

COPY

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 OFFICE OF THE DISTRICT CLERK  
 CENTRAL DISTRICT OF CALIFORNIA  
 LOS ANGELES, CALIFORNIA

FILED

12 Attorneys for Plaintiff  
 13 UNITED STATES OF AMERICA

14 UNITED STATES DISTRICT COURT

15 FOR THE CENTRAL DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA,  
 17 Plaintiff,  
 18 v.  
 19 HERM. DAUELSBERG GMBH & CO. KG,  
 20 Defendant.

No. CR **CR 14 00200**  
PLEA AGREEMENT FOR DEFENDANT  
HERM. DAUELSBERG GMBH & CO. KG

22 1. This constitutes the plea agreement between Defendant  
 23 HERM. DAUELSBERG GMBH & CO. KG ("defendant") and the United States  
 24 Attorney's Office for the Central District of California ("the  
 25 USAO") in the above-captioned case. This agreement is limited to  
 26 the USAO and cannot bind any other federal, state, local, or foreign  
 27 prosecuting, enforcement, administrative, or regulatory authorities.

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RULE 11(c)(1)(C) AGREEMENT

2. Defendant understands that this agreement is entered into pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C). Accordingly, defendant understands that, if the Court determines that it will not accept this agreement, absent a breach of this agreement by defendant prior to that determination and whether or not defendant elects to withdraw any guilty pleas entered pursuant to this agreement, this agreement will, with the exception of paragraph 24 below, be rendered null and void and both defendant and the USAO will be relieved of their obligations under this agreement. Defendant agrees, however, that if defendant breaches this agreement prior to the Court's determination whether or not to accept this agreement, the breach provisions of this agreement, paragraphs 26 and 27 below, will control, with the result that defendant will not be able to withdraw any guilty pleas entered pursuant to this agreement, the USAO will be relieved of all of its obligations under this agreement, and the Court's failure to follow any recommendation or request regarding sentence set forth in this agreement will not provide a basis for defendant to withdraw defendant's guilty pleas.

DEFENDANT'S OBLIGATIONS

3. Defendant agrees to:

- a) Give up the right to indictment by a grand jury and, at the earliest opportunity requested by the USAO and provided by the Court, appear and plead guilty to counts one and two of the information in the form attached to this agreement as Exhibit A or a substantially similar form, which charge defendant with (1) Failing to Maintain an Accurate Oil Record Book in violation of the Act to Prevent Pollution from Ships ("APPS"), 33 U.S.C. § 1908(a) and 33

1 C.F.R. § 151.25(a), (d), and (h), and (2) Failing to Report a  
2 Hazardous Condition Aboard a Vessel in violation of 33 U.S.C. §  
3 1232(b)(1) and 33 C.F.R. §§ 160.215, 160.204.

4 b) Not contest facts agreed to in this agreement.

5 c) Abide by all agreements regarding sentencing  
6 contained in this agreement and affirmatively recommend to the court  
7 that it impose sentence in accordance with paragraph 14 of this  
8 agreement.

9 d) Appear for all court appearances, surrender as  
10 ordered for service of sentence, obey all conditions of any bond,  
11 and obey any other ongoing court order in this matter.

12 e) Not commit any crime; however, offenses that would be  
13 excluded for sentencing purposes under United States Sentencing  
14 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are  
15 not within the scope of this agreement.

16 f) Be truthful at all times with Pretrial Services, the  
17 United States Probation Office, and the Court.

18 g) Pay the applicable special assessments at or before  
19 the time of sentencing unless defendant lacks the ability to pay and  
20 prior to sentencing submits a completed financial statement on a  
21 form to be provided by the USAO.

22 h) Pay the agreed upon fine and community service  
23 payments at or before the change of plea hearing.

24 i) Recommend, and not oppose, the imposition of the  
25 conditions of probation attached hereto as Exhibit C.

26 j) Pursuant to 33 U.S.C. § 1908(a), to not oppose a  
27 recommendation or a Court order that an amount equal to not more

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1 than 1/2 of any fine imposed by the Court be paid to the person or  
2 persons giving information leading to conviction.

3 THE USAO'S OBLIGATIONS

4 4. The USAO agrees to:

5 a) Not contest facts agreed to in this agreement.

6 b) Abide by all agreements regarding sentencing  
7 contained in this agreement and affirmatively recommend to the court  
8 that it impose sentence in accordance with paragraph 14 of this  
9 agreement.

10 c) Recommend, and not oppose, the imposition of the  
11 conditions of probation attached hereto as Exhibit C.

12 d) Except for criminal tax violations (including  
13 conspiracy to commit such violations chargeable under 18 U.S.C. §  
14 371), not further criminally prosecute defendant or EASTVIA  
15 SCHIFFFAHRTSGESELLSCHAFT MBH & CO. KG ("EASTVIA") for violations  
16 arising out of defendant's conduct described in the attached agreed-  
17 to factual basis. Defendant understands that the USAO is free to  
18 criminally prosecute defendant or EASTVIA for any other unlawful  
19 past conduct or any unlawful conduct that occurs after the date of  
20 this agreement. Defendant agrees that at the time of sentencing the  
21 Court may consider any uncharged conduct in determining the  
22 applicable Sentencing Guidelines range, the propriety and extent of  
23 any departure from that range, and the sentence to be imposed after  
24 consideration of the Sentencing Guidelines and all other relevant  
25 factors under 18 U.S.C. § 3553(a).

26 CORPORATE AUTHORIZATION

27 5. Defendant represents that it is authorized to enter into  
28 this agreement. On or before the change of plea hearing pursuant to

1 this agreement, defendant shall provide the USAO and the Court with  
2 a notarized legal document certifying that defendant is authorized  
3 to enter into and comply with all of the provisions of this  
4 agreement. Such resolution(s) shall designate a company  
5 representative who is authorized to take the actions specified in  
6 this agreement, and shall also state that all legal formalities for  
7 such authorizations have been observed.

8 ORGANIZATIONAL CHANGES AND APPLICABILITY

9 6. This agreement shall bind defendant, its successor  
10 entities (if any), and any other person or entity that assumes the  
11 liabilities contained herein ("successors-in-interest"). Defendant,  
12 or its successors-in-interest, if applicable, shall provide the USAO  
13 and the United States Probation Office for the Central District of  
14 California with immediate notice of any name change, business  
15 reorganization, sale or purchase of assets, divestiture of assets,  
16 or similar action impacting their ability to pay the fine or  
17 affecting this agreement. No change in name, change in corporate or  
18 individual control, business reorganization, change in ownership,  
19 merger, change of legal status, sale or purchase of assets, or  
20 similar action shall alter defendant's responsibilities under this  
21 agreement. Defendant shall not engage in any action to seek to  
22 avoid the obligations and conditions set forth in this agreement.

23 NATURE OF THE OFFENSES

24 7. Defendant understands that for defendant to be guilty of  
25 the crime charged in count one of the information, that is, Failing  
26 to Maintain an Accurate Oil Record Book in violation of the Act to  
27 Prevent Pollution from Ships ("APPS"), 33 U.S.C. § 1908(a) and 33  
28 C.F.R. § 151.25(a), (d), and (h), the following must be true: (1)

1 defendant failed to maintain an accurate Oil Record Book in which  
2 all disposals of oil residue, overboard discharges, and disposals of  
3 bilge water were required to be fully recorded; and (2) defendant  
4 acted knowingly, meaning defendant knew of the act (or omission) and  
5 did not act through ignorance, mistake, or accident.

6 8. Defendant understands that for defendant to be guilty of  
7 the crime charged in count two of the information, that is, Failing  
8 to Report a Hazardous Condition Aboard a Vessel in violation of 33  
9 U.S.C. § 1232(b)(1) and 33 C.F.R. §§ 160.215, 160.204, the following  
10 must be true: (1) there was a hazardous condition aboard defendant's  
11 vessel that adversely affected the safety of any vessel, bridge,  
12 structure, or shore area or the environmental quality of any port,  
13 harbor, or navigable waterway of the United States; and (2)  
14 defendant willfully and knowingly failed to report the hazardous  
15 condition to the nearest United States Coast Guard Office or Group  
16 Office.

17 PENALTIES

18 9. Defendant understands that the statutory maximum sentence  
19 that the Court can impose for a violation of 33 U.S.C. § 1908(a),  
20 is: a five-year period of probation; a fine of \$500,000 or twice the  
21 gross gain or gross loss resulting from the offense, whichever is  
22 greatest; and a mandatory special assessment of \$400. Defendant  
23 understands that the statutory maximum sentence that the Court can  
24 impose for a violation of 33 U.S.C. § 1232(b)(1), is: a five-year  
25 period of probation; a fine of \$500,000 or twice the gross gain or  
26 gross loss resulting from the offense, whichever is greatest; and a  
27 mandatory special assessment of \$400.

28

1 10. Defendant understands, therefore, that the total maximum  
2 sentence for all offenses to which defendant is pleading guilty is:  
3 a five-year period of probation; a fine of \$1,000,000 or twice the  
4 gross gain or gross loss resulting from the offenses, whichever is  
5 greatest; and a mandatory special assessment of \$800.

6 SUSPENSION, REVOCATION, AND DEBARMENT

7 11. Defendant understands that if defendant holds any  
8 regulatory licenses or permits, the convictions in this case may  
9 result in the suspension or revocation of those licenses and  
10 permits. The USAO makes no representation or promise concerning  
11 suspension or debarment of defendant from contracting with the  
12 United States or with any office, agency, or department thereof.  
13 Suspension and debarment of organizations convicted under various  
14 federal environmental protection and criminal statutes is a  
15 discretionary administrative action solely within the authority of  
16 the federal contracting agencies. Defendant understands that  
17 unanticipated collateral consequences such as this will not serve as  
18 grounds to withdraw defendant's guilty pleas.

19 FACTUAL BASIS

20 12. Defendant admits that defendant is, in fact, guilty of the  
21 offenses to which defendant is agreeing to plead guilty. Defendant  
22 and the USAO agree to the statement of facts attached hereto as  
23 Exhibit B and incorporated by reference herein, and agree that the  
24 statement of facts is sufficient to support pleas of guilty to the  
25 charges described in this agreement as well as the sentence,  
26 conditions of probation, fine, and community service payment  
27 specified in this agreement. The attached statement of facts is not  
28 meant to be a complete recitation of all facts relevant to the

1 underlying criminal conduct or all facts known to either party that  
2 relate to that conduct.

3 SENTENCING FACTORS AND AGREED-UPON SENTENCE

4 13. Defendant understands that in determining defendant's  
5 sentence the Court is required to calculate the applicable  
6 Sentencing Guidelines range and to consider that range, possible  
7 departures under the Sentencing Guidelines, and the other sentencing  
8 factors set forth in 18 U.S.C. § 3553(a). Defendant understands  
9 that the Sentencing Guidelines are advisory only.

10 14. Defendant and the USAO agree that, taking into account the  
11 factors listed in 18 U.S.C. § 3553(a)(1)-(7) and in U.S.S.G. §§  
12 8D1.1 and 8D1.2, an appropriate disposition of this case is that the  
13 court impose a sentence of: three years' probation with conditions  
14 to be fixed by the Court, which shall include the conditions set  
15 forth in Exhibit C; a fine of \$1,000,000; a special assessment of  
16 \$800; and a community service payment of \$250,000.

17 15. The parties agree that defendant shall pay \$250,000 toward  
18 community service pursuant to U.S.S.G. § 8B1.3 and in furtherance of  
19 the sentencing principles provided for under 18 U.S.C. § 3553(a).  
20 The explicit goal of defendant's required community service is to  
21 fund environmental projects, enforcement efforts, and initiatives  
22 designed for the enforcement of environmental and public safety  
23 regulations, and the benefit, preservation, and restoration of the  
24 environment and ecosystems in the Central District of California.  
25 These projects and initiatives are to include, but are not limited  
26 to, the following: monitoring, studying, restoring, and preserving  
27 fish, wildlife, and plant resources; monitoring, studying, cleaning  
28 up, remediating, sampling, and analyzing pollution and other threats



1 to the environment and ecosystem; researching, studying, training,  
2 planning, repairing, maintaining, educating, and providing public  
3 outreach relating to the environment and ecosystem; and enforcing  
4 environmental, public safety, and wildlife protection laws; and  
5 providing funds for law enforcement activities in these areas.

6 Accordingly, pursuant to instructions to be provided by the USAO,  
7 defendant agrees to pay a total of \$250,000 to the Channel Islands  
8 Natural Resources Protection Fund administered by the National Park  
9 Foundation.

10 16. Defendant agrees that because the payment listed above is  
11 community service by an organization, it will not seek any reduction  
12 in its tax obligations as a result of such community service  
13 payment. Defendant further agrees that because this payment is  
14 being made pursuant to this agreement, it will not characterize,  
15 publicize, or refer to the payment as anything other than a  
16 "community service payment made pursuant to a plea agreement."

17 17. In addition, pursuant to 33 U.S.C. § 1908(a), the parties  
18 agree that an amount equal to not more than 1/2 of the criminal fine  
19 specified above shall be distributed to the person or persons who  
20 provided information leading to these convictions. The names of  
21 those individuals will be provided to the Court by the government in  
22 an under seal filing.

23 18. Pursuant to Federal Rule of Criminal Procedure  
24 32(c)(1)(A)(ii), the parties request that the Court waive the  
25 preparation of a presentence report in this matter. The parties  
26 further request that the Court sentence defendant at the time the  
27 guilty pleas are entered.

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1 19. In the event that the Court defers acceptance or rejection  
2 of this specified sentence plea until it has reviewed the  
3 presentence report in this case pursuant to Federal Rule of Criminal  
4 Procedure 11(c)(3)(A), both defendant and the USAO are free to: (a)  
5 supplement the facts stipulated to in this Agreement by supplying  
6 relevant information to the United States Probation Office and the  
7 Court; and (b) correct any and all factual misstatements relating to  
8 the calculation of the sentence.

9 WAIVER OF CONSTITUTIONAL RIGHTS

10 20. Defendant understands that by pleading guilty, defendant  
11 gives up the following rights:

- 12 a) The right to persist in a plea of not guilty.
  - 13 b) The right to a speedy and public trial by jury.
  - 14 c) The right to be represented by counsel at trial.
- 15 Defendant understands, however, that, defendant retains the right to  
16 be represented by counsel at every other stage of the proceeding.
- 17 d) The right to be presumed innocent and to have the  
18 burden of proof placed on the government to prove defendant guilty  
19 beyond a reasonable doubt.
  - 20 e) The right to confront and cross-examine witnesses  
21 against defendant.
  - 22 f) The right to testify and to present evidence in  
23 opposition to the charges, including the right to compel the  
24 attendance of witnesses to testify.
  - 25 g) The right not to be compelled to testify, and, if  
26 defendant chose not to testify or present evidence, to have that  
27 choice not be used against defendant.

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1 h) Any and all rights to pursue any affirmative  
2 defenses, Fourth Amendment or Fifth Amendment claims, and other  
3 pretrial motions that have been filed or could be filed.

4 WAIVER OF APPEAL OF CONVICTION

5 21. Defendant understands that, with the exception of an  
6 appeal based on a claim that defendant's guilty pleas were  
7 involuntary, by pleading guilty defendant is waiving and giving up  
8 any right to appeal defendant's convictions on the offenses to which  
9 defendant is pleading guilty.

10 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

11 22. Defendant agrees that, provided the Court imposes the  
12 sentence specified in paragraph 14 above, defendant gives up the  
13 right to appeal any portion of the sentence.

14 23. The USAO agrees that, provided the Court imposes the  
15 sentence specified in paragraph 14 above, the USAO gives up its  
16 right to appeal any portion of the sentence.

17 RESULT OF WITHDRAWAL OF GUILTY PLEA

18 24. Defendant agrees that if, after entering guilty pleas  
19 pursuant to this agreement, defendant seeks to withdraw and succeeds  
20 in withdrawing defendant's guilty pleas on any basis other than a  
21 claim and finding that entry into this agreement was involuntary,  
22 then (a) the USAO will be relieved of all of its obligations under  
23 this agreement; and (b) should the USAO choose to pursue any charge  
24 or any civil, administrative, or regulatory action that was either  
25 dismissed or not filed as a result of this agreement, then (i) any  
26 applicable statute of limitations will be tolled between the date of  
27 defendant's signing of this agreement and the filing commencing any  
28 such action; and (ii) defendant waives and gives up all defenses

1 based on the statute of limitations, any claim of pre-indictment  
2 delay, or any speedy trial claim with respect to any such action,  
3 except to the extent that such defenses existed as of the date of  
4 defendant's signing this agreement.

5 EFFECTIVE DATE OF AGREEMENT

6 25. This agreement is effective upon signature and execution  
7 of all required certifications by defendant, defendant's counsel,  
8 and an Assistant United States Attorney.

9 BREACH OF AGREEMENT

10 26. Defendant agrees that if defendant, at any time after the  
11 signature of this agreement and execution of all required  
12 certifications by defendant, defendant's counsel, and an Assistant  
13 United States Attorney, knowingly violates or fails to perform any  
14 of defendant's obligations under this agreement ("a breach"), the  
15 USAO may declare this agreement breached. All of defendant's  
16 obligations are material, a single breach of this agreement is  
17 sufficient for the USAO to declare a breach, and defendant shall not  
18 be deemed to have cured a breach without the express agreement of  
19 the USAO in writing. If the USAO declares this agreement breached,  
20 and the Court finds such a breach to have occurred, then: (a) if  
21 defendant has previously entered guilty pleas pursuant to this  
22 agreement, defendant will not be able to withdraw the guilty pleas,  
23 (b) the USAO will be relieved of all its obligations under this  
24 agreement, and (c) the Court's failure to follow any recommendation  
25 or request regarding sentence set forth in this agreement will not  
26 provide a basis for defendant to withdraw defendant's guilty pleas.

27 27. Following the Court's finding of a knowing breach of this  
28 agreement by defendant, should the USAO choose to pursue any charge

1 or any civil, administrative, or regulatory action that was either  
2 dismissed or not filed as a result of this agreement, then:

3 a) Defendant agrees that any applicable statute of  
4 limitations is tolled between the date of defendant's signing of  
5 this agreement and the filing commencing any such action.

6 b) Defendant waives and gives up all defenses based on  
7 the statute of limitations, any claim of pre-indictment delay, or  
8 any speedy trial claim with respect to any such action, except to  
9 the extent that such defenses existed as of the date of defendant's  
10 signing this agreement.

11 c) Defendant agrees that: (i) any statements made by  
12 defendant, under oath, at the guilty plea hearing (if such a hearing  
13 occurred prior to the breach); (ii) the agreed to factual basis  
14 statement in this agreement; and (iii) any evidence derived from  
15 such statements, shall be admissible against defendant in any such  
16 action against defendant, and defendant waives and gives up any  
17 claim under the United States Constitution, any statute, Rule 410 of  
18 the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of  
19 Criminal Procedure, or any other federal rule, that the statements  
20 or any evidence derived from the statements should be suppressed or  
21 are inadmissible.

22 SCOPE OF AGREEMENT

23 28. This Agreement applies only to crimes committed by  
24 defendant. It has no effect on any proceedings against defendant,  
25 defendant's employees, or other targets not expressly mentioned  
26 herein, and shall not preclude any past, present, or future  
27 forfeiture actions or other civil or criminal actions. This  
28 Agreement does not prevent the USAO from prosecuting any individual

1 or other organization for any offense, including the offenses  
2 charged in the information.

3 COURT AND PROBATION OFFICE NOT PARTIES

4 29. Defendant understands that the Court and the United States  
5 Probation Office are not parties to this agreement and need not  
6 accept any of the USAO's sentencing recommendations or the parties'  
7 agreements to facts, sentencing factors, or sentencing. Defendant  
8 understands that the Court will determine the facts, sentencing  
9 factors, and other considerations relevant to sentencing and will  
10 decide for itself whether to accept and agree to be bound by this  
11 agreement.

12 30. Defendant understands that both defendant and the USAO are  
13 free to: (a) supplement the facts by supplying relevant information  
14 to the United States Probation Office and the Court, (b) correct any  
15 and all factual misstatements relating to the Court's Sentencing  
16 Guidelines calculations and determination of sentence, and (c) argue  
17 on appeal and collateral review that the Court's Sentencing  
18 Guidelines calculations and the sentence it chooses to impose are  
19 not error, although each party agrees to maintain its view that the  
20 calculations and sentence referenced in paragraphs 14 and 15 are  
21 consistent with the facts of this case. While this paragraph  
22 permits both the USAO and defendant to submit full and complete  
23 factual information to the United States Probation Office and the  
24 Court, even if that factual information may be viewed as  
25 inconsistent with the facts agreed to in this agreement, this  
26 paragraph does not affect defendant's and the USAO's obligations not  
27 to contest the facts agreed to in this agreement.

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NO ADDITIONAL AGREEMENTS

31. Defendant understands that, except as set forth herein, there are no promises, understandings, or agreements between the USAO and defendant or defendant's attorney, and that no additional promise, understanding, or agreement may be entered into unless in writing signed by all parties or on the record in court.

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PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

32. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

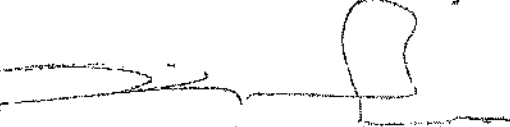
AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE  
FOR THE CENTRAL DISTRICT OF CALIFORNIA


ANDRÉ BIROTTE JR.  
United States Attorney

  
\_\_\_\_\_  
JOSEPH O. JOHNS  
MARK A. WILLIAMS  
Assistant United States Attorneys

3/27/14  
Date

  
\_\_\_\_\_  
NAME: THIES LAW  
TITLE: General Manager  
Authorized Representative of  
HERM. DAUELSBERG GMBH & CO. KG  
Defendant

March 27, 2014  
Date

  
\_\_\_\_\_  
JOHN H. PIPER  
JOHN COX  
Attorneys for Defendant  
HERM. DAUELSBERG GMBH & CO. KG

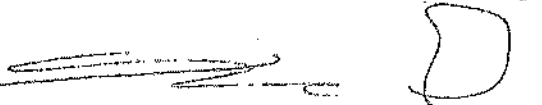
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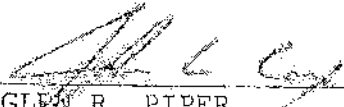
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CERTIFICATION OF DEFENDANT

I have been authorized by defendant HERM. DAUELSBERG GMBH & CO. KG ("defendant") to enter into this agreement on behalf of defendant. I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with defendant's attorney. I understand the terms of this agreement, and I voluntarily agree to those terms on behalf of defendant. I have discussed the evidence with defendant's attorney, and defendant's attorney has advised me of defendant's rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me or to defendant other than those contained in this agreement. No one has threatened or forced me or defendant in any way to enter into this agreement. I am satisfied with the representation of defendant's attorney in this matter, and I am pleading guilty on behalf of defendant because defendant is guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.

  
NAME: THIES LATT Date Mar. 6, 2014  
TITLE: General Manager  
Authorized Representative of  
HERM. DAUELSBERG GMBH & CO. KG  
Defendant

1 I am defendant HERM. DAUELSBERG GMBH & CO. KG's attorney. I  
 2 have carefully and thoroughly discussed every part of this agreement  
 3 with the authorized representative of my client. Further, I have  
 4 fully advised my client of its rights, of possible pretrial motions  
 5 that might be filed, of possible defenses that might be asserted  
 6 either prior to or at trial, of the sentencing factors set forth in  
 7 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions,  
 8 and of the consequences of entering into this agreement. To my  
 9 knowledge: no promises, inducements, or representations of any kind  
 10 have been made to my client other than those contained in this  
 11 agreement; no one has threatened or forced my client in any way to  
 12 enter into this agreement; my client's decision to enter into this  
 13 agreement is an informed and voluntary one; and the factual basis  
 14 set forth in this agreement is sufficient to support my client's  
 15 entry of guilty pleas pursuant to this agreement.

16  
 17  27 MAR 2014  
 18 GLEN R. PIPER Date  
 19 JOHN COX  
 20 Attorneys for Defendant  
 21 HERM. DAUELSBERG GMBH & CO. KG  
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# EXHIBIT A

**Herm. Dauelsberg GmbH & Co. KG**  
Commercial Register Bremen No. 11642  
Am Wall 128-134, D-28195 Bremen  
hereinafter "the Company"

**DIRECTORS' RESOLUTIONS REGARDING PLEA AGREEMENT ASSOCIATED**  
**WITH THE M/V BELLAVIA**

**WHEREAS**, the Company, through counsel, has negotiated a plea agreement and other documents and agreements (collectively, the "Plea Agreement") with the United States Attorney's Office in contemplation of resolving the Office's investigation of conduct by the Company on the M/V *BELLAVIA* with respect to potential violations of the Act to Prevent Pollution from Ships, 33 U.S.C. §§ 1901 et seq., and the Ports and Waterways Safety Act, 33 U.S.C. §§ 1221 et. seq.; and

**WHEREAS**, the Company through its Board of Directors has considered the Plea Agreement and, after consultation with counsel, believes that the Company's best interests are served by agreeing to such Plea Agreement and submitting the same to the United States District Court for the Central District of California.

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the Company be, and hereby is, authorized, and that Klaus Friedrich Bunnemann (Managing Director), Thies Lau (General Manager), Alexander Burchard (Operations Manager) (each, an "Authorized Officer") be, and each of them hereby is, authorized and directed, in the name and on behalf of the Company (any one of them acting alone) to enter into the Plea Agreement with the United States Attorney's Office, with such changes to the terms as the Authorized Officer may approve, such approval to be conclusively evidenced by his or her execution thereof;

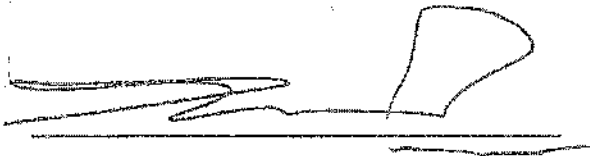
**RESOLVED**, that the Authorized Officers and/or any designee of such Authorized Officers be, and each of them hereby is authorized and directed, in the name and on behalf of the Company (any one of them acting alone) to represent the Company in any plea and sentencing hearing conducted by the United States District Court for the Central District of California with respect to the Plea Agreement and to enter a plea and accept a sentence on the Company's behalf that is materially consistent with that contemplated by the Plea Agreement;

**RESOLVED**, that the Authorized Officers be, and each of them hereby is authorized and directed, in the name and on behalf of the Company to do, or cause to be done, such further acts and things and to execute and deliver such further instruments, documents, and agreements which, in the opinion of the officer or officers so acting, are necessary, desirable or expedient to effectuate the purposes of the foregoing resolutions, such necessity, desirability or expediency to be conclusively evidenced by the taking of such actions or the execution or delivery of such instruments, documents, or agreements; and

**RESOLVED**, that the attorneys at Keesal, Young & Logan, including but not limited to John C. Cox and Glen R. Piper, are hereby authorized and directed to proceed with the entry of the guilty plea as detailed in the Plea Agreement and appear in court on behalf of the Company as its representative in these matters, and to take any and all further actions as they may deem necessary or expedient to give effect to the Plea Agreement.

I hereby certify that the aforesaid resolutions are true extracts of the resolutions passed by the Board of Directors of the Company on 27<sup>th</sup> March 2014.

Dated at Bremen, this 27<sup>th</sup> day of March 2014

A handwritten signature in black ink, appearing to read 'Thies Lau', is written over a horizontal line. The signature is stylized and somewhat cursive.

Thies Lau  
General Manager

Roll of Deeds No. 191/2014

The notary asked Mr. Thies Lau, whether he or a person professionally associated with him has dealt with the subject matter of this deed in accordance with Art. 3 para. 1 no. 7 of the Law of Notarization. The question was answered in the negative.

Hereby I, Dr. jur. Andreas Meyer Im Hagen, Notary Public at 28195 Bremen, Contrescarpe 47/48, (Federal Republic of Germany) certify the authenticity of the signature above

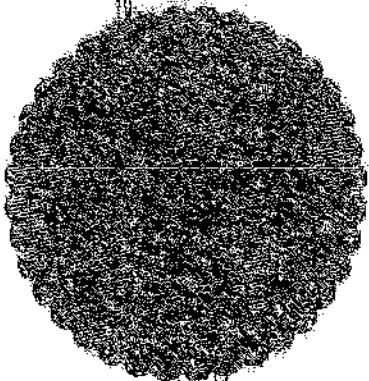
Mr. Thies Lau,  
born 21<sup>th</sup> day of February 1947,  
working at Am Wall 128/134, 28195 Bremen/Germany,

- signature given by him in my presence -
- Identified by his Identity Card, Federal Republik of Germany, Amt Horst-Herzhorn, der Amtsvorsteher, No. L1NH1ZWf6 -.

Hereby I, Dr. jur. Andreas Meyer Im Hagen, Notary Public at 28195 Bremen, Contrescarpe 47/48, (Federal Republic of Germany) certify pursuant to Section 21 para. 1 no. 1 of the German Law on Notaries upon inspection of the electronically commercial register at the Local Court in Bremen/Germany on 27<sup>th</sup> March, 2014 that:

- Mr. Thies Lau is the general manager with power of sole representation of Herr. Dauelsberg GmbH & Co. KG, with domicile in Bremen (Amtsgericht/Local Court Bremen HRA 11642 HB).

Executed this 27<sup>th</sup> day of March, 2014



*Andreas Meyer Im Hagen*  
- Dr. A. Meyer Im Hagen -  
Notary Public

# EXHIBIT B

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Exhibit B

Statement of Facts

Defendant is a company headquartered in Germany that owns and operates various cargo ships used to transport large amounts of cargo and other items throughout the world. The *M/V Bellavia* is a Panamax size container ship bearing IMO number 9290440 that was built in 2005. It is approximately 960 feet long, has a gross tonnage of 53,807, and sails under the Marshall Islands flag.

The *M/V Bellavia* is capable of transporting hundreds of cargo containers. In the fall of 2013, the *M/V Bellavia* was transporting cargo and other items on a route from Europe, through the Panama Canal, north along the west coast of the United States and Canada (stopping in various ports including the Ports of Los Angeles and Long Beach), and then returning on the same route back to Europe.

Approximately three years ago, the *M/V Bellavia* sustained hull fractures while transiting through the Panama Canal. The fractures were located on the side shell of the Number 4 Starboard Fuel Oil Tank (the "Number 4 Tank") where bunker fuel is stored. Bunker fuel is a very thick, heavy fuel oil that large ships use in their engines. Defendant knew about the hull fractures but only completed temporary repairs on them from the time the fractures developed through the date of the instant offenses. On an unknown number of occasions over the past three years, the hull fractures opened such that seawater could enter the Number 4 Tank and bunker fuel could have been released from the tank into the sea.

On or about September 13, 2013, while transiting through the Panama Canal, a compulsory pilot aboard the *M/V Bellavia* navigated the vessel into the side of the Lock causing the hull fracture on





1 the exterior of the Number 4 Tank to open. The vessel continued to  
2 Europe where the ship's captain, Master MITAR MISELJIC ("MISELJIC"),  
3 and Chief Engineer DEJAN VODOPIC ("VODOPIC") boarded the vessel in  
4 late-September 2013. Prior to Master MISELJIC and Chief Engineer  
5 VODOPIC boarding the vessel, Superintendent Tonci Zdunic boarded the  
6 vessel in Gioia Tauro, Italy, and inspected the hull fractures in  
7 late-September 2013. Prior to the departure from Gioia Tauro, the  
8 crew closed the fractures with Devcon, which is a "plastic steel"  
9 compound.

10 Defendant then permitted the *M/V Bellavia* to sail from Europe  
11 back toward the Panama Canal. While crossing the Atlantic Ocean,  
12 crew members discharged oil contaminated seawater from the Number 4  
13 Tank overboard into the sea using a marine diesel oil ("MDO") pump.  
14 To accomplish this, Chief Engineer VODOPIC and his engine room crew  
15 removed pipes from the vessel's oil-water separator ("OWS") and  
16 connected a bypass hose from the MDO pump to the ship's overboard  
17 discharge valve. Then, instead of using the OWS to properly filter  
18 the oil-water mixture in the Number 4 Tank pursuant to applicable  
19 federal regulations, the crew pumped the bunker fuel and water  
20 overboard through the overboard discharge valve. On this voyage in  
21 October 2013, the crew pumped approximately 450 cubic meters of oil  
22 contaminated seawater from the Number 4 Tank directly into the sea.  
23 The discharge did not occur through MARPOL approved equipment, and  
24 was not recorded in the *M/V Bellavia's* Oil Record Book in order to  
25 conceal the discharge.

26 After removing much of the oil contaminated water from the  
27 Number 4 Tank, the crew attempted to pump the residual oil  
28 contaminated water overboard using a Lube Oil Transfer ("LOT") pump

1 that was placed inside the tank. Following orders, the crew used  
2 the LOT pump to attempt to discharge the residual oil contaminated  
3 water through the *M/V Bellavia's* drain valve and into the ocean.  
4 This discharge did not occur through MARPOL approved equipment.  
5 This discharge was also not recorded in the *M/V Bellavia's* Oil  
6 Record Book in order to conceal the discharge.

7 Immediately prior to arriving in the Port of Long Beach in  
8 October 2013, crew members aboard the *M/V Bellavia* sealed the hatch  
9 to the Number 4 Tank with the LOT pump inside. The area around the  
10 Number 4 Tank's hatch was then thoroughly cleaned.

11 On or about October 22, 2013, the *M/V Bellavia* entered the Port  
12 of Long Beach and the crew members knowingly presented and  
13 maintained a false Oil Record Book in that they knowingly failed to  
14 record the aforementioned overboard discharges of oily water that  
15 had not been discharged through approved MARPOL equipment. In  
16 addition, when the United States Coast Guard conducted an inspection  
17 of the *M/V Bellavia* after it arrived in the Port of Long Beach,  
18 inspectors discovered oil residue in the overboard discharge valve.  
19 When asked by the Coast Guard about the overboard discharges, Chief  
20 Engineer VODOPIC, Master MISELJIC, and others denied knowledge of  
21 the discharges. In addition, the bypass hoses used to discharge the  
22 bunker fuel overboard were never located aboard the vessel by the  
23 Coast Guard.

24 The parties agree that open fractures on the exterior shell of  
25 the Number 4 Tank on the *M/V Bellavia* are hazardous conditions that  
26 may adversely affect the environmental quality of the Port of Long  
27 Beach and other waters that the *M/V Bellavia* sails in. In addition,  
28 the parties agree that the *M/V Bellavia* entered the Port of Long

1 Beach on at least one occasion in 2013 at a time when the hull  
2 fractures were open, and that defendant willfully and knowingly  
3 failed to report this hazardous condition to the United States Coast  
4 Guard.

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# EXHIBIT C

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Exhibit C

Agreed Upon Conditions of Probation

In addition to the standard conditions of probation recommended by the United States Probation Office, the parties agree to recommend, and not oppose the imposition of, the following conditions of probation:

1. OWS Training Program. Defendant agrees to develop and implement a company-wide, comprehensive training program for using oil-water separator ("OWS") systems that applies to all employees, officers, and crew members who work in engine rooms aboard all oceangoing vessels that are owned, operated, chartered, managed, and/or manned by the defendant during the period of probation (hereinafter, the "subject vessels"). The training program must be implemented company-wide and must be given semi-annually to all those to whom this paragraph applies. The program must include notifications to crew members that:

- a. Failure to properly use the OWS could result in a criminal prosecution of crew members and/or the Company by Port State authorities;
- b. Violations related to the OWS must be immediately reported to the closest Port State authorities; and
- c. Crew members who report OWS violations to Port State authorities may be entitled to a monetary reward.

The master and chief engineer aboard each subject vessel shall be responsible for ensuring compliance with this program. This program is subject to approval by the United States Probation Office and the USAO.

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1           2.   Hull Fracture Inspection and Reporting Policy. Defendant  
2 agrees to develop and implement a company-wide policy requiring crew  
3 members working aboard subject vessels to conduct inspections for,  
4 and immediately report, any cracks or fractures to the subject  
5 vessels that occur while transiting the Panama Canal. This policy  
6 must be implemented aboard all subject vessels and must require the  
7 crew to immediately report any such fractures or cracks to  
8 defendant's corporate headquarters and to the applicable  
9 classification society for the vessel. The master and chief  
10 engineer aboard each subject vessel shall be responsible for  
11 ensuring compliance with this policy. This policy is subject to  
12 approval by the United States Probation Office and the USAO.

13           3.   Defendant agrees to strictly adhere to its Hot Work and  
14 Confined Space Entry policies and procedures for the subject vessels  
15 as required by the International Safety Management ("ISM") code.  
16 The master and chief engineer aboard each subject vessel shall be  
17 responsible for ensuring compliance with this policy. This policy  
18 is subject to approval by the United States Probation Office and the  
19 USAO.

20           4.   Defendant agrees to cooperate in the government's ongoing  
21 investigation concerning the allegations in the Plea Agreement, and  
22 to promptly comply with any grand jury subpoena(s) issued in  
23 connection with the investigation.

24           5.   Defendant agrees to make final repairs to any and all  
25 cracks or fractures in the hull of the M/V Bellavia, including but  
26 not limited to the cracks in or near the Number 4 Starboard Fuel Oil  
27 Tank and the Number 5 Port Fuel Oil Tank. Defendant also agrees to  
28 provide proof of those final repairs, along with proof that the

1 applicable classification society has approved the repairs, to the  
2 United States Probation Office and the USAO.

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