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FILED
MAR 10 2014
Clerk, U.S. District Court
District Of Montana
Missoula

**ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

UNITED STATES OF AMERICA,	<i>MJ 14-13 -M-JCL</i>
Plaintiff,	<u>INFORMATION</u>
vs.	VIOLATION OF SAFETY STANDARD CAUSING DEATH OF AN EMPLOYEE
MR ASPHALT, INC. and MARTIN ROMANO,	Title 29 U.S.C. § 666(e)
Defendants.	(Maximum Penalty for individual: 6 months in prison, \$10,000 fine; Maximum Penalty for organization: \$500,000 fine)

THE UNITED STATES ATTORNEY CHARGES:

1. At all relevant times, defendant MR ASPHALT, INC. was a Montana corporation specializing in residential and commercial asphalt paving services. The company was incorporated in May 2007 and employed approximately thirteen (13) employees.

2. MR ASPHALT, INC. was a seasonal enterprise, operating between the months of April and November of each year. During periods of operation, the asphalt plant remained in production status, mixing and producing asphalt product to be used on paving projects.

3. The asphalt plant is equipped with a Burner Fuel Tank to supply diesel fuel to company equipment, and an Asphalt Tank to store hot asphalt used for paving contracts. The Burner Fuel Tank measures eight (8) feet from ground level and the Asphalt Tank measures thirteen (13) feet from ground level.

4. At all relevant times, defendant MARTIN ROMANO was the President and Registered Agent of MR ASPHALT, INC. and had substantial responsibilities related to the day-to-day operations of the company. Defendant MARTIN ROMANO was solely responsible for payroll and personnel decisions, as well as the development and implementation of the company's safety and health program.

COUNT I

On or about July 16, 2012 and continuing through September 13, 2012, near

Corvallis, in the State and District of Montana, the defendants, MR ASPHALT, INC. and MARTIN ROMANO knowingly and willfully violated 29 C.F.R. § 1910.23(c)(1) in that MR ASPHALT, INC. and MARTIN ROMANO failed to guard, by standard railing or the equivalent, all open-sided platforms four (4) feet or more above ground level, thereby exposing employees to fall hazards, to wit: (a) MR ASPHALT, INC. and MARTIN ROMANO required employees to regularly access the Asphalt Tank to obtain product measurements without installing protective guard rails around the tank, exposing employees to fall hazards of thirteen (13) feet; and (b) MR ASPHALT, INC. and MARTIN ROMANO required employees to regularly access the Burner Fuel Tank to obtain product measurements without installing protective guard rails around the tank, exposing employees to fall hazards of eight (8) feet.

In doing so, Defendant MR ASPHALT, INC. and MARTIN ROMANO knowingly and purposely disregarded the requirements of the standard, such failure resulting in the death of an employee on or about September 13, 2012 all in violation of 29 U.S.C. § 666(e), and 29, C.F.R. § 1910.23(c)(1).

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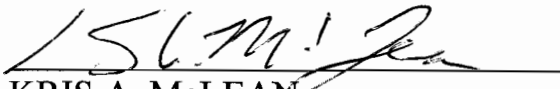
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DATED this 4th day of March, 2014.

MICHAEL W. COTTER
United States Attorney


KRIS A. McLEAN
Assistant U.S. Attorney
Attorney for Plaintiff


MICHAEL W. COTTER
United States Attorney
Attorney for Plaintiff