

CLOSED

**U.S. District Court
EASTERN DISTRICT OF NORTH CAROLINA (Southern Division)
CRIMINAL DOCKET FOR CASE #: 7:18-cr-00030-H-1**

Case title: USA v. Kaisha LTD.

Date Filed: 02/16/2018
Date Terminated: 05/10/2018

Assigned to: Senior Judge
Malcolm J. Howard

Defendant (1)

Nitta Kisen Kaisha LTD.
TERMINATED: 05/10/2018

represented by **Don T. Evans , Jr.**
Clark, Newton & Evans, PA
509 Princess Street
Wilmington, NC 27401-4130
910-762-8743
Fax: 910-762-6206
Email: dte@clarknewton.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Seth Peter Buskirk
Clark, Newton & Evans, PA
509 Princess Street
Wilmington, NC 27401-4130
910-762-8743
Fax: 910-762-6206
Email: spb@clarknewton.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Thomas M. Russo
Freehill, Hogan & Mahar LLP
80 Pine Street
New York, NY 10005-1759
212-425-1900
Fax: 212-245-1901
Email: russo@freehill.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

William J. Pallas
Freehill, Hogan & Mahar, LLP
80 Pine Street
New York, NY 10005-1759
Email: pallas@freehill.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Pending Counts

Knowing Failure to Maintain
Accurate Oil Record Book – Act
to Prevent Pollution from Ships
and Aiding & Abetting
(1)

Disposition

3 years Probation with special conditions (3 years
as to each of Counts 1 and 2, to run concurrently) –
\$800 Special Assessment – \$1,000,000 fine
(\$500,000 as to each count)

Obstruction of Justice and Aiding
& Abetting
(2)

3 years Probation with special conditions (3 years
as to each of Counts 1 and 2, to run concurrently) –
\$800 Special Assessment – \$1,000,000 fine
(\$500,000 as to each count)

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

None

Complaints

None

Disposition

Plaintiff

USA

represented by **Banu Rangarajan**
United States Attorney's Office – EDNC
150 Fayetteville Street, Suite 2100
Raleigh, NC 27601
919–856–4530
Fax: 856–4487
Email: banu.rangarajan@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Assistant US Attorney

Date Filed	#	Docket Text
02/16/2018	<u>1</u>	INFORMATION as to Nitta Kisen Kaisha LTD. (1) counts 1, 2. (Bullock, N.) (Additional attachment(s) added on 5/10/2018: # <u>1</u> Copy of Criminal Information with Strike-through on Page 8) (Lee, L.). (Entered: 02/16/2018)
02/16/2018	<u>2</u>	Notice of Related Case filed by USA. (Bullock, N.) (Entered: 02/16/2018)
02/16/2018	<u>5</u>	Penalty Sheet (<i>Selected Participants Only</i>) as to Nitta Kisen Kaisha LTD. (Bullock, N.) (Entered: 02/16/2018)
02/16/2018	<u>6</u>	Notice of Attorney Appearance: Seth Peter Buskirk appearing for Nitta Kisen Kaisha LTD. . (Buskirk, Seth) (Entered: 02/16/2018)
02/20/2018	<u>7</u>	Joint Factual Statement filed by parties. (Lee, L.) (Entered: 02/26/2018)
02/28/2018		Set Hearing as to Nitta Kisen Kaisha LTD.: Plea to Criminal Information set for 4/10/2018 TERM OF COURT in Greenville Courtroom before Senior Judge Malcolm J. Howard. (Lee, L.) (Entered: 02/28/2018)
03/02/2018	<u>8</u>	Notice of Attorney Appearance: Thomas M. Russo appearing for Nitta Kisen Kaisha LTD. . (Russo, Thomas) (Entered: 03/02/2018)
03/02/2018	<u>9</u>	Notice of Attorney Appearance: William J. Pallas appearing for Nitta Kisen Kaisha LTD. . (Pallas, William) (Entered: 03/02/2018)
03/23/2018	<u>10</u>	Notice of Hearing as to Nitta Kisen Kaisha LTD.: Plea to Criminal Information set for 4/9/2018 at 9:30 AM in Greenville Courtroom before Magistrate Judge Kimberly A. Swank. (Lee, L.) (Entered: 03/23/2018)

03/27/2018	<u>11</u>	Consent MOTION <i>TO CONSOLIDATE HEARINGS AND EXCUSE APPEARANCE</i> filed by Nitta Kisen Kaisha LTD.. (Buskirk, Seth) (Entered: 03/27/2018)
03/27/2018	<u>12</u>	Memorandum in Support by Nitta Kisen Kaisha LTD. regarding <u>11</u> Consent MOTION <i>TO CONSOLIDATE HEARINGS AND EXCUSE APPEARANCE</i> filed by Nitta Kisen Kaisha LTD.. (Attachments: # <u>1</u> Exhibit Ex. A – Docket Report – PACC SHIP UK, # <u>2</u> Exhibit Ex. B – Corporate Resolution, # <u>3</u> Exhibit Ex. C – Declaration of Matsu, # <u>4</u> Text of Proposed Order) (Buskirk, Seth) (Entered: 03/27/2018)
03/28/2018		Motion Submitted to Senior Judge Malcolm J. Howard as to Nitta Kisen Kaisha LTD. regarding <u>11</u> Consent MOTION <i>TO CONSOLIDATE HEARINGS AND EXCUSE APPEARANCE</i> . (Lee, L.) (Entered: 03/28/2018)
04/03/2018	<u>13</u>	ORDER as to Nitta Kisen Kaisha LTD. granting <u>11</u> Motion to consolidate arraignment and sentencing and to excuse the appearance of the corporate representative. The motion for the corporate representative to be excused is hereby GRANTED. The court GRANTS defendant's motion to consolidate proceedings. This matter is hereby continued to this court's May 8, 2018 TERM in Greenville, North Carolina for both arraignment and sentencing before the undersigned. The court directs the United States Probation Office to prepare a memorandum to assist the court in sentencing. Signed by Senior Judge Malcolm J. Howard on 4/3/2018. Copy to US Probation. (Lee, L.) (Entered: 04/03/2018)
04/03/2018		Set Hearings as to Nitta Kisen Kaisha LTD.: Plea to Criminal Information and Sentencing set for the court's 5/8/2018 TERM in Greenville Courtroom before Senior Judge Malcolm J. Howard. (*Note to counsel: A calendar will be prepared approximately two weeks prior to the court term, at which time a date and time certain for these hearings will be set). (Lee, L.) (Entered: 04/03/2018)
04/24/2018	<u>14</u>	Notice of Hearing as to Nitta Kisen Kaisha LTD.: Plea to Criminal Information and Sentencing set for 5/10/2018 at 9:00 AM in Greenville Courtroom before Senior Judge Malcolm J. Howard. (Lee, L.) (Entered: 04/24/2018)
05/10/2018	<u>16</u>	Minute Entry for proceedings held before Senior Judge Malcolm J. Howard in Greenville: Arraignment and Sentencing as to Nitta Kisen Kaisha LTD. (1) on Counts 1 and 2 held on 5/10/2018 – Assistant US Attorneys present for Government – Counsel present for corporate defendant – At the request of counsel, and with the consent of the government, the court had previously excused the corporate representative from being present – Court accepts William Pallas as stand-in for the corporate representative – Plea entered by Nitta Kisen Kaisha LTD. (1): Guilty as to Counts 1 and 2 – Memorandum of Plea Agreement accepted by the court – Court proceeded to Sentencing: Counts 1 and 2: 3 years Probation with special conditions (3 years as to each of Counts 1 and 2, to run concurrently) – \$800 Special Assessment – \$1,000,000 fine (\$500,000 as to each count) – Court advised of appellate rights. (Court Reporter Rachel Evans) (Lee, L.) (Entered: 05/10/2018)
05/10/2018	<u>17</u>	Corporate Resolution as to Nitta Kisen Kaisha LTD. Effective March 24, 2018. (Lee, L.) (Entered: 05/10/2018)
05/10/2018	<u>18</u>	PLEA AGREEMENT as to Nitta Kisen Kaisha LTD. (Attachments: # <u>1</u> Attachment A: Environmental Management System/Compliance Plan) (Lee, L.) (Entered: 05/10/2018)
05/10/2018	<u>19</u>	JUDGMENT as to Nitta Kisen Kaisha LTD.: Counts 1 and 2: 3 years Probation with special conditions (3 years as to each of Counts 1 and 2, to run concurrently) – \$800 Special Assessment – \$1,000,000 fine (\$500,000 as to each count). Signed by Senior Judge Malcolm J. Howard on 5/10/2018. (Lee, L.) (Entered: 05/10/2018)
05/14/2018	<u>20</u>	Consent MOTION for Payment of Fines to the Abandoned Seafarers Fund <i>Pursuant to 33 U.S.C 1908(g)</i> filed by USA as to Nitta Kisen Kaisha LTD.. (Attachments: # <u>1</u> Text of Proposed Order) (Rangarajan, Banu) (Entered: 05/14/2018)
05/14/2018	<u>21</u>	MOTION for Statutory Award Payment <i>Pursuant to 33 U.S.C 1908(a)</i> filed by USA as to Nitta Kisen Kaisha LTD.. (Attachments: # <u>1</u> Text of Proposed Order) (Rangarajan, Banu) (Entered: 05/14/2018)
05/15/2018	<u>22</u>	Amended MOTION for Payment of Fines to the Abandoned Seafarers Fund <i>Pursuant to 33 U.S.C. 1908(g)</i> filed by USA as to Nitta Kisen Kaisha LTD.. (Attachments: # <u>1</u>

		Text of Proposed Order) (Rangarajan, Banu) (Entered: 05/15/2018)
05/16/2018		Motion Submitted to Senior Judge Malcolm J. Howard as to Nitta Kisen Kaisha LTD. regarding <u>22</u> Amended MOTION for Payment of Fines to the Abandoned Seafarers Fund Pursuant to 33 U.S.C. 1908(g). (Foell, S.) (Entered: 05/16/2018)
05/16/2018		Motions Submitted to Senior Judge Malcolm J. Howard as to Nitta Kisen Kaisha LTD. regarding <u>21</u> MOTION for Statutory Award Payment Pursuant to 33 U.S.C 1908(a), <u>20</u> Consent MOTION for Payment of Fines to the Abandoned Seafarers Fund Pursuant to 33 U.S.C 1908(g). (Foell, S.) (Entered: 05/16/2018)
05/24/2018	<u>23</u>	ORDER granting <u>21</u> Motion for Statutory Award Payment Pursuant to 33 U.S.C 1908(a) as to Nitta Kisen Kaisha LTD. (1). Signed by Senior Judge Malcolm J. Howard on 5/24/2018. Copy to financial administrator. (Lee, L.) (Entered: 05/24/2018)
05/24/2018	<u>24</u>	ORDER granting <u>22</u> Motion for Payment of Fines to the Abandoned Seafarers Fund Pursuant to 33 U.S.C. 1908(g) as to Nitta Kisen Kaisha LTD. (1). Signed by Senior Judge Malcolm J. Howard on 5/24/2018. Copy to financial administrator. (Lee, L.) (Entered: 05/24/2018)