

DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Criminal No. 2012-32
	)	
CWS TOURS, LLC,	)	
	)	
Defendant.	)	
	)	

ATTORNEYS:

Gretchen Shappert, United States Attorney
Joycelyn Hewlett, AUSA
United States Attorney's Office
St. Thomas, U.S.V.I.
For the United States of America,

Treston Moore, Esq.
St. Thomas, U.S.V.I.
For CWS Tours, LLC.

ORDER

GÓMEZ, J.

Before the Court is the renewed joint motion of the United States and CWS Tours, LLC, to offset restitution in this matter.

On February 14, 2013, a federal grand jury returned an indictment charging Kyle Coleman ("Coleman") with one count misconduct or neglect of a ship officer in violation of 18 U.S.C. § 1115 and CWS Tours, LLC, ("CWS") with one count

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misconduct or neglect of a ship owner in violation of 18 U.S.C. § 1115.

On June 10, 2013, CWS entered a guilty plea to a violation of 18 U.S.C. § 1115. On the same date, the United States filed an information in a separate criminal case, Criminal Number 3:13-30, charging Coleman with one count negligent operation of a vessel in violation of 46 U.S.C. § 2302. Coleman also entered a guilty plea to a violation of 46 U.S.C. § 2302 on June 10, 2013.

On September 27, 2013, the Court sentenced Coleman and CWS. At that sentencing, the Court ordered Coleman and CWS to pay \$1,350,663.18 in restitution, jointly and severally, to the victim, Danielle Haese ("Haese").

Since imposition of the judgments in these cases, Haese filed a civil complaint against Coleman and CWS seeking damages for the injuries Haese suffered as a consequence of the conduct giving rise to the criminal convictions of Coleman and CWS. That civil action is now settled. CWS and the Government now assert that the dollar amount of Haese's civil settlement requires a full offset of the restitution amount imposed by the Court. The Government has presented a sealed copy of the settlement check in support of this assertion.

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Section 3664, Title 18, of the United States Code provides
in pertinent part

(2) Any amount paid to a victim under an order of
restitution shall be reduced by any amount later
recovered as compensatory damages for the same loss by
the victim in--

(A) any Federal civil proceeding; and

(B) any State civil proceeding, to the extent provided
by the law of the State.

18 U.S.C.S. § 3664(j).

Given this provision, the parties request to offset the
full amount of the restitution judgment by the amount of
compensatory damages received by the victim in her civil action
against Coleman and CWS. The Court is satisfied that the
evidence presented by the Government demonstrates that Haese
recovered the full amount of the restitution judgment as
compensatory damages for the same loss in her civil action
against Coleman and CWS.

The premises considered, it is hereby

ORDERED that the renewed joint motion to offset the
restitution judgment, ECF No. 100, is **GRANTED**; it is further

ORDERED that the restitution amount ordered as part of the
judgment against CWS shall be offset by \$1,350,663.18; it is
further

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ORDERED that the United States's motion for a hearing, ECF No. 94, is **MOOT**; and it is further

ORDERED that the parties' joint motion for a status conference, ECF No. 96, is **MOOT**.

s_____
Curtis V. Gómez
District Judge