

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:10-cr- 363 + 23 EAJ

ATLAS SHIP MANAGEMENT LTD.

33 U.S.C. § 1908(a)
33 C.F.R. §§ 151.25(a) & (h)
18 U.S.C. § 1001(a)
18 U.S.C. § 2

INFORMATION

The United States Attorney charges:

INTRODUCTION

A. THE CORPORATE DEFENDANT

1. Defendant ATLAS SHIP MANAGEMENT LTD. (A.K.A. ATLAS GEMI ISLETMECILIGI LTD) (hereinafter "ATLAS") was a Turkish corporation with offices at Orhan Veli Kanik Cad. No. 72 Kat; 4, Marti Plaza - 34810 Kavacik, Beykoz, Istanbul, Turkey. Defendant ATLAS, acting through its agents, and employees, who were acting within the scope of their agency and employment and on behalf of Defendant AKSAY, operated and managed the Motor Vessel ("M/V") Avenue Star at all times relevant to this Information.

B. THE MOTOR VESSEL AVENUE STAR

2. The M/V Avenue Star was an approximately 10,965 ton ocean-going ship operated by ATLAS. The M/V Avenue Star was approximately 471.5 feet in length, registered in Malta, and was engaged in international trade and made a port call in the Middle District of Florida on or about October 21, 2009.

3. The M/V Avenue Star had an Engine Department headed by a Chief Engineer assisted by a Second Engineer, Third Engineer, and Fourth Engineer and other licensed engineers from time to time. The Engineers were assisted by laborers (also known as "ratings") who are referred to in the industry as "fitters" and "motormen." The Chief Engineer reported directly to the Master of the vessel, and had overall responsibility for the operations of the Engine Department, including the supervision of daily operations, formulation and implementation of Engine Department procedures, and verification that all systems, including the Oil Water Separator and incinerator, were functioning properly.

4. The operation of large marine vessels like the M/V Avenue Star generates large quantities of oily sludge and oily waste water. Oily sludge is generated during, among other things, the process of purifying fuel oil, lubricating oil, and other petroleum products so that these products can be used in the engines on board the vessel. The oily sludge generated as a result of this process must be stored on board the vessel in sludge tanks until it is either burned on board the vessel through the use of an incinerator or auxiliary boiler or offloaded onto barges or shore-side facilities for disposal. Engine department operations also generate large quantities of waste oil due to leaks and drips from the engines' lubrication and fuel systems. This waste oil

combines with water, detergents, solvents, and other wastes that accumulate in the bottom or the "bilges" of the vessel to form oily waste water. This oil contaminated bilge waste must be collected, stored, and then processed to separate the water from the oil and other wastes using a pollution prevention control device known as an Oil Water Separator. After passing through the Oil Water Separator, engineering space oily waste water containing less than fifteen (15) parts per million ("ppm") of oil may be discharged overboard. If a sensor detects more than 15 ppm oil in the waste after it has been processed through the Oil Water Separator, it will send a signal to a three-way valve which will then redirect that effluent to a storage tank onboard the vessel.

C. LEGAL FRAMEWORK

5. The United States is part of an international regime that regulates the discharge of oil from vessels at sea: the International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978 (hereafter, the "MARPOL Protocol"). The MARPOL Protocol is embodied in numerous agreements that the United States has ratified and has been implemented in the United States by the "Act to Prevent Pollution from Ships" ("APPS"), 33 U.S.C. §§ 1901, et seq. APPS makes it a crime for any person to knowingly violate the MARPOL Protocol, APPS, or regulations promulgated under APPS. These regulations apply to all commercial vessels operating in United States waters or while at a port or terminal under the jurisdiction of the United States, including vessels operating under the authority of a country other than the United States.

6. MARPOL and APPS set the legal standard for the maximum amount of oil permitted to be discharged overboard by a vessel, namely, 15 ppm. Therefore, under MARPOL, wastes can be discharged overboard into the ocean only if they contain less than 15 ppm of oil. MARPOL also requires that vessels use an oil-sensing device (or oil content meter), such as that found on an Oil Water Separator, to prevent the discharge of a mixture containing more than the legally permitted concentration of oil.

7. Consistent with the requirements contained in MARPOL, the APPS regulations require that each vessel of more than 400 gross tons maintain a record known as an Oil Record Book. In this Oil Record Book, transfers of oil, the disposal of sludge and waste oil, and overboard discharges of bilge water that have accumulated in machinery spaces, and thus are contaminated with oil, must be fully and accurately recorded by the person in charge of the operations. 33 C.F.R. § 151.25 (d). The Oil Record Book must also record any emergency, accidental, or other exceptional discharges of oil or mixtures. 33 C.F.R. § 151.25(g). The Oil Record Book must be maintained onboard the vessel for not less than three years, and be readily available for inspection at all reasonable times. 33 C.F.R. § 151.25 (k).

8. The United States Coast Guard (U.S. Coast Guard), an agency of the United States Department of Homeland Security, is charged with enforcing the laws of the United States and is empowered under Title 14, United States Code, Section 89(a) to board vessels and conduct inspections and investigations of potential violations and to determine compliance with the MARPOL Protocol, APPS, and related regulations. The U.S. Coast Guard can conduct Port State Control Examinations, which involve boarding a vessel and conducting inspections and investigations of potential violations of the law.

Failure to comply with international standards, including MARPOL, can form the basis of an order to refuse to allow a vessel to enter port, or to prohibit the vessel from leaving port without remedial action until it determines that the vessel does not present an unreasonable threat to the marine environment. 33 C.F.R. § 151.07(b) and 151.25(b). In conducting their inspections, U.S. Coast Guard personnel rely on the statements of the vessel's crew and documents, including information contained in the Oil Record Book. The U.S. Coast Guard is specifically authorized to examine a vessel's Oil Record Book to determine, among other things, whether the vessel has operable pollution prevention equipment and appropriate procedures, whether it poses any danger to United States ports and waters, and whether the vessel had discharged any oil or oily mixtures in violation of MARPOL, APPS, or any other applicable federal regulation. 33 C.F.R. § 151.23(a)(3) & (c).

D. THE CRIMINAL CHARGES

COUNT ONE

(Act to Prevent Pollution from Ships, 33 U.S.C. § 1908(a))

9. Paragraphs 1 through 8 of this Information are specifically incorporated and re-alleged herein.

10. On or about October 21, 2009, and within the navigable waters of the United States in the Middle District of Florida, the Defendant,

ATLAS SHIP MANAGEMENT LTD.,

acting through its agents and employees, who were acting within the scope of their agency and employment, and on behalf of Defendant ATLAS SHIP MANAGEMENT LTD., did knowingly fail to maintain an Oil Record Book for the M/V Avenue Star in

which all disposals of oil residue, overboard discharges, and disposals of bilge water were required to be fully recorded. Specifically, the Defendant maintained an Oil Record Book that failed to disclose overboard discharges of oily bilge waste made through bypass equipment and through the use of the vessel's ballast water system and without properly functioning oil monitoring equipment that created the overall false and misleading impression that the vessel was being operated properly and was fully maintaining an accurate Oil Record Book.

All in violation of Title 33, United States Code, Section 1908(a), Title 18, United States Code, Section 2, and Title 33, Code of Federal Regulations, Section 151.25.

COUNT TWO

(False Statement – 18 U.S.C. § 1001(a)(2))

11. Paragraphs 1 through 8 of this Information are specifically incorporated and re-alleged herein.

12. On or about October 21, 2009 in the Port of Tampa, Florida, and within the navigable waters of the United States in the Middle District of Florida, the Defendant,

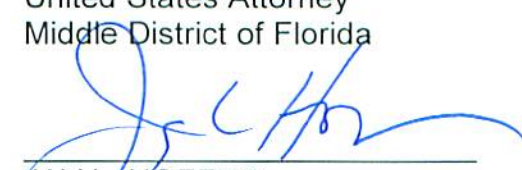
ATLAS SHIP MANAGEMENT LTD.,


acting through its agents and employees, who were acting within the scope of their agency and employment, and on behalf of Defendant ATLAS SHIP MANAGEMENT LTD., in a matter within the jurisdiction of the United States Coast Guard and the Department of Homeland Security, did knowingly and willfully use and cause to be used a materially false writing to wit: the Oil Record Book for the M/V Avenue Star, knowing the same to contain a materially false, fictitious, and fraudulent statement, entry and

representation, in that the Oil Record Book for the M/V Avenue Star failed to state and omitted the fact that the vessel's Oil Water Separator was not used to process oily bilge wastes and that oily bilge wastes have been discharged directly overboard, when in truth and in fact as the Defendant then and there well knew, some volume of the oil-contaminated bilge wastes not recorded in the Oil Record Book had been discharged overboard through a bypass pipe and through the vessels ballast water system directly into international waters.


All in violation of Title 18, United State Code, Sections 1001(a)(2) and 2.

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