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Newsroom

Logan on Gulf Spill Settlement

Dean David A. Logan discusses Transocean's advantages in settling civil and criminal fines and penalties related to the massive 2010 oil spill in the Gulf of Mexico.

From the New Orleans TIMES-PICAYUNE: "[Unlike BP, Transocean likely off the hook for felony charges related to workers' deaths in 2010 Gulf spill Oil Rig Explosion](#)" by Richard Thompson, NOLA.com



January 04, 2013: Like their counterparts at BP, executives at Transocean Ltd. are likely breathing easier with the looming unknowns of civil and criminal fines and penalties now settled for their role in the massive 2010 oil spill in the Gulf of Mexico, legal experts and industry analysts following the case generally agreed Friday.

"It has to be an enormous relief for both companies to have the feds off their backs and to have closure from Transocean's point of view, on the real danger of criminal charges hitting them in a more significant way," **said David Logan, the law school dean at Roger Williams University.**

"That's the scariest thing," **Logan said** about the prospect of company officials facing criminal charges. "Otherwise, it's just money. A lot of money, but it's just money."

Transocean, the Switzerland-based owner of the ill-fated Deepwater Horizon rig that was leased to BP when its Macondo well erupted off the Louisiana coast in April 2010, has agreed to plead guilty and pay \$1 billion to resolve federal Clean Water Act civil penalty claims and another \$400 million in criminal fines and penalties for federal offshore drilling safety violations in the events leading to the Gulf spill, the company and the U.S. Department of Justice announced Thursday.

The dollar figure assessed to the penalties was no surprise, legal experts say, because Transocean had disclosed in a November filing with the Securities and Exchange Commission that it had discussed a \$1.5 billion settlement with the Justice Department months earlier.

But unlike BP, Transocean will not be required to plead guilty to felony counts of misconduct, essentially manslaughter charges, relating to the deaths of the 11 rig workers killed in the

disaster, a move that was "somewhat surprising" to some observers, including David Uhlmann, the former head of the Justice Department's Environmental Crimes Section and a law professor at the University of Michigan.

"It would have made sense to insist that Transocean plead guilty to those charges as well, and it's another aspect of the criminal deal that is surprising," Uhlmann said Thursday.

The settlement, which involves only issues that would have been addressed during the first phase of a trial in New Orleans set to begin in February, must be approved by U.S. District Judge Carl Barbier.

BP entered into its own deal with the Justice Department in November to resolve all criminal claims involving the Gulf spill for \$4 billion, and a \$525 million settlement with the SEC. The company also pleaded guilty in U.S. District Court in New Orleans to 11 felony counts relating to the loss of the 11 lives in the explosion.

Nearly two years ago, a presidential commission reported that BP, Halliburton and Transocean were each responsible for cost-cutting decisions that created an unacceptable risk at the well, citing a series of systematic problems and not pointing fault of any one individual.

Later in 2011, a team of Coast Guard officials and federal regulators found BP was ultimately responsible for the spill, which released an estimated 4.9 million barrels of oil into the Gulf. The report said the company ignored important warnings and made poor decisions during the cementing of the well a mile beneath the Gulf's surface.

But that report also found "numerous systems deficiencies and acts and omissions by Transocean and its Deepwater Horizon crew," which stopped them from halting the flow of oil once the well erupted, such as failing to direct flammable gas from ignition sources, which could have lessened the disaster's blow. Eight of the 11 people killed worked for Transocean.

BP has said it accepts some responsibility for the Gulf spill and pushed other companies to do the same, a criticism the British oil giant renewed following Thursday's announcement. Transocean has said it disagrees with the Coast Guard report's findings.



In turn, conventional wisdom suggested that "BP was going to carry most of the load on this," **said Logan, the law school dean, who added that** the "criminal and civil responsibility of the two companies was pretty significant, both in terms of breadth and depth of importance."

A BP spokesman declined comment Friday on whether the company believes Transocean should have also been forced to plead guilty for the deaths of the rig workers. A Justice Department spokesman declined comment when asked how that decision was reached.

"I thought that was a little curious, because it seemed to me that there was substantial evidence against them," said Edward Sherman, a law professor at Tulane University who studies complex litigation.

Ultimately, Sherman believes that the Justice Department considered Transocean's part in the disaster was "subsidiary to that of BP, in that they essentially followed the instructions that had been laid out by BP."

"Obviously, it came into the bargaining, too," he said, "and I don't know what went on there, but I thought the settlement itself might've been a little bit low, given the potential for civil and criminal penalties, but not unreasonable."

In trading Thursday, shares of Transocean Ltd. rose \$2.96, or 6.4 percent, to \$49.20. The stock market continued to respond favorably on Friday, with shares finishing up \$2.62, or 5.3 percent, to close at \$51.82.

Trey Stolz, a managing director at Iberia Capital Partners in New Orleans who analyzes the oil services industry, said news of the settlement "takes that bit of overhang off of the stock for now," and said the company's price tag for the penalties "fits nicely within that range they hinted at before."

"The picture's getting a bit clearer for Transocean going forward," Stolz said.

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