


United States Coast Guard
Formal Investigation
Caribbean Fantasy Marine Casualty

Caribe Hilton


San Juan, Puerto Rico 00901

March 20, 2017 -- March 28, 2017

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS

DAY V of VIII

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P R O C E E D I N G S

Start Time 0803

CDR CAPELLI: Good morning, the hearing will come to order. Today is March 24st, 2017, the time is 0803 we are continuing at the Caribe Hilton, in San Juan, Puerto Rico. I am Commander Mike Capelli of the United States Coast Guard, from the Seventh Coast Guard District, Inspection and Investigation Branch, in Miami, Florida.

I have been directed to serve as the Lead Investigating Officer for this Formal Investigation which has been convened by the Commander of the Seventh Coast Guard District, Rear Admiral Scott Bushman under the authority of Title 46, United States Code, Section 6301, and Title 46 Code of Federal Regulations, Part 4.

To investigate the circumstances surrounding the fire, subsequent grounding, and full evacuation of 511 passengers and crew off the Caribbean Fantasy on August 17th, 2016 while approaching the pilot boarding station to the Port of San Juan, Puerto Rico. I am conducting this investigation under the rules in 46 C.F.R. Part 4. The investigation will determine as closely as possible the factors that contributed to the incident so that proper recommendations for the prevention of similar casualties may be made.

1 Determine whether there is evidence that any
2 act of misconduct, inattention to duty, negligence, or
3 willful violation of law on the part of any licensed or
4 certificated person contributed to the casualty and
5 determine whether there is evidence that any Coast
6 Guard personnel, or any representative or employee of
7 any government agency, or any other person caused or
8 contributed to the casualty.

9 Panama has been invited to attend this
10 hearing as a Substantially Interested State, and is
11 represented by Mr. Arenas. I have previously
12 determined that RINA, American Cruise Ferries, and Baja
13 Ferries are Parties in Interest to this investigation.
14 These parties have a direct interest in the
15 investigation and have demonstrated the potential for
16 contributing significantly to the completeness of the
17 investigation or otherwise enhancing the safety of life
18 and property at sea. All parties in interest have a
19 statutory right to employ counsel to represent them, to
20 cross-examine witnesses, have witnesses called on their
21 behalf.

22 I will examine all witnesses at this formal
23 hearing under oath and witnesses will be subject to
24 federal laws and penalties governing false official
25 statements.

1 Witnesses who are not parties in interest may
2 be advised by their counsel concerning their rights.
3 However, such counsel may not examine or cross-examine
4 witnesses, or otherwise participate.

5 These proceedings are open to the public, and
6 to the media. I ask the cooperation of all persons
7 present to minimize any destructive influence on the
8 proceedings in general and on the witnesses in
9 particular. I ask that you silence all electronic
10 devices at this time.

11 The members of the press are welcome, and an
12 area has been set aside for your use during these
13 proceedings. The news media may question witnesses
14 concerning their testimony after I have released them
15 from these proceedings.

16 Since the date of the casualty, the NTSB and
17 the Coast Guard have conducted substantial evidence
18 collection activities, and some of that previously
19 collected evidence will be considered during these
20 hearings. Should any person have, or believe he or she
21 has information not brought forward, but which might be
22 of direct significance to the ongoing investigation
23 that person is urged to bring the information to my
24 attention by emailing CaribbeanFantasy@USCG.mil.

25 The Coast Guard relies on strong partnerships

1 to execute its missions, and this investigation is no
2 exception. The National Transportation Safety Board is
3 participating in this hearing. Mr. Adam Tucker, seated
4 to my left is the Investigator-In-Charge for the NTSB
5 investigation. Mr. Tucker would you like to make a
6 brief statement?

7 MR. TUCKER: Yes, good morning, my name is
8 Adam Tucker; I'm the Investigator-In-Charge for the
9 National Transportation Safety Board for this
10 investigation. The National Transportation Safety
11 Board is an independent federal agency which under the
12 Independent Safety Board Act of 1974 codified as 49
13 U.S. Code Chapter Eleven is required to determine the
14 probable cause of this accident, to issue a report on
15 the facts, conditions, and circumstances related to it,
16 and make recommendations for measures to prevent
17 similar accidents.

18 The NTSB has joined this hearing to avoid
19 duplicating the development of the facts.
20 Nevertheless, I do wish to point out that this does not
21 preclude the NTSB from developing additional
22 information separately from this proceeding if that
23 becomes necessary.

24 At the conclusion of this hearing, the Safety
25 Board will analyze the facts of the accident, and

1 determine the probable cause independent of the Coast
2 Guard. At a future date, a separate report of the
3 Safety Board's findings will be issued to include our
4 official determination of the probable cause of this
5 accident. If appropriate, the Safety Board will issue
6 recommendations to correct safety problems discovered
7 during this investigation.

8 Thank you.

9 CDR CAPELLI: We will now call our first
10 witness of the day, Commander Jenkins the supervisor at
11 the Cruise Ship National Center of Expertise.

12 **WITNESS**

13 **COMMANDER RANDY JENKINS**

14 LTJG DIAZ-COLON: Good morning
15 Commander, can you please stand and raise your right
16 hand? Whereupon a witness produced on call of the
17 Coast Guard was duly sworn according to the law, was
18 examined and testified as follows:

19 THE WITNESS: I will.

20 LTJG DIAZ-COLON: Please be seated. For the
21 record can you please state your full name and spell
22 your last?

23 THE WITNESS: Randy James Jenkins, J-E-N-K-I-
24 N-S.

25 LTJG DIAZ-COLON: For the record will the

1 Counsel please state your full name?

2 COUNSEL: LT Shannon Price, P-R-I-C-E.

3 THE WITNESS: Thank you. Commander, where
4 are you currently employed, and what is your position?

5 THE WITNESS: I am currently employed at the
6 Cruise Ship National Center of Expertise, the CSNCOE,
7 and I am the Detachment Chief.

8 LTJG DIAZ-COLON: And can you give us a
9 brief overview of your prevention experience?

10 THE WITNESS: Sure, I graduated from the
11 United States Merchant Marine Academy at King's Point,
12 and earned a commission under the Coast Guard's direct
13 commission, MARGRAD, or Maritime Graduate Program.

14 And my first duty station was at Hampton
15 Roads, where I was an inspector-in-training earned
16 several quals, qualifications, and after there was
17 assigned to MSO San Diego, I was the resident inspector
18 at NASCO Shipyard overseeing new construction of deep
19 draft vessels.

20 Shortly thereafter I was fleeted up into the
21 chief of inspections position at MSO San Diego. I
22 competed and earned a Coast Guard sponsored post-
23 graduate program position, and earned a Master's Degree
24 in Fire Protection Engineering at WPI in Worcester,
25 Massachusetts. I then did a payback tour at the Coast

1 Guard's Marine Safety Center at headquarters where I
2 was the major vessel branch chief. And part of my
3 assignment there, was, and duties there were to oversee
4 cruise ship plan review.

5 From there I was the chief of prevention
6 at MSU Port Arthur. And now I am currently assigned as
7 the attachment chief at CSNCOE.

8 LTJG DIAZ-COLON: Thank you, Commander.
9 I am going to pass the floor over to Lieutenant Proctor
10 which will continue questions.

11 **WITNESS**

12 **COMMANDER RANDY JENKINS**

13 **EXAMINATION**

14 BY LT PROCTOR:

15 Q. Good morning Commander.

16 A. Morning.

17 Q. This is Lieutenant Jennifer Proctor with the
18 U.S. Coast Guard. Commander you had stated that you
19 were the detachment chief of the Cruise Ship National
20 Center of Expertise, can you please explain to me what
21 the NCOE is, and does it do, how is it staffed, and
22 what are its missions?

23 A. Sure, the CSNCOE was established in 2009. We
24 currently have five civilians, three active duty,
25 including myself. We engage, primarily in four key

1 mission areas. We help and assist in the development
2 of policy and regulations. We don't own or write any
3 policy, but we are heavily involved in their
4 development as subject matter experts, and that
5 includes engaging in position papers, or providing
6 feedback to position papers that actually go in front
7 of the IMO, that help shape international regulations.

8 That also involves the development of policy
9 and guidance as it relates to training of our members
10 in the field doing cruise ship exams. So we have
11 helped create the Tactics, Techniques, and Procedures,
12 the TTP's that guide how an exam should be conducted,
13 it also includes development of process guides.

14 We serve as force multipliers to the field, so
15 we still actively engage in examinations whenever the
16 field needs the support or they are short-staffed, we
17 travel worldwide to conduct that, and to help them
18 engage in those exams.

19 We also do, about a third of our work is
20 involved in training. So we host a course three times
21 a year that's a week long, as a prerequisite for every
22 member who is trying to get a qualification to do
23 foreign passenger vessel examinations.

24 In addition to that, we help facilitate our
25 Ship Rider Program, which is also a prerequisite to

1 getting the qualification. And it is sort of like a
2 little mini internship, where our student will go on
3 board a cruise ship for a week or so, and they
4 interview the department heads, and try and basically
5 get a sense of what it is that the cruise ship
6 employees have to deal with on a day to day basis. And
7 it gives them a better awareness of what the impact is
8 of their decisions when they are on board conducting
9 their examinations.

10 And then finally, we try to serve as a conduit
11 for the industry. If they have any questions or
12 concerns or they are not sure of the interpretation of
13 a regulation we'd like to be that point of contact for
14 them. Or if they are having any issues with a, you
15 know, an examination or something like that. We like
16 to try and act as arbitrator for that as well. And
17 that includes engaging in stakeholder meetings, to
18 include cruise lines, classification societies, and
19 trade associations.

20 Q. Thank you. You briefly touched on the
21 training and the Ship Rider Program, can you please
22 describe what the qualification process is for someone
23 to become a foreign passenger vessel examiner?

24 A. Sure. So we have a PQS that outlines several
25 competencies that we want the trainee to have

1 competency and proficiency in. It is a fairly rigorous
2 process, that is each individual unit will have
3 verifying officers that are also qualified that will
4 oversee the training and mentorship of their trainees.

5 So it requires them to research what the
6 requirements are and the international standards, there
7 is a performance element to it, they have to actually
8 go out and then demonstrate that they have earned the
9 proficiency in overseeing those exam processes, and the
10 ability to inspect various arrangements, or system,
11 ship's equipment.

12 Once they have satisfied that they have the
13 proficiency of that competency then they will get it
14 signed off.

15 At the completion of their PQS, when they have
16 satisfied all the competencies in there, they will sit
17 for a formal board of qualified members, who then will
18 assess whether they are deemed, qualified to do that
19 examination.

20 In addition, as I mentioned, the cruise ship
21 course is a prerequisite as well, as is the Ship Rider
22 Program.

23 Q. Thank you. Could you please describe how the
24 NCOE trains on a holistic approach for determining
25 substantial compliance, and what that means?

1 A. Sure. So we teach that the best approach to
2 doing a cruise ship exam is to do a holistic
3 assessment. We have gotten away from where we use the
4 checklist mentality, where we go on board and we say we
5 look at, you know, two or three things in a space,
6 check, check, check. In the meantime missing five or
7 six other things that we should also be aware of, or be
8 assessing as part of our Port State Control activities.

9 So we are guided, in part, by the principles
10 in Regulation, Chapter 22 Regulation 2 of SOLAS which
11 provides for the fire safety objectives. And that is
12 to first try and prevent the fire from occurring in the
13 first place. And then, since we can't reduce the risk
14 down to zero, we want to be able to minimize the impact
15 of the fire to the passengers and the crew, as well as
16 to the ship. And we do that through containment, early
17 detection, containment, and then suppression.

18 And then, when all else fails, if we are not
19 able to contain the fire, then the idea to provide safe
20 egress from the ship for the passengers and crew to the
21 lifesaving appliances.

22 Q. Thank you. I'd like to talk to you about
23 structural fire protection with regards to the pre-
24 commissioning and post-delivery, during the initial
25 certificates of compliance. Can you please describe

1 what it is in that process?

2 A. Sure, so if a vessel, a foreign cruise ship
3 wants to operate in the U.S., they want to embark or
4 disembark passengers in U.S. ports, or they carry U.S.
5 passengers, that's the criteria that would require them
6 to participate in our program.

7 There are basically two types of ships that we
8 would see in that regard. And one would be a new
9 construction vessel, and another one would be one
10 that's existing that wants to operate in the U.S. for
11 the first time. The process, for the most part is the
12 same.

13 For new construction vessels it would start,
14 typically with concept review, where the designer or
15 potential owner, or someone from the shipyard even,
16 would come and they would basically propose the idea of
17 the cruise ship that they want to build.

18 And it is an early opportunity for the Coast
19 Guard to identify any areas that they may think that
20 there is, you know, some differences of interpretation,
21 or some areas of concern that we may have for them
22 operating in the U.S. Once that has been resolved,
23 then it usually goes into the plan review stage.

24 For existing vessels, typically, that's where
25 they enter in is the plan review stage. The Marine

1 Safety Center will review several plans, namely the
2 structural fire protection plans. They would also
3 identify how spaces are categorized on the vessel,
4 means of escape, and those plans need to be approved by
5 the vessel's flag state beforehand.

6 So once we receive them, they are supposed to
7 be approved already, and it just gives us an
8 opportunity to spot check and review that yes, we agree
9 that the ship is designed in accordance with the
10 regulations.

11 From there, we engage in four types of fire
12 exam processes. There is the structural fire
13 protection exam, then there is the initial certificate
14 of compliance exam, which is our document that
15 indicates that we feel the ship is in substantial
16 compliance with the international regulations.

17 To the -- from -- once the ship's operating in
18 the U.S. routinely, then we will conduct an annual exam
19 which is an annual renewal of that certificate of
20 compliance, and then usually at the six month interval
21 of that one year cycle we will conduct a periodic exam
22 which focuses on crew proficiency, and competency.

23 Q. Thank you. Can you please just go into detail
24 about the structural fire protection portion of
25 certificating vessels, and elaborate on the difference

1 between A, B, and C, structural fire protection?

2 A. Sure, so structural fire protection basically,
3 is a process of segregating spaces that may represent a
4 higher degree of fire risk from spaces that we want to
5 protect. Like those that are accessible to passengers.

6 There are three types of barriers that are
7 constructed to achieve that, and that's A, B and C
8 class, "A" providing the highest degree of protection.
9 An A class barrier is required to prevent the passage
10 of smoke and flames for up to one hour.

11 And then if there is a need for additional
12 protection, A class construction is further broken down
13 into A15, 30, and 60. And the performance criteria for
14 that is to prevent the passage of heat through that
15 barrier, through conduction, trying to prevent things
16 from the other side of the bulkhead from catching on
17 fire for example, commensurate with those times, so 15
18 minutes, 30 minutes, and 60 minutes.

19 And the performance criteria for that is it is
20 supposed to provide, prevent the heat rise on the
21 unexposed side of the barrier up to 140 degrees Celsius
22 on average. And then any hot spot on the barriers is
23 supposed to prevent the passage of heat of up to 180
24 degrees Celsius, for that one hour time period. I'm
25 sorry, for the 15, 30, 60, yeah.

1 Q. Okay. Thank you, and how would you verify
2 structural fire protection during an initial
3 certificate of compliance inspection, and in future
4 examinations by inspectors once the ship is in
5 operation?

6 A. So for new construction vessels, typically,
7 members from the Marine Safety Center, as well as the
8 unit that is overseeing the new construction, typically
9 it is our Activities Europe Office. But also as far
10 as the Activities is engaged in overseeing construction
11 as well. Typically, around the halfway mark of
12 construction, they will go on board the vessel, and
13 they will verify that the barriers are being
14 constructed and protected in accordance with the plans
15 that they provided.

16 So we are looking for workmanship, we are
17 seeing that the insulation that is being installed is
18 rated for the barrier that it is required to be rated
19 for. We are also looking for openings in the barrier,
20 so penetrations for cable runs, pipe penetrations,
21 things like that; we are looking to make sure that
22 those are also adequately protected with the fire
23 stops.

24 We look at -- usually at that point, we are
25 trying to establish space categorization, as well. So

1 that we can identify that the -- what they said they
2 are using the space for, whether it is shop, or dining
3 hall is, in fact, how that is going, is being built, so
4 that the barriers that are being installed are adequate
5 for the degree of protection that is required..

6 Q. How would inspectors verify the structural
7 fire protection in future exams after the ship is in
8 operation?

9 A. Again, it is to make sure that those barriers
10 -- this -- for once the ship is built the only time
11 that you would expect anything to happen with those
12 barriers is if they are changing how space is
13 categorized or used, which may require a higher degree
14 of protection. We may be involved in that to make sure
15 that they have actually upgraded the insulation.

16 A lot of the time they will install new
17 technology that requires penetrating the bulkheads for
18 cable runs, CCTV for example, and we want to make sure
19 that any time that they penetrate the bulkhead that
20 they are doing it in an approved and appropriate
21 manner.

22 Q. Can you please tell us about some of the fire
23 suppression systems one would find in an engine room
24 such as high pressure, water mist, CO2, total flooding,
25 and also how we would inspect them?

1 A. Sure that, that is it, and essentially you
2 could have a foam system, CO2 system, or a water based
3 system, either standard sprinkler or high fog, water
4 mist type system. Our examination of that is
5 essentially just to check the material condition of the
6 equipment, sprinkler heads for example.

7 Occasionally we may actually have them
8 activate one of the systems, if there is room for
9 cause. We have reason to believe through an expanded
10 exam that the system is, for some reason, not
11 performing the way we think that it should perform, or
12 will perform because of damage to it, or something like
13 that. We may actually have them activate the system
14 and make sure that there is actual flow, and -- to the
15 sprinkler, and that you are getting the protection that
16 you need. But for the most part it is a material
17 condition assessment.

18 Throughout the rest of the ship we may
19 actually test the sprinkler section valves. But for
20 the, for the machinery space that's essentially what we
21 are looking for.

22 Q. And you briefly mentioned earlier about the
23 annual and periodic exams, can you please describe the
24 difference in those two processes, and what inspectors
25 look for in each type of exam?

1 A. In an annual exam, we will test systems. We
2 are basically, again, verifying substantial compliance
3 with the international requirements, and that includes,
4 SOLAS, MARPOLE, LOAD LINE for example. And so it will
5 start with an assessment on the pier of the condition
6 of the hull. We make sure that the load line mark is
7 not submerged, for example.

8 Once we go on board we may assess the, you
9 know, their security posture, make sure that they are
10 actually checking identification to see if they are
11 substantially in compliance with the ISPS code. We
12 will then look for means of escape issues, sometimes
13 they have blocked the corridors with equipment, we are
14 verifying that the pathways are clear.

15 Again, it's the material condition of
16 structural fire protection barriers. We do crew
17 proficiency checks as well, we will witness fire and
18 abandon ship drills, we will witness muster drills with
19 the passengers, to make sure that the crew is
20 proficient in their duties in that regard.

21 We are testing nav equipment, we will test the
22 detection system, spot check. We will test the
23 sprinkler section valves to make sure that the alarms
24 and adequate flow is provided. The difference
25 primarily between the systems test and equipment test

1 of the annual exam and the periodic exam is that the
2 periodic exam is really, primarily focused on the crew
3 and their proficiency, and their training.

4 We teach our students that at that exam, you
5 typically are not testing equipment except for cause,
6 if you have reason to believe that there is a piece of
7 equipment, for example, that needs to be tested. And
8 we focus more on the crew proficiency and training.

9 Q. Can you please elaborate on the crew
10 proficiency, how would -- how are inspectors trained to
11 assess and to verify the crew competency on board?

12 A. So usually during a fire and abandon ship
13 drill our teams will be divided up and we will be
14 asking scenario based questions of like the stairway
15 guide, or lifesaving appliance crewmembers, muster
16 station leaders, things like that, and we will be
17 asking them basic scenario questions like, I'm a
18 passenger I have left my medication in my stateroom am
19 I allowed to go and retrieve them.

20 And what we are doing is, we are testing to
21 see that the process and procedures that are on board
22 the vessel that are in place to assist passengers in
23 emergency situations are being followed. And that the
24 training, that the crew is aware of what those
25 procedures are and that they are actually performing to

1 those standards.

2 And so we will ask that question several times
3 of several different crewmembers to make sure that we
4 are getting the same answer, and that way we can get a
5 good assessment of whether or not they are all being
6 trained to the same, and they are all performing to the
7 same standard.

8 Q. Do you witness, so do you witness drills, and
9 can you describe what kind of drills you do?

10 A. Sure -- the -- we will witness fire drills.
11 So usually we will have the team member on board the
12 bridge to assess the command and communications part of
13 that drill. We will also have team members on station
14 where the fire is hypothetically occurring to see that
15 the fire teams arrive on scene, they are adequately
16 dressed out, verifying the communication back to the
17 bridge so that we can see whether, again, that that
18 communication is taking place. And then we are
19 assessing the ability of the fire team to engage the
20 fire as they are trained to do.

21 We also assess the abandon ship drill, and
22 that will typically include questioning life boat crew,
23 life raft crew, making sure that they are aware of the
24 equipment on board the lifeboat, how do you launch the
25 lifeboat, how do you start the lifeboat, how do you

1 communicate to the bridge from the lifeboat, where are
2 the rations, things like that. And then we will
3 actually see them usually lower a boat, and most times
4 launch a boat, and operate the boat, and retrieve the
5 boat.

6 Q. Thank you. Is there any instance when a ship
7 would be subject to more than two exams in a year?

8 A. Yes, if we -- if there is a ship that has been
9 identified as needing additional inspection activity,
10 or exam activity because of a previous detention, or
11 because of a trend of multiple deficiencies on
12 subsequent exams, then they may be identified as
13 needing a quarterly exams, and that is typically done
14 by our headquarters staff.

15 Q. Thank you. I'd like to pass the microphone
16 over to Nancy.

17 **WITNESS**

18 **COMMANDER RANDY JENKINS**

19 **EXAMINATION**

20 BY MS. McATEE:

21 Q. Good morning Commander Jenkins.

22 A. Morning.

23 Q. This is Nancy McAtee from the National
24 Transportation Safety Board. I just have a couple
25 follow-up questions on structural fire protection and

1 fixed firefighting systems. Would you please discuss
2 how life safety systems such as Marine Evacuation
3 Systems and lifeboats are protected from smoke and
4 fire?

5 A. So, per Chapter 3 of SOLAS, which provides for
6 the prescriptive requirements for lifesaving
7 appliances, it indicates that the survival craft should
8 be stowed and away as to protect it from damage, and
9 also protect it from the effects of fire and smoke.

10 Additionally, life raft launching and MES
11 embarkation stations are also required to have a
12 certain degree of protection. The tables call for A60
13 but they are -- for the side shell of the vessel and
14 way of the lowering arrangements, are allowed to be
15 reduced down to A30.

16 But there are requirements for structural fire
17 protection in the event that the MES is deployed, and
18 launched in way of accommodation spaces, machinery
19 spaces, category, basically, 11, 12, 13, and 14 spaces,
20 flam lockers, things like that.

21 So if there is a space like that, that is
22 adjacent to the side shell of the vessel, then we would
23 expect to see some type of structural fire protection,
24 so that if there were a fire in that space, that it
25 doesn't impact the life raft and MES deployment.

1 Q. Thank you. With respect to A boundaries, what
2 type of fire conditions would lead to a possible
3 reduction in that time period that the protection, say
4 an A60, what reduction, what conditions would lead to a
5 reduction in that time?

6 A. So the, the premise is that the structural
7 fire protection is designed to provide for passive
8 protection, in the event that you can contain the fire
9 in the space of origin.

10 However, if for some reason, the -- for
11 example the ventilation is not secured, or openings in
12 the barrier, like fire doors are left open or are not
13 secured adequately, then there is a potential of
14 actually having the fire spread from the space of
15 origin, and then maybe the structural fire protection
16 that's installed won't perform as expected.

17 Q. What is the -- now we are going to move over
18 to fixed firefighting systems. What's the specific
19 role of a local application system?

20 A. So a local application system is essentially a
21 water based suppression system designed to protect a
22 specific piece of equipment. Namely internal
23 combustion engines, for example for the use of
24 propulsion or power generation, or boiler fronts,
25 incinerators, oil fueled purifier rooms, for example.

1 And it is in addition to the suppression system that is
2 otherwise required for the main machinery space.

3 But it is designed to give the engineers a
4 quick opportunity to suppress a fire in those pieces of
5 equipment that typically represent a higher degree of
6 fire risk.

7 Q. Thank you, that's all I have at the moment.

8 **WITNESS**

9 **COMMANDER RANDY JENKINS**

10 **EXAMINATION**

11 BY MR. BOWLING:

12 Q. Commander good morning.

13 A. Morning.

14 Q. Larry Bowling with the National Transportation
15 Safety Board. Before we get into my line of
16 questioning, what I want you -- I have a couple follow-
17 ups, but I'm going to ask you to step back and wear one
18 of your earlier hats, and that is when you were at the
19 Marine Safety Center. And I understand from records
20 that I have in my possession that you actually
21 performed or supervised some of the initial plan review
22 for the Caribbean Fantasy when it came, first came to
23 the U.S. or into service in the U.S. correct?

24 A. Correct.

25 Q. Earlier, I think under, when you were

1 responding to the Lieutenant, you used the term PQS,
2 can you tell me what that acronym is?

3 A. Performance Qualification Standard.

4 Q. Okay, thank you. And the -- under that same
5 line of questions, you had responded, related to the
6 frequency of the Port State Control examinations on
7 foreign flag passenger vessels, and you mentioned about
8 a reduced interval, or a more frequent schedule. Can
9 you expand on that a little bit?

10 A. As far as the scope of the exam?

11 Q. Well the, the frequency and why they are
12 condensed to quarterlies, versus annuals, or semi-
13 annuals.

14 A. Sure. So if a vessel had previously been
15 examined and been deemed to have been a substandard
16 condition that warranted a detention, that would be --
17 that could be cause for our headquarters staff to
18 require them a more frequent inspection interval.

19 Likewise if a -- over the course of a few
20 years a unit, or several units have gone on board and
21 done examinations, and found multiple deficiencies or
22 deficiencies that keep recurring over time, that may
23 not rise to the level of a substandard condition, but
24 may indicate that there is need for additional scrutiny
25 then that could also warrant additional inspection

1 activities.

2 Q. Okay, thank you. Now does the Cruise Vessel
3 National Center of Expertise have input into that, or
4 is it between the units in the field and the program
5 office at Commandant, or how does -- exactly how does
6 that work where a vessel would be put in a very
7 frequent or a quarterly schedule?

8 A. Sure, there is nothing that requires our
9 input. But certainly if our program office wants us to
10 weigh in then we will, you know, look at the condition
11 that the vessel is in. We will look at the history of
12 the vessel, the narratives that the local units are
13 inputting and trying from there -- make a
14 recommendation as well. But certainly that is not
15 required and that decision is left up to headquarters
16 to ultimately put them on a quarterly schedule.

17 Q. Okay, thank you. If I could ask Lieutenant
18 Diaz to bring up Exhibit E203. And Commander, while he
19 brings that up, this, I believe is the first letter
20 outbound to the then classification society for the
21 ship at that time Bureau Veritas, which initiated -- it
22 was actually the first piece of correspondence for the
23 initial plan review.

24 Can you take a quick look at that and verify
25 that is indeed what that is. And what we are looking

1 at is a Marine Safety Center letter -- if you don't
2 mind, Carlos, roll that back up -- or Lieutenant roll
3 that back up to -- there we are -- serial number
4 H2100236, and it is dated February 2nd, 2011. If you
5 don't mind, let the witness take a look at that.

6 A. Okay.

7 Q. Scroll up some please, Lieutenant. And if you
8 don't mind, roll to the bottom. I believe Commander
9 Jenkins signed that, actually, as a Lieutenant
10 Commander. Okay, and giving that -- I will try to be
11 time efficient, do you recall any elements of the --
12 your involvement with the initial plan review?

13 A. I do.

14 Q. Tell you what, rather than me go through a
15 line of questions; just tell me what you recall. And
16 it is okay if you don't remember it all. Just tell me
17 what you remember from that plan review process.

18 A. Sure, from what I remember, this was a vessel
19 operating in Mexico and they were looking to bring her
20 to the U.S. to operate between Puerto Rico and the
21 Dominican Republic. She was an existing ROPAX/Roll on
22 car carrier, basically/passenger vessel.

23 She was built I think, as I recall in the
24 80's, the late 80's. As such, she was subject to the
25 Retroactive Fire Safety Amendments, the RFSA's, which

1 requires that older vessels, to some certain degree
2 upgrade their fire protection systems, including
3 structural fire protection.

4 This is a typical plan review letter that we
5 would see on an existing vessel, where there is
6 innumerable amount of questions that we would post to
7 the submitter on how spaces are categorized, whether we
8 think that they are adequately categorized, whether the
9 plans that were presented to us actually show the right
10 type of -- or structural fire protection. And then
11 escape arrangements.

12 A lot of times we find that maybe there is a
13 dead end corridor that is identified, or direct access
14 to a stair that we think shouldn't be allowed. A lot
15 of times it is administrative, and the actual
16 arrangements in the ship is, is adequate and it is just
17 a plan. Sometimes it is, it does accurately reflect
18 what's going on the ship, and there are issues that we
19 need to resolve.

20 Q. Okay, and with regard to the initial
21 submission. So would I be correct if -- it looks to me
22 as if the official start date for the plan review would
23 occur when Bureau Veritas submitted the plans. And in
24 this letter it says, January 4th, 2011. Would that be
25 about the time the initial plan review process started?

1 A. That's accurate. Unless there was some
2 correspondence through email back and forth, basically
3 saying that we are getting ready to submit plans to --
4 or/and there may be some earlier discussions about some
5 issues.

6 But, officially, that's right, once the plans
7 come in; we advertise a customer service response time
8 of thirty days, where we would basically provide a
9 reply to them on the submission that they provided.

10 Q. Okay, if you don't mind, look at these
11 references, can you tell me a little bit about what an
12 individual would see on the -- only the -- I'm not so
13 much worried about the letters, but more so the
14 important plans that MSC would review and ensure
15 compliance with the applicable international treaties.
16 And I guess we'd start with the means of escape.

17 A. Sure.

18 Q. Or actually the structural fire protection.

19 A. The structural fire protection plan would
20 typically indicate the types of barriers that are
21 provided on the vessel, whether they are A, B, or C
22 class. And then whether they are further broken down
23 in A 30, 60, 15, things like that. What we would do
24 then is we would compare that with the tables and
25 Chapter 22, Regulation 9 that prescribe what the

1 barriers should be, depending on what spaces are
2 adjacent to each other.

3 In other words, if you have a galley next to a
4 main dining hall, the table would prescribe a certain
5 type of structural fire protection barrier. So we
6 would look to see that the plan accurately identifies
7 that that is actually what's going on on the ship. It
8 would also, typically provide the types of space
9 categorization that's on board the ship.

10 We would see that lockers, pantries, public
11 spaces, things like that are being categorized how, you
12 know, we think they should be categorized. Or if there
13 is an opportunity for an interpretation issue, then we
14 -- that might be a dialogue that we have with them as
15 well.

16 Whether, say for example if it is a low risk,
17 that they are identifying a Category 6, but it is a
18 main dining hall, and typically you have a higher
19 degree of combustible load, or combustible volume, then
20 we may have a dialogue that says, well should this be a
21 Category 8. That's the type of dialogue that we would
22 have with the submitter on the structural fire
23 protection plan.

24 Q. Okay, and then the next plan down, the means
25 of escape, what's the value there on that particular

1 plan, or what does that show?

2 A. So, for means of escape we want to see, on the
3 plan, that there is protected space or pathway to the
4 stair towers, and to the lifesaving appliances. We are
5 looking for two means of escape from each main vertical
6 zone. We are looking to see that certain spaces that
7 are prohibited from having direct access to stairs
8 aren't in fact giving direct access.

9 And it may also include sizing calculations
10 based on the number of passenger or crew that are in
11 those areas will determine the width of certain
12 corridors, or the width of the doorways. And so the
13 Marine Safety Center will also look at some of the
14 calculations that go into that as well to make sure
15 that the corridors were wide enough for the number of
16 passengers or crew that are served.

17 Q. Okay, and the next one down, I see are
18 the fire control plan.

19 A. So the fire control plan is a plan that
20 will lay out the equipment that is used in fire
21 protection, and like portable extinguishers,
22 controls for ventilation, controls for fire
23 pumps, things like that. And it is basically,
24 we are looking to see that, they are using the
25 right symbology as required by IMO and SOLAS.

1 Q. Okay, and the next plan down, Reference E
2 lifesaving appliances.

3 A. So typically the Marine Safety Center does not
4 review lifesaving appliance plans. But occasionally
5 they will submit the plan as, you know, support for the
6 other plans, for example, to show that the means of
7 escape are provided to those appliances. Unless for
8 some reason they, they are using an alternative design
9 for like an oversize lifeboat then that is a -- that is
10 something that we get involved with.

11 But, in general, for typical lifesaving
12 appliances, that is not something that we would review.
13 And I would expect somewhere on the letter to say that.
14 We use that for reference, but that's not something
15 that we are going to weigh in on.

16 Q. All right, thank you. And then the final
17 plan, I just need a quick explanation on would be the
18 firefighting and safety plan, and it is listed here as
19 Reference F.

20 A. Yeah, to my recollection, I'm not sure what
21 that plan actually depicted.

22 Q. Okay, and Lieutenant Diaz, if you don't mind,
23 run up to Comment Five on page three of this particular
24 letter; I'm going to have the witness see if he recalls
25 a comment here. Comment Five; I am going to read it

1 for the record.

2 (Reading) "We are concerned that the vessel's
3 special category space boundary ratings are not in
4 compliance with Regulation 2-2/37.1.2 as required by
5 Regulation 41-2.6.4. Please address compliance with
6 this regulation including details of separation between
7 the main horizontal fire zone, decks two and three, and
8 the main horizontal fire zone two, deck four". Do you
9 recall --

10 A. As I recall, Regulation 41-2.6.4 is part of
11 the RFSA's, or the Retroactive Fire Safety Amendments.
12 And I believe, initially, there was a disagreement on
13 the applicability of the RFSA's to this vessel. And
14 whether or not the car decks, which is what the main
15 horizontal zone is basically depicting there, was
16 required to upgrade their structural fire protection to
17 A60.

18 Q. Okay, thank you. Lieutenant Diaz, if you
19 don't mind, bring up Exhibit E202; just leave me on the
20 first page. And this is a, what I believe is the
21 second outbound letter from the Marine Safety Center,
22 serial number H2100493, dated February 24, 2011, and
23 this exhibit was also signed by Commander Jenkins, then
24 Lieutenant Commander Jenkins. And again, I haven't
25 seen anything else in the record; I haven't seen any of

1 the Bureau Veritas submissions, so I'm kind of flying
2 blind on this.

3 But, I would like to get, like you to take a
4 look at Comment Five on this particular letter, page
5 three. And it is kind of back to the topic we were
6 just talking about. Comment Five, and rather than
7 reading it into the record, I'll let you read it
8 yourself.

9 A. So Regulation 2-2 37.1.2, compliance with
10 which is required by Regulation 41-2.6.4 requires that:
11 "The boundary bulkheads and decks of special category
12 spaces to be insulated to an A60 standard, except in
13 way of adjacent 5-9, or 10 spaces. The vessel's
14 special category spaces do not appear to meet this
15 requirement in numerous locations."

16 "In addressing compliance with this requirement,
17 please also include details of the separation between
18 main horizontal fire zone one, decks two and three, and
19 main horizontal fire zone two, deck four, particularly
20 in way of the vehicle ramps."

21 Q. And again, if you recall, can you tell me a
22 little about the details? My concern there is I don't
23 understand they are -- what the Marine Safety Center,
24 or your team was telling Bureau Veritas regarding those
25 main horizontal fire zones.

1 A. This again, was part of the dialogue with the
2 submitter on the applicability of the RFSA's, and the
3 need to upgrade those spaces, or those arrangements to
4 an A60 standard. And so, I think at this point, we are
5 just reiterating our position. It may have been
6 because they submitted updated plans and had cleared
7 some of the items.

8 I note, in some of the previous comments it
9 says, "We consider this issue resolved", so either
10 through dialogue, or through updated plans, they had
11 corrected other items. But it looks like here, we
12 noted that in this particular case they had not, and so
13 we were just reiterated the point that we think that
14 they need to upgrade their SFPA60 for those spaces.

15 Q. Okay, thank you very much. Lieutenant Diaz,
16 would you bring up Exhibit, I believe it is E201? And
17 same as before, I believe this is the third
18 correspondence outbound to Bureau Veritas, it is MSC
19 letter H21100702, dated March 11th, 2001 -- or excuse
20 me, 2011.

21 And if we could go to -- on page one, I think
22 it's Item Five on that particular letter. Right there,
23 and roll on up a little bit. Take a look -- and you
24 don't have to read it on the record -- but Comment Five
25 -- excuse me, Lieutenant roll on up until I see A and B

1 under five, right there.

2 Take a look at Comment Five and the sub-
3 paragraphs A and B, and just if you recall, tell me
4 what that's about. And the reason I'm questioning, I
5 want to hear about that is, it specifically starts
6 talking about the vehicles decks.

7 A. So, at this point, it appears that after our
8 second letter, where we called out the arrangements
9 again, their third submission. Then went on record
10 with their disagreement with our interpretation, and
11 they likely provided an argument of why they felt that
12 it didn't apply, and this was, this looks like our
13 reply to that, and disagreement. And then provides our
14 reasoning on why we think it does apply.

15 Q. Okay, and just a couple of quick questions.
16 And you know I have -- I accept their plan review from
17 the other side, I have never really performed it,
18 except on small boats. So my question is how
19 frequently did you, when you were wearing your hat at
20 the -- as the -- your responsibility at the Marine
21 Safety Center, see submissions where classification
22 society would challenge -- and I want to use that word
23 if I am using it correctly --

24 A. Yeah.

25 Q. -- but challenge the applicability of a treaty

1 such as the Retroactive Fire Safety Amendments, or the
2 validity, of it I guess. I'm not quite sure what -- I
3 haven't seen their correspondence on how they put it to
4 the Marine Safety Center.

5 A. Sure. The classification societies that we
6 deal with are highly trained and professional members.
7 And it is not uncommon for them to disagree with a
8 position that we've taken. And certainly, it is not
9 something that we shy away from, because you know, we
10 are not infallible either.

11 So occasionally we will get into some dialogue
12 like that, and we will try and understand what the
13 intent of the requirements are. We will go back and
14 research the language that was in the preamble, or was
15 at the onset of the regulation, some of the background,
16 and the resolutions, to see what it is, exactly that
17 the -- that the regulators, or the ones that came up
18 with the regulation were aiming for.

19 So certainly that, that does happen on
20 occasion, and it is, it is usually a professional
21 dialogue that we have with them, and then usually at
22 the end we do end up resolving the differences.

23 Q. Okay, thank you. And Lieutenant if you would
24 bring up, I think it is the final Exhibit I need to get
25 to, E200. This is the Marine Safety Center letter H2-

1 1100721, and it is dated March 15th, 2011. And if you
2 don't mind, roll down to the signature page; I believe
3 the witness signed this one as well.

4 Yes, I want to go to Paragraph Two, there was
5 a section in there I needed some clarification on.
6 Right there, the -- that paragraph talks about the
7 coloring scheme on the structural fire protection
8 boundaries, and it lays out several concerns that you
9 and the team at the Marine Safety Center had at the
10 time. Do you recall what was your concern, what --
11 that this color scheme issue on the plans that were
12 submitted?

13 A. If I recall correctly, usually when we have
14 multiple plans in front of us, we like to verify
15 version control. So especially in the case when they
16 are providing updates or they are correcting plans to
17 address some of our comments.

18 And there is typically two or three different
19 types of plans that we'll look at, and we want to make
20 sure that what's being reflected on one plan is being
21 reflected on the other one as well. So they are both,
22 they are both being updated/upgraded at the same time.

23 With respect to the coloring scheme, that's
24 typically something we see on the fire control plan.
25 The fire control plan only requires that you identify

1 bulkheads, either red for A; or yellow for B, if I am
2 not mistaken. But it doesn't go into further detail,
3 and there is no requirement for it to go into further
4 detail on the additional rating of like an A class
5 bulkhead of either 15, 30, or 60, it just says A or B.

6 And this may have been an area where we -- we
7 didn't -- maybe they were using different colors, or
8 the colors were not reflecting what was required by
9 this -- the list of symbols that are used in a fire
10 control plan.

11 Q. Okay, thank you. And once a fire control plan
12 is deemed to be final and approved, is it usually
13 posted on a vessel somewhere for use by the crew?

14 A. It is.

15 Q. Is that a requirement?

16 A. It is.

17 Q. And do you know off the top of your head the -
18 - where that requirement comes from?

19 A. Yes, that is also in Chapter 22 of SOLAS, I
20 think Regulation 15, I'm not sure exactly.

21 Q. Okay, thank you. Lieutenant Diaz, if you
22 don't mind, bring up E196, and I just want to ask the
23 witness, again Commander, I haven't seen the Bureau
24 Veritas submissions, but per my records this is the
25 last letter that I have from the Marine Safety Center,

1 and it is serial number H2-1102295 dated July 22, 2011.
2 And if you don't mind Lieutenant, run on down just to
3 show the whole body of the text and let the witness
4 read that real quick.

5 (Brief pause.)

6 Okay, and Commander based on what you see
7 before you on this particular letter, would I be
8 correct saying that at this point the Marine Safety
9 Center reached out to Bureau Veritas and said, we
10 consider the initial plan review process complete?

11 A. Yes.

12 Q. And why is it basically that letter would be
13 the last correspondence then, with the classification
14 society?

15 A. Yes.

16 Q. Okay, and so at this point in the process I
17 think that Lieutenant Proctor worked you through, or
18 has asked you these questions. So at this point the
19 field office would pick up --

20 A. That is correct.

21 Q. -- the verification?

22 A. That's correct.

23 Q. So can you expand a little bit what happens
24 right at this point with the local Port State Control
25 inspectors, how they validate the Marine Safety Center.

1 A. Sure, in this letter, it looks like all of our
2 plan review comments were adequately addressed. And so
3 there were no further comments. Occasionally you will
4 see additional requirements that the -- that we are --
5 aren't able to verify from a 2D plan, that needs to
6 actually to be verified on board the ship. In that
7 case, we will provide some documentation that says that
8 it needs to be verified by the officer in charge of
9 marine inspection.

10 Let's see -- room and room construction that
11 requires detection that alarms whenever a fire is
12 occurring outside the space, for example, is one. It
13 is depicted on the plan but we would say, okay, the
14 local unit needs to go out and verify that the alarms
15 actually work.

16 But in this case it looks like all the plans,
17 all the comments were satisfied. And then you will see
18 at the bottom there, we copied the letter to the unit
19 where the ship is planning to operate.

20 Q. Okay, I see that copy, Commander, Coast Guard
21 Sector San Juan, Prevention Department.

22 A. Correct.

23 Q. Before we leave this particular Exhibit, the
24 general question, but related specifically to the
25 Caribbean Fantasy, but my question is with the Marine

1 Safety Center, once the plan review process is
2 complete, does that terminate the responsibility for
3 the Marine Safety Center? Or does the Marine Safety
4 Center staff stay active with the -- in this case,
5 Sector San Juan preventions department through the
6 validation process as the team visits the ship?

7 A. Typically at this point the Marine Safety
8 Center, because the Marine Safety Center is a tool for
9 the local unit, because they have the expertise, and
10 doing the plan re (sounds like re) piece of it. So
11 once they are satisfied that the plan review portion is
12 complete, then usually they move on to other projects.

13 If the vessel down the road ends up making
14 modifications or refurbishments, then that may
15 reinitiate some plan review activity.

16 But at this stage then, their involvement
17 would be over with unless the local unit had requested
18 their assistance in doing the initial examination.

19 Q. Okay, thank you. And I mentioned Bureau
20 Veritas in here, and the vessel has since changed
21 classification societies, it's changed over to RINA are
22 you aware of that?

23 A. I am.

24 Q. Tell me from your experience, what a
25 classification society's role is with regard to

1 ensuring a vessel is maintained per its plans that are
2 approved?

3 A. So depending on the flag state many of the
4 flags will delegate the, the authority and the ability
5 of the class societies to perform on their behalf. And
6 that entails issuing the Passenger Ship Safety
7 Certificate which is issued at the conclusion of their
8 exam process.

9 And they are going on board and they are -- as
10 the flag state representative, going in greater detail
11 than what we would do as a Port State Control and
12 verifying that systems are operating properly, that the
13 arrangements are staying the same, that there haven't
14 been any modifications.

15 It is just a greater inspection, usually it is
16 a three, four day examination that they are doing, and
17 they are, again, verifying compliance with the
18 international standards. And then once they are
19 satisfied, they'll issue the PSSC, or the
20 Passenger Ship Safety Certificate.

21 Q. Okay, thank you. Earlier we were talking
22 about the frequency of the Coast Guard Port State
23 Control exams, examinations on foreign flag ships. And
24 the question I have is were you aware that the
25 Caribbean Fantasy was on a quarterly inspection

1 schedule at Sector San Juan?

2 A. I was not aware until after the incident.

3 MR. BOWLING: Okay, thank you. Thank you
4 Commander, I have no further questions at this time,
5 thanks.

6 CDR CAPELLI: Good morning, the time is 0905
7 and we are going to take a quick recess.

8 (Whereupon a recess was taken from 0905-0920.)

9 CDR CAPELLI: Good morning, the time is 0920
10 we will now reconvene; we are going to continue
11 questioning from Mr. Adam Tucker from the NTSB.

12 **WITNESS**

13 **COMMANDER RANDY JENKINS**

14 **EXAMINATION**

15 BY MR. TUCKER:

16 Q. Good morning Commander.

17 A. Morning.

18 Q. My name is Adam Tucker; I'm with the National
19 Transportation Safety Board. And just a few follow-up
20 questions to what, and clarifications. My first
21 question is related to crew drills, and in specific you
22 mentioned crew proficiency. During the Coast Guard
23 either the annual or the quarterly, does anybody
24 evaluate the language of the crew, and the proficiency
25 of the language of the crew on board?

1 A. Yes that all ties back to effective
2 communication. So if we are noticing that they are --
3 the command and control structure on the bridge is not
4 able to decipher what it is that the team on scene is
5 passing -- whether it is because, due to a language
6 barrier or some other reason, then certainly that might
7 be something that we raise as an issue.

8 Q. Thank you. And still staying with the drills,
9 the crew drills, so does the ship or does the vessel
10 typically determine, you mentioned fire drills for
11 example. Does the ship decide where the fire is going
12 to be, or is that something that the Coast Guard port
13 safety control officers go on board and say, no I want
14 to see a fire here. How does that work?

15 A. The drill is their drill, it's their
16 evolution. We are just assessing their process and
17 their ability to actually conduct the drills
18 effectively.

19 So we will make that a point when we go and
20 have our pre-meeting with the staff, we will let them
21 know, we are, you know, we'd like to witness a drill.
22 And then they establish where the drill scenario's
23 going to be, and then we make sure that the processes
24 that they have in place on board the ship are being
25 followed.

1 So there is a requirement to at least once a
2 year do a drill, in a CO2 protected space. But beyond
3 that, it is -- it's their drill and we let them run it
4 as they would normally run it whenever we are not
5 there. And so one of the things that we key in on
6 though, is that if you are going to do the drill, you
7 know, the regulations require that you do them as
8 realistic as possible, as if it were a real emergency.

9 That may be the only kind of guidance that we
10 give them, so we -- we don't want to see them
11 simulating things unless it is for a reason of safety.
12 For example, we want to make sure that they know how to
13 actually secure the ventilation, and they are just not
14 simulating it. That they actually are lowering the
15 boats, or if they are going into a fire protected space
16 that all the equipment that they would normally carry
17 in with them, they are actually wearing, and using. So
18 ...

19 Q. Thank you. And we also talked about the --
20 for this particular vessel the quarterly inspections.
21 And it was mentioned substantial compliance is more the
22 annual, and then the remainder were the crew
23 proficiency. I am wondering is the quarterly drill, is
24 that also a, more of a crew proficiency evaluation?

25 A. It's a blend. The quarterly exam is similar

1 in scope to an annual exam. However, it may be more of
2 a spot check, so there may be systems and equipment
3 that we are not necessarily testing to -- as much -- to
4 the degree that we would on an annual exam. But the
5 scope and the things that we look at are similar. And
6 on each of those exams we are questioning the crew
7 about their position and their duties as well.

8 Q. Okay, thank you. And now in -- specific to
9 the Caribbean Fantasy, and the actual engine room, I
10 believe it is a category A type oil fire in a machinery
11 space. And I was -- I've looked at the structural fire
12 protection plan, and I've noticed that the deck above
13 is categorized as an A60. And as I understand, an A60
14 is a -- 60 minutes is that threshold.

15 And on the sides of ship, I believe what I
16 read was that it is an A30. What's the -- I guess,
17 above that deck there were a lot of cars, a lot of
18 vehicles, cargo essentially on the deck above, and are
19 there any circumstances where that A60 might not hold
20 up?

21 A. Certainly, the idea of the A60 standard is
22 that it is supposed to provide a degree of protection
23 from the effects of fire for up to one hour for A60.
24 That's your highest degree that you could provide on
25 the ship. And that is the prevention of the passage of

1 flame and smoke, as well as a heat rise from actually
2 conducting through that barrier for up to 60 minutes,
3 is for 140/180, 140 on average, 180 on any hotspot or
4 any joints. So that's what you would expect that
5 protection to provide.

6 But as I mentioned earlier, if for some reason
7 the -- there -- you provide the fire an opportunity to
8 spread from the space of origin, then you may be
9 defeating the ability of the SFP to perform as
10 designed.

11 And that could be through ventilation systems,
12 through doors that are left open, through penetrations
13 that were not adequately provided with fire stops, like
14 cable runs or pipe runs. In those scenarios then you
15 could possibly, like I said, allow the fire to spread
16 from the space origin, and quicker than the 60 minutes.

17 Q. Understood. Thank you for that. And what we
18 have noted, just for the record is that from the time
19 that the fire began on this particular accident vessel
20 until the time it was reported by the ship safety
21 officer.

22 And through testimony of the staff captain, it
23 was around 29 minutes from the time when the fire
24 started, until we had confirmation that there was a
25 fire, the secondary fire in the -- on garage B, and

1 also on the adjacent port side bunker station.

2 Commander that's all the questions I have, thank you
3 very much.

4 A. Sure.

5 CDR CAPELLI: Good afternoon Commander, I
6 have no questions. So at this time Panama do you have
7 any questions for the witness?

8 MR. ARENAS: No.

9 CDR CAPELLI: Baja Ferries do you have any
10 questions for the witness?

11 MR. BLASINI: No sir, we do not have any
12 questions.

13 (Brief pause.)

14 CDR CAPELLI: Commander Jenkins you are now
15 released as a witness at this hearing, thank you for
16 your testimony and cooperation. If I later determine
17 that we need additional information from you I will
18 contact you through your counsel. If you have any
19 questions about this investigation you may contact the
20 recorder, LTJG Diaz-Colon, thank you.

21 We will now recess before the next witness.

22 We will reconvene at 0940.

23 (Whereupon a brief recess was taken 0928-0943.)

24 CDR CAPELLI: Good morning the time is 0945,
25 we will now hear testimony from Commander Espino-Young

1 Chief of Prevention, and Mr. Jerry McMillan the Marine
2 Inspection Training Officer.

3 LTJG DIAZ-COLON: Will the witnesses please
4 stand and raise your right hand.

5 **WITNESSES**

6 **CDR JANET ESPINO-YOUNG**

7 **MR. JERRY McMILLAN**

8 Two witnesses called on behalf of the Coast Guard
9 were duly sworn according to the law, were examined, and
10 testified as follows:

11 WITNESSES: I do.

12 LTJG DIAZ-COLON: Please be seated.

13 CDR CAPELLI: We are going to lead off
14 questioning from Larry Bowling from the NTSB.

15 MR. BOWLING: Thank you, Commander.

16 **WITNESSES**

17 **CDR JANET ESPINO-YOUNG**

18 **MR. JERRY McMILLAN**

19 **EXAMINATION**

20 BY MR. BOWLING:

21 Q. Just for the record, can I get the witnesses
22 to spell their last names, please?

23 A. THE WITNESS/CDR ESPINO-YOUNG: Espino-Young,
24 E-S-P-I-N-O-Y-O-U-N-G.

25 Q. Thank you, Mr. McMillan?

1 A. THE WITNESS/MR. MCMILLAN: M-C-M-I-L-L-A-N.

2 Q. Okay, and you are represented by counsel,
3 correct?

4 A. CDR ESPINO-YOUNG: Yes.

5 COUNSEL: Yes, Lieutenant Shannon Price, P-R-I-C-E.

6 Q. Thank you. And again, I will try and direct
7 my questions for one of the witnesses individually, but
8 if I direct it to the wrong individual, please feel
9 free to speak up.

10 Some high level questions, I would like to
11 hear from Commander Espino-Young, I understand you are
12 the chief of prevention. Can you tell me what that
13 role at Sector San Juan entails, and let's just narrow
14 it to foreign flag vessels operating within your area
15 of responsibility.

16 A. CDR ESPINO-YOUNG: The chief of prevention has
17 been delegated with the duties to oversee the Port
18 State Control program in this Captain of the Port Zone
19 in San Juan. So our inspections division on the Port
20 State Control side conducts foreign flag inspections on
21 cargo vessels, tank vessels, passenger vessels that are
22 operating within their zone.

23 Q. Okay, thank you. If you don't mind, pull that
24 microphone a little closer to you and Mr. McMillan,
25 there, thank you.

1 The -- again, at the higher levels, but
2 specific to foreign flag passenger vessels, such as the
3 Caribbean Fantasy, tell me about the safety net, or the
4 safety regime. And what I'm looking for is I want to
5 hear about responsibilities for compliance and safety,
6 where it falls with owner, where it falls with the
7 classification society or responsible organization that
8 the ship is being serviced by, the master, and where
9 the Coast Guard fit into that, the Port State Control
10 regime.

11 A. CDR ESPINO-YOUNG: So for the hierarchy
12 within the operating safety net, when it comes to
13 complying for an international conventions, it is the
14 ultimate responsibility of the flag state, which is the
15 certificating authority to ensure that the vessel is
16 operating under their flag in international service are
17 compliant with the international standards.

18 And part of that is, obviously, ensuring that
19 the owner and operator are also taking heed in
20 executing their mission. And then the recognized
21 organizations are delegated, depending on how their
22 relationships are between the flag state and RO's, for
23 short, in the class to survey the vessels and issue
24 certification on their behalf with compliance to the
25 international standards.

1 Port State Control regime falls as the last
2 ditch effort in that safety net, which is the catch all
3 we, you know, with our Port State Control Program
4 vessels, foreign vessels arriving into U.S. shores to
5 operate commercially, submit their notice of arrivals,
6 and part of that is for us to go through a series of
7 vetting processes and procedures to identify vessels to
8 conduct examinations on.

9 And therefore we are, you know we are somewhat
10 auditing to ensure that the vessels are in compliance
11 and we schedule examinations to do that based on a
12 series of prioritization, priority ones, twos, and non-
13 priority vessels, both on the safety and side.

14 Q. Okay, thank you. And as far as the program
15 itself, where is that managed out of?

16 A. CDR ESPINO-YOUNG: That is Headquarters CVC.
17 So the Compliance, Vessel Compliance folks up at
18 Headquarters are the managing of the Port State Control
19 Program. And then policy disseminates down the chain
20 to the actual operating Captain of the Port zones.

21 Q. Okay, and you used the acronym CVC is that
22 Commercial Vessel Compliance?

23 A. CDR ESPINO-YOUNG: Correct.

24 Q. Okay, thank you. From the standpoint of the
25 International Safety Management Code, tell me how that

1 particular instrument ties in to a Port State Control
2 Program. And if you don't mind, explain the value or
3 the intent of the ISM code with regard to compliance
4 with the applicable statutory requirements, and the
5 international treaties.

6 A. CDR ESPINO-YOUNG: So, the intent of the ISM
7 program, or the ISM code as an offshoot of SOLAS was
8 really intended to ensure that the owner/operators and
9 the companies were held responsible or ensured that
10 there was a series of check and balances between
11 company ashore, and then the vessel itself was also
12 going through a series of auditing, internal audit
13 processes.

14 So, the intent was to hold vessels
15 accountable, and owners accountable to ensure that
16 requisitions, you know, for parts were submitted on
17 time, when corrective action or deficiencies were
18 identified by the vessel crew they were immediately
19 reported to the shore based company for corrective
20 action. So, it was to really engage the owners in the
21 complete process of managing a vessel to ensure the
22 substantial compliance, and that substandard ships were
23 eliminated.

24 Q. Thank you. Lieutenant Diaz, would you bring
25 up Exhibit E071, and Commander, this is the IMO

1 Resolution A 1022(26), Guidelines on the Implementation
2 of the International Safety Management Code by
3 Administrations. Have you seen this document before?

4 A. CDR ESPINO-YOUNG: Yes.

5 Q. Okay, if you don't mind, Lieutenant roll, or
6 scroll down to Section 2.1.2 and it is a, it talks
7 about verification and compliance with the ISM Code.
8 And right -- keep going, and Commander from your
9 position as a chief of preventions and with regard to
10 your Port State Control teams when they are doing these
11 exams, tell me what Section 2.1.2 means for a Port
12 State Control team.

13 Particularly with regard to the objectives for
14 trying to validate whether a system is effectively
15 implemented on a ship versus one that may not be
16 effectively implemented.

17 A. CDR ESPINO-YOUNG: So, the administration,
18 through a designated company, you know, usually a
19 recognized organization also does audits, or really
20 surveys.

21 And there is a - series of, you know on both
22 the company side of things from the, you know, the
23 management itself and they are issued a Declaration of
24 Compliance, which attests to the compliance efforts and
25 that they are meeting the intent of the code on the

1 shore based side.

2 And on the vessel side they are issued a
3 Safety Management Certificate, attesting to their
4 compliance to the international standards, and the ISM
5 Code. So having both of those certifications would
6 assume that the vessel is compliant with the code
7 itself.

8 And then there is a series of surveys that
9 occur periodically, both on the ship, an internal
10 survey, an audit. And on the ship side, on the shore
11 based side by the recognized organization, or the flag
12 state to assure that those -- the vessel and the
13 company are actually performing and the system is
14 actually intact and well maintained.

15 Q. Okay, thank you. And, with regard to the
16 Caribbean Fantasy on August 17, 2016. And again, tying
17 this into 2.1.2, the administration of that vessel on
18 that day, would that have been the Panamanian Maritime
19 Authority Flag Panel?

20 A. CDR ESPINO-YOUNG: Yes, yes.

21 Q. And as far as any authorities that Panama
22 would have delegated, would that have -- would they
23 have delegated responsibility down to RINA, in this
24 case, on the Caribbean Fantasy for verification?

25 A. CDR ESPINO-YOUNG: I believe so, yes.

1 Q. And while we are still here with the Safety
2 Management Systems and the ISM Code, if a vessel, in
3 general, if a vessel is deemed not to have an
4 effectively implemented Safety Management System
5 aboard, what actions would Coast Guard; your Port State
6 Control teams would take?

7 A. CDR ESPINO-YOUNG: We would formally provide
8 paperwork for the vessel to be detained under the IMO
9 standards for non-compliance with the ISM Code, and
10 request an external audit be conducted on the Safety
11 Management System of that vessel.

12 Q. Okay, thank you. And I think the -- with
13 regard to evidence that a Port State Control
14 Examination had been completed on a vessel -- let's
15 stick to the Caribbean Fantasy -- how is that
16 documented? How is that recorded that your teams have
17 gone out and completed a quarterly, or a mid-period, or
18 an annual exam on a foreign flag passenger vessel? How
19 is that captured?

20 A. CDR ESPINO-YOUNG: So, there is two ways. For
21 foreign passenger vessels, we issue a Certificate of
22 Compliance, which is issued for a year. And in the
23 second page is a record of, you know, the transaction
24 of that examination. And it clearly identified what
25 type of examination, whether it was an annual,

1 periodic, or quarterly. And then a summary of the
2 events of that particular exam would be recorded in
3 that record.

4 And then additionally, there would be a Form A
5 under Port State Control, which would document the
6 actual examination. And if there is deficiencies, a
7 Form B would be issued, describing the deficiencies,
8 under what convention. And then corrective action,
9 whether it was formal detention, would be a Code 30.
10 Prior to departure would be a Code 17. And then you
11 would give timeframes for corrective action.

12 It also would direct either the flag state or
13 the recognized organization to act for corrective
14 action.

15 Q. Thank you. And Commander the -- with regard
16 to the flag of Panama, if -- the term open register,
17 are you familiar with that at all?

18 A. CDR ESPINO-YOUNG: Yes, sir.

19 Q. What, tell me what an open registry is, and if
20 the flag of Panama is an open registry.

21 A. CDR ESPINO-YOUNG: From my understanding, the
22 open registry is a, you know, a flag that, you know,
23 has a large constituent, you know, flags of various
24 different types of ships, and they also do a lot of,
25 you know, all sorts of recreational boats. And for the

1 large part, one of the larger registries for
2 registering vessels for commercial and recreational
3 use.

4 Q. Okay, thank you. And from the standpoint of
5 the United States, do you know the status of the United
6 States flag? It is an open registry or closed?

7 A. CDR ESPINO-YOUNG: It is a closed.

8 Q. Okay, final question at the high level, before
9 we get into specifics on the Caribbean Fantasy and the
10 inspections at Sector San Juan, the examinations, I
11 should say. I understand that Commandant, the CVC
12 maintains a list of vessels that are banned from
13 service or basically entering into U.S. waters, are you
14 familiar with that?

15 A. CDR ESPINO-YOUNG: Yes.

16 Q. Lieutenant Diaz bring up Exhibit -- bear with
17 me one second -- E049, there you go. I pulled this
18 from the Commandant website. How does a vessel, from
19 your knowledge, how would a vessel get put on this
20 list?

21 A. CDR ESPINO-YOUNG: You would have to have
22 documented three detentions within a twelve month
23 period, and all of them would be also attributable, the
24 detentions, to ISM as a safety management failure of
25 those deficiencies.

1 The unit would then put together a memo requesting to
2 Commandant to ban the vessel meeting the criteria of
3 the policy.

4 Q. Okay, and this -- on the current list of
5 vessels that are banned from operating in the United
6 States, or water subject to the jurisdiction of the
7 United States, there are currently two vessels, both
8 under the flag of Panama, one under the flag of St.
9 Vincent. Did Sector San Juan have any interaction with
10 either of those vessels? The Commander or the Grey
11 Shark, the Panamanian flag vessels?

12 A. CDR ESPINO-YOUNG: The Commander, yes.

13 Q. Tell me about that, from what you recall.

14 A. CDR ESPINO-YOUNG: From my understanding, you
15 know, and I'll defer to Jerry, because he -- it was
16 prior to my arrival that that vessel was an operating
17 vessel in the Captain of the Port Zone, San Juan and
18 was, you know, was detained three times, as a matter of
19 fact I believe they, they -- detained the last time
20 because of an incident and then requested banning for
21 that particular. But I'm sure Jerry has more he can
22 tell us.

23 Q. Okay, Mr. McMillan, just high level summary,
24 tell me about the Panamanian flag vessel Commander.

25 A. MR. MCMILLAN: The Commander is actually owned

1 by a citizen in St. Thomas. And their primary, they
2 operated small passenger vessels before, so they bought
3 this vessel, and it was previously a Greek flag vessel.
4 Brought it over, and they really did not follow their
5 Safety Management System at all. They had one on board
6 they just didn't follow it.

7 So every time that we go on board, and we
8 detained it is because they were not following their
9 Safety Management System. I can't tell you the
10 details. I do know that the last one is they lost a
11 rudder, and they didn't know they lost a rudder, and I
12 should say they lost two rudders. They lost the first,
13 one, and they didn't know. And the second one, they --
14 I think they ran aground and actually lost the rudder.

15 So that's how they got, they got banned.

16 Q. Okay, thank you. And I want to get down into
17 the initial control verification examination and
18 specifics related directly to the Caribbean Fantasy.
19 And as a matter of record, your preliminary interview
20 we have, it is Exhibit #012, and Commander Young,
21 Espino-Young is Exhibit #018, so I don't want to get a
22 lot of details we have already been into.

23 But I do want to, for the record here, I want
24 you to, if you don't mind, telling in a couple of
25 sentences what exactly a marine inspection training

1 officer is.

2 A. MR. MCMILLAN: Okay, my position is to oversee
3 the training of marine inspection inspectors and Port
4 State Control officers. The best way to say this -- it
5 is just, I just oversee the program.

6 And also, conduct inspections, and also
7 technical expert for a lot of different things that
8 pertain to inspections. And also nationally, marine
9 inspectors are part of work groups to help improve our
10 training program throughout the Coast Guard so we are
11 all working together.

12 Q. Okay, thank you. And Mr. McMillan what I want
13 to try and do while I have the floor is get you through
14 some of the Port State Control, the more significant
15 Port State Control examinations and findings on the
16 Caribbean Fantasy, starting with the initial Control
17 Verification in early 2011.

18 So, if you don't mind, walk me through the
19 initial up through say the situation -- or the last
20 Port State Control Exam in August of 2016. And we will
21 probably step back and look at some of them in more
22 detail.

23 A. MR. MCMILLAN: Okay, I actually prepared a
24 white paper for the command, in August, the 24th, after
25 the incident, to brief him of everything that happened

1 with the vessel.

2 Q. Okay, and far as a white paper, can you
3 explain that, and I would ask Commander Capelli, is
4 that a matter of record at present?

5 CDR CAPELLI: No, it is currently not on
6 record.

7 BY MR. BOWLING:

8 A. MR. MCMILLAN: This white paper was just to
9 brief the command of everything that happened with the
10 vessel since we first got notified with it, and then
11 after the fire, the last inspection before the fire.

12 Q. Okay, Commander, I would ask that we allow the
13 witness to use that document, and sometime later we
14 will offer it as an exhibit.

15 CDR CAPELLI: He can refer to it to refer
16 (sic) his recollection of the activities that were
17 happening.

18 MR. BOWLING: Okay, thank you.

19 BY MR. BOWLING:

20 Q. Okay, Mr. McMillan, please continue.

21 A. MR. MCMILLAN: Okay, when we first heard about
22 the Caribbean Fantasy, which was the Twilla Star
23 (phonetic) at that time, which was Mexican flag, that
24 was in March of 2010. And we got that notification
25 processed through Headquarters, actually, from CVC.

1 They sent us an email talking about this vessel is
2 coming down.

3 Then August of 2010 we were notified by Bureau
4 Veritas, which is the, they were the class society for
5 the vessel. But they did not issue statutory
6 certificates, those are issued by Mexico.

7 And then we talked to them about all the --
8 the process of going through the ICV, and about
9 submitting plans to the Marine Safety Center, so that
10 could be done. And that did not actually happen until
11 January of 2011 --

12 Q. Excuse me, Mr. McMillan, would you pull that
13 microphone a little bit closer?

14 A. MR. MCMILLAN: This better?

15 Q. Yes, thank you.

16 A. MR. MCMILLAN: Okay. So January of 2011
17 that's when the operators of the vessel or the owners
18 submitted plans to MSC for review. And they were
19 expecting to start operating in March of 2011.

20 And in February, we got contacted by a BV rep
21 to schedule ICVE, and we found that the plan review was
22 not based on plans as built. So they had to resubmit
23 those back to flag for approval, so they could be
24 resubmitted to the Marine Safety Center.

25 Then March 2011, the vessel was denied entry

1 into our waters because they didn't have a non-tank
2 vessel response plan in place. Then also March after
3 they did that, we actually did a Port State Control
4 Exam on the vessel.

5 Then a little bit later in March we actually
6 witnessed a deployment of the Marine Evacuation System.
7 And at that time we found that there was a mismatch
8 between the life rafts and the slide. Typically, those
9 systems are approved together. So somewhere along the
10 line they switched the systems, they used a DB chute
11 with Viking life rafts.

12 And the, the way that system was approved,
13 there is a slide system, the ones that were currently
14 on the vessel when they evacuated the ship.

15 In April of 2011 the MES was returned back to
16 its original configuration. And that was Viking of
17 Miami, is actually the one that -- overseeing that
18 process.

19 Then in May, that's when we commenced the ICV
20 over three days, and we issued a 174 item worklist. We
21 cleared 80, and there was about 94, I think, remaining
22 at the end of it. And the vessel wasn't authorized to
23 carry cargo because the cargo deck sprinkler systems
24 was not working at that time.

25 After the drencher system was fixed on decks A

1 and B, which is lower decks, the vessel was allowed to
2 continue operation as a cargo vessel, and they still
3 have to continue with the ICV.

4 Let's see, later in May, I think May 30th,
5 that's when we actually issued the COC, and placed on a
6 quarterly exam schedule at that time. We decided that
7 because of all the problems we had seen, that it needed
8 to be put on a quarterly.

9 And we -- the Marine Safety Manual says that
10 we should coordinate that with CVC, and Headquarters,
11 but I don't think that actually happened. Just a local
12 determination to do that.

13 Let's see, okay, in August of 2011 the vessel
14 changed flag to Panama, and at that time they also
15 switched their technical operating company to V Ships
16 Leisure, and that was a recommendation of the person
17 who was actually doing the ICV for the company. He
18 recommended that their management system not do it, and
19 that they hire V Ship Leisure to take that part over.

20 Okay, so November of 2011 we conducted the
21 second quarterly exam and then we found the drencher
22 system clogged on several nozzles. And at that time,
23 they fixed them on the spot, then the company changed
24 their Safety Management System at that time to start
25 flushing the drenchers on a weekly basis while they

1 were over in Santo Domingo.

2 And then we also found the charter installed
3 an unauthorized jewelry shop -- I can't remember what
4 deck that was, but they installed it, which was --
5 during plan review it was identified as a room in room.
6 But the owner went and decided to go ahead and install
7 it. Or, I shouldn't say the op -- the owner, the
8 charter of the vessel decided to go ahead and install
9 it at that time.

10 Let's see what else. Okay, then December of
11 2011 we found that the chief mate didn't have the
12 required hazard training that is required. And they
13 fixed that.

14 Let's see, then April of 2011 the vessel
15 suffered some failure of the ship's surface generators
16 in April and June that was in 2012. And they were
17 fixed, and they actually put on a temporary generator
18 to take care of that. And this was all done under
19 RINA's preview, they knew about it and they approved
20 it. And they talked to us about it to make sure that
21 we were okay with it.

22 Then in August of 2011 they had an accidental
23 deployment of their port Marine Evacuation System. And
24 they were restricted in passenger count until they got
25 that redone. And what they figured happened, was that

1 someone went back there, one of the crewmembers, and
2 actually activated it. They don't know whether it was
3 intentional, or he just activated it by accident. But
4 to actually activate you actually have to remove some
5 panels to get in there, so they figured it might have
6 been on purpose.

7 Q. Okay.

8 A. MR. MCMILLAN: But they never did find out who
9 did it. July of 2013 the vessel suffers a blackout
10 while maneuvering away from the dock while using its
11 bow thruster and had to drop both anchors. And their -
12 - that got investigated to find out why that happened.
13 I don't -- I don't have that in the timeline, but that
14 was a problem that they had.

15 Then September, 2013 we were informed by
16 Viking Miami the vessel installed unauthorized hydro-
17 static release units on their, on both MES's, they have
18 a special type of hydrostatic release. And those have
19 to -- you actually can't buy in the Caribbean or the
20 U.S. they are more for RORO type vessels with MES's,
21 and they actually had to buy them from Europe.

22 And the reason, we found out why they did it
23 in our investigation was it was cheaper for them to do
24 that than to buy the other ones. So we had them
25 install the correct ones at that time.

1 Q. Okay.

2 A. MR. MCMILLAN: Let's see. I take that back,
3 that was BV up to that point.

4 In December of 2013 that's when -- yeah,
5 December of 2013, that's when they switched from BV to
6 RINA. So, I have to correct that. So everything up to
7 that point is, was BV.

8 Then the next significant event was March of
9 2014 the vessel had a fire in the transitional
10 batteries, and the vessel was allowed to sail with
11 cargo, they were on the dry-dock -- in 21 days, so they
12 were allowed to sail as a cargo ship for 21 days with
13 transitional power, with operational restrictions that
14 were put on them by RINA, and additional crewmembers
15 manning the emergency generator and some things like
16 that.

17 July of 2014 the vessel returns from dry dock
18 and we conducted a transitional power test, since they
19 had installed a brand new board and brand new battery
20 bank. They failed the first test, then they -- we did
21 a second test and they also failed that. And they were
22 allowed to sail as a cargo vessel without passengers at
23 that time too.

24 Then in August of 2014 we went on board for a
25 deficiency check for the transitional power. And while

1 we were conducting -- going to conduct that test we
2 found that the batteries were completely drained at
3 that time, and we also found some other deficiencies.
4 I think there was actually two items that were related
5 to Safety Management System that were part of that
6 detention. So that was the first time I ever detained
7 a vessel on a deficiency check.

8 Let's see, then after the vessel came back we
9 conducted a P-1 boarding. Since they, they did have a
10 detention, that's a requirement under our procedures.
11 Let's see, nothing really up until the second detention
12 which was 21, October 2015. We did -- detained it
13 under SOLAS, STCW, and ISM related deficiencies at that
14 time.

15 And then in March of 2016 the vessel goes to
16 dry-dock, and is over there until it started heading
17 back in July. And the vessel got detained in Gibraltar
18 by Port State Control over there, and they -- that was
19 due to cleanliness of the engine room, and also
20 problems with the ship's surface generators.

21 I found out about the detention through --
22 just going to the Equasis website and looking it up
23 because up to that point we had been corresponding back
24 and forth by email, and we were supposed to do a --
25 their annual exam about the first week of July, and we

1 didn't hear anything after July. About the first of
2 July, I think, so July 8th is the last email I got from
3 them. And we didn't hear anything from them. And
4 that's -- after that is when I went to the Equasis
5 website, and found out they were detained.

6 Okay, and from what I -- talking to the
7 Company later, what happened was, when they were in
8 Tunisia they got a bad load of ultra-low sulfur fuel,
9 and when they went to switch over, to go into the
10 European Union Eco-Zone, they -- that's when they found
11 out they had bad fuel. They actually seized piston on
12 two of the three generators because of that.

13 And the engines were rebuilt; those engines
14 were rebuilt in Gibraltar. And then the ship wanted
15 to, when they were coming over here to do their COC,
16 they wanted to come directly to San Juan and do the COC
17 without having the hotel staff on board. And at that
18 time, we told them no, they had to have the hotel staff
19 on board and trained. They will pass, do their drills
20 and everything.

21 And so 9 of August is when they finally, I
22 think it was the 8th of August they finally get to San
23 Juan, and on the 9th of August we did their annual COC,
24 and we issued some, a few deficiencies at that time,
25 but nothing major. Some things that you find,

1 typically when you find a ship coming out of dry-dock,
2 small things.

3 I shouldn't say small things, one of them was
4 we tested the drencher systems, which we did on every
5 exam because of the problems that they had when they
6 initially came. And I found 21 nozzles on C deck that
7 were not installed on the drencher system. They had
8 them on board and they installed them.

9 And I ask them why that happened. They said
10 while they were in Tunisia they had -- in the shipyard,
11 they had 250 nozzles stolen. So they had to get new
12 ones procured and delivered to the vessel while they
13 were in Tunisia, they just didn't get that one section
14 completed.

15 Let's see what else. Also we had a problem
16 with the two fire dampers, because we checked all the
17 fire dampers on C deck. And we found two of the
18 automatic ones didn't close because of problems with
19 the hinges.

20 They did fix that before we left the vessel.
21 But we had -- we didn't clear it until we -- Class
22 actually gave us a report that they were satisfied with
23 the repairs. And Class was on board for that annual
24 exam.

25 I think that is pretty much it for the

1 timeline of the vessel.

2 Q. Okay, thank you and the last exam you were
3 just referring to, that would have been the -- the COC
4 renewal exam just prior to the fire, and it started the
5 first of August, correct?

6 A. MR. MCMILLAN: That is correct.

7 Q. And at least from the records, I understand
8 that Chief Warrant Officer Roth, one of your teammates,
9 was lead on that particular exam?

10 A. MR. MCMILLAN: Yes, I had him be the lead that
11 time.

12 Q. We have him set up as a witness this
13 afternoon, so we will explore that in depth with him.
14 But on that particular exam in August, what role did
15 you play?

16 A. MR. MCMILLAN: I was filling the role of teams
17 two and three, in our process guide. So I had all the
18 passenger decks, all the way down to the cargo decks.

19 Q. Okay, we may come back to that. Let's, if you
20 don't mind, I want to step back to the initial and take
21 a look at some of the documents that we have, and I am
22 going to ask Lieutenant Diaz to bring up Exhibit #013.
23 And at least my understanding, this is the first
24 Captain of the Port Order that I found issued to the
25 ship from the then Captain of the Port in 2011.

1 And before I get into questions on this, I'd
2 like to ask the Commander, tell me what a Captain of
3 the Port order is, and specifically, it is a control
4 action, or is it not a control action per the Marine
5 Safety Manual which is a document that I assume was
6 used.

7 A. CDR ESPINOSA-YOUNG: Yes, Captain of the Port
8 orders are a control action. It is a -- under the Port
9 and Waterways Safety Act, it is a means of controlling
10 a ship, either denying or controlling the vessel
11 movement within U.S. waters.

12 Q. Okay and in general, there is a cite at the
13 bottom of that, that actually refers to the Port and
14 Waterways Safety Act, if that order, if that order is
15 complied with, or not complied with, can the company be
16 subject to penalty or other action?

17 A. CDR ESPINOSA-YOUNG: Yes, so the
18 acknowledgement at the bottom is for that very purpose.
19 When we issue a Captain of the Port order, is for them
20 to acknowledge. And under the Ports and Waterways
21 Safety Act, at the time, because the penalty action has
22 increased significantly within, I'd say the last four
23 months.

24 But, you know, they can be subject to
25 penalties up to four thousand dollars per day of

1 violation of that Captain of the Port order. Also, you
2 know, any, you know, violations of law as well.

3 Q. Okay, thank you. Commander, if you don't
4 mind, grab that mic real quick because I am going to --
5 (Witnesses conferring.)

6 Q. With a captain of the port order, explain the
7 process at Sector San Juan how that is issued. In
8 other words, I'm looking for do your petty officers
9 have the ability to issue such a document, or are that
10 reserved for the higher level senior officers like
11 yourself?

12 A. CDR ESPINOSA-YOUNG: The -- at Sector San Juan
13 the discretion is still kept at the Captain of the Port
14 level. So Captain Warren, or Captain Reijo is the
15 alternate Captain of the Port, has signature authority
16 for issuings of Captain of the Port orders.

17 So the field personnel will identify an issue,
18 or locally, depending on how -- through the vetting
19 process as it occurred in this case, through our
20 vetting of that particular vessel as it was coming in,
21 identifying the vessel did not have a non-tank vessel
22 response plan.

23 And therefore, a Captain of the Port order is
24 drafted and routed through the chain of command to, for
25 Captain's signature, to deny the vessel entry based on

1 the fact that it did not have a non-tank vessel
2 response plan in accordance with the regulations.

3 Q. Okay, so with that said -- and this would be
4 an open question for you or Mr. McMillan, whoever
5 feels, they have more detail here -- but, when this
6 Captain of the Port Order was issued, the first
7 paragraph indicates that right around March the 11th,
8 2011 the vessel was inbound to the area of
9 responsibility for Sector San Juan. And that I -- it
10 looks to me as if they were planning on beginning
11 operations, is that correct?

12 A. MR. MCMILLAN: That's correct.

13 Q. All right, at this point, had any plan review
14 or approval been completed at the Marine Safety Center,
15 or had any other action been taken at the Sector level
16 where the vessel would be allowed to operate in U.S.
17 waters?

18 A. MR. MCMILLAN: They were still under plan
19 review at that time. But they were going to just
20 operate as a RORO cargo ship, that's what their plans
21 were until they -- plan review was completed.

22 Q. Okay, and so no passengers were allowed at the
23 time?

24 A. MR. MCMILLAN: That's correct.

25 Q. All right, and the significance of a non-tank

1 vessel response plan, tell me what that is? What is a
2 non-tank vessel response plan at a high level?

3 A. CDR ESPINOSA-YOUNG: That is a requirement
4 that vessels at greater than 400 gross tons that
5 operate in -- or are intending to operate in U.S.
6 waters have to provide a plan for response and that
7 captures everything from oil spill response to salvage,
8 marine firefighting efforts, emergency towing. That
9 plan gets submitted to our Vessel Response Plan offices
10 up in Headquarters for vetting.

11 And they have to have contractual agreements
12 with these companies in order to -- in the event of an
13 emergency of any of those things, whether it is
14 salvage, marine firefighting, oil spills. The
15 organizations in charge responsible would be clearly
16 outlined and contractual agreements would be provided.

17 Q. Okay, thank you. Lieutenant would you bring
18 up Exhibit E014? Okay, and this is Captain of the Port
19 Order 3961832 dated March the 11th, 2011. Tell me what
20 you recall regarding this particular Captain of the
21 Port Order, Mr. McMillan.

22 A. MR. MCMILLAN: This is just a, just a follow-
23 up just to let them know that they couldn't do
24 passenger operations until they completed the control
25 verification exam, and successfully completed the

1 control verification exam.

2 Q. Okay, and as far as the earlier, Captain of
3 the Port Order, and this particular Captain of the Port
4 Order, are you aware if the vessel complied with either
5 or both of the Captain of the Port orders?

6 A. MR. MCMILLAN: They complied with both.

7 Q. All right, thank you. Lieutenant bring up
8 E015 please. This is Captain of the Port Order March
9 16th, 2011. That was an Amendment of the first Exhibit
10 we brought up, E013, which was the first Captain of the
11 Port Order, can you tell me there, what's going on with
12 the particular vessel?

13 A. MR. MCMILLAN: Okay, when the vessel first
14 arrived we did a, just a Port State Control Exam,
15 because they wanted to do cargo operations. And okay,
16 then they have a -- there is another Document of
17 Compliance, has it carrying -- has (inaudible word)
18 under SOLAS. So, this is different from the safety
19 management one.

20 So they, that's why they were restricted from
21 carrying HAZMAT on, which on this vessel deck C is
22 their hazmat deck, which is -- there are special
23 structural fire protection requirements for that deck.
24 But they didn't have the certificate, so we wouldn't
25 allow them to carry hazmat, even though if they wanted

1 to.

2 Q. Okay, and at least according to the record
3 that I have this was the third Captain of the Port
4 Order issued to the vessel. Do you know if that
5 Captain of the Port Order was complied with?

6 A. MR. MCMILLAN: Yes, it was.

7 Q. All right, thank you. Lieutenant bring up
8 E016. This is the Captain of the Port Order March 18,
9 2011, which was the fourth Captain of the Port Order in
10 the vessel file that I discovered. Tell me a little
11 about that Captain of the Port Order, and explain, if
12 you don't mind, what a marine sanitation device is.

13 A. MR. MCMILLAN: The marine sanitation device is
14 basically a sewage processing plant. The reason we
15 issued this, is because we could not, with what we had
16 seen on board and what, the documents they had on
17 board, we couldn't tell if it met 33 C.F.R. 159
18 requirements, or the IMO requirements for a marine
19 sanitation device.

20 So that's, we just tell them at that time they
21 couldn't use it until -- in our waters until they --
22 excuse me.

23 Q. No problem, if you need a break, we can recess
24 for five minutes.

25 A. MR. MCMILLAN: No, it is just -- been having a

1 longstanding cold, so.

2 Q. Okay.

3 A. MR. MCMILLAN: And I think we also found
4 holes in that system too at that time. So they needed
5 to fix it. So we did get the documentation that the
6 marine sanitation device was correct, and they did fix
7 the holes in the tanks.

8 Q. Okay, and on the second paragraph, the vessel
9 was a controller, effectively, was issued to have the
10 vessel remain in port. Is that what I'm reading there,
11 where it says, "I hereby direct your vessel to remain
12 in port until the above deficiency has been addressed"?

13 A. MR. MCMILLAN: Yes, I believe that's because
14 of the holes in the sewage tank.

15 Q. Okay, if you we could bring up Exhibit E17, I
16 believe it is an Amendment to this particular Order.
17 And that's Captain of the Port Order, 396731 -- or
18 excuse me, 7319, dated March 18th, 2011. And, trying
19 to tie that in to the last Captain of the Port Order we
20 talked about, because at this point it looks like there
21 was a direct order from the Captain of the Port to
22 expel the vessel from the Port of San Juan.

23 A. MR. MCMILLAN: That's correct; they didn't
24 want it to remain in port.

25 Q. Do you recall how that shifted from remaining

1 in port to depart port?

2 A. MR. MCMILLAN: That was the date of the
3 Captain of the Port Order?

4 Q. Scroll back up, Lieutenant Diaz, please.

5 A. CDR ESPINOSA-YOUNG: 18 March.

6 A. MR. MCMILLAN: 18 March. I think it was just
7 the -- I think at that time, I think the company wanted
8 to go to Santo Domingo to actually effect repairs to
9 the plant. So they didn't want to do it here in San
10 Juan.

11 Q. Okay, thank you. And we are still on this
12 timeframe, during your run down of the white paper that
13 you were describing; you mentioned the issues with the
14 MES slide. And then in April of 2011, so we are kind
15 of getting close there, in the timeline. You said
16 that, I think it was Viking had returned to the vessel
17 and returned the MES system into its original
18 configuration.

19 A. MR. MCMILLAN: Yeah, that's correct.

20 Q. Tell me what, exactly, was done there, do you
21 recall? Or were you present for that?

22 A. MR. MCMILLAN: Yes, I was. The vessel
23 installed a DBA chute, and Viking -- the company still
24 had the original slide back in Mexico. So they brought
25 slides back over. And the local Viking office here,

1 Viking Miami came down and they actually went through
2 the chute and made sure everything was serviceable,
3 then they put it back on the vessel.

4 Q. Okay, as far as you know, was that overseen by
5 the then Flag of Mexico, and the Class which would have
6 been Bureau Veritas?

7 A. MR. MCMILLAN: Don't know if Mexico actually
8 came on board for that or not. But BV was -- didn't
9 have statutory authority at that time to issue a
10 certificate. So I don't know who actually bought off
11 on the installation, of the vessel. They were just
12 returning it back to the original configuration.

13 Q. Okay, thank you. Now I would like to bring up
14 Exhibit E054, and we will be going over to E055. And
15 Mr. McMillan this is the, what I believe is the initial
16 Control Verification Examination Forms A and B.
17 Actually, that looks like the work list, so -- E055, if
18 I am not mistaken. There we go. Can you run down and
19 let -- well actually, hold right there, and I see the
20 team lead, you were team lead on that particular exam?

21 A. MR. MCMILLAN: That is correct.

22 Q. If you don't mind, Lieutenant Diaz, roll the --
23 to the summary, and let Mr. McMillan take a quick look
24 at that. Tell me about the initial, how -- the
25 duration of it, how it went. And you have indicated

1 there was a 174 item worklist. I want to know, is that
2 the norm, is it something you don't see normally, or is
3 it something you see all the time?

4 A. MR. MCMILLAN: On -- when you get a ship
5 that's been in service, it's not uncommon to get that
6 many. Usually a new construction, they are getting,
7 they are getting, the shipyard is getting very good on
8 this, we usually don't see very big work lists.

9 I'd say when I first started doing control
10 verification, I've been doing this for a while, we used
11 to write a lot of worklists.

12 Q. Okay, so I see an entry for, it looks like a
13 three day visit to the ship, 10-13, May 2011. So the
14 notes would represent what took place that particular
15 time period?

16 A. MR. MCMILLAN: Yeah, just -- it is easier for
17 me to read it down here. Yeah, we did initially three
18 days.

19 Q. If you look down to that section of notes,
20 there is an area I want to, two areas I wanted to talk
21 about. The note that you entered on the cargo hold
22 drencher system, and also on the structural fire
23 protection notes.

24 And with the structural fire protection,
25 specifically what you had there at the time and the

1 deck two cargo area with the A60 structural fire
2 protection, or the A60 insulation.

3 A. MR. MCMILLAN: Okay, during plan review it was
4 determined that the vessel was going to have to install
5 structural fire protection in the cargo holds. And
6 they were in the process of installing the structural
7 fire protection while we were doing the ICV. And this
8 is actually took them a while to install all this, this
9 structural fire protection. So we knew, going into the
10 control verification that they were installing this.

11 Q. All right, and the cargo hold drencher system?

12 A. MR. MCMILLAN: Let's see -- cargo hold --

13 Q. Specifically the hold piping, and clearing
14 clogged nozzle devices.

15 A. MR. MCMILLAN: Yeah, during the ICV we
16 actually had them energize all the drencher systems,
17 and we found split pipes, holes in the pipes, and also
18 a lot of the heads were clogged because of the rust in
19 the system.

20 So it took them a while to fix all that
21 piping. And even after that, they still had a lot of
22 rust in the system because at that time they were
23 running salt water through the system. And it is just
24 like pouring acid on rust when you put salt water on
25 it.

1 Q. Okay, thank you. And Lieutenant would you
2 scroll to the bottom of that summary, I want to make
3 sure I got all my questions. Let's see -- all right
4 thank you.

5 Bring up Exhibit E050. And what I'm looking
6 at is a Sector San Juan letter P212-11, dated May 19th,
7 2011. If you don't mind Lieutenant, roll up so I can
8 see who signed that.

9 Signed by Commander Berliner the Chief,
10 previous Chief of the Preventions Department. Mr.
11 McMillan would you take a look at that and tell me what
12 you recall from that particular, why that letter was
13 generated?

14 A. MR. MCMILLAN: At that time they were -- they
15 were doing repairs, but every time they did repairs and
16 we tested we found more rust getting into the nozzles.
17 So what we were trying to do is, motivate them to do
18 some permanent fixes to it. And they were looking at
19 several different things. They were talking about
20 coming in and chemically cleaning the pipes.

21 And finally what they started doing is running
22 fresh water through the system. After they got all the
23 leaks and splits in the pipe fixed. Then they -- which
24 made it a lot better. So ...

25 Q. And I didn't add the emphasis on that second

1 sentence, it was provided to me in that form. But
2 there is a sentence in there. (Reads) "The system did
3 not operate properly when tested for the third time
4 since identifying problems with the system during the
5 initial control verification examination process".
6 And then it goes further, and states a couple lines
7 down that, "It looks to me as if the first I saw were
8 the Sector San Juan had warned of a potential IMO
9 detention should there be a fourth failure of that
10 system". Am I interpreting that letter correct?

11 A. MR. MCMILLAN: That's correct.

12 Q. Were you around when the Commander, previous
13 Commander, Commander Berliner issued that letter?

14 A. MR. MCMILLAN: Yes, I was.

15 Q. Do you know why he went out with the warning
16 to the Company about potential detention?

17 A. MR. MCMILLAN: That was actually, this
18 actually was drafted by Lieutenant Commander Louis
19 Porales, which was our Chief of Inspections at that
20 time.

21 Q. Okay.

22 A. MR. MCMILLAN: And ah, because every time they
23 fixed it, that said they fixed it and we tested it,
24 then we had additional problems. That's the reason
25 that he went that way. Should we have detained at the

1 -- during the initial? We probably should have at that
2 time.

3 The philosophy changed a little bit over time
4 with passenger ships and detentions. So now we are --
5 if that ship had come in to port today we would have
6 detained it. Because they were issued a Passenger Ship
7 Safety Certificate saying that everything was good.

8 Q. Okay and you used the term they, who were you
9 referring to when you when you said they? You said
10 they said they fixed it.

11 A. MR. MCMILLAN: The Company, actually Alan Bull
12 (phonetic), which was their representative at the time.
13 He is the one that was on board overseeing all these
14 repairs and getting the ship through the initial
15 control verification process.

16 Q. Okay, and company, you are referring to Baja
17 Ferries?

18 A. MR. MCMILLAN: Baja Ferries, yes.

19 Q. Thank you. I want to close out the initial,
20 and I'd like to bring up Exhibit E062. That's not the
21 correct one, sorry. I'm looking for MISLE ID #
22 4028641, there we go, it looks like E059. Okay Mr.
23 McMillan, if you don't mind, take a quick look at the
24 title and date on that.

25 And I believe, at this point, if I have

1 interpreted the data right, it looks as if this is when
2 Sector San Juan actually issued the first certificate
3 of compliance to the vessel for operation. And if you
4 don't mind, LT Diaz, roll down and let Mr. McMillan
5 take a look at that summary.

6 (Brief pause.)

7 Q. My question is, would this be the time when
8 the vessel actually was given permission, or given the
9 certificate of compliance to begin operating as a
10 passenger carrying RORO versus just a cargo only RORO?

11 A. MR. MCMILLAN: Yes, that's correct. So it was
12 on the 30th of May that we actually issued the
13 certificate of compliance.

14 Q. Okay, and on that, in that summary, the last
15 sentence, "Vessel will be boarded on a quarterly basis
16 to conduct periodic certificate of compliance,
17 certificate of" -- excuse me, "Vessel examinations,
18 control vessel examinations", CVE's. That, how was
19 that communicated to the company reps at that time? Do
20 you recall? Do you know if it was?

21 A. MR. MCMILLAN: Yes, it was, we actually told
22 them that we were going to do this during the boarding.

23 Q. All right, so what I'm looking at here, this
24 looks like it's out of the Coast Guard database, is
25 there a form on the ship that is also completed for the

1 ship?

2 A. MR. MCMILLAN: We issue the Certificate of
3 Compliance?

4 Q. Um-hmm.

5 A. MR. MCMILLAN: And I don't know if we actually
6 wrote that on there, or if we just verbally told them.
7 I think it was just verbal about -- I'd have to look
8 actually look at that COC, and see if it actually was
9 written there. It should be scanned in the system.

10 Q. Okay, were you on board when the COC was
11 issued to the ship?

12 A. MR. MCMILLAN: Yes, I was.

13 Q. Do you recall any comments or feedback from
14 either the crew at that time, or any of the company
15 reps, or the flag -- excuse me the classification
16 society reps. If they were on board regarding the ship
17 being placed on a quarterly inspection schedule?

18 A. MR. MCMILLAN: No, they, they just accepted
19 it.

20 Q. Okay, thank you. Commander Capelli, I would
21 like to get up into the 2014 examination, so I'm going
22 to need another, probably forty minutes. I don't know
23 where you are break wise, are we okay to keep going?

24 MS. PRICE: You okay?

25 MR. MCMILLAN: I'd like to take a few minutes,

1 please.

2 CDR CAPELLI: Okay, the time is 1045, we will
3 now recess.

4 (Whereupon a brief recess was taken.)

5 CDR CAPELLI: Good morning the time is 1103
6 the hearing will now reconvene. We'd like to remind
7 the witnesses that you are still under oath. And we
8 are going to continue with questions from Mr. Larry
9 Bowling.

10 MR. BOWLING:

11 Q. Thank you. And Mr. McMillan before we go into
12 the 2014 series of Port State Control Examinations, I'd
13 like to look at; I want to go back to 2011 on one
14 topic. You mentioned around September of 2011 the team
15 at Sector San Juan became aware of; I think you used
16 the term unauthorized jewelry shop. Can you build on
17 that a little bit and when you used the term
18 unauthorized; just explain what you meant by that,
19 please?

20 A. MR. MCMILLAN: What I mean by unauthorized,
21 during the plan review they had a, it was identified,
22 that jewelry shop was identified as a room in room.
23 Which, there was escape requirements that, in SOLAS
24 that you have to be able to depart a space to a safe
25 space. So if a room in room, if you have a fire in the

1 space and they leave, they leave that spot they are not
2 in a fire safe place.

3 Q. Okay, thank you. What I'd like to do is step
4 up, from that timeframe up into the 2014 timeframe with
5 Caribbean Fantasy. And I'd like to bring up Exhibit
6 E052, and let the witness take a look at -- I believe
7 that's the right one, Form A. And scroll down to the
8 Port State Control Inspection Form B.

9 And what I'd like to do is look at some of
10 these deficiencies that were written here, and, at
11 least according to my records, I believe this
12 particular Form captures the, some of the events you
13 described earlier, with a fire in their transitional
14 power, battery bank.

15 And, if we can go look at that first
16 deficiency, and if you don't mind, tell me a little bit
17 about that.

18 A. MR. MCMILLAN: Okay, the transitional power --
19 let me read this. Okay, when they had the fire in the
20 transitional battery bank, it also burnt the
21 switchboard for the transitional light. So that, the
22 transitional load, loads, I should say. So that's,
23 that's why we wrote this one, because we identified the
24 places that were not working at that time.

25 Q. Okay, and if we could scroll on down, maybe

1 reduce that down to back to maybe 125% or something,
2 and go to Deficiency Number Two. And at that point, I
3 guess the Port State Control team, it looks like they
4 documented, "The emergency transitional source of power
5 failed to supply certain circuits", can you tell me a
6 little bit about that?

7 A. MR. MCMILLAN: All these circuits are required
8 to be on transitional power with a switchover. So the
9 way transitional power works is, usually you have, I
10 want to say thirty minutes of power to switch over, so,
11 in case something happened to the machinery on board.
12 That the electrical generating machine we have time
13 between the starting up the generators, if there is a
14 problem to the time, how do I say this, gives you
15 thirty minutes.

16 So, and that thirty minutes is based on how
17 long it takes to abandon ship. And when you look back
18 to the regulations, because the regulations require
19 thirty minutes to abandon, completely abandon ship.

20 Q. Okay, thank you. And the note there on the
21 bottom before you get into the signature blocks, it
22 says, "To be completed prior to carrying passengers",
23 why would that note be entered on that particular Form
24 B?

25 A. MR. MCMILLAN: I am trying to remember --

1 because you have to have transitional power is a
2 requirement on passenger ships, so you need that.

3 Then on cargo ships, there are certain
4 circuits that need to be on transitional. But for
5 passengers to get out of the -- for them to safely get
6 out of the ship, there is emergency lighting and stuff
7 that has to be on transitional power.

8 Q. Okay, and then on that deficiency, over in the
9 right hand column, there is a code, 17, and then AC,
10 and I think it is better explained down on the bottom
11 of that particular form, but tell me about this coding
12 to the right with regards to how that -- and the chart
13 you can see here at the bottom of page two how that is,
14 how that works.

15 A. MR. MCMILLAN: Okay, 17 prior rectified
16 deficiencies, prior to the vessel departing port. And
17 the A is for the satisfaction of the RO, which is the
18 Recognized Organization, and C is to the Coast Guard.
19 So to both.

20 Q. Okay, so in that particular deficiency, then
21 the Port State Control officer would be saying, that
22 has to be rectified prior to departure, and then there
23 has to be some involvement from the Class, or the
24 recognized organization, and Coast Guard be signed off
25 on before it is clear, correct?

1 A. MR. MCMILLAN: That is correct.

2 Q. Okay, thank you. Lieutenant, if you don't
3 mind, run on down through the other pages, I want to
4 see if the printed summary is there. Go to the Exhibit
5 List and see if you can bring up MISLE ID 4922 -- or
6 3403, I believe that was the one we were in. Tell you
7 what, Mr. McMillan, do you know how that particular
8 issue was resolved with the -- how the damage from that
9 fire in the battery bank was corrected?

10 A. MR. MCMILLAN: They didn't correct it. The
11 vessel was -- at that time they didn't correct it.
12 What happened is, they went through, verified that the
13 emergent generator circuits were all working. And RINA
14 actually came on board; they sent one of their
15 electrical specialists to come down to evaluate the
16 system.

17 Q. And we have it as an Exhibit, I just lost the
18 number. But, there was another Port State Control Form
19 where, the Port State Control Team at Sector San Juan
20 had indicated right after that particular exam in 2014
21 that the vessel -- I want to say June, around June 5th,
22 2014, the vessel proceeded to dry-dock for repair, and
23 it was under a spec dispensation from Panama. Are you
24 familiar with that?

25 A. MR. MCMILLAN: I think that was due to the

1 transitional power. The -- they were given -- since
2 they were going to dry-dock in short order, they
3 allowed them to operate as a cargo ship, without the
4 transitional power; they didn't have passengers on
5 board.

6 And when they went to dry-dock, that's where
7 they changed the structural fire protection, they
8 separated the emergent generator room from the
9 transitional batteries, they actually put an A60
10 bulkhead in. Which is an A60 -- A60 insulation, and an
11 A60 door to that space. And they also installed a
12 brand new transitional switchboard.

13 Q. Okay, thank you. And I believe we are now
14 at Exhibit E056, and this is Port State Control Forms A
15 and B, and that is from the August 20th -- Lieutenant,
16 if you don't mind roll up to these, so the witness can
17 see the -- that's MISLE activity number 4958273, and
18 the date of the inspection is 20th of August, 2014. And
19 at this point, if I am not mistaken, this was the first
20 formal detention that Sector San Juan put toward the
21 vessel, am I correct?

22 A. MR. MCMILLAN: That's correct.

23 Q. And can we go down and look at the Form B, and
24 I want to see these two deficiencies. Now, Deficiency
25 Number 1, and Deficiency Number 2, this code we just

1 talked about, it is showing now, 30.C, can you tell me
2 what that, what that's telling the panel here?

3 A. MR. MCMILLAN: Ship's detained. And the A
4 would be the satisfaction of the RO.

5 Q. Okay, and back up to the two deficiencies that
6 warranted the formal detention, tell me about that
7 first one.

8 A. MR. MCMILLAN: I don't see a number.

9 Q. I'll read it. It talks about, "The
10 transitional source for emergency power" --

11 A. MR. MCMILLAN: Um-hmm.

12 Q. -- "Shall be arranged to supply automatically,
13 in the event of power failure. The batteries were
14 found to be fully discharged, with the charger in the
15 off position, and enabled to assume the transitional
16 loads and lights".

17 A. MR. MCMILLAN: Yeah, that's correct. Okay, so
18 30C -- back up. That's to the satisfaction of the
19 Coast Guard.

20 Q. Okay, but the deficiency itself.

21 A. MR. MCMILLAN: Um-hmm.

22 Q. Tell me a little bit about that, what was the
23 situation on the boat?

24 A. MR. MCMILLAN: We, actually we, when we dug
25 down into it a little bit, we found out that the

1 electrician had actually secured the battery charger,
2 and the batteries had discharged at that point. So
3 they, they actually had to, to get this going again, I
4 believe that they actually had to replace the
5 batteries. Because once you get a battery that's been
6 dead for too long, you may not be able to get it to
7 take a charge again. I think that was the -- in this
8 case that is what was going on.

9 Q. Okay and then the second deficiency, on this
10 particular detention?

11 A. MR. MCMILLAN: The second deficiency was for
12 the automatic sprinkler system. There is a head tank
13 that they have to have, and it is -- in this one, was
14 where we had run into problems over time with the
15 vessel, either the tank was empty, or was completely
16 full, and the requirement is that you have to have
17 enough capacity for one minute.

18 So when, the way this system is designed is,
19 with the tank half full, and certain pressure on the
20 tank that allows you to have that one minute of output
21 of the pump.

22 Q. Okay, thank you. And at this particular time
23 which would have been 2014, August, 2014 the vessel,
24 what was the vessel Flag, and who was it being Classed
25 by at that time?

1 A. MR. MCMILLAN: Panama flag and it was RINA.

2 Q. Okay, and do you recall any actions taken as a
3 result of this Port State Control action, detention of
4 the ship, taken by either the flag of Panama or the
5 RINA as either the RO or the classification society?

6 A. MR. MCMILLAN: I'm not sure what they did
7 internally.

8 Q. All right do you --

9 A. MR. MCMILLAN: But we actually recommended, I
10 think an ISM audit with these -- with these two
11 deficiencies, if I am not mistaken.

12 Q. Okay, are you aware of any time around this
13 period where Flag or RINA would have rescinded any of
14 the statutory documents that allow the vessel to
15 operate? And I say, pulled the Class documents, to
16 basically remove the vessel from service until these
17 items were corrected?

18 A. MR. MCMILLAN: On this, because of the -- well
19 not because of this.

20 Q. Okay.

21 A. MR. MCMILLAN: But when they had the fire in
22 the transitional power, they actually issued them a
23 provisional, or Short-Term Passenger Ship Safety
24 Certificate restricting them.

25 Q. Okay. But for this particular detention that

1 Passenger Ship Safety Certificate remained in full
2 force that was issued by RINA?

3 A. MR. MCMILLAN: I believe it did, because they,
4 they fixed it in port, then they were cleared to go
5 again.

6 Q. Okay, thank you. I want to bring up Exhibit
7 E060, and this was a January 21st, 2015 exam. And
8 apparently I have my numbers wrong. I'm looking for
9 MISLE activity 505-6168. This is another examination,
10 if I'm not mistaken, it looks like it is January, 2015,
11 by Sector San Juan, it's a quarterly it looks like,
12 MISLE activity number 505-6168.

13 And I want to run down and look at one of the
14 deficiencies the Port State Control Team found
15 regarding the Voyage Data Recorder. There it is, Item
16 Number 3, tell me what you recall about that.

17 A. MR. MCMILLAN: Okay, during that exam, that
18 was a quarterly exam, we ah -- the team that was doing
19 -- team one, they noticed when they were up on the
20 bridge, they were looking at the VDR, they noticed that
21 there was an alarm going on, and they asked about it.
22 And they found out that it wasn't working correctly.

23 I don't remember exactly what they found
24 during that -- I think it was documented in the
25 narrative.

1 (Brief pause.)

2 A. MR. MCMILLAN: Okay, there are just, I'm not
3 sure exactly all the problems with it, but I know that
4 one of the things, it was not syncing with GPS, and
5 there were some other error codes, but I don't, I don't
6 remember what they were at that time, because I wasn't
7 the person who was doing team one at that time.

8 Q. Okay, thank you. And is -- from the
9 standpoint of a voyage data recorder, are you aware of
10 any requirements from -- in SOLAS, where those systems
11 have to be verified or validated by service
12 technicians?

13 A. MR. MCMILLAN: They are supposed to have an
14 annual servicing done, to make sure they are operating
15 correctly.

16 Q. Okay, and when those are completed, tell me
17 how those are documented.

18 A. MR. MCMILLAN: The Company doing the
19 servicing, they actually issue a servicing report. And
20 that's -- that's one of the things that we look at when
21 we are doing our exams.

22 Q. Okay, and so that it is a document that would
23 be examined by the Coast Guard Port State Control?

24 A. MR. MCMILLAN: Yes, we don't, we don't
25 actually record it, but we actually look for it. We --

1 there is several pieces of navigation equipment that we
2 look at like the AIS, the EPERB, and all those, we look
3 for servicing reports.

4 Q. Okay, thank you. Go to, hopefully, Exhibit
5 E058. This is the, again, Port State Control, report
6 of inspection form A, it is related to MISLE activity
7 5746255, and the date of that particular inspection was
8 a 21, October, 2015.

9 And I look at the exam type; it looks as if it
10 is another quarterly there. And if we could roll,
11 scroll on down to Form B. I want to talk about the
12 first three deficiencies, tell me what you recall about
13 those. Start with deficiency number one, please.

14 A. MR. MCMILLAN: So the first one was due to
15 engine room cleanliness, we found a lot of oil,
16 slippery deck plates. And we also found oil in the --
17 excessive oil in the bilges.

18 Q. And what's the concern there?

19 A. MR. MCMILLAN: Fire.

20 Q. Okay.

21 A. MR. MCMILLAN: And there is actually a MSC
22 Resolution that talks about, it is someone's
23 responsibility to keep the engine room as clean as
24 possible.

25 Q. Okay, and item number two, or deficiency

1 number two, I should say.

2 A. MR. MCMILLAN: Okay, yeah the third engineer
3 didn't have the correct endorsements for his
4 credentials.

5 Q. Okay, and where is that requirement? If you
6 don't mind, tell me a little bit about the basis for
7 that.

8 A. MR. MCMILLAN: That's -- there is two parts to
9 that. There is STCW, that's the actual, what training
10 that mariner is supposed to get. And the other one is
11 SOLAS, so the vessel is, has a safe manning certificate
12 and that they are properly manned in accordance with
13 that.

14 Q. Okay, and then Item Number 3, very similar, it
15 looks like to the Item Number 2, but for the second
16 engineer?

17 A. MR. MCMILLAN: That's correct. He was missing
18 some special training for being on RORO's. So there is
19 special training requirements under STCW. And we tied
20 those back to their -- both of those back to their
21 safety management.

22 Q. Okay, and that's where I wanted to -- my next
23 question was, when you were talking about, you were
24 giving us the rundown of the Port State Control effort
25 by Sector San Juan Team. You mentioned on the -- this

1 second detention, that it was tied into three
2 international documents, you indicated STCW, if I am
3 not mistaken.

4 You also indicated the International Safety
5 Management Code, and you also mentioned the Safety of
6 Life at Sea Treaty. Were those three statutory
7 requirements what you were referring to when you
8 mentioned or you talked about this particular
9 detention?

10 A. MR. MCMILLAN: Ah, yes.

11 Q. Okay. And if you don't mind, let's roll on
12 down, I want -- I think there is a deficiency written
13 here, where the Port State Control Team reached out to
14 the classification society, specifically regarding a
15 request for an IMS, or a Safety Management System
16 audit.

17 A. MR. MCMILLAN: Yes, we did request an audit.

18 Q. Right here, Item Number 21, and I am going to
19 read that on the record, and I want to ask you to
20 explain why the team put this deficiency. It looks
21 like your signature is at the bottom of that as the
22 Port State Control Officer.

23 Item 20, or deficiency number 21, (Reading)
24 "Based upon observations on board as well as with
25 general lack of upkeep and maintenance of the vessel,

1 enough objective evidence of non-conformities have been
2 discovered to show the vessel is not fully implementing
3 it's SMS", or safety management system.

4 "An external International Safety Management"
5 Code, I injected code, but, "An ISM audit is
6 recommended". Now, can you give me some more details
7 on that? Particularly for those that are not real
8 versed in the ISM Code?

9 A. MR. MCMILLAN: Okay, under the ISM code, there
10 are certain things that the company has to have in
11 their ISM. It is -- I'd have to actually go back and
12 look at the -- we have a NAVIC on it, that tells us
13 what we are supposed to be looking at. And, part of
14 that NAVIC is we can only recommend an audit as a Port
15 State. The flag state actually has to be the one to
16 approve doing the audit.

17 So, if they didn't want to do an audit they
18 don't have to. But in this case, they actually did an
19 audit, I do believe, because partially I would have
20 cleared this. But I don't think an audit was done
21 immediately. It takes a while do those, and set them
22 up, and everything. So I think it was done at a later
23 date.

24 Q. Okay, thank you. And you used the acronym
25 NAVIC, would that be Navigation Vessel Inspection

1 Circular?

2 A. MR. MCMILLAN: That is correct.

3 Q. And do you know the number, off the top of
4 your head?

5 A. MR. MCMILLAN: 04-05.

6 Q. I copied NAVIC 04-05?

7 A. MR. MCMILLAN: That is correct.

8 Q. Thank you very much. On this particular
9 examination, we talked with the Sector Commander
10 earlier, in this event, and he had indicated, at some
11 point in time, he actually made a visit to the ship.
12 Do you know if it was after this particular Port State
13 Control Examination, or as a result of this detention?

14 A. MR. MCMILLAN: It was during this detention he
15 came to the ship. We did the detention the day --
16 started the inspection the day before, and we had to
17 finish the next day. And both Captain Warren and I
18 think it was Captain Flaherty, at that time, came on
19 board to see what was going on.

20 Q. Okay, thank you. As a result of this
21 particular detention, which was the second for Sector
22 San Juan, do you know -- were there any discussions
23 with the flag of Panama, RINA, or any discussions with
24 Baja Ferries, or American Cruise Ferries regarding the
25 vessel's compliance at that point? Do you recall any

1 communications?

2 A. MR. MCMILLAN: If it was it was, it was done
3 by the chief of inspections, I don't think I was
4 involved with any of those discussions --

5 Q. Okay.

6 A. MR. MCMILLAN: -- if they happened.

7 Q. All right, thank you. I want to get to a,
8 item number E060. And this is the most recent
9 detention of the vessel in the Port of Gibraltar. And
10 I realize that this is not Sector San Juan. But, with
11 the (inaudible word), have you seen anything from Port
12 of Gibraltar, the Port State Control Authorities that
13 were there, regarding their detention?

14 A. MR. MCMILLAN: No. I just went to Equasis,
15 which is their database, and that's how I found out
16 about the detention.

17 Q. Okay, thank you. Has the -- you or the
18 previous chief of preventions, and -- or the current
19 chief of preventions, did any -- are you aware of any
20 discussions prior to the fire on the -- April, or
21 August the 17th, between the Coast Guard Port State
22 Control officials and RINA, and/or Baja Ferries about
23 the vessel's compliance, and the compliance record?

24 A. CDR ESPINOSA-YOUNG: I personally, did not
25 have any engagement directly with the Panamanians, or

1 with RINA. My engagement, specifically with the
2 Caribbean Fantasy was the transition schedule with
3 regards to bringing her back from dry-dock, and the
4 correspondence with Baja Ferries for when they were
5 going to arrive.

6 And the decision, based on their delay of
7 their detention, wanting them to come directly to San
8 Juan to conduct the examination without the additional
9 crewmembers on board to do -- the housekeeping, which
10 is their primary watch, according to the station bill,
11 with a lot of the passenger issues. For which, I
12 outright denied, and said, you -- we are not going to
13 conduct your COC Examination without the majority of
14 your crewmember.

15 So that was -- that was my first engagement
16 with the company other than, you know, you know, past
17 email discussions while the vessel was coming back.

18 And then attesting to any repair, or additions
19 that were going to be taking place, or upgrades that
20 were going to be taking place in Tunisia. So we were
21 making sure that by the time the vessel came back from
22 their dry-dock we weren't going to have to go through -
23 plan review of items that they were going to be
24 installing prior to our arrival.

25 So we wanted to make sure that, you know, if

1 there was any installation, additions, any upgrades,
2 any restructuring of, you know, passenger areas, or
3 some of the locations on board the ship, we wanted to
4 make sure that plan review would have been done prior
5 to the vessel, our marine inspectors going on board to
6 -- with that COC exam.

7 Q. Okay thank you, Mr. McMillan?

8 A. MR. MCMILLAN: After the first detention, I'm
9 not sure exactly when it was. RINA did come visit our
10 chief of inspections, and they discussed the vessel. I
11 mean, they had concerns because they were getting
12 possible points for Port State Control targeting.

13 So that's when we agreed, that if we were
14 going to do an exam, we would call and let them know
15 that we were doing it, so that they could actually send
16 someone down.

17 And I do believe as part of that discussion,
18 they said that they were going to do some enhanced
19 oversight on the Caribbean Fantasy. And I'm not sure
20 exactly what that meant, but I think they were doing
21 some additional type survey work.

22 Q. Okay, thank you. We will try and explore that
23 -- I think we have a RINA representative later in our
24 schedule.

25 Commander Capelli, I have nothing further from

1 a Port State Control standpoint. The August 9th, 2016
2 examination, we will explore this afternoon with CWO
3 Roth who was lead on that.

4 But later, I would like to talk about the
5 August the 17th response with chief of preventions,
6 because I understand she played a role in the Unified
7 Command, and the ICS at that point. But I relinquish
8 the floor at this point, thank you, thank you both.

9 **WITNESSES**

10 **COMMANDER JANET ESPINO-YOUNG**

11 **MR. JERRY McMILLAN**

12 **EXAMINATION**

13 BY MR. TUCKER:

14 Q. Good morning, my name is Adam Tucker; I'm with
15 the National Transportation Safety Board. A few
16 follow-up questions. The first question is, Commander,
17 you had mentioned earlier, just, I had not heard the
18 term before, you mentioned priority vessels. And I
19 believe it was referenced 1, 2, and 3. And then
20 further down I also heard P1. Is that the same think,
21 and can you tell me what that is?

22 A. CDR ESPINOSA-YOUNG: Yes, it is the same
23 thing. So, Priority, you know, for short they go
24 through Priority 1, and it would be P1, P2, P3, or Non-
25 priority vessel. And it is part of the vetting process

1 that we undergo through our Port State Control program,
2 to identify vessels at the higher risk category for
3 examination.

4 So, based on the history of the vessel,
5 owner/operator, recognized organization, classification
6 society, history, operational controls, we run a matrix
7 of numbers that generates the prioritization for
8 examination.

9 So Priority 1's are for safety. And there is
10 the ISPS caveat that also is for the security side. So
11 the same Class -- you know standard applies to those.
12 And then the vessel gets, based on that, an exam
13 conducted.

14 So Priority 1's are conducted offshore, based
15 on the nature of what triggered. Usually it is a
16 previous detention, ratio of a particular flag
17 identified of high incidents of detentions,
18 owner/operators, depending on, you know, the history of
19 them. So all that feeds into the selection of those
20 vessels.

21 Q. Thank you.

22 A. CDR ESPINOSA-YOUNG: Um-hmm.

23 Q. And just so I understand, the -- it might be
24 for Mr. McMillan, it was mentioned that Caribbean
25 Fantasy was a P1, Priority 1 vessel, is that correct?

1 A. MR. MCMILLAN: It was for -- after the
2 detention, because, you know, part of that criteria is if
3 that you haven't had any serious deficiencies, and
4 points that they received, they were Priority 1.

5 Q. Thank you. The other question that I have,
6 perhaps for Mr. McMillan again, is during your time on
7 board performing inspections, do you recall ever, any
8 type of test of the ship's water mist system in the
9 engine room?

10 A. MR. MCMILLAN: That, the water mist was
11 installed in the shipyard, and I'd have to defer to Mr.
12 Roth on that.

13 Q. Okay, thank you. The other question I have is
14 with respect to Port State Control. I understand the
15 Caribbean Fantasy is a starboard side ship, meaning
16 that the ramps -- and it is configured for cargo
17 operations on the starboard side. How does Port State
18 Control address lowering and launching of survival
19 craft on the, basically, the dock side of the ship, if
20 the ship is never alongside port side?

21 A. MR. MCMILLAN: Our TTP, which is Tactics and
22 Procedures, all that it says is that we, on the inboard
23 side we have to test the engines, and we just do a
24 visual inspection of the davit system. And the only
25 other thing we do is, we actually review their training

1 records and see that they actually -- that they are
2 logging that they are lowering it to the water like
3 they are supposed to. And that is about as far as we
4 go.

5 In the past, I want to say years ago, we used
6 to take videos, but that is kind of, with the TTP's and
7 stuff we have -- we are just following what they say to
8 do. It would probably be a good idea to be testing
9 those, but we are not required to do it for Port State.

10 Q. Thank you. And Mr. McMillan, were you on
11 board during the last inspection, the August 2016
12 inspection?

13 A. MR. MCMILLAN: Yes, I was.

14 Q. What was your role on board?

15 A. MR. MCMILLAN: I was filling the roles of
16 teams two and three, which is the passenger decks. And
17 since this ship is -- doesn't have too many passenger
18 decks, I also took the cargo decks also.

19 Q. So during the crew drill, because you are
20 covering passenger decks, do you assess English
21 proficiency of the crewmembers at that time?

22 A. MR. MCMILLAN: Whatever the working language
23 of the crew is. In this case, it was English, the
24 people I was interacting with spoke English well
25 enough.

1 Q. Thank you. Did you witness on that August
2 16th inspection the operation of the ship's drencher
3 system?

4 A. MR. MCMILLAN: Yes, I did.

5 Q. And what did you notice at that time? What do
6 you recall?

7 A. MR. MCMILLAN: When we were testing it, I
8 tested two zones, and I forget the zone number. But
9 the forward zone, there was 21 sprinkler -- drencher
10 heads missing. So the water was going straight down,
11 and I actually took a video of that and provided it to
12 the Mr. Diaz.

13 Q. And by the time you had noticed that, was that
14 issued rectified before you left the vessel?

15 A. MR. MCMILLAN: Yes, it was, they had new heads
16 on board and installed them.

17 Q. Okay.

18 A. MR. MCMILLAN: And that was, like I said,
19 before, when they were in Tunisia, they had two hundred
20 and fifty of them stolen. And they were -- they had
21 them all -- all of them taken out so they could clean
22 out the pipes. And then they had to order new ones to
23 install those, and evidentially they missed that, that
24 section. Because it was, that section was right over
25 the forward ramp going up to C Deck from B Deck to C

1 Deck.

2 Q. Thank you, and that is all the questions I
3 have, thank you very much.

4 **WITNESSES**

5 **COMMANDER JANET ESPINO-YOUNG**

6 **MR. JERRY McMILLAN**

7 **EXAMINATION**

8 BY CDR CAPELLI:

9 Q. Before we switch topics, I want to ask one
10 question. Where are all the Form B's sent that you
11 fill out?

12 A. MR. MCMILLAN: For -- if they are a detention
13 we actually put them into MISLE, as a requirement for
14 detention because it, that has to go up to, all the way
15 to headquarters. If not, then the Form B's are
16 actually kept in a local file, filing cabinet.

17 CDR CAPELLI: That's all the questions I
18 have. Panama regarding the inspections topics, do you
19 have any questions?

20 MR. ARENAS: No, I don't have any questions.
21 But I want to add something to the record. In those
22 two ships that was -- were show, before, the Commander
23 and the Grey Shark, the Commander is already cancelled
24 for our flag, and the Grey Shark was done, the ISM
25 safety inspection this past December 2015, and our --

1 now I don't have the preliminary report of the
2 deficiencies, but they showed deficiencies, that audit.
3 So that's all.

4 CDR CAPELLI: Okay, thank you. Baja Ferries
5 do you have any questions for the witness?

6 MR. BLASINI: No sir, no questions.

7 CDR CAPELLI: Okay, at this time, we are going
8 to switch topics to the response phase. Mr. Larry
9 Bowling?

10 **WITNESSES**

11 **COMMANDER JANET ESPINO-YOUNG**

12 **MR. JERRY McMILLAN**

13 **EXAMINATION**

14 BY MR. BOWLING:

15 Q. Thank you. Commander, on the day of the
16 event, just walk me through what you did once you heard
17 of the fire aboard the Caribbean Fantasy, and when I
18 say the day of the event, August 17th.

19 A. CDR ESPINOSA-YOUNG: I was notified by our
20 command center over my landline, reporting that they
21 had received a report that the Caribbean Fantasy was on
22 fire. And the location of where the vessel was
23 situated at the time. And they had reported that the
24 vessel's fire was not under control at the time.

25 Shortly after that, I proceeded on and went to

1 our inspections bullpen, notified the chief of
2 inspections and grabbed some additional resources, and
3 bodies to take them up to the command center, based on
4 the fact that this was an emergent situation, to
5 alleviate and assist the command center with the number
6 of phone calls that were going to be coming in through
7 the command center, and make sure that we can handle
8 the volume.

9 So I'd say about a handful of us went to, up
10 to the command center and tried to get the updated
11 situational awareness, and you know, assisted primarily
12 in the, you know, engagement directly with, you know,
13 conversations with Baja Ferries in their initial
14 reporting.

15 And then we did receive a call from the local
16 rep, as Mr. Mark Payne, identifying himself as a
17 representative, subcontractor for Ardent Global, which
18 is the -- their identified salver (sic), marine
19 firefighter, towing company. As I identified in their
20 non-tank vessel response plan. And had said that their
21 non-tank vessel response plan protocols were being
22 activated at that time.

23 That was about 0800. So, the initial
24 notification to me was about 0752, in the morning, and
25 by the time I went up to the command center, Mr. Mark

1 Payne, that works for San Juan Towing and Marine
2 Services, he is the marine manager, had identified
3 himself as a subcontractor and local representative for
4 Ardent Global.

5 So most of our work was to reach out to
6 Headquarters. I also spoke with our chief of
7 inspections to obtain the non-tank vessel response
8 plan, itself. So we had some detailed information, and
9 so that we could reaching out in communications, and
10 also handling assist vessels, you know, towing vessels
11 that were, you know, calling in to the command center
12 in order to render assistance, whether it is through
13 active firefighting, you know, efforts, or as Good Sam
14 vessels assisting in the area.

15 So we manage most of the outflow at that point
16 in time, and handling who was going to start taking the
17 responsibility, what assets were going to be starting
18 to be deployed by the company through their non-tank
19 vessel response provider. At which time the direct
20 representative as outlined by the company, Ardent
21 Global, Ms. Garcia, Rebecca Garcia out of Ft.
22 Lauderdale contacted us.

23 And said in that time, National Response
24 Corporation was their oil spill removal organization as
25 identified by the plan. They had local representation

1 here, in San Juan. The qualified individual was
2 identified as Witt O'Brien. And it was outlined as the
3 emergency responder was going to be Mr. Jason Bergeron,
4 who represented Baja Ferries throughout the Incident
5 Command Post, and Unified Command.

6 So, during those executions, during the
7 emergency lifesaving, our initial reaction as well was
8 to identify the location of, you know, for the landing
9 sites. So during discussions up in the command center
10 and the, receiving information from CBP that initially
11 wanted to change the landing site location over to Pan
12 American Dock, so it was an active discussion via phone
13 conversations that they wanted to direct passenger flow
14 and off-load to that location.

15 We made a determination to send Mr. Morgado to
16 the scene to ensure that the mass rescue operations
17 plan, and the predesignated landing site was adhered to
18 in order to ensure that passengers were going to be
19 able to be safely offloaded either from a lifeboat or a
20 life raft, or any of the Good Samaritan vessels that
21 were going to be operating the persons ashore.

22 So, he was sent in the field in order to
23 ensure organization, and adherence to those protocols
24 for, you know, for the safety of the passengers taken
25 to that location.

1 Once the emergent search and rescue, recovery,
2 then we were, you know, obviously running parallel
3 tracks, you know, addressing the issue of the vessel
4 now being, you know, adrift, and you know, potentially,
5 you know, heading toward shore. You know the order
6 through the command center to, you know, directing the
7 captain if you haven't done so to drop your anchor.

8 The vessel's anchor was dropped. About 1016,
9 based on our documentation, the vessel's anchor did
10 drag, and that was witnessed by, and confirmed by
11 divers that did a survey of that area just for
12 environmental purposes, and the vessel, you know, came
13 to a rest partially grounded off of Punta Salinas,
14 Puerto Rico.

15 At that time we had already engaged
16 conversations with Mr. Mark Payne, through San Juan
17 towing, and we had a meeting at about 10:30 that
18 morning, 10:45 along with Mr. Paul Simpson, which was a
19 marine surveyor, Mr. -- Captain Iglesias, which is
20 their -- one of the captains of the towing vessels to
21 discuss the initial assessment of the current condition
22 of the vessel and meeting timelines.

23 We, at that time, you know, outlined, you
24 know, plans to execute when the towing vessels arrived
25 at the base, and we deployed two marine inspectors

1 along with their team. The Captain, Captain Iglesias
2 operating the towing vessel, Mr. Mark Payne, and Mr.
3 Paul Simpson to take our marine inspectors and their
4 crew to gain access to the vessel and conduct an
5 initial survey assessment of the condition of the
6 vessel.

7 And that was about 1100/1130 that we arrived.
8 So Chief Warrant Officer Roth and Mr. Alejandro Simms
9 were the attending marine inspectors on that. They
10 conducted an initial survey of, you know, of the, you
11 know, the number of degrees the vessel was listing.
12 Just got an overall assessment, accesses, you know,
13 preliminary information with regards to the current
14 condition of the fire.

15 They were unable to access the majority of the
16 below decks because of heat, and they were not
17 equipped. So they went, directly, really to the bridge
18 and took documented evidence of, you know, the
19 inclinometer, the chart equipment. And then they
20 produced an assessment at that time.

21 And we were already in consultation with
22 Ardent Global's response team, their salvage masters,
23 they were in transit and they arrived on island, I'd
24 say that evening, you know, around eight o'clock
25 timeframe, between six and eight.

1 So the initial team showed up from -- which
2 was one of their naval ARC's, the salvage master. And
3 then a contingency, I think of five marine
4 firefighters. We were unable to place them on board
5 due to transportation issues with the contracted helo
6 that they had hired.

7 At that time we also (inaudible word) two
8 marine inspectors on a Coast Guard helo because the
9 vessel had no crew by this time, and the vessel
10 continued to burn.

11 We were concerned with preservation of
12 data on the voyage data recorder. So we deployed two
13 marine inspectors, LTJG Jesse Collins, and Chief
14 Warrant Officer Mark Philips to land on board the
15 vessel and retrieve the data on the voyage data
16 recorder for preservation.

17 And the assets on scene, I believe overnight
18 the Richard Dixon, Coast Guard cutter Dixon remained
19 vigilant over scene. Along with one of the contracted
20 tugs that remained on board.

21 We also attempted to have one of the towing
22 vessels in the area, and put a line on the vessel. But
23 we were unsuccessful based on, you know, lack of crew.
24 By that time the power -- they didn't have any power on
25 board the vessel, so they couldn't operate the forward

1 operating winch, you know, to execute that mission
2 safely.

3 So the -- during this transition, we are
4 moving into an incident command structure. And by the
5 time the assets arrived on scene, formalized, obviously
6 Unified Command at the Sector in our conference room,
7 which representatives of the organization were
8 obviously the local commonwealth, DNR, and the
9 Environmental Quality Board. Our representatives were
10 representing the commonwealth, the Coast Guard as the
11 Federal on Scene Coordinator's Representative during
12 the incident, and then Witt O'Brien, you know, through
13 Mr. Bergeron representing Baja Ferries. And also in
14 communications with Mr. Nestor Gonzales, which is the
15 American Ferries (sic) representative as well.

16 Are we good thus far? I mean, I can continue.

17 Q. Yeah, I -- well no, and I appreciate it.

18 A. CDR ESPINOSA-YOUNG: With more details as
19 well, but ..

20 Q. Let me, I'll have -- I'll want you to
21 continue, because I want to get up to the point where
22 at some point you and the Captain of the Port said, the
23 fire is out.

24 A. CDR ESPINOSA-YOUNG: Okay.

25 Q. But let's go back and just hit a couple

1 things. And with the non-tank vessel response plan,
2 tell me that plan, and in real life, in this scenario,
3 what is the value of that plan to not only the Coast
4 Guard, but the ship owner/operator, and crew?

5 A. CDR ESPINOSA-YOUNG: It is a written plan
6 which already has contractual agreements and assets
7 that should be mobilized within the -- a timeframe.
8 So, you know, in years past in a salvage, or
9 firefighting, or an off shore event, you are dealing
10 with a foreign owner trying to locally source assets to
11 provide or render assistance to a vessel in distress.

12 Which could be in an off shore event, it could
13 be an in shore event or at the pier, which delays the
14 process of response, it actually hinders, if not
15 creates a, you know, a degradation of that response
16 effort, and potentially can have catastrophic events.

17 So the non-tank vessel response plan gives you
18 a plan that is already identified, emergency
19 procedures, notifications. It outlines resources, it
20 outlines who is responsible for what roles, and what
21 response times and what equipments need to be there and
22 when.

23 So for an owner and an foreign entity, having
24 a shore -- a U.S. based operator that can respond on
25 their behalf, is you know, that is familiar with the

1 language, it is also familiar with emergency responses,
2 and there is no delays due to time zones or language
3 barriers, it can certainly expedite, you know, the
4 forward movement of addressing a pretty serious
5 incident, or preventing a serious incident from
6 happening.

7 Q. Okay, and earlier we brought up Exhibit, one
8 of the Exhibits, I want to say it was E013, there is no
9 need to bring it up again, but it was a Captain of the
10 Port Order written to the vessel and Baja Ferries for
11 just that, the non-tank vessel response plan.

12 And we went through the follow-up Captain of
13 the Port Order that, where that was rescinded or
14 cleared. Now with that plan, is that something that is
15 submitted locally and you and your team look at? Or is
16 it submitted to Commandant? How does that non-tank
17 vessel response plan get reviewed and approved or --
18 how does that work?

19 A. So it does get, it does not -- we don't
20 receive at the local level. It is, goes directly to
21 Headquarters on -- there is a special office that
22 handles the vessel response plan folks. And they
23 review, that's gets directly submitted to them, and
24 they review the content of that plan to meet the
25 criteria based on the Regulations.

1 So they go into detail, and double check and
2 if not verifying the contractual agreements, the
3 response time criteria. It is also to ensure that it
4 is, you know, because it is also Captain of the Port
5 specific, so each plan should have a geographic
6 response. And who, if different, that person in charge
7 should be.

8 So a plan can be submitted, and you normally
9 operate in the northeast, and they are coming to San
10 Juan, but they don't have the geographic specific, they
11 can also be denied entry as a result of not having
12 geographic specific, because it has to do with their
13 assets, or contractual agreements, and their timeframe
14 for response.

15 Because they could have a company that's U.S.
16 based, but only operates in the northern region versus
17 down in Puerto Rico, and the assets wouldn't be there
18 to meet the criteria. So it is completely Headquarters
19 approval on the meeting of the regulations.

20 Q. Okay, thank you. And you say Headquarters,
21 what division or program is that?

22 A. CDR ESPINOSA-YOUNG: It is, I believe it is
23 their Vessel Response Plan, and I think it is straddled
24 in CVC, and there is a portion from it that also is
25 CGFIC, which is facilities.

1 Q. Okay, thank you. You had mentioned Ardent
2 Global, exactly what role were they playing again?

3 A. CDR ESPINOSA-YOUNG: They were their -- the
4 salvage and marine firefighting and emergency towing
5 response company.

6 Q. Okay, and then you mentioned NRC, or National
7 Response Corporation, they were playing what role
8 again?

9 A. CDR ESPINOSA-YOUNG: They were the oil spill
10 removal organization.

11 Q. Okay, and were they local, or were they
12 somewhere else?

13 A. CDR ESPINOSA-YOUNG: They were local, sir,
14 yes.

15 Q. And when you say local?

16 A. CDR ESPINOSA-YOUNG: Meaning, they have assets
17 in a centralized office here in San Juan.

18 Q. Okay, and when you say assets, you know what
19 type assets they have?

20 A. CDR ESPINOSA-YOUNG: They have everything from
21 booming to, you know, absorbents (sounds like), to
22 recovery vessels, they are the ones that actually
23 mobilize in order to meet the predetermined area,
24 contingency plan strategies for the geographic specific
25 to protect certain environmental areas. So they have

1 all of the necessary requirements based on the
2 designation as an oil spill removal company.

3 Q. Okay, thank you. And then you mentioned
4 another firm, Witt O'Brien, and I think you indicated
5 they acted as the qualified individual, or individuals.
6 What exactly is that agency or (does) that position
7 call for?

8 A. CDR ESPINOSA-YOUNG: They are -- they also do
9 a multitude of things, emergency response being one of
10 them. But the qualified individual is really the shore
11 based representation of Baja Ferries. And they are
12 there to execute and be responsible for any contractual
13 agreements they might be doing. So they are pretty
14 much given the authority to act as Baja Ferries for any
15 issues that require response or additional resources in
16 managing the incident.

17 Q. Thank you, and as you were describing the
18 events, I think you indicated around 10:15 that the
19 anchor had been dropped from the vessel thereabouts.
20 But it had dragged -- can -- do you know from the dive
21 surveys exactly the distance that anchor failed to
22 hold, or how it was dragged, roughly?

23 A. CDR ESPINOSA-YOUNG: I don't recall. I
24 remember seeing the video, I remember speaking to I
25 think it was the -- a Danny R, that actually provided

1 along with NOAA, that actually dove on the vessel. But
2 I can't recall the distance traveled.

3 Q. Okay, and we explored this a little bit with
4 the Sector Commander the other day, but with regard to
5 the grounding, what, and how much of the hull, what
6 portions of the hull actually grounded?

7 A. CDR ESPINOSA-YOUNG: I would say a -- it was
8 the port side, I would say the port side quarter, aft
9 quarter of the ship, that was butt up against the shelf
10 and it was partially grounded near, near the -- because
11 it was actually ended up being some damage. Along the
12 area of the -- just shy of the engine room. And so
13 literally the port side, the port side aft quarter of
14 the vessel was grounded, sitting on a ledge.

15 Q. Okay, and since the incident, has the company
16 or any of the other salvage organizations provided to
17 Sector San Juan a salvage assessment?

18 A. Prior to the vessel departing, several dive
19 surveys were conducted, supervised by RINA. So because
20 of the, you know, the initial report during the
21 offshore dive indicated there was some damage along the
22 keel.

23 So the -- prior to the vessel taking,
24 departing U.S. waters under dead ship tow, to its final
25 resting place. We required the company, Panama, and

1 RINA to provide us a structural analysis and a report
2 attesting to the water tight integrity, and the
3 structural serviceability to the vessel to depart U.S.
4 waters safely without any concerns.

5 So dive operations were conducted, also a
6 thorough inspection of the engine room and the
7 locations of concern, where the hardest hit by the heat
8 to determine A, for product removal, for the subsequent
9 voyage as well. To eliminate any of the immediate
10 pollution threat, and then also to make repairs as
11 needed depending on what the -- those reports were
12 indicating.

13 Q. Okay, thank you. And through the first couple
14 hours of the event, with regard to the accountability
15 for passengers. Tell me your involvement with that,
16 and do you recall any -- as you are recalling this, or
17 telling us the story if you -- the first time you
18 recall having assistance, or being, interacting with,
19 you know, and members of the crisis action team from
20 Baja Ferries, or other individuals from the company,
21 with regard to the passenger accountability,
22 specifically.

23 A. CDR ESPINOSA-YOUNG: So the majority of my
24 involvement with the passenger accountability issue
25 was, you know, the initial report from the master

1 stating one number. And then our ANOA, or Advance
2 Notice of Arrival passenger manifest indicating
3 another.

4 So we were trying to rectify what was the
5 missing pieces, and provided what the actual manifest
6 that the captain was indicating it was a different
7 number than out ANOA regulations.

8 So, for the most part the on scene at the
9 reception were the ones that we were dealing with, the
10 actual rectification of that. And ours was really,
11 double checking what, you know, the manifest indicated
12 versus the ANOA and why was there a discrepancy.

13 And then it was finally resolved as a result
14 of the manifest or the Advanced Notice of Arrival
15 information was never updated prior to the vessel's
16 departure from Dominican Republic, which indicated a
17 higher number of passengers on the manifest because a
18 crewmember was taken off just prior to the vessel's
19 departure from the Dominican Republic due to some kind
20 of heart condition, so the individual never set sail.

21 Well that ANOA, and that passenger manifest
22 list was never updated, therefore, his name was still
23 appearing, hence the higher number and the discrepancy
24 between the two.

25 Q. Okay, and we didn't explore it in depth, with

1 the Sector Commander yesterday, but it falls more to
2 your desk as the chief of preventions from my
3 understanding. But the validity of the information on
4 that Advance Notice of Arrival tell me, with the number
5 of discrepancies that we've talked about, is that
6 something that's significant, or is it inconsequential?
7 I mean, is it -- what's -- how important is that
8 document?

9 A. CDR ESPINOSA-YOUNG: It is extremely
10 important. Because that's how we use our, you know,
11 all of that, crew and passengers are vetted through our
12 headquarters Coast Watch. So everybody's background
13 check is conducted based on the information that is
14 there.

15 Incorrect information is also -- because we
16 double check our database with the information. And in
17 there it requests, you know, timeframes of report, who
18 is their classification society, what is the IMO
19 number; it also provides who their flag state
20 information is.

21 So there is courses of action with regards to
22 failures of certain information that either the vessel
23 could be denied entry coming into U.S. waters for the
24 discrepancy. Or post-event could suffer a civil
25 penalty action as a result of not completing, or having

1 an incorrect advance notice of arrival.

2 Q. Okay, and the responsibility for the proper
3 completion and execution of that advance notice of
4 arrival, is it something that falls on the master, the
5 company, the agent, or is it a shared responsibility,
6 where does that lie?

7 A. CDR ESPINOSA-YOUNG: So the way the
8 regulations read is really owner/operator, agent,
9 person in charge. So, you know, it could be that it is
10 a -- the master, and it, there is a varying degree of
11 who submits these notice of arrivals. And some of them
12 are agents, some of them are masters.

13 In the end we don't scrutinize, and it is
14 going to be the owner that's going to be held
15 responsible for it. And then whatever their
16 contractual agreement, you know, that they have that
17 they delegate that to the agent, if that's -- if that
18 becomes an issue then that can take in accordance,
19 settle that matter independently.

20 But ultimately, really it is the company is
21 responsible for the submission of that notice of
22 arrival, and the accuracy of the information.

23 Q. Okay, thank you. I -- during your statement,
24 with regard, we are still on the first day, and you
25 indicated that a salvage master, some naval arcs, and I

1 think you said five marine firefighting specialists had
2 showed up around -- I wrote down 2000 hours.

3 A. CDR ESPINOSA-YOUNG: Roughly, I mean I didn't,
4 I didn't clock them into the hotel.

5 Q. Right.

6 A. CDR ESPINOSA-YOUNG: But based on the initial
7 report which was on the 18th of August at 1:00, Ardent
8 Global provided the initial salvage plan intentions,
9 and the potential towing, emergency towing operations
10 plan. And in there it gave a description of who was on
11 island, and who was ordered, and what equipment was
12 coming, forthcoming from Ardent Global.

13 Q. Okay, and just the high details, I know there
14 is a lot of stuff going on, but can you walk me through
15 that point in time until the point in time where you or
16 the Captain of the Port decided that the fire was
17 extinguished, or no longer a concern. Whether it was
18 one day, two days, I mean, just give me the highlights,
19 run me through that if you don't mind.

20 A. CDR ESPINOSA-YOUNG: So the highlights was
21 that the vessel continued to burn pretty much all of
22 the August 18th, and it was aground. The fire was not
23 extinguished, you can -- it was clear from the Richard
24 Dixon that remained on scene, and we have images of the
25 paint catching on fire as the, you know, heat was

1 continuing, and it prevailed pretty much throughout the
2 August 18th, into the evening hours.

3 Trying to assess the following evening to get
4 our -- the marine salvage firefighters, and they went
5 through, to have the right equipment, get them on board
6 the vessel and do an assessment of, you know, the
7 locations of where the hotspots were and identify
8 really the, you know, the ventilation, condition of the
9 ventilation system. The shut downs, and where the fire
10 was located at that present time.

11 Pretty much everything below deck without the
12 appropriate marine firefighting equipment was limited
13 to only marine firefighters. And at that time they did
14 a thorough oversight and identified the locations of
15 where the fire dampers were not closed, and the
16 location, you know the condition of the cargo deck and
17 they were unable to gain access at that time to the
18 engine room based on the heat, and the material
19 condition of the vessel.

20 The evening of the 18th, through the 19th, we
21 had an unusual, it was a full moon, which contributed
22 greatly to our success, based on the fact that we had a
23 high tide event that normally is one foot, we had a two
24 foot high tide. And because the vessel was, you know,
25 partially aground we started receiving reports from the

1 Richard Dixon at the time, and the on scene tug, that
2 the vessel was looking lively.

3 And at which turn, the vessel orientation
4 changed. And we immediately called the salvage master,
5 the salvage team that was at the hotel, and to kind of
6 capitalize on this opportunity, now that the vessel
7 appeared to be free, and for us not to re-ground. We
8 had a limited window of getting in executing this
9 mission.

10 We directed the salvage master to mobilize
11 their teams, and their tug. They had been, by this
12 time, contracted, I believe it was Titan, or Triton I
13 think it was called. To get salvers on the towing
14 vessel, and then through the small boat station we
15 deployed the rest of the firefighter and the salvers on
16 board the vessel using the accommodation ladder that
17 was put over side.

18 The salvage team was able to get on board and
19 operate, you know, reconfigure and operate. Because
20 they had already prepared the emergency, and got power
21 to the winch and established a tow. Once they secured
22 the tow, they got on board the vessel, and slowly, once
23 they had a good handle on the situation, they heaved
24 the anchor and the vessel was floated free at about
25 two, three o'clock in the morning on the 19th.

1 The vessel was kept under tow and underway
2 until the following morning. We had already had
3 receiving of the emergency tow plan, and the dead ship
4 tow inbound to the identified location, which was Pier
5 15, as where the vessel would be safely moored.

6 There was -- the vessel fire was still
7 isolated in the engine room, primarily located in, I
8 believe it was a lube oil tank that was still active
9 flames coming out of the vent system of that tank.

10 And they were able to maneuver the vessel with
11 four tugs, one lead tug as the lead, two side assist
12 tugs with lines on, and one at the stern. And maneuver
13 the vessel all the way to the pier, at Pier 15. At
14 which time a complete overhaul of the fire was taking
15 place, and then became the cooling and then re-
16 flashing.

17 So they had already brought additional
18 resources to monitor for quality, you know, their --
19 what they call their gas doctor, which is really a
20 marine chemist.

21 Q. Okay.

22 A. CDR ESPINOSA-YOUNG: To determine, you know,
23 when it was safe for entry for personnel, not in a
24 SCBA, you know, protection equipment.

25 Q. And just for the record, when you used the

1 term Richard Dixon, would that be the --

2 A. CDR ESPINOSA-YOUNG: Coast Guard --

3 Q. -- fast response cutter Richard Dixon?

4 A. CDR ESPINOSA-YOUNG: Correct.

5 Q. That relieved the Joseph Tezanos cutter?

6 A. CDR ESPINOSA-YOUNG: Yes, correct.

7 Q. Okay, thank you. I'm getting close to turning
8 the floor over, but -- to Commander Capelli. But I
9 just want to quickly address one final area. And
10 within the Unified Command did you raise any concerns,
11 yourself, or did you hear any concerns raised by any of
12 the members of the Unified Command over the timeliness
13 of any of the response, the firefighting response, the
14 salvage, any of the arrivals, any -- was anything
15 raised in the Unified Command on the 17th through the
16 say the end of the 18th of August?

17 A. CDR ESPINOSA-YOUNG: No, not in discussions,
18 active discussion through the Unified Command. You
19 know, we had some delays based on equipment needs, you
20 know gaining the assets, but the personnel were on
21 island to get the assets on scene.

22 So it was really a safety issue, some of the
23 impediments. This is Puerto Rico, resources are
24 somewhat limited. The local contractor was a challenge
25 to deal with, so the local representative that was here

1 from San Juan Towing made it quite difficult sometimes
2 in getting the additional equipment and meeting our
3 needs, both from a safety perspective, or resources
4 that were necessary in order to execute our mission.

5 So it was not, I would say it was not a smooth
6 response in some cases. But most of these response
7 operations are in that fashion, but timeliness in the
8 initial phases, they met the response time criteria. I
9 would say getting an active firefighter component on
10 the vessel did not meet the criteria as required by the
11 regulations.

12 Q. Okay, and this is my last question. But you
13 mentioned this Ardent, I assume it was the Ardent
14 Global rep that you indicated was a little challenging?

15 A. CDR ESPINOSA-YOUNG: The subcontractor, right.

16 Q. Okay.

17 A. CDR ESPINOSA-YOUNG: He was the subcontractor
18 to Ardent Global.

19 Q. Okay, thank you. Commander Capelli, thank you
20 very much, I have no further questions.

21 **WITNESSES**

22 **COMMANDER JANET ESPINO-YOUNG**

23 **MR. JERRY McMILLAN**

24 **EXAMINATION**

25 BY MR. TUCKER:

1 Q. Commander, Adam Tucker with the NTSB, just one
2 follow-up question really. You mentioned, I just want
3 to seek clarification, you mentioned when the salvage
4 marine firefighters arrived on island, and you said
5 there were some problems with getting them to the ship,
6 I believe, because of the helo. Was there any other
7 discussion about getting them to the ship via a boat or
8 anything?

9 A. CDR ESPINOSA-YOUNG: Correct, I mean, I think
10 the big issue is the safety component. So the
11 embarkation ladder, that was a steep climb, you had a
12 four degree list on the vessel. They are bringing
13 equipment, pretty substantial amount of equipment with
14 them to gain access to the vessel, the best way and the
15 safest way -- considering we have a site safety plan
16 that's also provided by the salvors.

17 We have to take those into consideration that
18 those emergent needs, but at what operational risk are
19 you going to take to the personnel. So there was
20 discussion via water side to gain that control, and get
21 those personnel on board.

22 But, it was because it was the initial phase
23 of it, bringing them waterside was virtually impossible
24 without some safety concerns to overcome. And we felt
25 at that time there was, you know, it was better suited

1 to get the right asset to get the people on board.

2 Q. Thank you. And I did forget one other
3 question, Commander. If you don't know, while the
4 vessel was alongside the pier, and also the survival
5 craft were brought in to the port of San Juan, were you
6 aware of when those vessels, when the lifeboats, in
7 particular were removed from the water and put on the
8 dock?

9 A. CDR ESPINOSA-YOUNG: I can't give you a
10 specific. But the -- I noticed the lifeboats on blocks
11 when I went to the pier. Mr. Henson, which is the
12 representative, obviously the owner of Baja Ferries was
13 with us. I went there because this was our first major
14 start-up operation that we can gain access to the
15 vessel.

16 And we had a contingency of personnel to, in
17 order to secure and shadow crewmembers throughout the
18 operations, when I saw them at the pier. And I had had
19 a previous discussion with Mr. Yates from the NCOE,
20 with regard to lifesaving. That they were supposed to
21 marshal the lifeboats and bring them alongside the
22 pier, and that was it. That nobody was supposed to go
23 inside the vessels.

24 But it wasn't until that morning where I
25 actually saw them in the crater, and I had a serious

1 discussion with Mr. Payne, again from San Juan Towing
2 who took it upon himself to do this action, without
3 notifying anybody or requesting that.

4 At that point, we had some discussion with
5 regards to accessing. And one of the attending marine
6 inspectors, LTJG Jesse Collins, actually grabbed
7 caution tape, and we taped the entrances of the
8 lifeboats to ensure further entry was not made. But it
9 was well after, and nobody cleared it through us,
10 nobody contacted us. So, and I immediately reported to
11 the Coast Guard investigators the condition of what we
12 found the lifesaving appliance to be.

13 Q. Commander, thank you very much.

14 A. Um-hmm.

15 CDR CAPELLI: Commander thanks. I have no
16 follow-up questions. Panama do you have any follow-up
17 questions?

18 MR. ARENAS: No.

19 CDR CAPELLI: Panama has no questions.

20 MR. BLASINI: No sir.

21 CDR CAPELLI: Baja Ferries has no questions.

22 **WITNESSES**

23 **COMMANDER JANET ESPINO-YOUNG**

24 **MR. JERRY McMILLAN**

25 **EXAMINATION**

1 MR. BOWLING:

2 Q. Sorry Commander.

3 A. CDR ESPINOSA-YOUNG: No, that's all right.

4 Q. The ah -- Larry Bowling with the National
5 Transportation Safety Board. We heard through
6 statements, and testimony earlier, I want to say it is
7 from one of your subordinates, Joel Morgado.

8 About an individual, a local fire chief, or
9 firefighting, member of the Puerto Rican Fire
10 Department, and I believe, PREMA. The individuals name
11 was Angel Crespo.

12 And apparently there were come conversations
13 down at Pier 6 or the landing site about the local
14 firefighting team being put onto the vessel. Do you
15 know any, have any detail on that, are you aware of
16 that? Any information there?

17 A. CDR ESPINOSA-YOUNG: We unfortunately were
18 aware of it post-event. So it was some discussions
19 with regards to what assistance the local fire
20 department can provide and we, we felt pretty confident
21 that based on training that is conducted, you know,
22 just in the course of planning, our planning efforts,
23 that the marine firefighter capabilities for the local
24 fire department can only be in support of an alongside
25 pier event.

1 That they were inadequately trained for an
2 offshore event or can provide the necessary assistance
3 because, again, you don't have the crew there, you
4 don't have an operational vessel, you don't have the
5 capability of somebody running the emergency pumps and
6 providing and supplying the necessary systems in order
7 for them to overhaul or even do boundary cooling.

8 So we were specific and directed that no
9 marine firefighting from land base should be going on
10 board the ships to render assistance.

11 Q. Okay, thanks again Commander.

12 A. Um-hmm.

13 Q. Thank you, Commander Capelli.

14 CDR CAPELLI: Okay, does Panama have any
15 further questions?

16 MR. ARENAS: No questions.

17 CDR CAPELLI: Does Baja Ferries have any
18 further questions?

19 MR. BLASINI: No sir.

20 CDR CAPELLI: Okay, witnesses, you are now
21 released from witnesses at this hearing, thank you for
22 your testimony and cooperation. If I later determine
23 that we need additional information from you, I will
24 contact you through your counsel. If you have any
25 questions about this investigation, you may contact the

1 recorder, LTJG Diaz-Colon. The time is 1225 we will
2 recess until 1330.

3 (Whereupon a luncheon recess was taken.)

4 CDR CAPELLI: Good afternoon the time is
5 1338, the hearing will now commence, recommence. We
6 will now hear testimony from Chief Warrant Officer Roth
7 the last Port State Control Inspector from the Coast
8 Guard who saw the Caribbean Fantasy. Please come
9 forward to the witness table, and LTJG Diaz-Colon will
10 administer the oath and ask you some preliminary
11 questions.

12 LTJG DIAZ-COLON: Please raise your right
13 hand.

14 **WITNESS**

15 **CWO ALAN ROTH**

16 Whereupon a witness produced on call of the
17 Coast Guard was duly sworn according to the law, was
18 examined, and testified as follows:

19 THE WITNESS: I do.

20 LTJG DIAZ-COLON: Please be seated. For the
21 record, please state your full name and spell your
22 last.

23 THE WITNESS: Alan Roth, R-O-T-H.

24 LTJG DIAZ-COLON: For the record, would the
25 counsel please state your full name and spell your

1 last?

2 COUNSEL: Lieutenant Shannon Price, P-R-I-C-E.

3 LTJG DIAZ-COLON: Thank you. Sir, can you
4 please let us know your current -- where you currently
5 are employed and what your position is.

6 THE WITNESS: I'm a marine inspector at U.S.
7 Coast Guard Sector San Juan, in the Prevention
8 Department.

9 LTJG DIAZ-COLON: Thank you.

10 CDR CAPELLI: Good afternoon Mr. Roth, we are
11 going to start off questions from Mr. Larry Bowling,
12 from the NTSB.

13 MR. BOWLING: Thank you.

14 **EXAMINATION**

15 BY MR. BOWLING:

16 Q. Chief Warrant Officer Roth, just for the
17 record, I am going to try and narrow the scope of the
18 questions to just the last Port State Control
19 Examination performed by Sector San Juan. And if I am
20 not mistaken, that's MISLE activity 5963390. We had a
21 preliminary interview, and your credentials, and
22 everything are a matter of that record. And that's
23 Exhibit E024.

24 So, can you start me out with that particular
25 Port State Control Examination? And I understand that

1 you were lead for that examination?

2 A. That is correct, I was.

3 Q. So can you just start me out from the initial
4 scheduling on that, and walk me through the completion
5 of that exam, please.

6 A. So the initial scheduling started off in the
7 office, where we gathered all the basic certificates
8 and documentation from the vessel to go and conduct an
9 annual exam on board the vessel.

10 Mr. McMillan provided me the information the
11 background information that they had been previously
12 detained in Gibraltar. And, which we were unaware of
13 prior to that. And then we gathered our team together,
14 and set the schedule, and we were on board on the ninth
15 of August.

16 When we arrived at the vessel, we did a
17 cursory view of the exterior of the vessel. Checking
18 the, you know the doors, the hull, the load line, just
19 basic requirements that we have to go with. And then
20 we went on board and had a meeting with the chief
21 engineer, the captain, some of the other staff, the
22 senior staff from the vessel.

23 During that, we ask questions, if there is any
24 outstanding conditions of class. We also brought up
25 the detention in Gibraltar. Which (inaudible word)

1 said everything was corrected. Class was also on board
2 and they gave us a copy of their conditions,
3 outstanding conditions that they had.

4 So we were also going to address some of
5 those, those items during our walk through and material
6 inspection. I was assigned as the team leader, but I
7 was also in charge of Team Number 4, which is the
8 machinery space.

9 So after we discussed the game plan for when
10 to conduct drills, and the outstanding conditions of
11 class, and other logistical issues for the exam, we
12 broke off into our designated teams, and I went below
13 to the engine room.

14 Actually, correction, I first went to the
15 emergency diesel generator and conducted a test with
16 that, and then we went down below into the engine room
17 and did our material inspection of the engine room.

18 Would you like me to continue with that?

19 Q. Yes, please.

20 A. Okay. So as we went through, I explained to
21 the chief engineer which, at the time they had a
22 changeover, so they had two chief engineers currently
23 on there. And we were working more with the off-going
24 chief engineer.

25 And explained to him that we are going to be

1 doing no operational tests of machinery, with the
2 exception of the oily water separator. A water mist
3 system that I found out that day that they had
4 installed, and some quick closing valves, water tight
5 doors, and some bilge alarms, and smoke detectors.

6 So, and then we continued on. Went down into
7 the engine room, conducted a test of the oily water
8 separator, continued our walk through, did some bilge
9 alarms while we were going that as well. And just did
10 an overview of the engine room.

11 We paid closer attention to the bilge based
12 off of the detention that they had in Gibraltar. At
13 the time of inspection, the bilge was fairly clean, so
14 no concern from our end. And all the machinery, and
15 equipment that we had tested, functioned as designed.

16 Towards the end of the material inspection we
17 did a test of the quick closing valves. Which, in this
18 system are actuated by one valve that is located just
19 outside of the ECR, on a ladderway going up. There is
20 a little box that has a pneumatic valve, that once it
21 is opened, it closes all the quick closing valves
22 inside of the engine room and surrounding spaces that
23 are in there.

24 So we did that test, I asked the chief
25 engineer how he would like to test it, and he said that

1 he didn't want to drop power or fuel to the generator,
2 it was on line, so he wanted to block the service tank
3 so we can maintain fuel going to the generator.

4 I said if that is your normal procedure for
5 testing it, we can go forth and continue to test this.
6 So that at that point is when they grabbed a bolt
7 placed it in, underneath one of the flanges for the
8 service tank, showed me that it was loose, indicating
9 that it wasn't tight in there.

10 We verified the location of all the other
11 quick closing valves, verifying that they were open,
12 and then he opened the valve actuating the quick
13 closing valves and then we went around verifying that
14 all the valves did close.

15 When we got back to the service tank, the bolt
16 was tight, indicating that the flange had dropped; we
17 had him reset the system and remove the bolt. We
18 checked some basic documentation, engineering wise,
19 oily record book, (inaudible word) procedures, their
20 engine room log, and then from there we went into
21 running of drills. We got to the point where we were
22 going to be doing drills.

23 So for the drills, I was assigned to be on
24 scene. Which, in this case, we were doing a fire drill
25 in a CO2 protected machinery space, which happened to

1 be the auxiliary machinery room. We -- they initially
2 -- they started the drill off, I followed the fire
3 team, the very first fire team down into the space,
4 observed their hose handling, their equipment that they
5 had on, and their general communications.

6 After I was satisfied with the fire team on
7 scene, I went into the ECR, where I spoke and observed
8 with the safety officer, and her communication between
9 the on scene fire team and the bridge. And then, once
10 we were good from there, we moved back up, one deck up
11 to where they actuate the CO2 system. And we observed
12 the CO2, simulated discharging.

13 When we got the team together, and everybody
14 was satisfied of the drill, they moved on to the next
15 phase, which was going to be an abandon ship drill.
16 From the abandon ship drill, I stayed at the aft
17 stairway, I believe it was, I don't remember how many,
18 it had to be either two or three, but I was one of the
19 aft stairways, and we began questioning the stairway
20 guides on their emergency positions.

21 As we made our way through all the stairway
22 guides and out onto the embarkation deck, I went back
23 to the MES stations which are located aft, and all the
24 way up to the upper decks. Well actually, they are
25 below the life rafts. So I went up to the life raft

1 station first, and questioned the life raft teams. And
2 then we made our way to the MES station and questioned
3 the MES stations.

4 Once we finished questioning them, I went and
5 observed the outboard lifeboats exercised in the water.
6 I didn't see the actual lowering because at the time I
7 was still questioning the MES stations, and so I didn't
8 see that, but I did see them being exercised, in the
9 water.

10 When we were satisfied with the retrieval of
11 the lifeboat, we got the team together, and we went
12 through any deficiencies that we had observed. And
13 then we continued from there, which was the cargo
14 portion, which Mr. McMillan was assigned to team two
15 and three, which was all the passenger accommodations.
16 But he also was going to be doing the cargo portion.

17 Since we were running a little behind on the
18 cargo portion, I assisted him on going through, and we
19 went through the RORO decks, where we witnessed the
20 drencher system being activated. We did two zones, and
21 during that we identified that there was approximately
22 21 nozzles that were not functioning.

23 We had them, after that we went physically
24 through all three decks, cargo decks, A, B, and C, and
25 looked at all the other nozzles to see if they were

1 either in place or appeared to be damaged. So we
2 didn't find anything else other than those initial 21.

3 We went back up, had a meeting with the
4 captain, discussed the deficiencies that we had come
5 across, we spent our time writing our deficiencies, and
6 from the activity we issue seven deficiencies, we
7 cleared four of them, and had three outstanding.

8 Q. Okay, thank you. If I could ask that Exhibit
9 E053 be brought up, and I'll ask several questions from
10 that particular document. And Chief Warrant Officer
11 Roth does this look like, was this your handwriting?

12 A. It is not my handwriting.

13 Q. Who completed Form A and Form B for you that
14 day?

15 A. That was going to be one of our people on Team
16 One which is most likely our Port State Control
17 Examiner that we had up there.

18 Q. Okay.

19 A. Which is pretty typical they will, they can
20 prepare the documentation, we review it, and then we
21 sign as the qualified.

22 Q. Okay, and when you say we review, and we sign,
23 is it you as the team lead?

24 A. Me as a team lead, but we, as a team in
25 general, will go over all the deficiencies, so the team

1 lead on these exams is not the overall authority, he is
2 the voice of the team. So we -- he is the designated
3 person, you know the one team one voice, and he is the
4 communication between the ship and our team, so we
5 don't have multiple people speaking.

6 I mean, I do have some influence on what
7 decisions are going to be made on how to issue the
8 deficiency, and what timeframe we are going to give.
9 But we try to use it as, you know, a group effort in
10 deciding on what we are going to write up and how to
11 write it up.

12 Q. I understand, thank you. We are going to talk
13 in detail, and I'll turn the floor over to Adam Tucker
14 here in a minute or two with regard to the quick
15 closing valves. But I want to focus on some of the
16 other areas here. You mentioned the external visual
17 examination of the hull, and at any time did you or any
18 of the other members, team members see any hull insets
19 or water tight integrity issues that raised any
20 concern?

21 A. Nothing that raised any concern.

22 Q. Okay. You also mentioned that class was on
23 board, but you didn't specify class, were you referring
24 to RINA?

25 A. Yes, I am referring to RINA.

1 Q. Do you know the name of the individual from
2 RINA, the surveyor that was there?

3 A. I had previously worked, and in my previous
4 testimony I had mentioned Eric Mark. But from thinking
5 back, the surveyor that attended that day was a
6 different one who I do not remember his name.

7 Q. Okay, thank you. You did mention the
8 conditions, the outstanding conditions of class. Do
9 you recall any of those that were provided to you?

10 A. I actually have the report in front me, if I
11 can reference that?

12 Q. Yes, please do. And you say report, is that
13 the MISLE ID activity, or MISLE activity?

14 A. No, this is a report from RINA, it is the
15 condition -- it is their ship status report that has
16 any conditions that they have issued to the vessel.
17 The vessel provided us this during our initial brief to
18 say these are the outstanding items that class has
19 issued. And so we did not write deficiencies of these,
20 since these were already addressed by class.

21 Q. Okay, and just give me some document
22 information so we know exactly what document you are
23 referring to, please. The date and the --

24 A. Oh, the date?

25 Q. -- control number.

1 A. So this is RINA number 76747.

2 Q. Um-hmm.

3 A. The date of issue is 8 August, 2016.

4 Q. Okay, and the conditions that were outstanding
5 they provided to you on that particular document are
6 what?

7 A. The conditions they had were they had a
8 hydraulic system of the internal ramps (was to be)
9 repaired in order to provide complete closure while
10 securing pins, those are on the cargo deck. The pins
11 were leaking, the hydraulics were leaking and they had
12 addressed that these were going to be repaired and
13 postponed until 1 October, 2016.

14 The fire main permanent pressurization, they
15 said that they found that it was not operational, a
16 result of the absence of a relevant jockey pump. And
17 they were due to correct this by 18 August, 2016.

18 They had an unapproved deck generator which
19 was out on the aft uppermost deck, and they were due to
20 remove it from the vessel, completely remove it by 31
21 August, 2016.

22 They also identified that diesel generator
23 number one had oil leakage on the outer side in the way
24 of cylinder heads. Which is supposed to be corrected
25 by 3, August, but postponed until 19 August, 2016.

1 And they also had an updated fire control plan
2 that needed to be submitted and approved by RINA no
3 later 18 August, 2016.

4 Q. Okay, thank you. With regard to the engine
5 room, you indicated you were working with two chief
6 engineers, would you have happened to recall either
7 individual's name?

8 A. The off-going chief engineer, his first name,
9 I believe, was Igor, and I don't remember the second
10 chief engineer's name, but he was the oncoming one at
11 the time. Which he was kind of sporadic on working
12 with the team, with the Coast Guard Inspection Team.
13 We were mainly working with the off-going one, which
14 was Igor.

15 Q. And earlier you indicated that when you were
16 in the engine room you looked at the condition of the
17 bilge, and I think you said it was based on the fact
18 that there was some information that came in from the
19 Port of Gibraltar. You had been made aware of that
20 earlier Port State Control detention.

21 You used the term, fairly clean, can you build
22 on that a little bit just to make sure I understand
23 what you are -- your definition of fairly clean is?

24 A. For me, fairly clean, that there isn't oil
25 sloshing down in the bilge. You are always going to

1 have a certain amount of residue down in the bilge,
2 just because that's the nature of the engine room. You
3 know, these are older engines as well. So they are
4 going to be leaking a little bit, and you are going to
5 have some residual -- or just from maintenance that's
6 being conducted.

7 But there is no pooled up oil, is what I, my -
8 - what I get at, is there was no oil pooled up or
9 accumulated anywhere in the bilge that I had seen. So
10 -- which was my interpretation of being fairly clean.

11 Q. Okay, thank you. And when you were talking
12 about your role during the fire drill, you were doing,
13 you used the term fire team assessment, you were
14 assessing the activity, and the fire team on scene, and
15 what it was, whether they were sufficient or not. Are
16 you using -- what standard are you using to make that
17 judgement call on their efficiency, their capabilities?
18 Is it a Coast Guard standard? Or is the ship's fire
19 control plan, what do you use as the basis?

20 A. Well, we use their, also their standard of how
21 they, you know, fight fires, so it is based off of the
22 ship. But I also use my knowledge and experience in
23 shipboard firefighting to assess hose handling and
24 firefighting techniques.

25 In addition, we also have a lot of guidance in

1 the Coast Guard, our TTP, which is our Tactic,
2 Techniques, and Procedures that gives us guidance on
3 firefighting procedures as such.

4 Q. All right, thank you. And during the drill,
5 and as far as the fire drill, not when it rolled over
6 into the abandon ship, but during the fire drill, do
7 you recall seeing the staff captain down on scene with
8 the fire -- you mentioned the safety officer, but do
9 you recall seeing the staff captain down there?

10 A. I don't recall seeing the staff captain; he
11 may or may not have been down there, I'm not sure. But
12 I was focused on the safety officer, and observing her
13 role during the drill.

14 Q. And while you are there, tell me what you
15 recall about the safety officer, not -- and
16 specifically related to her communication ability with
17 the fire team, her functionality during that drill.
18 And your assessment of her, and her performance.

19 A. During the time of the drill I thought she was
20 very competent in her position from what I had
21 witnessed during the drill. She maintained very good
22 communication between the on scene fire team and the
23 bridge. Even during the de-brief I actually told the
24 captain, I commended her, saying that she did an
25 excellent job in maintaining the communication during

1 the fire drill.

2 Q. And was there something specific that you
3 recall that prompted you to say that there -- it was an
4 excellent, she did an excellent job? I mean, what
5 prompted you to make that determination, or make that -
6 -

7 A. Just a general comment based off of, you know,
8 doing briefs. A lot of foreign flag vessels, you know,
9 appreciate comments, either good or bad, what we have,
10 and any time we get a chance to praise I like to do it,
11 especially with the higher management.

12 Q. Okay, thank you. You mentioned that there --
13 something to the effect that there were limited (in
14 the) accommodation space. But there were stair tower
15 guides on the vessel and you had, I assume interacted
16 with them during the drill. Can you tell me, verify
17 whether you did interact with them, and if you did,
18 what was your assessment of their English proficiency?

19 A. They spoke English well enough. I interacted
20 with all of them going all the way up to as far as the
21 stairways went. They, they spoke English well enough
22 for their emergency position, is what I had gathered.
23 They answered their emergency position and the general
24 basic questions that I had asked them, sufficiently. I
25 had no issue with their English ability.

1 Q. Okay and just -- tell me, what kind of
2 questions are you asking those stair tower guides, or
3 stairway guides?

4 A. So we normally begin by asking them their
5 emergency position. And they, you know, begin to tell
6 you whatever their position is, which is going to be as
7 a stairway guide, and I ask them what does that entail.
8 So they begin to explain what they are supposed to in
9 case of an emergency on how to direct people to the
10 embarkation deck.

11 From there, we ask them questions such as, you
12 know, basic scenarios on if you have a person that is
13 disabled how you will direct them to the embarkation
14 deck, or if you have a person that does not speak
15 English or Spanish, how do you direct them to the
16 embarkation deck. Or if you have a child that has been
17 separated from one of their parents, how would you
18 reunite them, or what do you tell the parents to, you
19 know, reunite them with their child?

20 Medications, or basic fire in one of the
21 accommodations, we also ask them general ship
22 knowledge, how many life rafts do you have on board,
23 how many lifeboats do you have on board, so just
24 general questions regarding their emergency position or
25 anything they may interact with people on board the

1 vessel while being in a stair tower, in an emergency
2 situation.

3 Q. Okay, thank you. And I think this is on the
4 record with your earlier interview, but I don't recall,
5 had you previously been on the Caribbean Fantasy for
6 Port State, earlier Port State Control exams? And if
7 so, how many, roughly?

8 A. Roughly I'd say three times I had been on
9 board. There may have been one other one in there, but
10 I know at least maybe three times.

11 Q. Okay, in your earlier visits to the ship do
12 you recall ever running into any communications issues?
13 Specifically English to Spanish, and Spanish to English
14 or anything to that affect?

15 A. We have, we have run into issues where there
16 were some people in -- on -- mainly with the stairway
17 guides, that their English was not sufficient, and we
18 would normally address that with the staff captain, or
19 the captain during our out brief. And they would
20 either give them remedial training, or remove them from
21 that position.

22 Q. Okay, thank you. I want to step up now, after
23 the drill rolled into the abandon ship phase, I
24 understand that you went to life raft location and the,
25 I think you used the term, outboard lifeboat location,

1 and also MES, if I understand correctly, Marine
2 Evacuation Systems.

3 A. That is correct.

4 Q. Okay. Were you checking, as you made your
5 rounds, did you look at the individuals there, and
6 validate their safety card was related to the position
7 you were at, or they were in the right spots?

8 A. No, I did not.

9 Q. Okay, you used the term outboard lifeboat, do
10 you know what number that would have been?

11 A. That would have been lifeboat #2.

12 Q. Okay. And would you have happened to remember
13 or recall who the lifeboat commander was at that time,
14 with that particular lifeboat?

15 A. I do not. Like I had mentioned previously I -
16 - the boat was already in the water by the time I had
17 come up to it.

18 Q. Okay, if we could -- let's walk through the
19 deficiencies and we will close this one down here. I'm
20 looking at Port State Control Form B. Can you walk me
21 through those deficiencies, just tell me a little bit
22 about each one, and if you recall what the three
23 outstanding deficiencies were when you left the ship,
24 point those out as well.

25 A. Well, based off of the Form B that you have

1 right there, the top three have 10C's, which are
2 actions taken. Which those are corrected, you know, to
3 our satisfaction, so those were corrected prior to our
4 departure. The ones after that are going to be the
5 remaining deficiencies, and there was, like I said,
6 there was a total of three remaining.

7 Q. So the first one, fire doors, was resolved.
8 The second one related to fire doors, self-closing was
9 resolved.

10 A. Was resolved.

11 Q. The third one, was fire detection and fire
12 alarm system, what is the detail on that one, if you
13 don't mind?

14 A. The detail on that was a smoke detector that
15 was kind of just hanging below, so it was just hanging
16 though. So they repaired it, they fixed it and tested
17 it, and we cleared the deficiency.

18 Q. Okay. And then Item Number 4, Deficiency #4,
19 boundaries of bulkheads, looks like a category A60
20 issue.

21 A. It says -- (reading to himself) -- that one
22 had a piece of missing insulation. So it was -- it
23 wasn't complete with their structural fire protection
24 as an A60 boundary. We had them find another piece of
25 insulation, the correct insulation and they re-

1 installed it.

2 Q. And roughly where was that at? Frame 33, Deck
3 B?

4 A. Deck B, I don't know the exact location
5 besides what is written in the deficiency since I was
6 not on that team during the inspection and found that
7 deficiency.

8 Q. Okay, thank you. Lieutenant Diaz, roll on up,
9 please. Deficiency #5, ventilation ducts serving RORO
10 cargo spaces capable of being effectively sealed shall
11 be separated for each cargo space. Port State Control
12 officer found the aft D17, B garage C, two fire dampers
13 not closing. Can you put some detail on that, please?

14 A. I also did not test this. I mean, I can shed
15 some light on it, but I did not test this, so I was not
16 there for the testing of these fire dampers. We
17 periodically test them after the drencher system, it's
18 going to automatically activate the dampers as well,
19 and then we have them remove some of the hatches to go
20 and look at the dampers. Two of these were not closed,
21 from that zone in B.

22 Q. Okay, thank you. And I believe that that is
23 one of the items, that deficiency may have been
24 outstanding at the time of the fire on August 17th. Is
25 that one of the deficiencies that was outstanding?

1 A. Yes, it was, it had a 16AC, which is two
2 weeks, 14 days.

3 Q. All right and the -- I think it was Item #5
4 that we looked at, with -- they had the piece of
5 missing insulation according to some notes I had, I
6 think that was another -- the second of three
7 deficiencies that were outstanding at the time of the
8 fire, would that be correct?

9 A. That is correct.

10 Q. Okay. So let's roll on down to #6 please, so
11 just go through that -- that's the drencher nozzles,
12 Items #5, or Item #7 -- (Reads). "All electrical
13 apparatus shall be so constructed, and so insulated as
14 not to cause injury when handled or touched in a normal
15 manner. Port State Control officer found that duplex
16 120 volt electrical outlet, and a 110 duplex volt
17 outlet both hanging and improperly installed", tell me
18 something about that.

19 A. Again, I was not on that part of the
20 inspection, that was during the accommodations, and I
21 believe that was in a crew cabin. From what I
22 received, my brief from the team, that it was an outlet
23 that was hanging out, so it was exposed, it had exposed
24 wiring hanging out.

25 Q. Okay, and based on that code, 16AC, would that

1 be the third deficiency?

2 A. That's the third deficiency.

3 Q. That was outstanding at the time of the fire?

4 A. Yes.

5 Q. Okay. And I believe that is the list, right?

6 A. Yes.

7 Q. I think that is all the questions I have at
8 this time, thank you very much.

9 CDR CAPELLI: Now from Mr. Adam Tucker with
10 the NTSB.

11 **WITNESS**

12 **CWO ALAN ROTH**

13 **EXAMINATION**

14 BY MR. TUCKER:

15 Q. Good afternoon Chief Warrant Officer Roth.

16 A. Good afternoon.

17 Q. Just really a few follow-up questions from me.

18 I just wanted to drill down to -- you touched on it
19 earlier when you were talking with Mr. Bowling. The
20 quick closing valves, can you, you mentioned chief
21 engineer had a process, did he produce that process to
22 you in the -- in writing as to how they tested the
23 quick closing valves?

24 A. No, there was no process in writing that was
25 produced to us.

1 Q. Okay. And, so as I understand this was the
2 off-going chief engineer that you were primarily
3 interacting with in the engine room.

4 A. That is correct.

5 Q. And I just wanted, if you can just go back and
6 walk me through what he told you his process was for
7 checking the quick closing valves, what it was.

8 A. So during the quick closing valve test, I was
9 interacting, like I said earlier, with the off-going.
10 But I believe the on-coming was also there, so he was
11 assisting the other one in checking the valves.

12 So we explained the process that I wanted to
13 see them all open, and the locations of the valves.
14 And that he was going to block it, based off of not
15 wanted to secure the generator field supply. So he
16 walked me through, we placed a bolt on the service tank
17 that it was loose.

18 Then we went back and verified that all the
19 other tanks, or quick closing valves, correct, the
20 quick closing valves were open. He actuated the valve,
21 and then we went back through and verified that all the
22 quick closing valves had shut. And that the bolt in
23 the service tank was tight. We had him reset it,
24 remove the bolt.

25 Q. And after he reset it and removed the bolts,

1 did you witness any bolts on any other valves after
2 that?

3 A. No, I did not.

4 Q. Okay. Carlos I want to bring up Exhibit #216.
5 This is the diesel oil fuel tank, and that's the
6 condition that we found it in, post-accident. And I
7 believe this is the particular fuel tank that was
8 supplying the engine at the time. Again, I just wanted
9 to confirm that there was no -- you never saw any bolts
10 after you left the engine space?

11 A. That is correct, I did not see any bolts. We
12 verified that all -- there was nothing obstructing the
13 quick closing valves during the test.

14 Q. Understood. That is all I have for the quick
15 closing valves. My last question is, you mentioned
16 you were on deck, and I understand you didn't witness
17 the launching of the lifeboat, I just wanted to confirm
18 what Mr. Bowling had asked earlier, with respect to the
19 recovery of the boat. Did you hear any of the radio
20 communications between the persons on deck and the
21 lifeboat that was in the water trying to return to the
22 ship?

23 A. No, I don't remember and of the radio
24 communication.

25 Q. All right Chief Warrant Officer Roth, thank

1 you very much, I appreciate it.

2 A. Thank you.

3

WITNESS

4

CWO ALAN ROTH

5

EXAMINATION

6

BY MS. McATEE:

7

Q. Hi, this is Nancy McAtee with the National

8

Transportation Safety Board. I just have one question.

9

You mentioned that you were going to test the water

10

mist system that had recently been installed, what

11

location was that system in?

12

A. The actual system is located just forward of

13

the main engine room, in the AC space. So the valves

14

and location are just forward of that. That is -- so

15

outside of the main engine room, crossing a bulkhead

16

into the main AC space there was a small, it is a

17

Nebula High Pressure Water Mist System. We did not

18

conduct a functional test during that exam.

19

WITNESS

20

CWO ALAN ROTH

21

EXAMINATION

22

BY MR. BOWLING:

23

Q. Lieutenant Diaz, bring up Exhibit #078. And

24

Mr. Roth, when he does that, just -- this is a RINA --

25

it's a document, it's similar to a vessel critical

1 profile for the Coast Guard. This is something they
2 call the Leonardo Status. We are going to go to page 7
3 of this, which covers outstanding class
4 recommendations. And I want to go to -- there was one
5 related -- I want to say page 7 -- related to the fire
6 pump.

7 Actually it is right at the top of the page,
8 got it -- FURA, but Fire Main System, Permanent
9 Pressurization, (reading), "The permanent
10 pressurization of the fire pump, fire main system, is
11 required by -- firing -- SOLAS Chapter 2-2, Regulation
12 10, paragraph 2.1.2.1.1, was found not operational as a
13 result of absence of the relevant jockey pump. Line
14 pressurization to be -- in pump to be tested".

15 RINA issued that on 26 July, 2017 (sic), and
16 it looks like it was due after the Coast Guard Port
17 State Control Exam. Was that provided -- that
18 information provided to you by the RINA surveyor as one
19 of the class recommendations that you just referenced
20 earlier?

21 A. It was.

22 Q. And do you -- did you look at that particular
23 system during the Port State Control Exam on the ninth?

24 A. We did.

25 Q. Do you have any information you can expand on

1 that? I'll get to talk to the RINA rep, but what was
2 your recollection of that particular problem?

3 A. Well, the jockey pump, I mean, if it was not
4 operational, they had to repair it. So they couldn't
5 maintain the line pressure on there. These are what
6 they call a wet system on the fire main. So they have
7 to have, maintain a certain amount of pressure. And
8 the jockey pump, which is a smaller pump, is going to
9 maintain that pressure in the system until it gets to a
10 point where it can't maintain it, and the main fire
11 pump will energize.

12 Q. Okay. And with the engine, the two chief
13 engineers, and your interaction there, at any time, did
14 you hear either individual reference any type of
15 preventative maintenance system, or did you ever happen
16 to see any plan or preventative maintenance list of
17 work being done in his room during your examination or
18 visit to the engine room on that date?

19 A. On that date, I did not go through the
20 preventative maintenance system, no.

21 Q. But on earlier visits had you seen such a
22 document?

23 A. On earlier visits we have asked them about
24 preventative maintenance, because they have had
25 machinery disassembled, or pieces of machinery or

1 equipment torn apart. So we have asked them about the
2 condition of that equipment, and they said it was under
3 their preventative maintenance.

4 Q. Okay, all right, thank you very much. Thank
5 you, Commander.

6 **WITNESS**

7 **CWO ALAN ROTH**

8 **WITNESS**

9 BY CDR CAPELLI:

10 Q. Good afternoon Chief Warrant Officer Roth,
11 this is Commander Mike Capelli with the U.S. Coast
12 Guard. And you had mentioned that you did not verify
13 whether the persons doing the job were in accordance
14 with their muster list. When would the Coast Guard
15 verify positions being filled by the muster list on the
16 exam?

17 A. If we would suspect that there was somebody
18 filling a billet that -- or they were unaware of their
19 billet. The muster lists on those ships, on most
20 cruise ships is very large. So in order for us to go
21 and verify every single person it would take the entire
22 day.

23 So we take it by asking them what is your
24 emergency position, and if they can clearly state their
25 emergency position we, we leave it at that. And I

1 don't verify it against the muster list, or the watch
2 quarter station bill.

3 CDR CAPELLI: Thank you. I have no further
4 questions. Does Panama have questions for the witness?

5 MR. ARENAS: No questions.

6 CDR CAPELLI: Panama doesn't have questions.
7 Does Baja Ferries have questions for the witness?

8 MR. BLASINI: No sir, we don't have any
9 questions.

10 CDR CAPELLI: Baja Ferries has no questions
11 for the witness. Chief Warrant Officer Roth, you are
12 now released as a witness at this hearing, thank you
13 for your testimony and cooperation. If I later
14 determine that we need additional information from you
15 I will contact you through your counsel. If you have
16 any questions about this investigation you may contact
17 the Recorder, LTJG Diaz-Colon. The time is 1415 we
18 will now recess until tomorrow 0800.

19 THE WITNESS: Okay, thank you.

20 (Whereupon the proceeding concluded for the day.)

CERTIFICATION

This certificate is valid only for a transcript accompanied by my original required signature on this page.

I hereby certify that the proceedings in the matter of Formal Investigation of the Caribbean Fantasy Marine Casualty Investigation, heard in the Hilton Caribe, San Juan, Puerto Rico, Friday March 24, 2017, were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers one to one hundred seventy-eight constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness whereof, I have affixed my signature this 8th day of May, 2017.

Sally S. Gessner, Court Reporter