received no response but nonetheless, started to turn to starboard. The watch officer on the OIL CARRIER never received the radio proposal for a port to port passage as the OIL CARRIER's radio had malfunctioned prior to departing from the last port. The Mate thought that the vessels would pass safely starboard to starboard and maintained his course and speed. The bow of the TESTBANK impacted the starboard side of the OIL CARRIER rupturing several tanks and causing sparks which eventually led to an explosion and fire on the OIL CARRIER. The impact of that explosion caused the OIL CARRIER to be seriously damaged and the vessel eventually drifted ashore on the New Jersey coast causing a serious oil spill. Although many of the crewmembers were seen in the water, most, but not all, were rescued. The TESTBANK immediately took steps to rescue the crewmembers from the OIL CARRIER who jumped into the water and these men were eventually taken to New York. A LOF Salvage Contract was signed and salvors and they invoked Scopio (Special Compensation P&I Club Clause). The TESTBANK was not as badly damaged, but approximately 75 containers, **which had not been lashed**, including the hydrobromic acid, went over the side and several hundred were damaged as a result of the flooding of two holds. The vessel was eventually grounded to keep it from sinking and required salvage assistance, which was rendered on a contract basis.

The authorities are considering whether or not to commence a search for the acid containers and required their removal from the ocean floor. The question has been raised as to who would pay for this expensive operation.

The M/T OIL CARRIER would generally be subject only to Singapore's authority as its flag State in international waters. The United States might claim jurisdiction over the collision under the Contiguous Zone concept as articulated in Article 33 of the 1982 Law of the Sea Convention.\* However, the US Coast Guard has ample jurisdiction over the TESTBANK, it being an American flag vessel, and the Singapore government requested that they conduct a formal investigation on their behalf. Coast Guard hearings will commence Monday.

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\*Although the United States is not a Party to the 1982 LOSC, Presidential Proclamation 7219 of 2 September 1999 claimed a Contiguous Zone for the United States to the fullest extent of the law.