

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

Grand Jury N-06-3

<p>UNITED STATES OF AMERICA</p> <p style="text-align: center;">v.</p> <p>IONIA MANAGEMENT S.A., and EDGARDO MERCURIO.</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p>CRIMINAL NO. _____</p> <p><b>VIOLATIONS:</b></p> <p><b>18 U.S.C. § 371 (Conspiracy)</b></p> <p><b>33 U.S.C. § 1908(a) (APPS Violation)</b></p> <p><b>18 U.S.C. § 1519 (Falsification of Records in Federal Investigation)</b></p> <p><b>18 U.S.C. § 1505 (Obstruction)</b></p> <p><b>18 U.S.C. § 2 (Aiding and Abetting)</b></p>
---	--	---

INDICTMENT

The Grand Jury charges as follows:

At all times relevant to this indictment:

**COUNT ONE**  
**(Conspiracy - 18 U.S.C. §371)**  
 (Ionia Management S.A. and Edgardo Mercurio)

General Allegations

1. Defendant IONIA MANAGEMENT S.A. (“IONIA”), was a company incorporated in Liberia and headquartered in Piraeus, Greece. Defendant Ionia was a ship management company that managed and operated a fleet of commercial tanker vessels including the *M/T Kriton*.
2. The *M/T Kriton* was a 28,933 gross ton ocean-going oil tanker vessel, approximately 606 feet in length, registered in the Bahamas, and assigned an International Maritime Organization (“IMO”) number of 8904264.
3. The *M/T Kriton* was engaged in the carriage of oil and petroleum products cargo to ports in the United States. On or about March 20, 2007, the *M/T Kriton* arrived in the Port of New Haven, Connecticut, within the internal waters of the United States and the District of

Connecticut. There, the United States Coast Guard ("U.S. Coast Guard") conducted an inspection of the *M/T Kriton* and initiated a criminal investigation.

4. Defendant EDGARDO MERCURIO ("MERCURIO"), a citizen of the Philippines, was the Second Assistant Engineer aboard the *M/T Kriton*. As Second Engineer, he was the crew member second-in-command of the ship's engine room and engine department.

5. The *M/T Kriton* had an engine department headed by a Chief Engineer, assisted by a Second Assistant Engineer, Third Assistant Engineer, Fourth Assistant Engineer, Cadet Engineer, Fitter, and Electrician, all of whom were assisted by unlicensed engine department crew members known as "Oilers" and "Wipers," all of whom were agents and employees of IONIA. The Chief Engineer had overall responsibility for the operations of the engine department, including supervision of daily operations, formulation and implementation of engine room procedures, and verification that all systems, including the Oily Water Separator and Incinerator, were functioning properly, as well as related record-keeping. In the absence or delegation of the Chief Engineer, the Second Assistant Engineer, as second-in-command of the engine room and engine department, had responsibility for all of these functions.

6. Engine Department operations on large marine vessels like the *M/T Kriton* generate large quantities of oil sludge created when fuel oil used to fuel the ship is purified by the ship's oil purifiers. Sludge may properly be disposed of either by incineration or by off-loading it at a port through the use of a licensed hauler and disposal facility. Marine vessels like the *M/T Kriton* also generate large quantities of oil-contaminated bilge waste created when water mixes in the bottom of the vessel, known as the bilges, with oil leaked and dripped from the machinery and engines' lubrication and fuel systems. These "oily mixtures" are also known as "bilge slops" and "slops from bilges" and were supposed to be collected, stored, and processed to separate the water from the oil and other wastes using pollution prevention control devices known as an Oily Water Separator and an Oil Content Monitor. Bilge waste could also properly be disposed of by off-loading it to a licensed hauler and disposal facility in port.

### **Legal Framework**

7. The United States was 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 (the "MARPOL Protocol"). The MARPOL Protocol was embodied in agreements that the United States had ratified and had been implemented in the United States by the Act to Prevent Pollution from Ships ("APPS"), 33 U.S.C. 1§1§ 1901, *et seq.* APPS made it a crime for any person to knowingly violate the MARPOL Protocol, APPS, or regulations promulgated under APPS. These regulations applied to all commercial vessels operating in the navigable waters of the United States or while in 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.

8. The MARPOL Protocol established an international regime for the treatment and disposal of oily mixtures generated from the machinery spaces of a vessel. Under the MARPOL Protocol, machinery space waste would be discharged overboard into the ocean only if it did not exceed fifteen (15) ppm of oil and the ship had in operation required pollution prevention equipment, to include oil filtering equipment (e.g., an Oily Water Separator), an alarm and an automatic stopping device (e.g., an Oil Content Monitor and a solenoid three-way valve) to prevent the discharge of a mixture containing more than the legally-permitted concentration of oil.

9. Consistent with the MARPOL Protocol requirements, the APPS regulations required that oil tankers of 150 gross tons or more maintain a record known as an Oil Record Book, in which the disposal of oil residue and the discharge overboard and disposal otherwise of sludge, oily mixtures, slops from bilges and bilge water that had accumulated in machinery spaces must be recorded. 33 C.F.R. § 151.25(a) and (d). Discharges from the machinery spaces of the ship had to be fully and accurately recorded in the Oil Record Book without delay by the person in charge of the operations. 33 C.F.R. §§ 151.25(d) and (h). The Oil Record Book was also required to record any emergency, accidental, or other exceptional discharges of oil or mixtures, including a statement of the circumstances of, and reasons for, the discharge. 33 C.F.R. §

151.25(g). The Oil Record Book was required to be maintained onboard the vessel for not less than three years, and be readily available for inspection at all times. 33 C.F.R. § 151.25(k).

10. The U.S. Coast Guard, an agency of the United States Department of Homeland Security, was charged with enforcing the laws of the United States and was 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. In conducting inspections, U.S. Coast Guard personnel relied on the statements of the vessel's crew and documents, including information contained in the Oil Record Book. The U.S. Coast Guard was specifically authorized to examine a vessel's Oil Record Book. 33 C.F.R. §§ 151.23(a)(3) & (c).

### **The Conspiracy**

#### **Objects of the Conspiracy**

11. Beginning on an unknown date, but including from at least on or about January 1, 2006, and continuing through on or about April 5, 2007, in the Port of New Haven and within the internal waters of the United States and the District of Connecticut, and elsewhere, defendant MERCURIO and defendant IONIA, acting through its agents and employees, who were acting within the scope of their agency and employment, and for the benefit of defendant IONIA, did knowingly and willfully combine, conspire, confederate and agree with each other, and with other persons known and unknown to the Grand Jury, to defraud the United States, that is to hamper, hinder, impede, impair and obstruct by craft, trickery, deceit, and dishonest means, the lawful and legitimate functions of the Department of Homeland Security and Department of Justice in enforcing MARPOL and United States law, and the terms of Ionia's probation and Environmental Compliance Program, and to commit offenses against the United States as set forth below:

1. Failure to Maintain Oil Record Books: To knowingly fail to maintain Oil Record Books for the *M/T Kriton* in which all operations involving the transfer of oil, oil sludge, oil residue, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces, have been fully recorded, in violation of Title 33, United States Code, section 1908(a) and Title 33, Code of Federal Regulations, sections 151.25(a) and 151.25(h);
2. Falsification of Records in a Federal Investigation: To knowingly alter, conceal, cover up, falsify, or make a false entry in any record or document with the intent to impede, obstruct, or influence the investigation and proper administration of a matter within the jurisdiction of the U.S. Coast Guard and Department of Homeland Security and in relation to and in contemplation of a matter, namely, the *M/T Kriton*'s compliance with MARPOL and United States laws, including U.S. Coast Guard inspections to determine such compliance, in violation of Title 18 United States Code, Section 1519; and
3. Obstruction of Justice: to corruptly influence, obstruct and impede, and endeavor to influence, obstruct and impede the due and proper administration of the law under a pending proceeding by the Coast Guard and the Department of Homeland Security during a vessel inspection of the *M/T Kriton* to determine the vessel's compliance with MARPOL and United States law, in violation of Title 18, United States Code, Section 1505.

---

**Manner and Means of the Conspiracy.**

The manner and means by which the conspiracy was formed and carried out included, but was not limited to, the following:

12. It was part of the conspiracy that the defendants and other members of the conspiracy routinely discharged and caused the discharge of oil, oil sludge, oil residues, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces, from the *M/T Kriton* directly into the ocean, at various times and places, using a flexible hose, with attachments on each end,

connected between bilge piping and an overboard discharge valve on the vessel, bypassing the ship's Oily Water Separator.

13. It was further part of the conspiracy that, after pumping out oil, oil sludge, oil residues, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces through the flexible bypass hose, the defendants and other members of the conspiracy then cleaned the hose of oil residue by flushing it with sea water.

14. It was further part of the conspiracy that the defendants and other members of the conspiracy concealed the bypass hose in a specific location among piping under the deck plates of the vessel, by attaching it to a portion of the ship to make it appear that the hose was a normal part of the vessel.

15. It was further part of the conspiracy that the defendants and other members of the conspiracy cleaned the overboard discharge valve for the boiler blow down on the *M/T Kriton* by activating the boiler blow down to blow steam through its overboard discharge valve.

16. It was further part of the conspiracy that the defendants and other members of the conspiracy failed to maintain an accurate Oil Record Book for the *M/T Kriton*.

17. It was further part of the conspiracy that the defendants and other members of the conspiracy prepared and submitted, and caused to be prepared and submitted to the U. S. Coast Guard documents entitled "Compliance Program Checklist for the Proper Care and Disposal of Oily Waste," documents required to be submitted under the terms of a court-ordered Environmental Compliance Program, a condition of Ionia Management S.A.'s probation on a prior conviction for making false statements to the U.S. Coast Guard in the United States District Court for the Eastern District of New York.

18. It was further part of the conspiracy that the defendants and other members of the conspiracy made or caused to be made material false statements to the U.S. Coast Guard during an inspection of the *M/T Kriton* in the port of New Haven.

19. It was further part of the conspiracy that engine room crew members employed by IONIA aboard the *M/T Kriton* engaged in a pattern of conduct that they perceived would save their employer time and expenses associated with proper disposal of oil, oil sludge, oil residues,

oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces, and maintenance of pollution control equipment.

### Overt Acts

20. In furtherance of the conspiracy and to accomplish its purposes and objects, the defendants IONIA, acting through its agents and employees, acting in the scope of and for the benefit of their employer, EDGARDO MERCURIO, and others known and unknown to the Grand Jury, committed and caused others to commit at least one of the following overt acts, among others, in the District of Connecticut and elsewhere:

Overt Acts 1 through 15: On or about the following dates and in the following United States ports, each of which constitutes a separate Overt Act of the Conspiracy, the defendants and other members of the conspiracy maintained a false and misleading Oil Record Book for the *M/T Kriton*:

<b>Overt Act</b>	<b>Date</b>	<b>Location</b>
Overt Act 1	January 20, 2006	Port Everglades, FL
Overt Act 2	March 7, 2006	Brooklyn, NY
Overt Act 3	July 23, 2006	Brooklyn, NY
Overt Act 4	August 27, 2006	Limetree Bay, St. Croix USVI
Overt Act 5	September 2, 2006	Boston, MA
Overt Act 6	September 12, 2006	Limetree Bay, St. Croix USVI
Overt Act 7	September 20, 2006	Brooklyn, NY
Overt Act 8	October 16, 2006	Limetree Bay, St. Croix, USVI
Overt Act 9	October 30, 2006	Limetree Bay, St. Croix, USVI
Overt Act 10	November 12, 2006	Port Everglades, FL
Overt Act 11	December 22, 2006	Limetree Bay, St. Croix, USVI
Overt Act 12	December 29, 2006	Boston, MA
Overt Act 13	January 12, 2007	Port Everglades, FL
Overt Act 14	March 13, 2007	Limetree Bay, St. Croix, USVI

Overt Act 15	March 20, 2007	New Haven, CT
--------------	----------------	---------------

Overt Act 16: Between on or about January 1, 2006 and on or about March 20, 2007, defendant IONIA, acting through senior engineers in the engine department of the *M/T Kriton* who were its agents and employees and who were acting in the scope of their agency and employment and for the benefit of their employer, routinely during international voyages directed subordinate engine room crew members to connect a flexible black rubber hose, fitted with a flange at either end, to the bilge piping and an overboard discharge valve, for use in bypassing the Oily Water Separator on the *M/T Kriton* and discharging oil, oil sludge, oil residues, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces directly overboard.

Overt Act 17: Between on or about June 29, 2006 and on or about March 20, 2007, defendant MERCURIO, acting within the scope of his agency and employment and for the benefit of his employer defendant IONIA, routinely during international voyages directed subordinate engine department crew members to connect a flexible black rubber hose, fitted with a flange at either end, to the bilge piping and an overboard discharge valve, for use in bypassing the Oily Water Separator on the *M/T Kriton* and discharging oil, oil sludge, oil residues, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces directly overboard.

Overt Act 18: Between on or about June 29, 2006 and on or about March 20, 2007, defendant MERCURIO, acting within the scope of his agency and employment and for the benefit of his employer defendant IONIA, routinely during international voyages directed Oilers in the engine department of the *M/T Kriton* to pump oil, oil sludge, oil residues, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces directly overboard from the *M/T Kriton* through a flexible, black rubber hose, bypassing the ship's Oily Water Separator.

Overt Act 19: Between on or about January 1, 2006 and on or about March 20, 2007, defendant IONIA, acting through senior engineers in the engine department of the *M/T Kriton*, who were its agents and employees and who were acting in the scope of their agency and employment and for the benefit of their employer, defendant IONIA, routinely during



international voyages directed subordinate engine department crew members to pump oil, oil sludge, oil residues, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces directly overboard from the *M/T Kriton* through a flexible, black rubber hose, bypassing the ship's Oily Water Separator.

Overt Act 20: Between on or about March 11, 2007 and on or about March 20, 2007, defendant MERCURIO and defendant IONIA, acting through its agents and employees who were acting within the scope of their employment and for the benefit of their employer, defendant IONIA, instructed an Oiler in the engine department of the *M/T Kriton* to refill waste oil tanks, the contents of which had been pumped out directly overboard from the vessel into the ocean, with sea water in order to create the impression that the volumes contained in the tanks were consistent with volumes written in the Oil Record Book.

Overt Act 21: On or about July 23, 2006, at Stapleton Anchorage within the internal waters of the United States and the Eastern District of New York, during a U.S. Coast Guard inspection of the *M/T Kriton* to determine the vessel's compliance with MARPOL and United States law, defendant MERCURIO and defendant IONIA, acting through its agents and employees who were acting within the scope of their employment and for the benefit of their employer, defendant IONIA, presented and caused the presentation of a false Oil Record Book that falsely recorded and failed to record overboard discharges of oil, oil sludge, oil residues, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces made without the proper use of an Oily Water Separator and Oil Content Monitor.

Overt Act 22: On or about March 20, 2007, in the Port of New Haven and within the internal waters of the United States and the District of Connecticut, during a U.S. Coast Guard inspection of the *M/T Kriton* to determine the vessel's compliance with MARPOL and United States law, defendant MERCURIO and defendant IONIA, acting through its agents and employees who were acting within the scope of their employment and for the benefit of their employer, defendant IONIA, presented and caused the presentation of a false Oil Record Book that falsely recorded and failed to record overboard discharges of oil, oil sludge, oil residues, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces made without the proper use of an Oily Water Separator and oil-sensing Oil Content Meter.

Overt Act 23: On or about January 16, 2006, defendant IONIA, acting through its agents and employees who were acting within the scope of their employment and for the benefit of their employer, defendant IONIA, prepared and submitted, and caused to be prepared and submitted to the United States Coast Guard a document entitled “Compliance Program Checklist for the Proper Care and Disposal of Oily Waste,” a document required to be submitted under the terms of a court-ordered Environmental Compliance Program, a condition of Ionia Management S.A.’s probation on a prior conviction for making false statements to the U.S. Coast Guard in the United States District Court for the Eastern District of New York, that was falsified and contained materially false assertions and entries.

Overt Act 24: On or about November 6, 2006, defendant IONIA, acting through its agents and employees who were acting within the scope of their employment and for the benefit of their employer, defendant IONIA, prepared and submitted, and caused to be prepared and submitted to the United States Coast Guard a document entitled “Compliance Program Checklist for the Proper Care and Disposal of Oily Waste,” a document required to be submitted under the terms of a court-ordered Environmental Compliance Program, a condition of Ionia Management S.A.’s probation on a prior conviction for making false statements to the U.S. Coast Guard in the United States District Court for the Eastern District of New York, that was falsified and contained materially false assertions and entries.

Overt Act 25: Between on or about March 20, 2007 and on or about April 5, 2007, defendant MERCURIO advised subordinate engine department crew members: a) not to reveal the existence or location of the flexible bypass hose to the U.S. Coast Guard; and b) to tell the U.S. Coast Guard “nothing.”

All in violation of Title 18, United States Code, Section 371.

**COUNT TWO**

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

(Edgardo Mercurio and Ionia)

1. The allegations contained in Paragraphs 1 through 10 of Count One of this Indictment are realleged as though fully set forth herein.

2. On or about March 20, 2007, in the Port of New Haven and within the internal waters of the United States and the District of Connecticut, defendant IONIA, acting through its agents and employees who were acting within the scope of their agency and employment and for the benefit of defendant IONIA, aided and abetted by defendant MERCURIO and other persons known and unknown to the grand jury, did knowingly fail and cause the failure to maintain an Oil Record Book for the *M/T Kriton* in which all disposals of oil residue and discharges overboard and disposals otherwise of oil, oil sludge, oil residues, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces and elsewhere aboard the *M/T Kriton* were fully recorded, during a U.S. Coast Guard inspection to determine the compliance of the *M/T Kriton* with United States law, by failing to disclose exceptional discharges of oil-contaminated waste made through a bypass hose and without the use of a properly functioning oily water separator and oil content monitor.

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

**COUNT THREE**

**(Falsification of Records in Federal Investigation - 18 U.S.C. § 1519)**

(Edgardo Mercurio and Ionia)

1. The allegations contained in Paragraphs 1 through 10 of Count One of this Indictment are realleged as though fully set forth herein.

2. Between on or about January 1, 2006 and on or about March 20, 2007, in the Port of New Haven and within the internal waters of the United States and the District of Connecticut, defendant IONIA, acting through its agents and employees, who were acting within the scope of their agency and employment, and for the benefit of defendant IONIA, aided and abetted by

defendant MERCURIO and other persons known and unknown to the grand jury, did knowingly alter, conceal, cover up, falsify, and make false entries in a record and document with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of a department or agency of the United States, and in relation to and contemplation of such a matter, namely, an inspection by the U.S. Coast Guard and Department of Homeland Security, to wit: Oil Record Books for the *M/T Kriton* during the period of January 1, 2006 through March 20, 2007 presented for inspection to the U.S. Coast Guard during an inspection in the Port of New Haven on or about March 20, 2007 omitted entries required to be recorded of overboard discharges of oil, oil sludge, oil residues, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces and elsewhere aboard the *M/T Kriton*, without processing through required pollution prevention equipment, and falsely represented that all discharges and disposals had been made using either an incinerator or properly-functioning Oily Water Separator and Oil Content Monitor, when the defendant well knew that oil, oil sludge, oil residues, oily mixtures, bilge slops, and bilge water that had accumulated in machinery spaces and elsewhere aboard the *M/T Kriton* had been discharged directly overboard through a bypass hose.

All in violation of 18, United States Code, Sections 1519 and 2.

**COUNT FOUR**  
**(Obstruction of Justice - 18 U.S.C. § 1505)**  
(Edgardo Mercurio)

1. The allegations contained in Paragraphs 1 through 10 of Count One of this Indictment are realleged as though fully set forth herein.

2. Between on or about March 20, 2007 and on or about April 5, 2007, in the Port of New Haven and within the internal waters of the United States and the District of Connecticut, defendant MERCURIO did corruptly influence, obstruct and impede, and endeavor to influence, obstruct and impede the due and proper administration of the law under a pending proceeding by the U.S. Coast Guard and the Department of Homeland Security, to wit, during a vessel

inspection of the *M/T Kriton* to determine the vessel's compliance with MARPOL and United States law, MERCURIO:

- A. Directed a subordinate, Cadet Engineer on the *M/T Kriton* that if questioned by the U.S. Coast Guard the Cadet should tell the Coast Guard that a flexible hose used on the *M/T Kriton* to illegally bypass the ship's Oily Water Separator instead was used to drain water from the ship's boiler, internally, into the ship's Bilge Water Holding Tank;
- B. Directed a subordinate, an Oiler, that if questioned by the U.S. Coast Guard he should say "nothing" and that he knows nothing, when, as defendant MERCURIO then and there knew, the Oiler was aware of, and participated in, using a flexible hose to improperly discharge oil-contaminated waste overboard from the vessel, improperly bypassing the Oily Water Separator on the *M/T Kriton*; and
- C. Knowingly and willfully made material false statements to the U.S. Coast Guard during an inspection being conducted to determine the *M/T Kriton*'s compliance with MARPOL and United States law, to wit: 1) that he had no knowledge of the bypass hose or of the *M/T Kriton*'s illegally discharging oil-contaminated waste; 2) that he had never ordered anyone to connect or disconnect the bypass hose; and 3) that the Oily Water Separator on the *M/T Kriton* was used to properly dispose of oil-contaminated waste, when, as MERCURIO then and there knew, the Oily Water Separator on the *M/T Kriton* was not routinely being used to properly discharge oil-contaminated waste and instead said waste routinely was being discharged improperly directly overboard through a flexible bypass hose, connected and disconnected by subordinate engine department crew members at MERCURIO's direction.

All in violation of Title 18, United States Code, Sections 1505 and 2.

**COUNT FIVE**  
**(Obstruction - 18 U.S.C. § 1505)**  
(Ionia)

1. The allegations contained in Paragraphs 1 through 10 of Count One of this Indictment are realleged as through fully set forth herein.

2. Between on or about March 20, 2007 and on or about April 5, 2007, in the Port of New Haven and within the internal waters of the United States and the District of Connecticut, defendant IONIA, acting by and through its agents and employees, acting in the scope of their employment and for the benefit of their employer, defendant IONIA, did corruptly influence,

obstruct and impede, and endeavor to influence, obstruct and impede the due and proper administration of the law under a pending proceeding by the U.S. Coast Guard and the Department of Homeland Security, to wit, during a vessel inspection of the *M/T Kriton* to determine the vessel's compliance with MARPOL and United States law, to wit, IONIA:

- A. Destroyed and concealed a black, flexible hose used to directly discharge oil-contaminated waste overboard from the vessel, improperly bypassing the Oily Water Separator on the *M/T Kriton*;
- B. Acting by and through its agent and employee, the Chief Engineer on the *M/T Kriton*, directed a subordinate, Cadet Engineer that if questioned by the U.S. Coast Guard the Cadet Engineer should tell the Coast Guard that "only the oily water separator is used to pump out the bilge;"
- C. Acting by and through its agent and employee, defendant MERCURIO, the Second Assistant Engineer on the *M/T Kriton*, directed a subordinate, Cadet Engineer that on the *M/T Kriton* that if questioned by the U.S. Coast Guard the Cadet should tell the Coast Guard that a flexible hose used on the *M/T Kriton* to illegally bypass the ship's Oily Water Separator instead was used to drain water from the ship's boiler, internally, into the ship's Bilge Water Holding Tank;
- D. Acting by and through its agent and employee, defendant MERCURIO, the Second Assistant Engineer on the *M/T Kriton*, directed a subordinate, an Oiler, that if questioned by the U.S. Coast Guard he should say "nothing" and that he knows nothing, when, as defendant MERCURIO then and there knew, the Oiler was aware of, and participated in, using a flexible hose to improperly discharge oil-contaminated waste overboard from the vessel, improperly bypassing the Oily Water Separator on the *M/T Kriton*; and
- E. Acting by and through its agent and employee, defendant MERCURIO, the Second Assistant Engineer on the *M/T Kriton*, stated to the U.S. Coast Guard during an inspection being conducted to determine the *M/T Kriton*'s compliance with MARPOL and United States law: 1) that he had no knowledge of the bypass hose or of the *M/T Kriton*'s illegally discharging oil-contaminated waste; 2) that he had never ordered anyone to connect or disconnect the bypass hose; and 3) that the Oily Water Separator on the *M/T Kriton* was used to properly dispose of oil-contaminated waste, when, as MERCURIO then and there knew, the Oily Water Separator on the *M/T Kriton* was not routinely being used to properly discharge oil-contaminated waste and instead said waste routinely was being discharged improperly directly overboard through a flexible bypass hose, connected and disconnected by subordinates of defendant MERCURIO at his direction.

All in violation of Title 18, United States Code, Sections 1505 and 2.

A TRUE BILL

DATE: \_\_\_\_\_

\_\_\_\_\_  
FOREPERSON

Kevin J. O'Connor  
United States Attorney

Ronald J. Tenpas  
Acting Assistant Attorney General  
Environment & Natural Resources  
U.S. Department of Justice

\_\_\_\_\_  
John H. Durham  
Deputy United States Attorney

\_\_\_\_\_  
Malinda R. Lawrence  
Trial Attorney

\_\_\_\_\_  
Anthony E. Kaplan  
Supervisory Assistant United States Attorney

\_\_\_\_\_  
James B. Nelson  
Trial Attorney  
Environmental Crimes Section

\_\_\_\_\_  
William M. Brown  
Assistant United States Attorney

\_\_\_\_\_  
Luke M. Reid  
Special Assistant United States Attorney