

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

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED: _____
REEDEREI KARL SCHLUETER	:	VIOLATIONS:
GMBH & CO. KG		33 U.S.C. § 1908(a) (false oil record book
NIKOLA ILIJIC	:	- 1 count)
		18 U.S.C. § 2 (aiding and abetting)

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times material to this information:

General Allegations

1. Defendant REEDEREI KARL SCHLUETER GMBH & CO. KG (“defendant RKS”), was a company incorporated and headquartered in Germany. Defendant RKS was a ship management company that managed and operated a fleet of commercial vessels including the *M/V MSC Uruguay*. Defendant RKS was responsible for the staffing and daily operation of the *M/V MSC Uruguay*.
2. The *M/V MSC Uruguay* was an ocean-going container vessel, registered in Antigua and Barbuda, and weighing approximately 29,115 gross tons. The *M/V MSC Uruguay* was engaged in the carriage of cargo to ports in the United States.
3. Defendant NIKOLA ILIJIC, a citizen of Croatia, was the Chief Engineer aboard the *M/V MSC Uruguay*. As Chief Engineer, defendant ILIJIC was the senior officer in

command of the ship's engine room and engine department, and was directly responsible for directing and overseeing the engine department's daily operations and supervising its crew. Defendant ILIJIC's acts and omissions described below were intended for the benefit of defendant RKS.

4. As head of the engine department on the *M/V MSC Uruguay*, defendant NIKOLA ILIJIC was assisted by a Second Engineer, a Third Engineer, a Fitter, an Electrician, Oilers, and Wipers. All members of the engine department were agents and employees of defendant RKS. Defendant ILIJIC, as 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 mandatory pollution prevention equipment known as the Oily Water Separator and Oil Content Meter, were functioning properly. Defendant ILIJIC was responsible for record-keeping related to the functioning of the engine department, and in particular for maintaining the ship's Oil Record Book, a document in which the ship was required to record any and all disposals or discharges of oil and oily wastes from the vessel.

5. Engine department operations on large marine vessels like the *M/V MSC Uruguay* generate large quantities of oil-contaminated bilge waste, which is created when water mixes in the bottom of the vessel, known as the bilges, with oil leaked and dripped from the machinery and the engines' lubrication and fuel systems. These oily mixtures are also known as "oily bilge waste," "bilge waste," "bilge water," "bilge slops" and "slops from bilges." Such oily bilge waste may properly be disposed of by off-loading it to a licensed hauler and disposal facility in port for a fee. Alternatively, the water portion of oily bilge wastes may be discharged

overboard, but only after the oily bilge waste has been processed to separate the water from oil and other contaminants using the vessel's Oily Water Separator and an Oil Content Meter.

Legal Framework

6. 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. § 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.

7. 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, oily bilge waste could be discharged overboard into the ocean only if it did not exceed fifteen parts per million (15 ppm) of oil, and the ship had in operation required pollution prevention equipment, to include oil filtering equipment (such as an Oily Water Separator), an alarm and an automatic stopping device (such as an Oil Content Meter and a three-way valve) to prevent the discharge of a mixture containing more than the legally-permitted concentration of oil.

8. Consistent with the MARPOL Protocol requirements, the APPS regulations required that each vessel, other than an oil tanker, of 400 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 have 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 also was 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 to be readily available for inspection at all times. 33 C.F.R. § 151.25(k).

9. The United States Coast Guard (“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 14 U.S.C. § 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) and (c).

M/V MSC Uruguay

10. On or about January 25, 2008, the *M/V MSC Uruguay* arrived in the Port of Philadelphia, Pennsylvania, within the internal waters of the United States and the Eastern District of Pennsylvania. Based in part on a letter from some of the crew members of the ship, the U.S. Coast Guard conducted a Port State Control inspection of the ship and discovered evidence of violations of the MARPOL Protocol and APPS. Evidence obtained by the U.S. Coast Guard indicated that the *M/V MSC Uruguay* discharged bilge waste directly overboard on or about December 2, 2007, January 3, 2008, and January 4, 2008. The discharges were made using a hose to bypass the vessel's pollution prevention equipment, specifically the Oily Water Separator and Oil Content Meter.

11. On or about January 25, 2008, the *M/V MSC Uruguay* presented the Oil Record Book to the U.S. Coast Guard. The direct overboard discharges of bilge waste on or about December 2, 2007, January 3, 2008, and January 4, 2008, were not recorded in the Oil Record Book, as required. The Oil Record Book, instead, falsely recorded that on December 3, 2007, and January 4, 2008, the bilge waste was processed through the ship's pollution prevention equipment.

12. From on or about January 25, 2008, to on or about January 26, 2008, in the internal waters of the United States in the Port of Philadelphia, in the Eastern District of Pennsylvania, defendants

**REEDEREI KARL SCHLUETER GMBH & CO. KG
and
NIKOLA ILIJIC**

knowingly failed to maintain, and aided and abetted and willfully caused the failure to maintain, an Oil Record Book for the *M/V MSC Uruguay* in which all disposals and discharges overboard of oil, oil residues, oily mixtures, oily bilge waste, bilge slops, and bilge water were fully recorded, that is, by failing to disclose overboard discharges of bilge waste made through a bypass hose and without the use of the ship's Oily Water Separator and Oil Content Meter, on or about December 2, 2007, January 3, 2008, and January 4, 2008, and by falsely recording that the ship's Oily Water Separator and Oil Content Meter had been used when they had not, on or about December 3, 2007 and January 4, 2008.

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

PATRICK L. MEEHAN
UNITED STATES ATTORNEY