

UNITED STATES DISTRICT COURT

District of Maine

U.S. DISTRICT COURT
DISTRICT OF MAINE
PORTLAND
RECEIVED & FILEDUNITED STATES OF AMERICA
V.**JUDGMENT IN A CRIMINAL CASE** P 2: 48
(For Organizational Defendants)MST MINERALIEN SCHIFFARHT
SPEDITION UND TRANSPORT GMBHCASE NUMBER: 2:17-cr-00117-001
George Michael Chalos, Esq.
Briton P. Sparkman, Esq.
Peter E. Rodway, Esq.
Defendant Organization's Attorney**THE DEFENDANT ORGANIZATION:**☒ pleaded guilty to Counts One and Nine of the Indictment☐ 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:

Title & Section	Nature of Offense	Offense Ended	Count
33 U.S.C. § 1908(a) and 18 U.S.C. § 2	Failure to Maintain Accurate Record Book, Aiding and Abetting	September 14, 2016	One
18 U.S.C. § 1519 and 18 U.S.C. § 2	Obstruction of Justice, Aiding and Abetting	June 19, 2017	Nine

The defendant organization is sentenced as provided in pages 2 through 5 of this judgment.☐ The defendant organization has been found not guilty on count(s) _____☒ Counts Two through Eight of the Indictment ☐ 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.: N/A

Defendant Organization's Principal Business Address:

Am Ruttmann Kai 192253 Schnaittenbach, Germany+49 9622 84-0

Defendant Organization's Mailing Address:

Am Ruttmann Kai 192253 Schnaittenbach, Germany+49 9622 84-0November 2, 2018

Date of Imposition of Judgment


Signature of JudgeNancy Torresen, U.S. Chief District Judge
Name and Title of Judge11/2/2018

Date

DEFENDANT ORGANIZATION: MST MINERALIEN SCHIFFARHT SPEDITION UND TRANSPORT
GMBH
CASE NUMBER: 2:17-cr-00117-001

PROBATION

The defendant organization is hereby sentenced to probation for a term of : 4 Years on each of Counts One and Nine, 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).

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.

AO 245E (Rev. 12/03) Judgment in a Criminal Case for Organizational Defendants
Sheet 2A — Probation

Judgment—Page 3 of 5

DEFENDANT ORGANIZATION: MST MINERALIEN SCHIFFARHT SPEDITION UND TRANSPORT GMBH

CASE NUMBER: 2:17-cr-00117-001

ADDITIONAL PROBATION TERMS

1. Defendant MST shall commit no further violation of MARPOL 73/78, federal, state, or local law, and shall conduct all its operations in accordance with the environmental laws of the United States.
2. Defendant MST shall make payment in full of the monetary amounts as set forth in the plea agreement including all special assessments, fines, quarterly payments, and community service.
3. At its own expense and at no expense to the Government, Defendant MST shall implement an Environmental Compliance Plan (“ECP”), consistent with sentencing policies set forth in USSG 8D1.4, attached as Attachment 2 and incorporated herein. Defendant MST shall fully implement the ECP in accordance with the deadlines as set forth in the plea agreement.

AO 245E (Rev. 12/03) Judgment in a Criminal Case for Organizational Defendants
Sheet 3 — Criminal Monetary Penalties

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DEFENDANT ORGANIZATION: MST MINERALIEN SCHIFFARHT SPEDITION UND TRANSPORT GMBH
CASE NUMBER: 2:17-cr-00117-001

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>
Count 1	\$400.00	\$500,000.00	
Count 9	\$400.00	\$2,700,000.00	
TOTALS	\$800.00	\$3,200,000.00	0

☐ 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 the fine in accordance with the following: interest shall start to accrue on any unpaid balance on the day following sentencing and that the provisions regarding collection, interest, and penalties set for in 18 U.S.C. §§ 3572(h), (i), and 3612 shall apply. Payment is to be made in the form of a check payable to "United States District Court Clerk."

☐ 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 \$ \$800.00 due
☒ not later than November 22, 2018 and
☒ in accordance with ☐ C or ☒ D below for the remaining \$3,200,000.00;
- 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 corporation shall pay to the United States the following fines: \$500,000 as to Count One and \$2,700,000 as to Count Nine for a total of \$3,200,000. The fine is payable in installments as set forth below: First Payment: \$1,750,000 to be paid from the liquidation of the \$1,750,000 surety agreement and shall be paid as soon as immediately available. Second through Fourth Payments: The remaining \$1,450,000 shall be paid in equal amounts of \$362,500 not later than 12, 24, 36 and 46 months from the day of sentencing. Allocation of Payments: Count One: \$500,000 of the first payment of \$1,750,000 shall be allocated to Count One. \$250,000 of the \$500,000 shall be deposited by the CLERK OF COURT in the Abandoned Seafarers Fund, pursuant to 33 U.S.C.1908(g), in Treasury Account Number TAFS—70X5677.01 (Penalties, Abandoned Seafarers Fund, United States Coast Guard, United States Department of Homeland Security) with checks made payable to the United States Coast Guard and supporting documentation sent to: USCG ART/OTHERS, PO Box 530249, Atlanta, GA 30353-2049.

The remaining \$250,000 allocated to Count One shall be held by the Clerk of Court to be allocated to any award pursuant to 33 U.S.C. 1908(a) (to award any person providing information leading to conviction), and/or the Abandoned Seafarers Fund, to be determined at a later point. Count Nine: \$1,250,000 of the first payment of \$1,750,000 shall be allocated to Count Nine. All remaining payments will be allocated to Count Nine. All payments shall be made to the CLERK, UNITED STATES COURTS, and is to be forwarded to:
 U.S. CLERKS OFFICE, 156 FEDERAL STREET, PORTLAND, ME 04101.

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.