

UNITED STATES DISTRICT COURT

Eastern District of Texas

UNITED STATES OF AMERICA

V.

JUDGMENT IN A CRIMINAL CASE

(For Organizational Defendants)

AVIN INTERNATIONAL LTD

CASE NUMBER: 1:18CR118-1

Dimitri Georgantas

Defendant Organization's Attorney

THE DEFENDANT ORGANIZATION:

☒ pleaded guilty to count(s) Counts 1, 2, 3, 4, and 5 of the Information☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1505	Obstruction of an Agency Proceeding	7/14/2017	1
33 U.S.C. § 1321(b)(5)	Failure to Report Discharge of Oil	7/14/2017	2
33 U.S.C. § 1319(c)(1)(A)	Negligent Discharge of Oils	7/6/2017	3
33 U.S.C. § 1319(c)(1)(A)	Negligent Discharge of Oils	7/7/2017	4

The defendant organization is sentenced as provided in pages 2 through 9 of this judgment.☐ The defendant organization has been found not guilty on count(s) _____☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's
Federal Employer I.D. No.: None

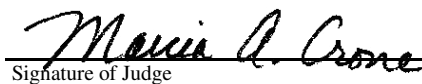
Defendant Organization's Principal Business Address:

Ajeltake RoadAjeltake IslandMajuro, Marshall Islands MH96960

Defendant Organization's Mailing Address:

12 A Irodou Attikou15124 MaroussiAthens, Greece5/3/2019

Date of Imposition of Judgment



Signature of Judge

Honorable Marcia A. Crone

Name and Title of Judge

5/9/19

Date

AO 245E (Rev. 12/03) Judgment in a Criminal Case for Organizational Defendants
Sheet 1A

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ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
33 U.S.C. § 1319(c)(1)(A)	Negligent Discharge of Oils	7/8/2017	5

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PROBATION

The defendant organization is hereby sentenced to probation for a term of :

Four (4) years on each of Counts 1 through 5 of the Information, all such terms to be served concurrently

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

The organization shall commit no further violations of federal, state, or local law, including those laws and regulations for which primary enforcement has been delegated to state authorities, and shall conduct all its operations in accordance with the International Convention for the Prevention of Pollution from Ships, as modified by the Protocol of 1978 (together, “MARPOL”), and the environmental laws of the United States.

The organization shall pay any financial penalty imposed by the Judgment.

The organization shall fund and implement the Environmental Compliance Plan (“ECP”), attached to the Plea Agreement as Attachment 1, during the term of probation.

The organization shall be prohibited from discharging any financial penalty imposed in this case through any present or future bankruptcy proceedings.

STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organizations's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

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CRIMINAL MONETARY PENALTIES

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 1175.00	\$ 4,000,000.00	\$ 0.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS \$ _____ \$ _____

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:

☒ the interest requirement is waived for ☒ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 4,001,175.00 due immediately, balance due
☐ not later than _____, or
☐ in accordance with ☐ C or ☐ D below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C or ☐ D below); or
- C ☐ Payment in _____ (e.g., equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☒ Special instructions regarding the payment of criminal monetary penalties:

It is further ordered that the defendant must pay to the United States a fine of \$800,000 as to each of Counts 1 through 5 of the Information, for a total fine of \$4,000,000, which is due and payable immediately. The fine is to be paid in aggregate with Nicos I.V. Special Maritime Enterprises, Docket No. 0540 1:18CR00118-2.

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant organization shall pay the cost of prosecution.
- ☐ The defendant organization shall pay the following court cost(s):
- ☐ The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

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STATEMENT OF REASONS

☒ The court adopts the presentence report and guideline applications **WITHOUT CHANGE**.

OR

☐ The court adopts the presentence report guideline applications **BUT WITH THESE CHANGES**:

Guideline Range Determined by the Court: The sentencing guidelines do not apply.

☐ The defendant organization is a criminal purpose organization pursuant to U.S.S.G. §8C1.1.

OR

☐ The calculation of the guideline fine range is unnecessary because the defendant organization cannot pay restitution pursuant to U.S.S.G. §8C2.2(a).

OR

Total Offense Level: _____

Base Fine: _____

Total Culpability Score: _____

Fine Range: \$ _____ to \$ _____

☐ Disbursement amount of \$ _____ is added to fine pursuant to U.S.S.G. §8C2.9.

☐ Fine offset amount of \$ _____ is subtracted from fine pursuant to U.S.S.G. §8C3.4.

☐ Fine waived or below the guideline range because of inability to pay pursuant to U.S.S.G. §8C.3.3.

RESTITUTION DETERMINATIONS

Total Amount of Restitution: \$ _____

☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).

☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B).

☐ For offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).

☐ Restitution is not ordered for other reasons:

☐ Partial restitution is ordered, pursuant to 18 U.S.C. § 3553(c) for the following reason(s):

AO 245E (Rev. 12/03) Judgment in a Criminal Case for Organizational Defendants
Attachment A — Statement of Reasons

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STATEMENT OF REASONS

- ☒ The sentence is within the guideline range and the court finds no reason to depart from the sentence called for by the application of the guidelines.

A total fine of \$4,000,000 was imposed in accordance with the binding Rule 11(c)(1)(C) Plea Agreement; with 18 USC 3553 and 3572; and with USSG 8C2.10.

\$3,200,000 of the fine is to be disbursed to the Oil Spill Liability Trust Fund

OR

- ☐ The sentence departs from the guideline range:
- ☐ upon motion of the government, as a result of a defendant's substantial assistance, or
 - ☐ for the following specific reason(s):

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ADDITIONAL FINDINGS AND GUIDELINE APPLICATION CHANGES

The court finds this to be a reasonable sentence in view of the nature and circumstances of the offenses entailing the defendant's obstruction of an agency proceeding, failure to report discharge of oil, and negligent discharge of oils, the defendant's operation of an ocean-going oil tanker vessel that during de-ballasting discharged an unknown quantity of oil into the water at the Port of Houston and on the following day at the Valero Terminal in Port Arthur, TX, in June 2017, and the chief officer of the vessel's falsely denying knowledge of the oil discharges at the Port of Houston while reporting the discharge at Port Arthur. It will serve as just punishment, promote respect for the law, and deter future violations of the law. Although the court finds the guideline calculations announced at the sentencing hearing to be correct, to the extent they were incorrectly calculated, the court would have imposed the same sentence without regard to the applicable guideline range in light of the factors set forth in 18 U.S.C. § 3553(a).