

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	CRIMINAL ACTION
v.	:	
	:	NO. 08-00341
REEDEREI KARL SCHLUETER	:	
GMBH & CO. KG	:	

**ORDER**

AND NOW, this 9th day of June, 2009, Defendants Reederei Karl Schlueter GmbH & Co. KG and Nikola Ilijic each having entered a plea of guilty to Count One of the Information charging the filing, and aiding and abetting the filing, of a false Oil Record Book in violation of 33 U.S.C. § 1908(a), and the Court having imposed criminal fines against Defendant Reederei Karl Schlueter GmbH & Co. KG in the amount of \$1,000,000.00, and against Nikola Ilijic in the amount of \$5,000.00, and there being four crew members who provided information leading to Defendants' convictions, and the four crew members having requested shares of the criminal fines imposed against Defendants, in accordance with 33 U.S.C. § 1908(a) and to further the public interest and the purposes of the Act to Prevent Pollution from Ships, it is ORDERED that \$502,000.00, which represents one-half of the total criminal fines of \$1,005,000.00, is AWARDED to the four persons who provided information leading to Defendants' convictions, to be distributed as follows:

1. To Pacifico Domingo \$125,625.00.
2. To Bon Ryan Pascua \$125,625.00.
3. To Gaudencio Secuya \$125,625.00.
4. To Edmer Laurino \$125,625.00.

The Clerk of Court is directed to pay the awards to Counsel for Pacifico Domingo, Bon Ryan Pascua, Guadencio Secuya, and Edmer Laurino, Stephen Robert LaCheen, Esq., who shall make secure arrangements for his clients to receive their awards along with a copy of this Order, and a full accounting after appropriate deductions for fees and costs lawfully due Counsel.

IT IS SO ORDERED.<sup>1</sup>

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<sup>1</sup> Defendant Reederei Karl Schlueter GmbH & Co. KG (“RKS”) is a ship management company incorporated and headquartered in Germany. Defendant Nikola Ilijic was the Chief Engineer of the *M/V MSC Uruguay*, a vessel operated by RKS.

Ships such as the *M/V MSC Uruguay* generate large quantities of oil-contaminated bilge waste in their engine rooms. The Protocol of 1978, also known as the MARPOL Protocol, regulates the discharge of such waste. The United States enacted the Act to Prevent Pollution from Ships (“APPS”), 33 U.S.C. §§ 1901, *et seq.*, to implement the MARPOL Protocol. The APPS makes it a crime to knowingly violate the MARPOL Protocol. The MARPOL Protocol does not permit the discharge of bilge waste into the ocean if the waste exceeds fifteen parts per million (15 ppm) of oil. Ships must also have operating pollution prevention equipment that separates oil from the bilge waste and that detects and prevents the discharge of waste containing more than 15 ppm of oil. APPS regulations require ships such as the *M/V MSC Uruguay* to maintain a record of the disposal of oil residue and of each discharge into the ocean of bilge waste. 33 C.F.R. §§ 151.25(a), (d), (g), (h), (k).

On December 2, 2007, January 3, 2008, and January 4, 2008, the *M/V MSC Uruguay* discharged bilge waste from the ship. (Doc. No. 9 (“Guilty Plea Agreement” for Ilijic); Doc. No. 14, Ex. A (“Guilty Plea Agreement” for RKS).) Ilijic, the Chief Engineer and agent of RKS, failed to report these discharges in the ship’s Oil Record Book, and instead falsely reported that the bilge waste had been processed through the ship’s pollution prevention equipment. (*See id.*) When the ship was docked in Philadelphia, four crew members from the engine room of the *M/V MSC Uruguay* sent a letter and videotape to the U.S. Coast Guard detailing the illegal discharges of bilge waste. (Doc. No. 14, Factual Basis for Plea at 1.) The Coast Guard conducted an investigation, interviewed the four crew members, and corroborated many details related by the crew members about the manner of bypassing the pollution prevention equipment. (*Id.* at 1-4; *see also* Doc. No. 38 at 5-6.) In addition, the Coast Guard investigators reviewed the ship’s Oil Record Book, which did not record that bilge waste had been discharged directly overboard without the use of the pollution prevention equipment. (Doc. No. 14, Factual Basis for Plea at 3.)

On June 11, 2008, a one-count federal criminal information charged Defendants with filing and aiding and abetting the filing of a false Oil Record Book in violation of 33 U.S.C. § 1908(a). (*See* Doc. No. 1.) Each defendant waived the right of prosecution by indictment (*see* Doc. Nos. 10, 15), and entered a plea of guilty to Count One of the information (*see* Doc. Nos. 9,

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14). RKS was sentenced on June 16, 2008, and assessed a criminal fine of \$1,000,000.00. (See Doc. No. 22 at 4.) Ilijic was sentenced on June 18, 2008, and assessed a criminal fine of \$5,000.00. (See Doc. No. 24 at 4.) Counsel for the four crew members requested that the Court award fifty-percent of the fines assessed against Defendants as rewards pursuant to 33 U.S.C. § 1908(a). (Doc. No. 40 at 1.) The Government has advised that “[t]he government’s investigation and prosecution depended heavily from its inception on the cooperation of these witnesses.” (Doc. No. 38 at 7.) RKS opposes the award, accusing the crew members of sabotaging the ship “as part of their plan to exact revenge against the Chief Engineer and Second Engineer . . . and to obtain a huge reward from the U.S. authorities.” (Doc. No. 29 at 1; *see also* Doc. No. 42.) The Government responds that “RKS’s attacks on the integrity and motives of the [crew members] are unsubstantiated and reveal precisely the kind of vindictive retaliation which the [crew members] apparently feared when they suggested that they will have difficulty finding future work in the shipping industry (their only livelihood, as far as is known).” (Doc. No. 31 at 2.) Further, the Government questions the standing of RKS to object to the distribution of the criminal fine under 33 U.S.C. § 1908(a). (*Id.* at 3.) On May 27, 2009, counsel for the four crew members advised the Court by letter that “the claimants in this matter are no longer able to obtain employment as merchant seamen, as a result of their ‘whistle-blowing’ efforts in this case.” Letter from Stephen R. LaCheen, Esq., to the Court (May 27, 2009) (on file with the Court).

Section 1908(a) provides in pertinent part that “[i]n the discretion of the Court, an amount equal to not more than 1/2 of such fine may be paid to the person giving information leading to conviction.” 33 U.S.C. § 1908(a). Under § 1908(a), courts routinely make awards of a full one-half of criminal fines. *See, e.g., United States v. Overseas Shipholding Group, Inc.*, Nos. 06-10408, 06-10420, 06-10421, 06-10422, 06-10423, slip op. at 3, 14-15 (D. Mass. Apr. 25, 2007) (dividing one-half of the total fine of \$10,500,000.00 among twelve individuals); *United States v. Irika Maritime S.A.*, No. 06-5661, slip op. at 1 (W.D. Wash. Jan. 23, 2007) (awarding one-half of a total fine of \$500,000.00 to one individual); *United States v. Wallenius Ship Mgmt.*, No. 06-213, Doc. No. 18 at 4 (D.N.J. Oct. 16, 2006) (dividing one-half of a total fine of \$5,000,000.00 among four individuals).

In this case, the four crew members provided substantial information that led to the guilty pleas in this case. The Government advises that

the information provided by the [four crew members] here has been corroborated by, *inter alia*, a video of the discharge, the magic pipe that was discovered during the Coast Guard’s inspection of the vessel, the Engine Room sounding log and alarm log, as well as – most importantly – the confessions of the Chief Engineer and Second Engineer (and the guilty pleas of RKS and the Chief Engineer). There is no question that the information provided by [the four crew members] was accurate. And, to the extent that motivation is even relevant, the government’s investigation revealed no basis for concluding that the crew members reported the MARPOL violations with any nefarious or inappropriate intention.

(*Id.* at 3.)

BY THE COURT:

/s/ R. Barclay Surrick  
U.S. District Judge

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We are satisfied that an award to the four crew members amounting to one-half of the total criminal fines assessed against Defendants would further the purpose of the APPS. The crew members exposed the discharges of bilge waste into the ocean and cooperated with the Coast Guard investigation. The information that the crew members provided and that the Coast Guard corroborated led to Defendants' guilty pleas. Accordingly, an award of one-half of the total criminal fine pursuant to 33 U.S.C. § 1908(a) is appropriate.