

United States District Court
Central District of California

Presud

UNITED STATES OF AMERICA vs.

Docket No.

CR 04-1728 FMC

Defendant DST SHIPPING, INC.

Social Security No. N / A

akas:

(Last 4 digits)

ORIGINAL
CLERK U.S. DISTRICT COURT
MAR 2 2 2005
DEPUTY

SCANNED

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person on this date.

MONTH	DAY	YEAR
FEB	28	2005

COUNSEL WITH COUNSEL Michael G. Chalos and Gregory Nicolaysen, retained
(Name of Counsel)

PLEA GUILTY, and the court being satisfied that there is a factual basis for the plea. NOLO CONTENDERE NOT GUILTY

FINDING There being a finding/verdict of GUILTY, defendant has been convicted as charged of the offense(s) of:
18 USC 1512(c)(1): Obstruction of Official Proceeding (Count 1); 33 USC 1908(a), 33 C. F. R. 151.25(a), (d), and (h): Failure to Maintain an Accurate Oil Record Book (Count 2 of 2-Count Information)

JUDGMENT AND PROB/COMM ORDER The Court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby

placed on Organizational probation on Counts 1 and 2 of the Information for a term of 4 (four) years under the following terms and conditions: 1) It is ordered that the defendant shall pay to the United States a total fine of One Million Dollars (\$1,000,000.00) as to Counts One and Two of the Information, which shall be payable as follows:

- \$500,000: payable on Count 2 to the Clerk of the District Court, by cashier's check, no later than **March 9, 2005**
- \$150,000: to the Clerk of the District Court, by cashier's check, no later than **July 25, 2005**
- \$50,000 to the National Marine Fisheries Service ("NMFS") of the National Oceanic and Atmospheric Administration ("NOAA"), by cashier's check, no later than **July 25, 2005**
- \$300,000 to the Channel Islands National Park, for deposit in the Channel Islands Law Enforcement Fund (#RCISG), by cashier's check, no later than **March 1, 2006;**

2) the defendant agrees that it shall commit no further violations of federal, state or local law, and shall conduct all its operations in accordance with the MARPOL Protocol; 3) the defendant agrees to develop, adopt, implement and fund the Environmental Management System/Compliance Plan ("EMS"); 4) the defendant shall be responsible for all costs associated with the development, implementation, maintenance and monitoring of the EMS; 5) the defendant will provide the Coast Guard and US EPA with full access to its vessels listed in the EMS, as well as all facilities, employees, and records that are relevant to

21

USA vs. DST SHIPPINGDocket No.: CR 04-1728 FMC

monitoring compliance with the terms and conditions of EMS; 6) if the defendant changes its name, the renamed company shall be obliged to meet all of the obligations of defendant under this agreement. If defendant merges with another company through a stock or asset purchase, the newly-created or merged company shall be obliged to meet all of the obligations of defendant under this agreement with regard to those vessels managed by defendant at the date of the merger; 7) the parties recognize that during the term of probation, the number and identity of vessels managed by defendant that call in the United States may increase or decrease; any vessel the management of which is assumed by defendant and which calls in the United States shall be included within the scope of its EMS. Any vessel removed from management by defendant or which stops calling in the United States shall be excluded from the scope of its EMS; 8) the defendant agrees to pay to the Clerk of the United States District Court for the Central District of California the mandatory special assessment of \$800 as to Counts One and Two pursuant to 18 USC § 3013 (a) (2) (B); 9) the defendant stipulates and agrees to pay full restitution to the victims of the offense, including the U.S. Coast Guard and US EPA, for costs incurred and further agree and stipulate that the costs to be paid by defendant will not exceed \$15,000, as itemized by the U.S. government and that the amount of restitution is not restricted to the amounts alleged in the Counts to which defendant is pleading guilty and may include losses arising from charges not prosecuted pursuant to this agreement as well as all relevant conduct in connection with those charges; 10) defendant agrees that defendant will not seek the discharge of any restitution obligation, in whole or in part, in any present or future bankruptcy proceeding; 11) the defendant agrees to make restitution as listed above within 30 days of sentencing.

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

March 2, 2005
Date

Lawrence Mark Cooper
U. S. District Judge/Magistrate
Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Sherri R. Carter, Clerk

MAR - 2 2005
Filed Date

By Ally Amer
Deputy Clerk



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The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant shall not commit another Federal, state or local crime;
2. the defendant shall not leave the judicial district without the written permission of the court or probation officer;
3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. the defendant shall support his or her dependents and meet other family responsibilities;
6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
7. the defendant shall notify the probation officer at least 10 days prior to any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
11. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
14. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to conform the defendant's compliance with such notification requirement;
15. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours;
16. and, for felony cases only: not possess a firearm, destructive device, or any other dangerous weapon.

- The defendant will also comply with the following special conditions pursuant to General Order 01-05 (set forth below).

SCANNED

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office. 18 U.S.C. §3613.

The defendant shall notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution-pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence:
 - Private victims (individual and corporate),
 - Providers of compensation to private victims,
 - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663[©]); and
5. Other penalties and costs.

USA vs. **DST SHIPPING**

Docket No.: **CR 04-1728 FMC**

ANNEXED

SPECIAL CONDITIONS FOR PROBATION AND SUPERVISED RELEASE

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on	_____	t	_____
		o	
Defendant noted on	_____		
appeal on	_____		
Defendant released on	_____		
Mandate issued on	_____		
Defendant's appeal	_____		
determined on	_____		
Defendant delivered on	_____	t	_____
		o	

a
t
_____ the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

USA vs. **DST SHIPPING**

Docket No.: **CR 04-1728 FMC**

United States Marshal

SCANNED

By _____
Deputy Marshal

Date

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

MAR - 2 2005

By *Almanes*
Deputy Clerk

Filed Date

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____
Defendant

Date

U. S. Probation Officer/Designated Witness

Date

NOTICE PARTY SERVICE LIST

Case No. CR 04-1728 FMC Case Title U.S.A. v. DST Shipping

Title of Document J & C

RECEIVED

	Atty Stlmnt Officer
	BAP (Bankruptcy Appellate Panel)
	Beck, Michael J (Clerk, MDL Panel)
	BOP (Bureau of Prisons)
	CA St Pub Defender (Calif. State PD)
	CAAG (California Attorney General's Office - Keith H. Borjon, L.A. Death Penalty Coordinator)
	Case Asgmt Admin (Case Assignment Administrator)
	Catterson, Cathy (9 th Circuit Court of Appeal)
	Chief Deputy Admin
	Chief Deputy Ops
	Clerk of Court
	Death Penalty H/C (Law Clerks)
	Dep In Chg E Div
	Dep In Chg So Div
<input checked="" type="checkbox"/>	Fiscal Section
	Intake Section, Criminal LA
	Intake Section, Criminal SA
	Intake Supervisor, Civil
	Interpreter Section
	PIA Clerk - Los Angeles (PIALA)
	PIA Clerk - Riverside (PIAED)
	PIA Clerk - Santa Ana (PIASA)
<input checked="" type="checkbox"/>	PSA - Los Angeles (PSALA)
	PSA - Riverside (PSAED)
	PSA - Santa Ana (PSASA)
	Schnack, Randall (CJA Supervising Attorney)
	Statistics Clerk

	Stratton, Maria - Federal Public Defender
	US Attorneys Office - Civil Division -L.A.
	US Attorneys Office - Civil Division - S.A.
	US Attorneys Office - Criminal Division -L.A.
	US Attorneys Office - Criminal Division -S.A.
	US Bankruptcy Court
<input checked="" type="checkbox"/>	US Marshal Service - Los Angeles (USMLA)
	US Marshal Service - Riverside (USMED)
	US Marshal Service -Santa Ana (USMSA)
<input checked="" type="checkbox"/>	US Probation Office (USPO)
	US Trustee's Office
	Warden, San Quentin State Prison, CA

	ADD NEW NOTICE PARTY (if sending by fax, mailing address must also be provided)
Name:	
Firm:	
Address (include suite or floor):	
*E-mail:	
*Fax No.:	

* For CIVIL cases only

	JUDGE / MAGISTRATE JUDGE (list below):

Initials of Deputy Clerk AM *[Signature]*