

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JUN 20 2017

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

BY _____
DEPUTY

UNITED STATES OF AMERICA

v.

THOME SHIP MANAGEMENT PTE,
LTD and EGYPTIAN TANKER
COMPANY

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No. 1:17-CR-75

(Judge _____)

FACTUAL BASIS

It is hereby stipulated and agreed by the Defendants **THOME SHIP MANAGEMENT PTE, LTD** and **EGYPTIAN TANKER COMPANY**, that the following facts are true and correct and that they understand and agree, with the express consent of their counsel, Dimitri P. Georgantas and Eugene W. Barr, that this Factual Basis may be used by the Court to determine whether this plea is voluntary and knowing and by the probation officer and the Court to determine an appropriate sentence for the offenses to which they are pleading guilty.

A. Background

1. Defendant THOME SHIP MANAGEMENT PTE, LTD. (“Defendant” or “THOME”) is an international shipping company based in Singapore. THOME is the operator of the Motor Tanker *M/T ETC MENA*.

2. Defendant EGYPTIAN TANKER COMPANY (“Defendant” or “EGYPTIAN”) is a shipping company based in Cairo, Egypt. EGYPTIAN is the registered owner of the *M/T ETC MENA*.

3. The *M/T ETC MENA* is a 57,920 gross ton, approximately 809-foot long, ocean-going, oil tank ship. The *M/T ETC MENA* is registered in Liberia and has an International Maritime Organization (IMO) number of 9229427.

4. The *M/T ETC MENA* had an engine department headed by a Chief Engineer, and assisted by a Second Engineer, Third Engineer, Fourth Engineer, a Fitter, an Electrician, and Three Motormen. All crew members in the engine department, including the Chief and Second Engineers, were under contract to Egyptian. The Chief Engineer reported directly to the Master of the vessel and had overall responsibility for the operation of the engine department. The Master of the vessel had overall responsibility for the ship and was charged with maintaining the Oil Record Book (“ORB”) and Garbage Record Book or Garbage Log Book (“GRB”).

5. The operation of large marine vessels like the *M/T ETC MENA* generates contaminated bilge waste created when water mixes in the bottom of the vessel, known as the “bilges” or “bilge wells” with oil that has leaked and dripped from the machinery and the lubrication and fuel system for the engines. These “oily mixtures” are often referred to as “bilge waste” or “bilge water, and are collected, stored, and processed to separate the water from the oil and other wastes using a pollution prevention control device known as an Oily Water Separator (“OWS”) and an oil-sensing device known as an Oil Content Monitor (“OCM”). Bilge waste may only be discharged overboard after passing through an OWS to ensure that it contains 15 parts per million (“ppm”) or less of oil, as measured by the OCM. If the OCM detects an oil content of greater than 15 ppm in the effluent, it sounds an alarm, and stops the discharge overboard.

6. The operation of large vessels like the *M/T ETC MENA* also generates garbage, including ash from the incinerators, steel, and other non-organic wastes. These wastes are usually collected in plastic bags and stored onboard the vessel until they can be disposed of properly at shore side facilities.

B. Count One – The Maintenance of the False Oil Record Book

7. From on or about December 28, 2015, through on or about January 28, 2016, the *M/T ETC MENA* was in dry dock in Turkey where the ship underwent various maintenance activities and repairs.

8. In or about late January or early February 2016, after the vessel left dry dock, an unidentified gasket malfunctioned causing a volume of fresh water to drain into the vessel's bilge wells. In response to that flooding, the prior Chief Engineer of the vessel ordered the engineering crew to pump from the bilge wells directly to the vessel's clean drain tank using a long flexible hose and a portable pneumatic pump. This procedure was conducted in mid-March 2016. The clean drain tank was not part of the vessel's bilge waste system and should not have received any bilge water from the bilge well.

9. On at least one occasion, the prior Chief Engineer also ordered that the bilge water that had been transferred into the clean drain tank be pumped overboard into the ocean using the vessel's general service fire pump, bypassing the OWS and OCM. No transfer of bilge water from the bilges to the clean drain tank and subsequent discharge overboard into the ocean using the general service fire pump was recorded in the vessel's ORB.

10. On or about March 24, 2016, the *M/T ETC MENA* entered United States waters in the vicinity of Houston-Galveston, Texas. On or about April 1, 2016, in the Port of Houston-Galveston, Texas, the United States Coast Guard, Houston-Galveston Sector, conducted a Port State Control Examination of the *M/T ETC MENA* at which time a false ORB was presented to the Coast Guard which contained no entries for the transfer of bilge waste between the vessel's bilge wells and the clean drain tank or the overboard discharge from the clean drain tank to the sea.

11. On or about April 24, 2016, the *M/T ETC MENA* entered into port in Corpus Christi, Texas, at which time a false ORB was maintained which contained no entries for the transfer of bilge waste between the vessel's bilge wells to the clean drain tank or the overboard discharge from the clean drain tank to the sea.

12. On or about April 26, 2016, the *M/T ETC MENA* entered into port in Port Arthur, Texas, at which time a false ORB was maintained which contained no entries for the transfer of bilge waste between the vessel's bilge wells to the clean drain tank or the overboard discharge from the clean drain tank to the sea.

13. The government's investigation did not reveal any evidence that either the Defendants' shore-side personnel or the vessel's Master had any involvement with or knowledge of the illegal conduct described above.

C. Count Two – The Maintenance of the False Garbage Record Book

14. On or about March 15, 2016, the prior Chief Engineer and a subordinate ship engineer directed subordinate crew members to dispose of plastic garbage bags containing incinerator ash and metal into the ocean. This disposal was not recorded into the vessel's GRB.

15. On or about March 24, 2016, the *M/T ETC MENA* entered United States waters in the vicinity of Houston-Galveston, Texas. On or about April 1, 2016, in the Port of Houston-Galveston, Texas, the Coast Guard, Houston-Galveston Sector conducted a Port State Control Examination of the *M/T ETC MENA* at which time a false GRB which did not contain a description recording the disposal of plastic bags containing incinerator ash and metal into the sea on or about March 15, 2016, was presented to the Coast Guard.

16. On or about April 24, 2016, the *M/T ETC MENA* entered into port in Corpus Christi, Texas, at which time a false GRB was maintained which did not contain a description

recording the disposal of plastic bags containing incinerator ash and metal into the sea on or about March 15, 2016.

17. On or about April 26, 2016, the *M/T ETC MENA* entered into port in Port Arthur, Texas, at which time a false GRB was maintained which did not contain a description recording the disposal of plastic bags containing incinerator ash and metal into the sea on or about March 15, 2016.

18. The government's investigation did not reveal any evidence that either the Defendants' shore-side personnel or the vessel's Master had any involvement with or knowledge of the illegal conduct described above.

D. Count Three - Obstruction of Justice

19. On or about April 26, 2016, The Coast Guard Marine Safety Unit (MSU), Port Arthur, Texas, received information from a crew member from the *M/T ETC MENA* who alleged that the vessel had illegally dumped bilge waste overboard into the ocean and had allegedly used a bypass system to transfer bilge waste from the bilge well and from the bilge primary tank to the clean drain tank using a pneumatic pump and then overboard using the general service fire pump. The crewmember provided a written statement, photographs, and video of the alleged conduct.

20. As a result of the notification, Coast Guard MSU Port Arthur initiated a Non-Priority Vessel Examination of the *M/T ETC MENA* that same day.

21. When the Coast Guard inspected the vessel's bilge primary tank, they found a pneumatic pump, covered with oil, submerged in middle of the tank. The pneumatic pump appeared similar to the appearance of the pump in photos and video that the Coast Guard obtained from the crew member.

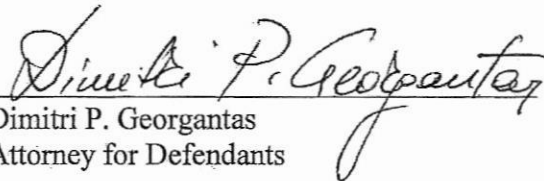
22. During the vessel examination, the Coast Guard was provided the vessel's ORB and GRB, among other documents. The ORB contained no entries for the transfer of bilge wastes from the vessel's bilge wells to the clean drain tank or the overboard discharge from clean drain tank using the vessel's general services pump. The GRB contained no entries regarding the overboard disposal of plastic garbage bags containing incinerator ash and metal on or about March 15, 2016.

23. The government's investigation did not reveal any evidence that either the Defendants' shore-side personnel or the vessel's Master had any involvement with or knowledge of the illegal conduct described above.

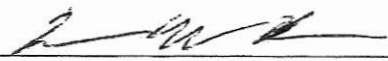
DEFENSE COUNSEL'S SIGNATURE AND ACKNOWLEDGMENT

We have read this Factual Basis and the Information and have reviewed them with Defendants THOME SHIP MANAGEMENT PTE, LTD and EGYPTIAN TANKER COMPANY. Based upon our discussions with the Defendants, we are satisfied that the Defendants understand the Factual Basis as well as the Information, and are knowingly and voluntarily agreeing to these stipulated facts.

Dated: June 5, 2017


Dimitri P. Georgantas
Attorney for Defendants

Dated: 6/5/17


Eugene W. Barr
Attorney for Defendants