

Acquittal signals 'magic pipe' shift

One owner's legal win may help prevent future victimisation in US pollution cases.

You are sleeping soundly. You always sleep soundly, not just because you work all day like some kind of workaholic racehorse or just because you are too rich and too old now to lie awake with existential worries but also because you pride yourself on your work on the technical operation and maintenance of your modern fleet of ships and on the professionalism and diligence of your crews.

You are a high-end private shipowner. You want everybody who knows you to know that about you. You are not some cheapskate of a low-end shipowner (you could name a few) who feels deep down inside that a penny spent is a penny he was cheated out of.

You avoid doing business with people who think that way and by example you show the people in your organisation that they mustn't think that way when doing your business. You are willing to lay out some cash to be who you think you are, and who you think you are is a person who can afford to do things right.

You live your life far from the technical operation of vessels these days but still you spend some time on your ships with your eyes open and you make sure that your top shoreside people spend even more time on them.

The phone rings.

Nine or 10 time zones away, people who care little about your sleep are calling to say that your ship is in their hands and you are accused of a crime.

Your engine-room crew has told law-enforcement officials that things are badly amiss in the bowels of your modern, well-maintained ship. Your chief engineer, according to his engine-room crew, has been tampering with anti-pollution gear to gain just a little bit of added operational efficiency on each voyage. He has been doing this without your specific instructions but for your profits' sake and that may make you a criminal.

So say the ratings on your ship, who have learned that they stand to split a fortune in reward money if they can help the authorities hang you.

Sometimes it is harder for the innocent than for the guilty to know whether they are innocent or guilty and this is one of those times. You do not know whether you are guilty.

Whether you are a criminal is going to depend on things that were done in secret in the past in a noisy, hidden engine space out of your sight and beyond your direct control but on your behalf.

Will you defend yourself and vindicate your reputation or will you plead guilty and cut your losses?

A lawyer can give you the necessary background information how much you may have to pay in fines if you plead guilty, how long your chief engineer may have to spend in jail if he is convicted, how many shipowners and chief engineers have been convicted and acquitted before you, how smart or tenacious the prosecutors are, how much his legal fee may turn out to be. But your decision will go beyond that.

As a high-end shipowner with your pride to protect, you want to be innocent. But as a practical-minded businessman, you have to decide whether vindication is a luxury.

This week Christos Stathis-led Athenian Sea Carriers won the first acquittal ever in a US "magic pipe" prosecution. The case is said to have turned on the credibility of six crew members who stood to win rewards that were beyond the dreams of avarice, by Philippine economic standards.

Athenian's US lawyer, Mike Chalos, says that as a result of the acquittal, US prosecutors must now rethink their reliance on whistle-blowers, the US Coast Guard (USCG) must conduct investigations based on a

presumption of innocence and the world's shipowners must follow Athenian's example, which Chalos calls courageous.

Long a critic of US prosecutors' methods in anti-pollution cases, Chalos has nothing but praise for Athenian. "This is the first company that said, 'No, I'm not going to be victimised; if our engineers say we didn't have an illegal bypass, we're going to defend this case'," he told TradeWinds.

Chalos predicts that guilty companies will still cut plea bargains in "magic pipe" cases but the innocent will be emboldened.

"What I sense is that shipowners are saying, 'Enough is enough'," he said.

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