


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 VII of VIII

DATE TAKEN: Monday, March 27, 2017

TIME: 0800-1633

REPORTED BY:
Sally Sybert Gessner
Official Court Reporter
Administrative Law Judge Office
Baltimore, Maryland 21202-4022

NATIONAL TRANSPORTATION SAFETY BOARD
MARINE BOARD INVESTIGATION PANEL MEMBERS

ADAM TUCKER
INVESTIGATOR-IN -CHARGE
Office of Marine Safety
490 L'Enfant Plaza East, SW
Washington, DC 20594-2000

LARRY D. BOWLING
Office of Marine Safety
490 L'Enfant Plaza East, SW
Washington, DC 20594-2000

CARRIE BELL
Office of Marine Safety
490 L'Enfant Plaza East, SW
Washington, DC 20594-2000

LUKE WISNIEWSKI
Office of Marine Safety
490 L'Enfant Plaza East, SW
Washington, DC 20594-2000

NANCY McATEE
Fire & Explosive Specialist
Office of Research & Engineering
490 L'Enfant Plaza East, SW
Washington, DC 20594

APPEARANCES ON BEHALF OF PARTIES IN INTEREST

PANAMA

Mr. Gaspar Arenas

AMERICAN CRUISE FERRIES:

Carlos E. Bayron, Esquire

[REDACTED] [REDACTED] [REDACTED]
[REDACTED]
Mayaguez, PR 00681

Luz D. Vargas Rivera

[REDACTED]
Mayaguez, PR 00681

RINA

Paul E. Calvesbert, Esquire

[REDACTED]
Guaynabo, PR 00966

BAJA FERRIES:

A. T. Chenault

[REDACTED] [REDACTED] [REDACTED]
New Orleans, LA 70130

Manolo T. Rodriguez-Bird

[REDACTED]
San Juan, PR 00918-2405

J. Ramon Rivera-Morales

[REDACTED]
San Juan, PR 00918

Jorge F. Blasini-Gonzalez

[REDACTED]
San Juan, PR 00918-3405

TABLE OF CONTENTS

WITNESS :	PAGE
GUSTAVO ABAROA	10
Examined By LTJG Diaz-Colon	11;110
Examined by LTJG Proctor	13
Examined by Mr. Tucker	39;99
Examined by Mr. Bowling	77;104
Examined by Mr. Yets	100;112
Examined by Commander Capelli	105
 ARTURO SANTARELLS	
GIOGIO SALETTI	115
Examined by LTJG Diaz-Colon	116
Examined by Mr. Yets	118
Examined by Mr. Bowling	142;195
Examined by Mr. Tucker	169

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

Start Time 0805

CDR CAPELLI: Good morning, the hearing will now come to order. The time is 0805 today is March 27st, 2017. 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 of the 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 motor vessel Caribbean Fantasy on August 17th, 2016 while approaching the pilot boarding station to the Port of San Juan, Puerto Rico.

I am conducting the 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

1 recommendations for the prevention of similar
2 casualties may be made.

3 We will determine whether there is evidence
4 of any act of misconduct, inattention to duty,
5 negligence, or willful violation of law on the part of
6 any licensed or certificated person contributed to the
7 casualty. And we will determine if there is any
8 evidence that any Coast Guard personnel, or any
9 representative or employee of any government agency, or
10 any other person caused or contributed to the casualty.

11 Panama has been invited to attend this
12 hearing as a Substantially Interested State, and is
13 represented by Mr. Arenas. I have previously
14 determined that RINA, American Cruise Ferries, and Baja
15 Ferries are Parties-in-Interest to this investigation.
16 These parties have a direct interest in the
17 investigation and have demonstrated the potential for
18 contributing significantly to the completeness of the
19 investigation or otherwise enhancing the safety of life
20 and property at sea.

21 All Parties-in-Interest have a statutory
22 right to employ counsel to represent them, to cross-
23 examine witnesses, and have witnesses called on their
24 behalf.

25 I will examine all witnesses at this formal

1 hearing under oath or affirmation and witnesses will be
2 subject to federal laws and penalties governing false
3 official statements.

4 Witnesses who are not Parties-in-Interest may
5 be advised by their counsel concerning their rights.
6 However, such counsel may not examine or cross-examine
7 other witnesses, or otherwise participate.

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

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

18 Since the date of the casualty, the National
19 Transportation Safety Board and the Coast Guard have
20 conducted substantial evidence collection activities,
21 and some of that previously collected evidence will be
22 considered during these hearings.

23 Should any person have, or believe he or she
24 has information not brought forward which might be of
25 direct significance to the ongoing investigation that

1 person is urged to bring the information to my
2 attention by emailing [REDACTED]@USCG.mil.

3 The Coast Guard relies on strong partnerships
4 to execute its missions, and this investigation is no
5 exception. The National Transportation Safety Board is
6 participating in this hearing. Mr. Adam Tucker, seated
7 to my left is the Investigator-in-Charge for the NTSB
8 investigation. Mr. Tucker would you like to make a
9 brief statement?

10 MR. TUCKER: Good morning, my name is Adam
11 Tucker, I'm the Investigator-in-Charge for the National
12 Transportation Safety Board for this particular
13 investigation. The NTSB is an independent federal
14 agency which under the Independent Safety Board Act of
15 1974 codified 49 U.S. Code Chapter 11 is required to
16 determine probable cause of this accident, to issue a
17 report of the facts, conditions, and circumstances
18 related to it, and make safety recommendations to
19 prevent similar accidents from happening in the future.

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

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

10 Thank you.

11 CDR CAPELLI: We will now call our first
12 witness of the day, the Designated Person Ashore for
13 Baja Ferries.

14 LTJG DIAZ-COLON: Will the witness please
15 stand and raise your right hand.

16 **WITNESS**

17 **GUSTAVO ABAROA**

18 **DESIGNATED PERSON ASHORE FOR BAJA FERRIES**

19 A witness produced on call of the Coast Guard
20 was duly sworn according to the law, was examined, and
21 testified as follows:

22 WITNESS: Yes, I do.

23 LTJG DIAZ-COLON: Okay thank you, please be
24 seated. For the record, sir, please state your full
25 name and spell your last.

1 THE WITNESS: Yes, this is Gustavo Abaroa, A-
2 B-A-R-O-A.

3 LTJG DIAZ-COLON: For the record, will the
4 counsel please state your full name and spell your
5 last?

6 COUNSEL/MR. CHENAULT: Yes, my name A. T.
7 Chenault, I am counsel for Baja Ferries, and Mr. Abaroa
8 as a representative of Baja Ferries, my last name is
9 spelled, C-H-E-N-A-U-L-T.

10 **EXAMINATION**

11 BY LTJG DIAZ-COLON:

12 Q. Okay sir, where are you currently employed and
13 what is your position?

14 A. I work for Baja Ferries. I am the Designated
15 Person Ashore.

16 Q. And how long --

17 CDR CAPELLI: Sir, can you bring that
18 microphone a little bit closer? Thank you.

19 BY LTJG DIAZ-COLON:

20 A. I work for Baja Ferries. I am designated
21 Person Ashore, and what was the other question?

22 Q. Yes, how long have you been working for Baja
23 Ferries?

24 A. In several periods. I have been working for
25 Baja Ferries since 2002/2003 and I was out from the

1 Company working for other company, and came back in
2 2007. Since then until 2013 I was -- I went for
3 retirement. And I came back in 2014 up to this date.

4 Q. And at the time that you had worked during
5 that period for Baja Ferries have you always been the
6 DPA?

7 A. No, from 2014 up to date, I have been DPA.
8 Previously I was technical superintendent, and in some
9 time I was DPA also. But the, most of my job was as
10 technical superintendent.

11 Q. Okay, and what is the highest level of
12 education you have completed?

13 A. I finished nautical school in 1968. After
14 that I have several training and courses related with
15 my career, upgrades in school, DPA and internal auditor
16 training.

17 Q. Do you hold any professional licenses or
18 certificates?

19 A. Yes, I am naval mechanical engineer and I have
20 a professional (unintelligible word).

21 LTJG DIAZ-COLON: Thank you. Now I am going
22 to pass the floor over to Lieutenant Proctor who will
23 lead off the questions for the Coast Guard.

24 **WITNESS**

25 **GUSTAVO ABAROA**

DESIGNATED PERSON ASHORE FOR BAJA FERRIES**EXAMINATION**

BY LT PROCTOR:

Q. Good morning sir. Could you please pull the microphone closer so that the -- the one on your right.

A. Okay.

Q. Thank you.

A. Yeah.

Q. What are your defined duties and responsibilities as the Designated Person Ashore?

A. In charge of the development of the Safety Manual/Management System, implementing in the Company, ashore and on board the vessel. And this is to be done, supported by -- on board by the master and ashore by the Board of Directors with the support of the Chief Executive Officer.

Q. And so who do you report to?

A. To the Chief Executive Officer.

Q. Okay, and who on the ship would report to you, and what type of reports would they provide, and how frequently?

A. There are many types of reports which are issued on board the vessel, not all of them come to my attention. Some ones like handover reports monthly reports they do, as well to the superintendent of the

1 vessel. They are, mostly they are on a monthly basis.
2 All the reports remain on board and I have the
3 opportunity to verify them and check when I do make
4 visits on board the vessel.

5 Q. How frequently would you do those visits?

6 A. It's about each three months. Most of the
7 times, previously to a periodic inspection, or when
8 there is an internal audit regardless of the date of an
9 external inspection, I do a visit, that's once a year.

10 Q. And you had mentioned some things don't get
11 reported to you, what type of things would not get
12 reported to you that stay on board the ship?

13 A. What is not reported to me? Well, for example
14 familiarization records, they are not sent to me
15 because they are in the continuous basis mostly. The
16 vessel had about 124/126 crewmembers, and almost all
17 the weeks there are people signing on and signing off.
18 And each ones which come on board receive
19 familiarization from the safety officer, and they sign
20 all the documents as received this familiarization and
21 understood. So this kind of records I don't receive.

22 Checklists, for example, every day before
23 departure, before arrival, there are checklist to be
24 followed. I don't receive them, they remain on board,
25 and most of the times they only write in the logbook,

1 verify this situation according to checklist, so and
2 so's number.

3 Logbooks I don't receive them, they remain on
4 board. All (sound like) record book, for example,
5 remains on board together with the delivery notes.
6 Receiving bunkers, or delivering ashore oily water, by
7 example is large. All these kind of records I don't
8 receive they remain on board.

9 Q. You had mentioned checklists, are these
10 maintenance type of checklists, or are these checklists
11 in emergency duties, or an emergency situation type of
12 checklist?

13 A. There are several type of these one,
14 checklist. Some ones are related to normal operation
15 of the vessel, like previous to arrival and departure.
16 There are other checklist like inspection of safety
17 equipment done by a deck officer, which has to check
18 the validity of pyrotechnics, food, water, all the
19 stuff which has to be on board the vessel inside the
20 lifeboats and in the bridge.

21 Q. Do you --

22 A. Other ones are -- sorry -- checklists are just
23 routine maintenance and that's it.

24 Q. So for these type of checklists, that is up to
25 the crew on board to maintain and you, do you ever

1 evaluate those checklists for effectiveness, or do you
2 ever review them?

3 A. Yes, yes I do.

4 Q. What is your authority in the Company, and
5 what can you make decisions on, and at what point do
6 you have to receive higher authority for approval on
7 some of the things?

8 A. In fact, I don't have authority. I have
9 connection to the CEO. If there is something which
10 bring the attention, something extraordinary, that the
11 -- lack of supplies, materials, spares, which are
12 really important and comes to me the information, I go
13 straight to the CEO. But I have nobody under my
14 command as such. I just recommend, inform and have an
15 open connection to the CEO.

16 Q. So how, what is the process of communications
17 from the ship to the CEO who, does -- who on the ship
18 report to you?

19 A. The ship reports to me, the -- sends to me
20 some monthly reports. If I catch something which is --
21 requires immediate attention, or there is something
22 which is just left behind, I can connect to the CEO.

23 And we have also, there is another system that
24 we implemented, we have a generic email address which
25 can be used by -- from captain to the lower level

1 rating they can use this email address to inform any
2 situation, they can, they believe is necessary to bring
3 the attention of the Company.

4 By the way, I didn't receive any message with
5 this. I just check the -- that this is functioning
6 from time to time and send an email to this email
7 address asking to reply the one I receive, just to make
8 sure it is working.

9 Q. Okay, so back to your authority. So you are
10 saying that you have no defined authority to make
11 decisions. So if a -- if the ship requests something
12 to be changed on board you go directly to the CEO, or
13 can you make the decision and carry out that request?

14 A. I can hand this request to the technical area,
15 or to the CEO. It depends, if we can solve it I talk
16 to the technical area and it is solved, and that is
17 finished. In case the technical area didn't take care
18 of something I go to the CEO. But usually everything
19 is solved between us only.

20 Q. So what type of things can you make decisions
21 on?

22 A. Regarding to the system?

23 Q. Yes.

24 A. Because I -- no, I mean, it is regard to the
25 system is where I can make decisions. When I receive

1 by example some suggestion or request from the vessel,
2 they say we have a form which is not necessary because
3 it is too many documents to say the same thing, again,
4 and again, and again. Once they told me, it is too
5 much papers to say the same thing. So I review, I make
6 one compact form reduce three or four documents, that's
7 my decision. And I just go to the CEO to have his
8 approval and publish and implement. But I have no
9 authority on board the vessel if that was the question.

10 Q. What is your relationship with the RINA
11 classification society?

12 A. In two ways, RINA is the classification
13 society, also is the recognized organization, so they
14 issue the certificates of SMS, the ISPS, MOC on behalf
15 of the flag. And the other was the classification, the
16 items that are handed by them, this relation is mostly
17 with the superintendent, not with me. And the
18 statutory certificates which are also issued by RINA.

19 Q. So, I understand RINA's roles, but what is
20 your relationship with them? How do you work with them
21 and the ship? Or do you work with RINA?

22 A. We have very close communications, because if
23 we have a Port State Control, and some deficiency comes
24 to -- there is a finding we have to inform RINA, to be
25 honest at the beginning of the management of the vessel

1 here in the Caribbean, I made a mistake and I didn't
2 inform RINA of some deficiencies found by Port State
3 Control, afterwards, you can -- everything comes to
4 light here.

5 So when RINA knew about these deficiencies,
6 and I didn't inform, they made me a non-conformity, and
7 I have to rectify this. But that was at the very
8 beginning in 2014. Now I have close communication with
9 them, any non-conformity, deficiency, or issue that
10 arises on the vessel is communicated to RINA and it is
11 communicated also to the flag.

12 The Panamanian flag has a system where any
13 non-conformity I have to inform them, including the
14 root cause analysis, the correction actions, the
15 preventive actions. I send them and we are up to date
16 with this information.

17 Q. Thank you. So I understand that the Safety
18 Management System is part of your responsibility as the
19 DPA. What is your role, and what initiative have you
20 taken with the SMS to ensure it is properly implemented
21 on board?

22 A. I have made several familiarization with the
23 crew, with the master and officers. I follow all their
24 familiarization to the rest of the crew. I check with
25 the internal audits, I check the implementation and the

1 -- whenever there is something which doesn't match I
2 issue a non-conformity or an observation, and follow-up
3 this and inform always to the CEO, and to the technical
4 superintendent.

5 Q. Can you provide some more details on this?
6 So, if you were to issue a non-conformity, what follow-
7 up actions do you take?

8 A. Well for example there was a non-conformity
9 because I find out that the familiarization of the
10 crewmembers, the new joiners, was not properly done. I
11 made a non-conformity and I followed, and I interviewed
12 the persons which should be trained, which was not
13 properly trained. I interviewed them, and follow it
14 through until I was satisfied with the training, that's
15 one example

16 Q. Okay, and earlier you had mentioned external
17 audits, can you please describe that process and your
18 involvement with the audits?

19 A. Yes, I do one internal audit, once a year.
20 The scope of the audit is, goes through all the ISM
21 code. Then I prepare a list of questions for each
22 area, I prepare a question and I put in the next column
23 the finding, comments. In another column I put the --
24 if there is a, this item is a non-conformity, there is
25 an observation or it is okay.

1 Besides the documents and interviews I do a
2 round in the trip, in the vessel just to make sure of
3 how things are going.

4 At the end of the internal audit, I do the
5 closing meeting. First I do the opening meeting, and I
6 explain the scope of the audit. At the end I do a
7 closing meeting, explain the findings. Sometimes there
8 is a clarification from the crewmembers, could be
9 misunderstanding, or something, different points of
10 view, there are clarifications, and sign the -- at the
11 end the report. Issue the non-conformities if they
12 are, and follow-up the clearing of these non-
13 conformities, or observations.

14 Q. What trainings have you received in how to
15 conduct audits on board vessels?

16 A. I receive training in the NPT Company in Ft.
17 Lauderdale for ISM, DPA, and internal auditor.

18 Q. In the time that you have been working with
19 Baja Ferries, what portions of the Safety Management
20 System have you reviewed and made any changes?

21 A. I didn't understand.

22 Q. Have you made any changes to the Safety
23 Management System since, I believe you said you have
24 been DPA since 2014?

25 A. Yes, yes I did. The ISM system we have is the

1 system which was implemented by the previous management
2 of the vessel, it was a Company, V Ships Leisure. So
3 the agreement between Baja Ferries and V Ships was --
4 when the contract with V Ships was finished, we were
5 going to take the management of the vessel, and they
6 gave all the same system.

7 The idea was because the crew already knew the
8 system and it was going to be easier just follow-up
9 this manual. So the first thing I made was adapt the V
10 Ships systems to Baja Ferries, removing some things
11 which we don't use. By example the V Ship system is
12 created mostly for cruise ships, we don't handle this.
13 The Zodiac boats, or tender boats which normally are
14 used by the cruise ships when they are at anchorage,
15 and use it then to take the passengers ashore and back.

16 Things like that was removed. The software
17 that V Ships used we don't bought, neither rented, this
18 ship to shore is the system. So I remove also these
19 things.

20 This was the first adaptation of the system.
21 And afterwards with the day to day use of the system,
22 we find that something is not required, or is not
23 complete to our requirements. Some ones needs reduce
24 otherwise, other ones need increased.

25 Now-a-days we have a deep review of the

1 manual. This has been done by the CEO, the technical
2 area, and myself. Because we are going to use the V
3 Ships, let's say, system, adapted to Baja Ferries, and
4 translated into Spanish. Because this system you are
5 going to use in the other vessels which has a company
6 in -- trading in Mexico. Actually there are three
7 vessels trading there, there are two ROPAXs and one
8 RORO.

9 And the system is always under improvement
10 because I think a perfect system will never be reached.
11 Always there is something that the -- some masters
12 review point out, or you find out that there is some
13 mistake and it has to be corrected, that's why I think
14 this is always under improvement.

15 When we finish this deep revision of the
16 system, we are going to submit to RINA for a review,
17 because this is a -- not small changes of paragraphs or
18 typing, this is a big change. So we will need to send
19 to RINA for review, and after their approval and we
20 will implement in the vessels.

21 Q. Can you speak briefly to the ship's safety and
22 environmental protection policy?

23 A. Yes it, the Company commitment is to provide a
24 safe working space for the crew, for the passengers,
25 for the vessel itself and protect the marine

1 environment.

2 Q. Earlier you mentioned an email address for
3 crewmembers --

4 A. Yes.

5 Q. -- to contact you for safety. Have you
6 received any reports from crewmembers regarding the
7 safety on board?

8 A. No, no one. I just received, not an email, it
9 was a phone call from a crewmember, she -- it was a
10 lady, she was complaining because she felt there was
11 being chased by his boss to fire her. At the end of
12 the day, I took the information, I pass over to the
13 crew manager.

14 There was a relationship not very clear with
15 another crewmember which was already arrested in
16 Republic Dominicana, and there was something grey
17 (sounds like) between them, at the end this lady
18 resigned. She was going to sue the Company, she didn't
19 do and just took his properties and left.

20 But that was the only case I received a call,
21 let's say, asking for help. But nothing, safety issues
22 or lack of maintenance, or other type of complaints or
23 requests for help, no never received.

24 Q. Thank you.

25 A. Let me tell you that also this MOC email

1 address is at the disposal of the crewmembers to comply
2 with MOC. Because if there was someone which don't
3 receive his salary as should be, or there is something,
4 he has a complaint and the -- his boss doesn't take
5 care of him, they can use this email address to ask for
6 help to the Company.

7 Q. Thank you. What is your involvement in the
8 corrective actions of deficiencies found in lifesaving?

9 A. The corrective actions involving what?

10 Q. So if on board the vessel, if they find
11 deficiencies, or -- in the lifesaving equipment on
12 board how do you -- are you involved in this,
13 corrective actions for these deficiencies? How does it
14 get reported to you and then what happens?

15 A. Well, there are several sources. One is the -
16 - my own internal audits which come, rise to a non-
17 conformity. Other one is Port State Control, the
18 findings, the deficiencies of several degrees. Other
19 one is the class with -- which finds something out of
20 order, to be repaired, maintained or something.

21 And the other source is the flag. The flag
22 makes by themselves the annual safety inspection. So
23 from all of these sources, I participate mostly with
24 the Port State Control, and with the internal audits.
25 Not with the, the corrective action itself, physically.

1 Because this is in the hands of the technical
2 superintendent. But yes, to follow these corrective
3 actions until they are clear.

4 Q. What about for deficiencies found by the
5 crewmember on board, you know, if they find something
6 wrong with their lifesaving -- what, how are you
7 involved?

8 A. No, they didn't write deficiencies like that.
9 There is a report of lifesaving appliances and
10 firefighting equipment. The safety officer issue these
11 reports and their -- they write or state which is in
12 bad condition or has to be repair, replaced or
13 something. And that is followed by the technical
14 superintendent.

15 Q. I'd like to call Exhibit #E263. So this is a
16 letter from Panama that RINA basically authorizes CMR
17 Tunisia that is different from the original
18 manufacturers to carry out the annual inspection of the
19 lifeboat release system and the davits system.

20 Do you have any involvement in the decision-
21 making from the Company that allows the Company to use
22 someone other than the original manufacturers to carry
23 out annual inspections of lifesaving equipment?

24 A. I was involved with the flag, to ask for
25 authorization, and this was a request from the

1 technical superintendent. Just the communication with
2 the flag and get the authorization and that was it.
3 There were some problems with the original manufacturer
4 to attend vessel while in dry-dock.

5 Q. Okay, and what risk mitigation factors were
6 considered in allowing technicians other than the
7 original equipment manufacturer to service the
8 lifesaving equipment?

9 A. What risk factors?

10 Q. Yes, risk mitigation factors.

11 A. Yeah, well that was handled by the technical
12 superintendent, he was on site in the dry-dock, and he
13 was facing the troubles to bring the manufacturer on
14 board. As I remember there was something with security
15 issues, and how did he decide or select the Company to
16 do this job, I don't know.

17 Q. Why would you choose a dry-dock location where
18 manufacturers could not attend to service the
19 equipment?

20 A. Well the -- I was not involved in the decision
21 of where the vessel was going for dry-dock, first.
22 Second the dry-dock place, or the shipyard was, I think
23 was not selected because of the availability of service
24 suppliers. As far as I know the dry-dock, the place
25 and the shipyard was selected because of economical

1 convenience to the Company.

2 Q. Thank you. What does the ISM code say about
3 obsolete documents?

4 A. To be removed immediately. Remove and --
5 forms, or procedures, instructions, which become
6 obsolete or out of date, they have to be removed from
7 the system and destroyed. Records which use the
8 previous they may -- they maybe keep in archives. And
9 that was one of the troubles we had with the system at
10 the beginning, because the crew were using, let's say
11 for one, version 2014, and we have a form one, version
12 2015, by example, it happened.

13 Q. So, how does the ship ensure the proper
14 control of documents? So if something like that were
15 to happen, you know, what corrective actions are taken?

16 A. When I send a revision or a new edition of
17 some document to the vessel. Because of the distance,
18 I send by email, and I ask the, there are four systems,
19 or four sets of manuals on board printed, one with the
20 master, one with chief engineer, one with hotel
21 director, and one with staff captain.

22 Besides those printed manuals there are the
23 digital versions with the same people. So when I send
24 I do a new edition of some document I send to all of
25 them and I ask to print, including the manuals. Remove

1 the old document and destroy. And I receive
2 confirmation that the -- okay, we receive, printed, and
3 old version is destroyed.

4 Q. What is your involvement in reviewing,
5 updating, and implementing the ship's muster list or
6 station bill?

7 A. This is done by the safety officer, the staff
8 captain and the captain. And my involvement in this
9 was only to handover to the class for review and
10 approval.

11 Q. So how do you ensure that the correct station
12 bill is implemented on board?

13 A. It is class approved, and posted, and from the
14 muster bill, the safety officer issues the safety cards
15 for each crewmember where there are their obligations.

16 Q. Do you verify that the correct muster list is
17 posted and available to the crewmembers?

18 A. I verify that it was posted, yes, and it is in
19 a common aisle, it is available for crew members.

20 Q. I'd like to call Exhibit #012.

21 (Brief pause.)

22 Q. Is this the current and approved muster list
23 for the Caribbean Fantasy?

24 A. Yes.

25 Q. So in previous testimonies, crewmembers stated

1 that the incident code for a fire is Mr. Skylight, and
2 that was what they have been trained to practice on.
3 Can you tell me why the crew believed that Incident
4 Code is Mr. Skylight for fire, when this current and
5 approved muster list uses red, red, red?

6 A. Yes, Mr. Skylight belongs to the previous
7 muster bill, and it was the master's decision to use
8 the previous which was not so different from the new
9 one. This one was issued or approved in February. The
10 vessel left a few days later to dry-dock without hotel
11 crewmembers and remained there until July arrived back
12 to Santo Domingo in beginning August without the hotel
13 crewmembers.

14 So the decision made by the master to use the
15 previous muster bill, because all the crewmembers from
16 the hotel were familiarized with this muster bill. And
17 to have chance later to implement the new one, and
18 train the guys with the new one. However, there was no
19 time to do it.

20 Q. Okay, so you are saying that the muster list
21 dated in February was the approved muster list
22 throughout -- since February, and no changes were made,
23 and that the captain decided to use the one approved
24 before February.

25 A. Yes, because the hotel crewmembers are very

1 important with the passengers, to handle them, to
2 direct the assembly points. And since it was coming
3 back into operation with the hotel people not knowing
4 the new muster bill, he decided to use the old one and
5 after that implement the new one and change all the
6 safety cards, and train the people. Every Saturday
7 there is a drill. So that was the intention.

8 Q. Is that acceptable for crew to use the old
9 muster list when this current one is implemented?

10 A. Well, it was the master's decision in regard
11 to safety. I think if he has confidence the behavior
12 of the people with one muster bill, and he wanted to
13 have time after that to train and to put in place the
14 new, I think yes.

15 Q. Did the captain inform you of this decision?

16 A. No.

17 Q. So the -- it is up to the master's discretion
18 to pick and choose which station bill he wants to
19 follow?

20 A. Not only the muster bill, I think if he felt
21 confident with the knowledge of the crew with the
22 previous one he chose this.

23 Q. And is he allowed to do that?

24 A. Well it would be better to choose the new one,
25 with time enough to train the crew, to avoid confusions

1 and -- to have everyone their safety cards on hand.

2 Q. So you are telling me he is allowed to use an
3 old station bill in light of a new and improved one?

4 A. Yes.

5 Q. And he does not have to tell you that he's
6 using an old one?

7 A. No.

8 Q. Does the Company ever conduct evaluations of
9 accuracy in crewmember's duties in accordance with the
10 muster list, to determine their effectiveness at their
11 assigned positions?

12 So, for example, in previous testimonies the
13 staff captain and the captain believed that the role of
14 the staff captain was to go around the ship during an
15 emergency, and do emergency duties all around the ship.
16 But according to the muster list and the safety card it
17 says that he is to report to the bridge. When would
18 you evaluate this to determine if the muster list needs
19 to be updated based on the way they actually do things
20 on board?

21 A. The evolution of the duties of the -- if they
22 are according to the muster bill.

23 Q. In order to determine the effectiveness of the
24 duties prescribed according to the muster list.

25 A. This was not evaluated. That was the

1 question?

2 Q. Yes. So can a crew member -- are they allowed
3 to do duties that are not listed on the muster list
4 because they believe that that is the correct way and
5 how it should be even though it is not written on the
6 muster list?

7 A. Well, according to the situation, the muster
8 list is an ideal and theoretical distribution of tasks.
9 But I can say that according to the specific situation,
10 maybe it is necessary to change -- I don't know an
11 example, like the duty of one AB, suddenly the master
12 says, or staff captain, or safety officer says, okay
13 leave this is it not necessary to be here, come and do
14 this, another task.

15 I think the muster bill is a theoretical
16 distribution of the -- all of the jobs in an emergency.
17 However can be modified on role (sounds like).

18 Q. So, during a drill are they also allowed to
19 deviate from the muster list?

20 A. No, not in the drills. I mean only in the
21 real situation. For example I am motormen, and my duty
22 is report to lifeboat #1. However, I am injured and I
23 am not able to report, in fact, I need to be moved in a
24 stretcher out from the engine room. So my duty will be
25 done by someone else, and has to be adjusted. There is

1 something to cover each other.

2 But, in a real emergency I think that
3 something has to be modified, but on the role, you have
4 no chance to do a plan, or to write down a new
5 instruction, it is just do it and cover all the tasks.

6 Q. Okay, so what you just described to me is a
7 reactive measure in that moment in time. But from an
8 operational standpoint, they should be following the
9 muster list?

10 A. Yes. Yes, as a drill or training, that is to
11 be followed.

12 Q. And I am referring an emergency, so that was a
13 reactive measure to, you know, very specific. But for
14 operations they -- the crewmembers should or should not
15 be following the muster list in an emergency?

16 A. In an emergency the crewmembers should follow
17 the muster bill as much as possible. Because what is
18 planned with -- previously without the emergency
19 pressure so they have follow as much as possible.

20 (Brief pause.)

21 Q. You had mentioned the safety cards that the
22 crew members use.

23 A. Yes.

24 Q. So the Company allows crewmembers to use these
25 safety cards?

1 A. Yes.

2 Q. And how are these documents controlled to
3 ensure that duplicates are not created and old ones are
4 removed?

5 A. They are internal from the vessel, and this is
6 issued by the safety officer only. He controls the
7 safety cards, and compares the duties of the safety
8 card to the muster bill. Sometimes with the -- in a
9 crisis or an emergency you can even forget your name.
10 So the idea is to not to punish the people, is to
11 supply tools to do the job properly.

12 Q. Okay, Thank you. At any time after the fire
13 and abandon ship on the Caribbean Fantasy, did the
14 Company consider a third party assessment of the
15 lifesaving equipment on the ship?

16 A. After the fire, the Company considered an
17 assessment of the equipment?

18 Q. Yes.

19 A. No, we were not allowed to touch nothing, even
20 the life rafts which were on the pier we didn't touch
21 them because everything was under investigation and we
22 want to know as much as possible of this incident, and
23 we are not trying to interfere with the investigation.
24 The experts, they are going to give us the reports.

25 Q. So, did the Company want to have a third party

1 assessment? Did they contact third parties to inspect
2 their equipment?

3 A. I don't know in this moment. I don't know if
4 the companies was going to hire a third party to do an
5 investigation. Now the manufacturers of the lifesaving
6 equipment already made a (inaudible word), I don't know
7 which is the situation of the equipment now. It was
8 something disturbed or not after, what's six months and
9 handling from water to the pier, from pier to the
10 vessel I don't know which is the situation.

11 Q. What is the Company's policy, you know, should
12 an emergency arise on having third parties, companies
13 assess their equipment?

14 A. To assess the equipment?

15 Q. Post-casualty, yes.

16 A. Well when something is used, and the, after
17 the use is damaged or requires service, the approach is
18 to go to the manufacturer, and recertify, recover if
19 feasible.

20 For example, once there was a life raft coming
21 on board, and the life raft fall and broke the -- which
22 is name -- the case of the life raft. And we gave back
23 to the supplier, they analyzed and said at the end of
24 the day, they said it is not feasible to recover, only
25 the case was broken, but we have to buy a new one, and

1 replace the damaged one.

2 Once when we made a drill in 2011 we lost
3 several cases of the life rafts, they went down in the
4 sea and the divers didn't find. So we have to buy new
5 cases for the ones missing. So the policy of the
6 Company is go always to the manufacturer to have the
7 proper maintenance re-certification or replacement if
8 it is necessary.

9 Q. So thank you. I am referring to in an
10 emergency situation, in a casualty of some type where
11 lifesaving equipment had to be used as what happened on
12 August 17th.

13 A. Yeah.

14 Q. What is the Company's policy or procedure for
15 having a third party come and assess the status of the
16 equipment?

17 A. I don't have it clear if there is a policy to
18 assess after the casualty. What I have -- I do have
19 clear is that once the vessel is all the investigations
20 with the insurance participation, once all is clear and
21 decisions are made, if the vessel is going to be
22 repaired in all aspects, the machinery, the electrical,
23 the steel, lifesaving equipment, the firefighting,
24 everything has to be restored as to original, that I do
25 have clear.

1 Q. So the Company did not have any concerns with
2 evaluating the lifesaving equipment after the incident?

3 MR. CHENAULT: Lieutenant Proctor, I think
4 neither he nor I am completely clear on the question
5 because at this time, after the incident there was a
6 marine investigation ongoing for all of these items
7 with the NTSB, and the Coast Guard, which the Company
8 fully cooperated. And are you asking him whether the
9 Company had plans to have a third party other than the
10 -- those involved come in and do a separate
11 investigation?

12 LT PROCTOR: I'm asking if the Company had
13 plans to ask a third party manufacturer to inspect
14 their equipment, of if they were going to leave it up
15 to the Coast Guard and NTSB to handle it for our
16 investigation?

17 LTJG DIAZ-COLON: For example the, the Company
18 had sent out to fire investigators to investigate the
19 fire with us. So just like we were able to get the
20 manufacturers to go out for the lifesaving, did the
21 Company also think about sending their own third party
22 to also join us in the investigation of the lifesaving
23 appliances?

24 BY LT PROCTOR:

25 A. I don't know if the Company is planning to

1 bring a third party to assess the equipment.

2 Q. Do you know if there is any written policy in
3 place on a post-casualty response by the Company in
4 evaluating their equipment?

5 A. No, there is not.

6 Q. Thank you. I am done with my question for
7 now.

8 CDR CAPELLI: At this time it has been a
9 little over an hour, we are going to take a quick
10 recess, the time is 0915, we will recess for ten
11 minutes.

12 (Whereupon a ten minute recess was taken.)

13 CDR CAPELLI: Good morning, the time is 0935
14 we are going to continue with questions to the DPA of
15 Baja Ferries, and Mr. Adam Tucker will be asking the
16 questions.

17 **WITNESS**

18 **GUSTAVO ABAROA**

19 **DESIGNATED PERSON ASHORE FOR BAJA FERRIES**

20 **EXAMINATION**

21 BY MR. TUCKER:

22 Q. Good morning, my name is Adam Tucker with the
23 National Transportation Safety Board. Good morning Mr.
24 Abaroa.

25 A. Good morning Adam.

1 Q. I have some questions for you, some are
2 follow-ups from what you were asked from Lieutenant
3 Proctor before, and some are particular to -- just to
4 get an idea and understanding of the Company and the
5 organization.

6 I was wondering if you can just generally
7 remark on how Baja Ferries is organized. I understand
8 there is Baja Ferries US, there is Baja Ferries in
9 Mexico, and then there is a France connection as well.
10 Can you just generally go through how this all works.

11 A. Yes, the Company is Baja Ferries, SACV that
12 means Sociedad Anonima Capital Variable it is a legal
13 thing in Mexico, as used to be in the States, the LLC
14 and other letters. The head office of the Company is
15 in La Paz, Baja California Sur, in Mexico.

16 And the subsidiaries or the Agent in the
17 States is Baja Ferries, U.S.A., LLC, acting as an
18 agent. There is the -- the CEO has his office there,
19 but frequently he is in La Paz also. The Baja -- the
20 French Ferries, or Baja Ferries France is just a team
21 of -- it was three persons, I think today they are only
22 two. One of them is a technical manager which was
23 acting as superintendent to the Caribbean Fantasy is
24 Nicolas Carion.

25 And the other guy is Eric Bayon (sounds like),

1 he is in charge of the purchasing in Europe. The
2 vessels of Baja Ferries, they are not built in America.
3 So we have equipment built in Europe, in Japan and we
4 have always to buy spares in those places.

5 The relationship is Nicolas Carion became
6 superintendent when the technical and fleet director
7 was busy in China with a retrofit of a new vessel for
8 the Company, new vessel in the Company, not a new
9 build. They remove all the accommodation, built new
10 accommodation and installed -- that's a big job,
11 because you have to connect the everything air
12 conditioning, freshwater, hot water, sewer, the
13 electrical supplies, lighting, the safety, everything.

14 So the -- this director was busy in China with
15 the Baja Star, and when the Caribbean Fantasy required
16 go for dry-dock, the Company decided put in charge of
17 this project to Nicolas Carion. The Baja Ferries
18 U.S.A. is mostly the Chief Executive Officer, his
19 executive assistant and nobody else.

20 Previously there was a crew manager, which was
21 an employee of Baja Ferries U.S.A. She was a lady in
22 charge of the -- to supply the crew, deck and engine
23 to the Caribbean Fantasy only. But I think maybe one
24 year or one year and a half more, I don't know the, how
25 long ago she separated from the Company establishes own

1 company, and she is the supplier of crew for the
2 vessel, deck and engine and later on the hotel also.
3 Hotel crew is on behalf of the charters of the vessel,
4 deck and engine crew is on behalf of the owners.

5 What else -- that is the composition, in
6 Mexico, La Paz, there is a deputy chief executive
7 officer reporting directly to the CEO in Miami. And
8 there is a structure which has several directions,
9 technical and fleet, marketing, financial -- don't know
10 how to say in English, the controller, it is a
11 controller.

12 Q. Okay.

13 A. I think those are all of them, and the staff
14 below all these directors involved with the operations
15 of the vessels in Mexico.

16 Q. Thank you. And staying with that, the Company
17 organization and structure, you mentioned earlier, I
18 believe you said there are three other ships.

19 A. Yes.

20 Q. Besides the Caribbean Fantasy?

21 A. Yes.

22 Q. Okay, does that include the vessel that you
23 mentioned was in China as well?

24 A. Yes.

25 Q. Okay, so there is a total of four ships within

1 the Company.

2 A. Actual, there are four. Previously, when the
3 when the vessel in China was on the retrofit, there was
4 another vessel, the La Paz Star. But now she is gone,
5 she was sold to other company.

6 Q. And was this the only -- Caribbean Fantasy,
7 was it the only Panamanian flag ship that you had in
8 the fleet?

9 A. Yes.

10 Q. Okay.

11 A. All of the others are trading in Mexico and
12 they are -- since it is in the domestic trading, in
13 force to have a Mexican flag, and the Mexican flag
14 vessels must have Mexican crew.

15 Q. And for curiosity, the working language, the
16 official language on the Mexican fleet is that Spanish
17 or English?

18 A. Spanish.

19 Q. Okay.

20 A. No it is Spanish.

21 Q. Thank you. Back to Baja Ferries, you
22 mentioned the crew were supplied by a lady who had
23 once worked for the Company but broke off and it sounds
24 as if she created her own company, is that correct?

25 A. Yes, that's correct.

1 Q. And she supplies, deck, engine, and hotel
2 crew, but hotel crew worked for American Cruise
3 Ferries?

4 A. For the charters, for AC Ferries.

5 Q. Okay, and in addition to this are there any
6 other crew supplied by any other type of sources?

7 A. Yes, when the vessel was coming from dry-dock
8 the Company hired the -- another company to supply
9 crewmembers, this is Mid-Ocean. And they started
10 supplying the engine officers.

11 Q. Do you know if all of the engine officers were
12 supplied by Mid-Ocean, or some?

13 A. Almost all, because there was a chief
14 electrician by example, he was already on board the
15 vessel, he was not supplied by Mid-Ocean. But chief
16 engineer, and the engine officers were supplied by Mid-
17 Ocean.

18 Q. Understood.

19 A. The first, second and two third officers.

20 Q. Okay, and you also mentioned earlier, when you
21 spoke with Lieutenant Proctor about the relationship or
22 the management of the vessel from V Ships. And I
23 believe V Ships was, there was an agreement that Baja
24 Ferries would ultimately take over management of their
25 vessels. Can you describe for me when that transition,

1 around what time that transition took place from V
2 Ships to Baja?

3 A. Yes, V Ships was managing the vessel until
4 2014, and that was April, mid-April some date over
5 there.

6 Q. Okay. And was this a transition that was
7 planned in advance or did it, was it more of a stop --

8 A. Yes, this was planned, no it was planned in
9 advance, the relationship with V-Ships ended as far as
10 I know, smoothly. There was no fight or interruptions,
11 abrupt or nothing like that, as far as I know it was
12 smooth.

13 Even I was -- I had communications with the
14 DPA of V Ships which was in charge of the Caribbean
15 Fantasy. Because since he gave me the system, there
16 was missing some parts by example, and I requested him,
17 he sent to me all of the -- without problems.

18 Q. And was that the same time that you took over
19 as DPA as well?

20 A. Yes.

21 Q. Okay.

22 A. I came back to Baja Ferries in beginning
23 January, and since January to April was this process of
24 took over from V-Ships.

25 Q. Okay, and while we are on the subject of

1 changing over, I understand as well, that the
2 classification of the Caribbean Fantasy had also
3 changed. Can you tell me if you know, why that change
4 had taken place?

5 A. Regarding the management?

6 Q. The classification society?

7 A. The classification, no, I don't know. When we
8 received the vessel in 2008, the class was RINA. When
9 the vessel -- I'm not quite sure, but maybe before the
10 vessel came to the Caribbean it was 2011. In February
11 we went to dry-dock to Panama, and I was superintendent
12 in that dry-dock. The vessel already had the Bureau
13 Veritas classification. I don't remember when changed
14 from RINA to BV. The vessel started trading in the
15 Caribbean in 2011, but I don't know when the class was
16 changed back to RINA. We can find it out.

17 Q. Okay.

18 A. But I don't remember.

19 Q. That's fine. When were you last on board the
20 Caribbean Fantasy?

21 A. Before the casualty it was August 2010. Let
22 me see, because we had an inspection in San Juan. The
23 vessel arrived to Santo Domingo with -- stayed there I
24 don't remember, two, three days. The Coast Guard
25 inspection was Tuesday, 9 August. And the vessel

1 remained at San Juan because Tuesday is not on the
2 schedule of the vessel. So it is Monday, Wednesday,
3 and Friday. So the vessel left San Juan August 10, I
4 sailed on board to Santo Domingo and disembark on
5 August 11.

6 Q. Thank you, and do you remember why your
7 presence on board, why you were on board during that
8 time? Was it because of the Port State Control
9 Inspection?

10 A. Yes.

11 Q. Okay, and what was your tasking, what were you
12 mainly focused on, when you were on board during that
13 time?

14 A. Doing the follow-up of the conditions of the
15 vessel, the advising and recommending the crew about
16 things which could lead to a deficiency.

17 Q. And during the actual drill and Coast Guard
18 inspection, were you walking around with the
19 inspectors, or -- what?

20 A. Yes.

21 Q. Okay.

22 A. Yes, I was walking around, and in different
23 places during the fire drill. Previously during the
24 preparation, there is always -- it is not an opening
25 meeting, but it is -- there is a meeting with the Coast

1 Guard officers. They explain the scope of the work
2 they are going to do, what they require. Then the -- I
3 agree with the master, and chief engineer, first we do
4 this, second this and make a small schedule there.

5 Q. Okay.

6 A. So after that meeting when the drill started,
7 I was in the preparation of the space for the drill
8 with the smoke machine. And the -- following all the,
9 the guys which was participating in the drill, and
10 after that to the abandon.

11 Q. And you mentioned the fire drill. Do you
12 remember where that location of the fire was at that
13 particular inspection?

14 A. No.

15 Q. Okay.

16 A. I think it was in the galley but I'm not sure.

17 Q. Okay.

18 A. Because it is changing always to the galley to
19 the engine room, to accommodation.

20 Q. You also mentioned the abandon ship. I'm just
21 curious if -- did you witness the launching of the port
22 side lifeboat?

23 A. Yes.

24 Q. Do you recall how they released the hooks from
25 the fall wires?

1 A. Well it was released once the vessel, the
2 boats were -- was in the water floating and was
3 released by the manning of the boat. But I don't know
4 how they did it.

5 Q. Okay.

6 A. I didn't see it.

7 Q. Do you recall who was driving that lifeboat at
8 that time?

9 A. Was driving?

10 Q. Yes who was, who the commander of the lifeboat
11 was, do you remember?

12 A. No.

13 Q. Also, during that time, during the inspection
14 and the drill, were you with any of the Coast Guard
15 inspectors down in engine spaces?

16 A. Yes the -- they used to do three teams, two
17 officers in each team. One team goes to the engine and
18 all the technical spaces. Other team goes to deck,
19 cargo areas, and the (unintelligible word) decks, and
20 bridge. And the other team takes care of documents,
21 certificates, licenses and all this stuff with the, in
22 the office of the captain.

23 Q. Okay, and do you, and in particular, do you
24 recall witnessing the testing of the quick closing
25 valves on that particular day?

1 A. No.

2 Q. Okay.

3 A. I didn't go with the team to the engine room.

4 Q. Okay. And still staying with the Company and
5 the management of the Company. Just in general, who is
6 the normal day to day contact between the master and
7 shoreside, is that you or is that someone else?

8 A. No, it is not me, I am available all the time,
9 I have always the mobile phone close to me, and on, not
10 now I have it in the mute. The day to day contact of
11 the vessel was the -- is with the technical
12 superintendent.

13 Q. Okay.

14 A. They have also very close communication with
15 the charters because of the, the operation of the
16 vessel, the cargo to be loaded, the passengers to
17 embark or schedule the -- if there is some trouble with
18 the -- to effect the schedule of the vessel to --
19 bunkering, all these things. Those are the -- with the
20 charters.

21 Q. Thank you. Still related with Company, and
22 Company management, are you aware or do you know if any
23 of the senior management on board the ship are
24 incentivized by bonuses for either maintaining fuel, or
25 cost efficiencies?

1 A. No, I don't know.

2 Q. Okay. Next I'm going to move to shipboard
3 Maintenance, and in particular shipboard safety, system
4 maintenance? Prior to the casualty, were you aware of
5 any defects or deficiencies, or any problems with the
6 firefighting systems, for example the drencher, the
7 nebula system, or the sprinklers?

8 A. There were troubles with sprinkler system, and
9 this was because a check valve, a number ten valve was
10 not tight, was -- how do I say -- didn't close
11 properly. But, I found that when the vessel was in
12 Cadis. But the valve was removed, overhauled and was
13 in working condition after that.

14 Other ones, the nebula no issues to my
15 knowledge. The drencher, we had many problems with the
16 drencher, because of the internal corrosion of the
17 pipes, blocked nozzles, or broken pipes. But those
18 were corrected.

19 Q. Okay. For clarification you mentioned
20 sprinkler, that's a sprinkler system for the
21 accommodation?

22 A. For accommodation, yes.

23 Q. All right.

24 A. The drencher, the one for cargo decks.

25 Q. Okay, and in particular, if you know, what's

1 the -- how do they check, how do they inspect the
2 nebula system, the water mist system in the engine
3 room? Or is there an inspection?

4 A. The, with the test of the system?

5 Q. Yeah.

6 A. Yes, testing the system, putting in service.

7 Q. Okay. Do you know if it happens on a monthly,
8 weekly, quarterly?

9 A. I can't say last inspection tested and maybe
10 it was in the boiler space.

11 Q. And do you recall how it is tested, like does
12 someone activate it automatically, or does someone just
13 open the valves?

14 A. I think it was opened remotely.

15 Q. And remotely means from the?

16 A. From the engine control room.

17 Q. Engine control, okay.

18 A. But I was not present when the -- the Coast
19 Guard officers were in the engine room, so I can't
20 assure how it was -- I know it was tested, I am
21 informed by them, but I didn't see it.

22 Q. Okay, and were you on board during the time
23 when the vessel was in the shipyard?

24 A. At the end of the dry-dock repairs. During
25 the dry-dock repairs I was no on board.

1 Q. And so this is in Tunisia at the end?

2 A. In Tunisia maybe one day before departure from
3 the shipyard.

4 Q. And so you were there for one day, did you
5 sail with the vessel from there?

6 A. I sailed with the vessel. I stayed on board
7 until departure from Cadis. The day before departure,
8 or the same day, I, I disembark.

9 Q. Okay, and so I understand you were not very
10 long in the dry-dock. So I just want to verify when
11 you were there did you witness any of the functional
12 testing of the fire dampers or the quick closing valves
13 during your time?

14 A. No.

15 Q. Okay. Carlos if you can bring up --
16 Lieutenant Diaz can you please bring up Exhibit No.
17 #155. This is the quarterly Safety Devices Report, do
18 you receive these? Do you receive this report from the
19 ship?

20 A. Yes.

21 Q. Do you personally review them or are you
22 responsible for the material that is there?

23 A. No.

24 Q. Okay.

25 A. No, I just receive the information.

1 Q. And in particular, I'm wondering it
2 specifically mentions Safety Devices Report, it is
3 pretty intensive, bearings, lube oil pressure, alarms,
4 cooking water, trip, and LT Diaz, if you can scroll
5 down. Are you -- we notice that this report does not
6 have the quick closing valves on it, and we are
7 wondering if there is a separate report that is
8 produced in addition to this, or it is overlooked?

9 A. No, there is no separate report. And they are
10 not included. You can see the -- all the items which
11 are written with italic letters, they are audit, the --
12 the last two rows, they are written with capital
13 letters. But the other ones which are in italic typing
14 --

15 Q. Um-hmm.

16 A. -- those are added in the revision of this
17 form.

18 Q. Okay.

19 A. Because previously all of those were not
20 included. And this was sent to the vessel to start
21 using. And after that it was missing some other items.

22 Q. Okay. And that's all I have for that Exhibit.
23 You mentioned as well, revisions and updates to the
24 Safety Management System.

25 A. Um-hmm.

1 Q. Who is responsible for that? Can you explain
2 to me how those updates and revisions are done, and how
3 they ultimately make it to the ship?

4 A. Yes, if we take example this form which we
5 already saw.

6 Q. Um-hmm.

7 A. I receive suggestion from insurance surveyor,
8 he told me that this list is very short, and doesn't
9 reflect the condition of all the alarms and safety
10 devices that you have.

11 So I started revision of list - -that's why
12 italic letters are included in there. I did this in
13 connection with the chief engineer, I made a draft and
14 sent to him, and return with his comments, and at the
15 end I sent the new form and put in place, and that's
16 why they were using it.

17 Q. Okay, so if I understand correctly, when a
18 revision is proposed to you, you make that revision,
19 then that's usually in italics. Then you refer to the
20 vessel for their opinion, sorry for their feedback.

21 A. Yes.

22 Q. You draft that based on their comments, and
23 then the new form is sent out to the vessel, and that's
24 the revised policy, is that correct?

25 A. Yes that is correct.

1 Q. Do you know if they -- how do they keep track
2 of the revisions? Is there some kind of system or tool
3 that they can keep track of the specific revision
4 numbers for all the policies that are there?

5 A. At the beginning of each one of the volumes of
6 the system, I have a contents and amendment, the
7 revisions control. So there is -- each section is in
8 the left column -- next column is the name of the form
9 and the content. The next column is the issue date,
10 revision, and date, and the next one is the -- all the
11 revisions which are being done.

12 So if you check the first pages of the system,
13 you go through all down, and see which is the issue
14 number and date and what revisions this form has. It
15 must match with the content inside of the manual.

16 Q. Thank you. And staying with the Safety
17 Management System, is there anyone in addition to you
18 that is authorized to make revisions or edits to the
19 Safety Management System?

20 A. No.

21 Q. Okay.

22 A. There is a Deputy DPA, I keep him informed of
23 all of my movements, even my trips or what I am doing
24 just to have him about ready to come in action if I
25 have something that -- by any reason I could not be

1 there he can enter in action, mostly with all the
2 knowledge. And besides him, I keep informed always to
3 the CEO and the technical fleet director.

4 Q. Okay.

5 A. Now in the company we have a marine
6 superintendent, which has been involved also with the
7 ISM, has no responsibility yet, but he will.

8 Q. And again, staying with the Safety Management
9 System, a couple follow-ups but is this only, is this
10 the only Safety Management System, is this only
11 applicable to the Caribbean Fantasy?

12 A. Yes.

13 Q. Okay.

14 A. Is the only one.

15 Q. And does the Company do the Master's Annual
16 Review?

17 A. Yes.

18 Q. Okay.

19 Q. And if there is feedback provided, how does
20 that filter into the system?

21 A. We do an annual review of the system with the
22 CEO and the technical and fleet director, and sometimes
23 participate the master or chief engineer or both. And
24 the outcome of the review is included in the system,
25 and informed to the vessel.

1 Q. And is there anyone else in your department or
2 organization that does quality checks on the Safety
3 Management System?

4 A. Not yet.

5 Q. Okay.

6 A. Not yet, we already have an ISO 9000 in the
7 Company, this was certified -- I'm not sure it was last
8 year or in 2015, late that year. But we are going --
9 when we finish with the deep review, I earlier
10 commented that we are doing, we are going to match the
11 quality system with the safety system.

12 Q. Okay. And when we were reviewing the Safety
13 Management System that was provided to us, I wanted to
14 verify if this was a newer or older version. But it
15 mentions that the Fleet Operations Manual mentions
16 specifically there is a managing director. Is there a
17 managing director at this time for the Company?

18 A. No, that's a mistake -- it's the CEO -- says
19 at the end managing director -- but that's wrong

20 Q. No, that's a mistake. That is one of the
21 things that was removed. It is the Chief Executive
22 Officer, and that is a, it reads in the introduction of
23 each one of the volumes --

24 Q. Um-hmm.

25 A. -- it says at the end, managing director. But

1 this is wrong.

2 Q. Okay, and has that been revised?

3 A. It is in process, it is in progress, the
4 revision but it is not finished yet.

5 Q. Okay. Throughout these hearings we learned
6 one other thing, and, with respect to Safety Management
7 System is the -- there were two chief engineers on
8 board for quite a period of time. I believe one had --
9 the new one had joined during dry-dock or just after
10 dry-dock, and he remained on board for a lengthy
11 overlap.

12 However, we discovered that there was no -- we
13 cannot find evidence of when he formally took over as
14 chief engineer on that vessel. Do you have any
15 recollection of when that took place, or how that is
16 recorded and logged?

17 A. Yes, there was one chief engineer which went
18 with the vessel to dry-dock. He was relieved by
19 another chief engineer that the, late May 2016.
20 However, this new chief engineer didn't comply with the
21 expectations of the Company. So the chief engineer
22 which went to dry-dock was on holiday. Then when the
23 technical superintendent realized that the new chief
24 engineer -- I will mention by names, because I am going
25 to be confusing. I'm confusing myself. Also you.

1 Q. Sure. No problem.

2 A. I'm going to say Igor went with vessel to dry-
3 dock. Pablo received the chief engineer during dry-
4 dock. And the superintendent was not happy with his,
5 with his job so brought back Igor on board the vessel
6 to support during the dry-dock repairs, during this
7 dry-dock was made a lot of jobs. So the -- many hands
8 and eyes were required to follow-up the workshops, to
9 do their own jobs.

10 So there were two chief engineers. One
11 official chief engineer, Igor was support. Then the
12 Chief Engineer Pablo was removed because was not what
13 the Company expected from him.

14 Q. Um-hmm.

15 A. And came a relief which was Stepien, Tadeaus
16 Stepien. I can imagine the Chief Pablo was not happy
17 when he knew that his relief was coming the same day
18 and he didn't do the handover report.

19 Q. So after the dry-dock, I understand that both
20 chief engineers had remained on board pretty much until
21 the end of the Port State Control Inspection on the
22 ninth or tenth of August.

23 A. Yes.

24 Q. What -- at that time, during the Port State
25 Control Inspection, who was the chief engineer on the

1 articles of the vessel?

2 A. Chief Engineer was Stepien.

3 Q. Okay.

4 A. And Igor was support. The Company decided
5 keep Igor on board because was coming a new chief
6 engineer, and to familiarize and then support him. But
7 the Chief Engineer was Tadeaus Stepien.

8 Q. Okay. Do you remember if there was any
9 handover, or handover notes between these two chief
10 engineers at that time?

11 A. Between Igor and Stepien?

12 Q. Between, yes, correct, yes.

13 A. No.

14 Q. Okay.

15 A. No, and Igor was not chief engineer. The man
16 in charge was Stepien. Igor familiarized Stepien and
17 supported him and that's the reason, because the
18 Company decided to keep him a long time. But the
19 correct procedure was, should be that Pablo hand over
20 to Stepien, which didn't do.

21 Q. Okay, thank you for clearing that up. My last
22 question related to the chief engineer handover is when
23 the vessel left -- so I understand Stepien relieved
24 Pablo -- so at that time of relief, they were -- the
25 chief engineer was Stepien during the sailing to Cadis,

1 Gibraltar, and across the and Atlantic, is that
2 correct?

3 A. Stepien signed on in Cadis and it was very
4 close to sailing from Cadis to Santo Domingo.

5 Q. Okay. So I guess the question was, why did
6 Igor and Stepien not perform a handover in accordance
7 with the Safety Management System?

8 A. In my opinion Igor had no reason to handover
9 to Stepien, because he was not the chief.

10 Q. Okay, thank you.

11 A. You are welcome.

12 Q. The other question I have is, I understand the
13 Caribbean Fantasy had a few Port State Control
14 detentions during its time, both Gibraltar and also in
15 the US waters. I'm wondering if -- you mentioned the
16 audit frequency for the vessel as being an annual
17 basis. Was there any consideration in stepping up the
18 internal audits on the vessel, given the known amount
19 of detentions the vessel had?

20 A. Yes, there is. Now the internal audits are
21 twice a year. However, we have no chance to do it now.

22 Q. Okay. Can you also tell me the day the
23 Caribbean Fantasy got under way to go to San Juan, the
24 day before the accident. We understood that there was
25 a medical disembarkation prior to departure. Do you

1 know -- is there a process in place for communicating,
2 and updating the manifest?

3 A. Yes, and it was not followed.

4 Q. Okay. What is that process?

5 A. It is a -- the chief purser and receptionists
6 they have the list of all the passengers and the
7 crewmembers onboard. Also they control, and I verified
8 this during my visits on board -- they control which
9 people, what amount of people and where they are, which
10 have special needs to mobilize wheelchairs or uletas
11 (sounds like) I don't know the word, or whatever they
12 are impaired in some way they controlled it.

13 Why they didn't remove one person from the
14 list I don't know, but they should do, and that's not
15 something that happened without knowledge.

16 It doesn't happen like -- didn't embark at end that
17 makes noise, and is known by several persons, which are
18 in the control of the passengers and crew.

19 Q. Do you have any knowledge of why the Company
20 had requested to perform the Port State Control
21 examination without the hotel crew for the last Port
22 State Control?

23 A. It was with the hotel crew.

24 Q. We understood from previous testimony that a
25 request had come from the Company to perform the Port

1 State Control exam prior to embarking the hotel crew.

2 A. No, we received the hotel crew in Santo
3 Domingo.

4 Q. Was there a request made to do prior, to do it
5 earlier, before receiving the hotel crew, do you know
6 of?

7 A. No, I have, I didn't have notice of this
8 request.

9 Q. Okay.

10 A. And I don't know who made it if it made. I
11 can imagine that there is a document or email or
12 something to the Port State Control.

13 Q. We were also talking about the reports that
14 you received shoreside earlier. Is there a requirement
15 or policy as to how long you retain certain reports and
16 documents that come shoreside?

17 A. There are some requirements for medical
18 records, by example, which are -- it is written in the
19 system that they are confidential and the time that
20 should be retained in the office. Not to be disclosed
21 to anybody unless the interested party. Other
22 documents which are received, there is no specific
23 policy to retain ashore.

24 By the way, I retain every one.

25 As well as by example, there is different

1 opinion regarding this. I used to keep all the class
2 status and I classified them by date, the -- if today I
3 download the class status I put in the name of the file
4 I put the date. And I -- that's my way to classify
5 them.

6 There are some surveyors, and I am not talking
7 about the RINA surveyors. There are some surveyors
8 which said delete all the record, old versions of the
9 class status. But I am not confident with that, I am
10 not comfortable with that. I prefer keep all of them,
11 they will not make any noise or mistakes because they
12 are classified by date.

13 So I go down, I use the system of year, month,
14 day. I go to the last one is the earlier that I have.
15 It is the same with the reports, I have them all
16 classified by year and I don't destroy anyone.

17 Q. Okay. Back to this, the emergency plan, the
18 station bill. I just wanted clarification on what you
19 were asked by Lieutenant Proctor earlier.

20 A. Yes.

21 Q. What, why was the station bill and the
22 emergency plan changed? Do you know why there was a
23 change? Because we heard from the other crew that the
24 existing one was working well, and effective in their
25 opinion.

1 A. I know there were some adjustments between
2 the crewmembers and the task of a crewmember which was
3 confusing with another task depending on the situation
4 of fire, abandon, or man overboard, the -- things like
5 that.

6 And regarding this, I think the captain has a
7 -- well, I -- not that I think. The captain has a
8 written declaration from the Company in the system.
9 Where he is allowed to override any information or any
10 instruction from the Company, according the situation
11 where he is.

12 And if he considers, in a real situation that
13 he has to move, change, adjust the task of his crew he
14 is the one on board. And therefore he is the master,
15 there is only one master for no confusion. And he make
16 an order, and remove from -- if I am doing, as per the
17 muster bill I am doing some job, and can see there is
18 not required to do in this moment that move me to
19 another position. It's okay.

20 There could be some -- as I said previously,
21 the muster bill is done in ideal situation. We don't
22 have smoke, we don't know if the forward part is
23 flooded, or full of smoke, or there is fire, the so you
24 have to adjust according to the real situation you are
25 living in. And I think that that must be the decision

1 of the master, not the -- if he wants to take the
2 decision, he has to take it.

3 Q. So, I understand that, thank you. With this
4 particular plan though I -- as we understood there was
5 a change to code words and shipboard processes during
6 an emergency.

7 Was there any, was it expected that the ship's
8 crew were to implement this? Or had the Company
9 considering adding resources and assets to, to help the
10 crew adapt to this change?

11 A. No, it is not necessary to put additional
12 resources to adapt this. It is just a matter of time
13 for train with the new muster bill, to the crew which
14 didn't have a, the chance to be trained. That's why I
15 said the master decided use the old muster bill which
16 was well known by the crew. And after that implement
17 and train the people.

18 Q. Within the Safety Management System, because I
19 understand the, the station bill that we have was
20 created in February of 2016.

21 A. Yes.

22 Q. Or approved, sorry, by class.

23 A. Um-hmm.

24 Q. Is there any documentation within the system
25 to indicate that the vessel was not going to follow

1 this until that implementation period had been worked
2 with the crew?

3 A. No, no, there is no, an indication specific in
4 that way. There are some indications like new
5 crewmembers should not take responsibilities related to
6 safety unless he has passed through the familiarization
7 process. But no, not something as you ask.

8 Q. Okay. And because you were on board both
9 audits, and -- internal audits and inspections, Port
10 State Control, do you or any representative of the
11 Company evaluate the proficiency of the crew in
12 speaking English?

13 A. At the beginning, when we took over the
14 management of the vessel, we had troubles with the
15 management in English of the crew. And we made some
16 improvements with the crewmembers. In my opinion they
17 can communicate sufficiently. And I speak with them in
18 English regardless of the nationality. The
19 superintendent, Nicolas Carion, I'm quite sure that he
20 doesn't speak Spanish and he communicates with the
21 crewmembers also.

22 The master doesn't speak Spanish, Jacques
23 Casabianca, he speaks French and English and I don't
24 know if something else. But in my opinion the
25 crewmembers can communicate, receive orders in English

1 and understand them, and follow well follow.

2 Q. Do you receive the safety meeting minutes that
3 are from the -- from the shipboard?

4 A. From the vessel? Yes.

5 Q. And what happens if you see, or identify
6 anything within the safety meeting minutes that
7 requires shoreside action?

8 A. I contact the technical superintendent in the
9 first instance. That the -- used to work and saw the
10 requirement. Sometimes with supplies because it is not
11 easy supply spares from Europe, or from Japan. But
12 always with a follow-up. And there is a status which
13 is issued by the storekeeper, which is the status of
14 the requisitions, the ones supplied, the new ones, or
15 which is the -- how is it going.

16 Q. My last question with this particular subject
17 of Safety Management Systems is, during any of these
18 audits or inspections, do you or any Company
19 representative review the signage that is posted on
20 board? For example the signage for survival craft, and
21 embarkation, and the signage of say on the back of the
22 passenger cabin doors? Does anybody do that?

23 A. Yes, that is the job of the safety officer.
24 And I can imagine you saw already many signs written in
25 Japanese, in Spanish, in Italian, but there are many

1 others written in English, which is the proper signage
2 which must be on board.

3 And there are deficiencies in that regard,
4 because at some, some parts it is not translated into
5 English. Other ones are -- there is no written --
6 there is only the figure to indicate something.

7 Q. Okay. Now I'm just going to go to the
8 day of the accident. I'd like to know when you were
9 notified of something was happening. And when you were
10 notified, if you can recall, it's been a few months but
11 the steps and the measures that you took, and the role
12 of the DPA once you received notification of the
13 casualty?

14 A. I received a phone call from the CEO, and he
15 asked me what did I know of the vessel. And I answered
16 nothing, because, I mean, nothing, no news. And I told
17 him to let me investigate what is the situation, what
18 happened. And he told me seems to be there is a fire
19 in the engine room.

20 Okay, with that information, and he told me he
21 received the information from Witt O'Brien. We have
22 the non-tank vessel response plan with Witt O'Brien and
23 together with them we have Ardent and the National
24 Response Corporation.

25 So I -- with that information I went to Witt

1 O'Brien, to the command center, and they confirmed me
2 that they received information from the vessel that
3 they were, there was fire on board. And they start
4 asking me more information which I didn't have.

5 That was about seven, seven and some minutes
6 in the morning, when I received the first call from the
7 CEO. Mazatlán had, in that time, two hours behind San
8 Juan, now we have three. The -- you don't change the
9 hour here for summer savings. No, you don't?

10 Q. No, they don't change, no.

11 A. Okay, well that's why we have three hours
12 difference now. After, when I received the information
13 from the Witt O'Brien's command center, I tried to
14 communicate with the vessel without success. But I can
15 imagine which was the situation on board, and there was
16 no communication with the master.

17 Finally I could communicate with the agent of
18 the vessel and he confirmed to me that the passengers
19 were being evacuated. Then I sent an email to our
20 generic email address, informing what I knew in that
21 moment, that the vessel had a fire in the engine room,
22 passengers and crewmembers were being evacuated and it
23 was, it has happened approaching San Juan to the --
24 approaching the pilot station.

25 And I was talking many times with the CEO and

1 with Witt O'Brien's command center. I instructed the
2 command center, Witt O'Brien to deploy the emergency
3 response. So they sent National Response Corporation
4 for all the pollution possibilities or risk, and Ardent
5 to take care of the salvage and firefighting.

6 I received instructions from the CEO to move
7 immediately to San Juan, and I left Mazatlán by twelve
8 a.m., about. But I couldn't reach San Juan that day, I
9 had to stop in Miami. And the next day, on the first
10 flight, I am to San Juan. When I arrive here the
11 vessel was evacuated completely. There was smoke still
12 in the coming out from the funnel. It was anchored and
13 I knew that it was touching the bottom in something.

14 The people from Ardent they didn't went on
15 board immediately, because they were waiting for back
16 up team of firefighters to have two teams just for
17 safety reasons. I think it was, the fire was 17, 18,
18 I'm not sure but maybe was 18 evening, or 19, the first
19 approach of the Ardent people to the fire. And from
20 there it was about three or four days with -- they were
21 going back and forth in a chopper taking compressed air
22 bottles for the firefighters, taking people there and
23 back to relieve.

24 There was a -- what was the name -- the
25 salvage master. There were two from Ardent also, and

1 they made plans to submit to the Coast Guard, plans for
2 tow, for mooring arrangements, because the vessel was
3 dead.

4 They made an in water survey in the vessel to
5 know which was the condition of the hull, found a
6 crack, final it was two cracks, but the -- at the
7 beginning it was noticed one crack only. With the
8 position that they gave me, I identified the location
9 in the vessel, it was in a (inaudible word) in the
10 engine room.

11 When all the plans for towing the vessel and
12 mooring was approved by Coast Guard proceeded to bring
13 the vessel alongside. And after the vessel was
14 alongside deployed, two lines of floating booms to -- a
15 containment barrier, to prevent any pollution. And
16 from then we started with doing the preparation to
17 remove the cargo. There was a naval architect which we
18 brought from Italy. From Italy because he is the one
19 that used the company for calculations, drawings, and
20 all the naval architect tasks.

21 He made the plan to remove the cargo, made the
22 hydrostatic calculation of the vessel. This was sent,
23 submitted here to the Coast Guard, and the Coast Guard
24 sent to I don't know who in Washington, or in Virginia,
25 and he was talking with them, explaining which is the

1 situation.

2 We have these tanks, we know this, we don't
3 know that. We assume there was an amount of water in
4 the deck A, which was doing the listing of the vessel.
5 There was lots of water in the engine room bilges, also
6 contributing to the list and trim.

7 And with the -- days after we were allowed to
8 go in the vessel. I was one of the last guys allowed
9 to go in. The first ones were an electrician, the
10 master, the, I think safety officer. At the end, we
11 removed all of the cargo from the vessel,
12 decontaminated the cargo because all of the smoke
13 and the cargo which was present. Hired a company to
14 remove all the food and stuff which was out of -- with
15 the -- maybe with some toxic gas.

16 Ardent also brought a guy which was named the
17 -- what they called the Gas doctor, because he is a
18 specialist in the environment, and sampling the air to
19 know if there is a corrosive explosive or toxic low
20 oxygen content. And all this tasks were made with the
21 supervision and support of the Coast Guard.

22 There was one issue and when all the food and
23 the stuff was being removed from the first, from the
24 cafeteria and restaurant, the galley, and later on of
25 the reefer rooms there was one crewmember which, even

1 they were using Self Contained Breathing Apparatus, he
2 felt sick, he came to the pier and Coast Guard stop all
3 operation.

4 And the -- and came a team in the evening that
5 day made a review, and the next day came a team which
6 is named the, I think it is (unintelligible word)
7 support team. And they came on board, made a review,
8 checked the air and the ambient, and after some
9 adjustments with the plan of the company which was
10 hired to remove all this, they were allowed to
11 continue. All this was placed in a closed container,
12 all in double bags, plastic bags, and all the
13 precautions were taken.

14 Q. Okay. Thank you for that. I have one last
15 question for now, and may have a follow-up after. Just
16 wondering since you were physically here in Puerto
17 Rico, in San Juan, did you witness the removal of the
18 lifeboats from the water to the pier?

19 A. Yes, there was a crane from the pier took from
20 the water then put on the pier.

21 Q. Okay. Can, if you can draw back in memory,
22 what you remember seeing of that?

23 A. I don't remember how it was lashed or secured
24 to lift the boats. I saw the life rafts they were just
25 hanging and put ashore. The MES also in that way. But

1 the lifeboats, I don't see how they hook, or how they
2 manage the -- yeah.

3 Q. Do you remember who was authorizing the
4 removal of the lifeboats, or who was supervising? --

5 A. No.

6 Q. Okay, all right, that's all the questions I
7 have for now, I may have a follow-up, but I thank you
8 very much for your time.

9 A. You are welcome, Adam.

10 CDR CAPELLI: Do you need a break, Sir?

11 THE WITNESS: I guess, just water.

12 CDR CAPELLI: Okay, well we have been going on
13 another hour and a half, why don't we take a recess for
14 ten minutes, it is 1048.

15 THE WITNESS: Okay.

16 (Where upon a ten minute recess was taken.)

17 CDR CAPELLI: Good morning time is 1102 we
18 will now reconvene the hearing. We are going to
19 continue with questions in, questions to the Designated
20 Person Ashore for Baja Ferries and Mr. Larry Bowling
21 will be asking questions.

22 MR. BOWLING: Thank you.

23 **WITNESS**

24 **GUSTAVO ABAROA**

25 **DESIGNATED PERSON ASHORE FOR BAJA FERRIES**

EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BY MR. BOWLING:

Q. Good morning sir, Larry Bowling with the National Transportation Safety Board. Real quick, I wanted to close out the issue or the concerns with the performance of the chief engineer, I believe his name is Plaman Pablov.

A. Pablov.

Q. Can you tell me what you heard directly from the ship's staff? Was the issue with his performance, and where those, his performance records may be located?

A. His performance records I don't know where could they be located.

Q. Yes, sir --

A. But, yes, and this was handled by the technical superintendent of the vessel. When I arrived to the vessel it was, I think it was on the way, the removal of this chief engineer.

Q. And was this information communicated to you verbally, or was it provided in written format, an email, a memo, something to that effect?

A. No, there were comments only, verbally.

Q. Okay, thank you. I want to step back up at the high level before we get into detail, and talk

1 about the Company vessels that are covered under the
2 Document of Compliance, issued to the Company, the ISM
3 document. And I want to start with the La Paz Star. I
4 understand, you said that vessel was sold.

5 A. Yes, it is already out of the Company.

6 Q. When was it sold?

7 A. It was last year, November, December maybe.

8 Q. Okay, and --

9 A. I don't have the date of the -- when she was
10 sold.

11 Q. Thank you. Was it operated at one time under
12 the Document of Compliance?

13 A Not under of this Document of Compliance. The
14 -- Baja Ferries has actually two Documents of
15 Compliance. One is issued by RINA for the system in
16 English which controls the Caribbean Fantasy. And the
17 other Document of Compliance is issued by Bureau
18 Veritas, it is for a different system in Spanish and
19 controls the vessels which operate under Mexican flag
20 in Mexico.

21 Q. Okay, and so by vessel name what vessels were
22 operating under the RINA issued DOC?

23 A. The Caribbean Fantasy only. There is a
24 clarification I have to do. The Company boat/vessel in
25 China, Rishal Dun Fang, something like that is the

1 name, and now is renamed Baja Star. When the Company
2 bought the vessel, changed the flag to Panama and used
3 the same Document of Compliance of the Caribbean
4 Fantasy for this vessel while it was in China.

5 The vessel finished the -- his retrofit in the
6 accommodation and other spaces. And came from China to
7 Mexico flying the Panamanian flag and under the
8 Document of Compliance of RINA.

9 Once the vessel arrived in Mexico, changed the
10 flag from Panama to Mexico, and they implemented the
11 Safety Management System that we have for the vessels
12 in Mexico with the Document of Compliance from Bureau
13 Veritas. And that is the actual situation.

14 Q. Okay, Lieutenant Diaz, would you bring up
15 Exhibit #091, I just want to take a quick look at that,
16 and have the witness address a quick question here.
17 E091, and that should be a RINA Audit report -- that --
18 do you -- have you ever seen this audit report? I
19 understand this is the last Company audit performed by
20 RINA, the results of that. Have you seen that document
21 before?

22 A. Yes, let me see the date December 2016, no.

23 Q. Scrolling down.

24 A. No the date of the document, I would like to
25 see.

1 Q. The audit was performed on 17 March, 2016.

2 A. Okay.

3 Q. And if we can -- when the witness is ready,
4 roll on down to the only non-conformity that was issued
5 here. Keep going. Right there. It is the Non-
6 Conformity #1 issued with that particular audit by the
7 RINA Auditor. It looks like you may have signed it, or
8 stamped it dated, 18 March, 2016.

9 A. Yes.

10 Q. We will talk about this later, because it
11 talks about internal audits. But my question is, how
12 did this non-conformity get issued for the Baja Star,
13 it is not under the RINA -- operating under the RINA
14 Document of Compliance?

15 A. No, in that date the Baja Star was under the
16 Document of Compliance of RINA. The vessel arrived to
17 Mexico in May, more or less. And then we changed the
18 flag from Panama to Mexico and implemented the system
19 with the Document of Compliance of Bureau Veritas.

20 But when the audit was performed in Mexico,
21 this one, the vessel had the Panamanian flag.

22 Q. Okay, thank you. And Lieutenant Diaz, would
23 you bring up Exhibit E005. And I'd like the witness to
24 take a look at it, and verify the date that the
25 technical ship management and the ISM management

1 changed over from V Ship Leisure to Baja Ferries.

2 Scroll on down -- keep going, right there, I
3 believe, roll on up, please, I'm looking for the date
4 of April the 12th, 2014. And where they have it
5 highlighted, would that be -- you didn't have the exact
6 date when one of the other persons asked you the
7 question. Would that be about the right date that V
8 Ships Leisure was no longer involved in the technical
9 management, or the ISM of the ship? Where Baja
10 Ferries picked it back up?

11 A. I am not sure if it was April 12th or April
12 14th but one or two days more or less is the date.

13 Q. Okay, thank you. I would like to hear Your
14 Definition of an observation, a non-conformity and a
15 major non-conformity, just, as your experience as a
16 DPA. What variances do you see between those findings
17 and an audit report?

18 A. A major non-conformity, some deficiency which
19 impairs the safety of the vessel, put in threat the
20 safety of the vessel, the passengers, the crew or the
21 environment, and should be addressed before leaving the
22 port. Could be downgraded by an auditor provided that
23 he ascertained that the vessel or the company took
24 measures to mitigate the impact of this deficiency.

25 A non-conformity is a deficiency which can be

1 solved in a period of time up to three months -- the
2 deficiency is to maintenance or supplies or readiness
3 of some equipment.

4 An observation something, a minor deficiency
5 which can be solved by the crew underway, or can be
6 solved with external resources. But is not putting in
7 risk the safety or the environment.

8 Q. Okay, and you also earlier mentioned -- you
9 used the term, "Continuous improvement". Can you
10 expand on that a little bit and basically tie that and
11 the importance of continually improving into the Baja
12 Ferries Safety Management System, how that works?

13 In other words, you find a discrepancy, you
14 are notified of a discrepancy or a non-conformity, or
15 an observation, how do you get that, so you don't see a
16 reoccurrence of that event?

17 A. Well, just following up all the deficiencies,
18 looking into the system to make sure that the -- if
19 there is an addition of counsel required, design it,
20 and implement, and follow-up.

21 Q. Okay, Captain Casabianca, tell me what you
22 understand of his training and knowledge of the Safety
23 Management System on board the Baja Ferries. Did you
24 train him, did you witness the forms that he signed
25 for, saying he was verified, walk me through that

1 please.

2 A. I met Captain Casabianca in Cadis and made a
3 description of the System. He had previous experience
4 with the Safety Management System as many other
5 officers in the world. I made a description -- we had
6 the agreement of what's going to be reported, how we
7 have to work. And he had to read the system to be
8 familiarized with it.

9 Even the safety officer gave him the
10 familiarization specific in the vessel as well as to
11 the chief engineers when they sign on. And to other
12 captains in when sign on.

13 Q. Okay, and did you or another member of
14 management assess his understanding of the system and
15 how it worked? Was there any validation to his self-
16 review of the system?

17 A. Well we are only starting to work with Captain
18 Casabianca, but he had a good knowledge of the systems,
19 specifically of the Baja Ferries System, he was reading
20 and familiarizing with the system. He has a good
21 knowledge of the duties of the captain and the safety
22 involvement of him. In my opinion he is a good
23 captain.

24 Q. Okay, and is there a form in the Baja Ferries
25 system that is to be completed or signed off on when an

1 individual reaches familiarization with the Safety
2 Management System?

3 A. Yes, there is. There are several ones. There
4 is one to be signed with the safety officer, and later
5 on there are several ones which are self-familiarizing
6 with the vessel and yes, there are several forms to do
7 it.

8 Q. Okay, and do you know if those were completed
9 for Captain Casabianca?

10 A. I know the initial familiarization made by the
11 -- with safety officer done, the other ones didn't have
12 time to follow-up because Captain Casabianca joined the
13 vessel and I was close to leave the vessel.

14 Q. Okay, and with regard to -- you mentioned the
15 captain's role on the ship, and the implementation of
16 the Safety Management System. Can you summarize that
17 with regard to the master's responsibility on board for
18 implementation of the Safety Management System?

19 A. Yes, first of all he has to know the system,
20 and continually he has to move all of his officers,
21 make sure that they are trained, that they know their
22 duties and responsibilities. That they do the job
23 properly. He is not the one that is going to fill out
24 all of the forms. Each officer has his own
25 responsibilities, but he has to follow-up the, that

1 they do it.

2 Q. Okay.

3 A. And that they know the system.

4 Q. And were there requirements under the Safety
5 Management System that was in effect on the Caribbean
6 Fantasy for periodic meetings, safety meetings with the
7 officers, with crew that had safety critical positions?
8 Tell me about those?

9 A. There is a monthly safety meeting which is
10 held onboard, and the captain is the president of this
11 meeting. They do step by step the pending items, or
12 new items to take care of, and they are written in a
13 report. They follow-up all of these items which are --
14 has each head of department.

15 Q. And do you recall seeing any notes, or
16 documentation of such meetings being held under -- when
17 Captain Casabianca had authority on the vessel?

18 A. No, no from Captain Casabianca.

19 Q. If I ask you to use the term safety culture,
20 define the term safety culture would you be able to do
21 that?

22 A. Yes, it is to do things in a safe way by --
23 because you believe in it not because you are forced.

24 Q. And when you were on the vessel, the last time
25 you were on the vessel for the Port State Control

1 examination, I think you said it started on the ninth
2 of August, what was your sense as the DP on there,
3 regarding the effective implementation of the Safety
4 Management System?

5 A. I was happy with this.

6 Q. And give me some examples that you witnessed
7 during that period that led you to conclude that the
8 Safety Management System was functioning the way you
9 wanted it to.

10 A. The crew knew their duties. The safety
11 officer was taking care of familiarizations,
12 inspections, the reviews of licenses in compliance with
13 the safety manning document and all the behavior of the
14 crew was good.

15 Q. Okay, I want to talk about the -- if we could
16 bring up Exhibit #071 and go to section 2.3.1, we
17 looked at it with one of the other witnesses, I believe
18 the safety officer. And if you don't mind, Lieutenant,
19 roll back up and let me ask -- sir have you seen this
20 resolution before, and are you familiar with it if you
21 have seen it before?

22 A. Yes, and this is included in the last addition
23 of the Safety Management Code.

24 Q. Okay, and what I want to do is look at Section
25 2.2, or 2.2.1. And basically, it lays out, in general,

1 flag administration responsibilities under there, with
2 regard to verification of compliance by the ISM Code.
3 And you have seen this before then?

4 A. Yes, and as I said, this is included now in
5 the ISM code.

6 Q. Okay.

7 A. It is separate --

8 Q. Under this Section here, this is -- roll back
9 up, Lieutenant, just -- keep going -- right, this
10 Section here. "Verifying Compliance with the ISM
11 Code". Now go back down, if you don't mind sir,
12 please to 2.3.1.

13 Excuse me, 2.3.1 verification. Right here, it
14 talks about specific standards of safety and protection
15 of the environment specified by the ISM Code. That
16 sub-part .1, "Compliance with Mandatory Rules and
17 Regulations". So, it is a very lengthy question, and
18 I apologize, but I wanted to see this and have this up
19 to take a look at. The vessel was detained in 2014, it
20 was detained again in 2015, and again in 2016.

21 So given those detentions as the DP how would,
22 just tell me how the Safety Management System didn't
23 work in those, at least in those three instances?

24 A. Let's see, how can I explain this. The --
25 between the detentions the vessel had deficiencies, but

1 which didn't lead to detentions. There is a -- every
2 three months there is an inspection.

3 In the case of October 21, 2016 the vessel had
4 many deficiencies, which led to a detention, and that
5 most of them related to licenses of crewmembers. And
6 that was solved with a control that we implemented.
7 All the deficiencies were many but not regarding
8 safety.

9 In 2015 I don't remember which were the
10 deficiencies which led to detention.

11 Q. Okay, and --

12 A. However, after the detention of 2016, we got
13 the improvement again of the vessel and the next
14 examination we had there were only three or four
15 deficiencies, but minor. And when the vessel came back
16 it was improving more. And the examination was passed
17 with small deficiencies.

18 Q. We are done with that, Lieutenant, thank you.
19 Tell me, you mentioned, used the term connect with the
20 CEO during one of your earlier statements.

21 A. Yes.

22 Q. With regard to your role as the DP. After the
23 first Coast Guard detention here, in Sector San Juan in
24 2014, did you have any discussions with the CEO about
25 that detention?

1 A. Yes, we analyzed the situation, and since then
2 he instructed me to be -- previous to each examination
3 to make sure that the things were going in order.

4 Q. And when you and the CEO were having
5 discussions regarding that detention was there anyone
6 else present, was it just you and him, do you recall?

7 A. I think just me and him.

8 Q. Okay, and were there any directions, or
9 tasking, or other type delegations to you from him to
10 rectify the deficiencies that were identified for the
11 2014 detention that you recall?

12 A. The correction of the deficiencies, the
13 physical correction was not in my hands, it was in the
14 hands of the technical superintendent.

15 Q. Okay, the October 21st, 2015, which was the
16 second Coast Guard Port State Control detention, tell
17 me about the discussions, if you had any, with the CEO
18 at that point, over that detention.

19 A. We focused mostly with the licenses of the
20 people, and there were changes in the -- with the crew.
21 We --

22 Q. Okay -- let's bring that up, excuse me, sir.
23 Mr. Diaz, would you bring that detention up, it would
24 be E058, let's let the witness take a look at it. And
25 roll on down, this is the -- have you seen a Coast

1 Guard form A, sir? And a Form B?

2 A. Yes.

3 Q. Okay, just go to the 30 A-C items. So these
4 are the three items that were detainable, if you see
5 that action code, Items #1, Item #2, and #3. So we
6 just talked, or you mentioned that two engineering
7 issues -- or excuse me the two licensing issues that
8 have the STCW cites.

9 I want to look at this first one here. Do you
10 recall discussing that with the Chief Executive Officer
11 at all with regard to Item #1? And Lieutenant, if you
12 don't mind, roll back over so we can -- it's the one
13 that starts out, "The condition of the ship".

14 A. Yes, this was with the bilges.

15 Q. I'm sorry?

16 A. Yes, this was with the bilges condition.

17 Q. Yes, yes, the one that has (reads) "In the
18 engineering spaces, Port State Control officers found
19 deck plates slippery, and surfaces coated with oil
20 layer. Oil is seeping from machinery. All bilge
21 surfaces had an inch thick layer of oil. And bilge
22 pockets in the main engine room were creating a fire
23 hazard".

24 A. Yes, previously to this inspection the bilges
25 were cleaned. But the chief engineer told me that

1 there was, movement of the vessel or some mistake of
2 someone he couldn't explain, and came to this
3 condition, which was found by the Port State Control
4 officers.

5 Q. Okay, and internally, did you complete one of
6 the -- I think it is your Form SAF23, that addresses
7 root cause analysis, corrective action, preventative
8 action?

9 A. Yes.

10 Q. Can you tell me what the root cause -- well
11 what the corrective actions was at that time, for that
12 deficiency?

13 A. The immediate corrective action was empty
14 bilge and wash and clean them. But the -- there were
15 leaks of oil and fuel, which were corrected also.

16 Q. Okay. And then if we could go ahead and bring
17 up, I believe it is E091 which is the last RINA, this
18 is the last company audit performed by RINA. And if we
19 are rolling up to the non-conformities -- right --
20 let's see -- I may have the wrong slide here, bear with
21 me.

22 Go to E117, my apologies. Okay, this is the
23 last survey Port State Control follow-up by RINA, and
24 if we roll on up to post-Gibraltar detention, you see a
25 repeat of the same concern. Keep going -- I believe

1 that the vessel was detained for -- right here.

2 Item Three, "General engine room cleanliness,
3 insufficient". And the reason I draw this -- your
4 attention to this is, I'm looking for an example of --
5 tell me how we were doing continuous improvement, for
6 example this one deficiency, with regard to the
7 cleanliness of the engine room.

8 A. After the repairs in dry-dock in Tunisia the
9 main engines had several oil leaks. And which were
10 repaired in Cadis. It is not to justify, but the type
11 of crankcase covers, they are some, only plates of
12 aluminum, and they have 2, 4, 6 bolts only. It is very
13 easy to bend them and they don't are oil tight.

14 In Cadis we designed a system to improve the
15 sealing of the crankcase doors. And the leaks were
16 stopped, that was looking for how to solve the problem
17 from the root, and not only clean bilges every day.
18 Instead of that, doing that to stop the leaks, and it
19 was achieved.

20 Q. Okay, and I haven't had a chance to go through
21 your Safety Management System in detail, where would I
22 find procedures on fire prevention, fire mitigation,
23 specific to the engine room which would address
24 something like this from reoccurring? What procedure
25 is that?

1 A. This is in the obligations of the engine
2 officers.

3 Q. Okay, and at a very high level, do you know
4 what that particular procedure wants the engineering
5 officer to do, or expects of the engineering officer?

6 A. One of the obligations is to keep bilges clean
7 and there are permanent orders of the chief engineer,
8 which also relate too.

9 Q. Okay, and again, this document is a follow-up
10 from RINA, there is a Port State Control document we
11 have in the record, but I don't, we don't need to see
12 it, unless the witness wants to.

13 A. Um-hmm.

14 Q. My next question is going to be, did you have
15 discussions with the CEO after the Port State Control
16 detention of the Caribbean Fantasy in the port of
17 Gibraltar? And if so, give me details please.

18 A. Yes, I made a call to inform the situation
19 that we have. And what we were doing, or the crew was
20 doing to solve it.

21 Q. And can you recall any direction, tasking from
22 him at that time to you?

23 A. Yes, follow-up to solve this situation and
24 prevent the reoccurrences of this.

25 Q. Okay. If we could bring up Exhibit #083.

1 This exhibit is the Declaration of Designated Persons,
2 are you familiar with that form, sir?

3 A. Yes.

4 Q. And on there, there is an individual that you
5 mentioned earlier, who was identified as the
6 alternative DPA, you didn't mention his name, but is
7 that still correct? Jorge Casias?

8 A. Yes, it's correct.

9 Q. Does Jorge Ruano (sic) have any other duties
10 at the Company besides assistant or alternate DPA?

11 A. Yes, ship technical superintendent.

12 Q. All right, and is he related, in any way to
13 the owner of the company? Or excuse me the CEO?

14 A. He what?

15 Q. Is he related to the CEO of the Company? The
16 Chief Executive Officer?

17 A. Yes.

18 Q. Are there any family relations?

19 A. Yes.

20 Q. What, what are those relations?

21 A. Cousins.

22 Q. Okay. I want to talk about high levels about
23 the Marine Evacuation System and the procedures, and
24 processes in place on the Caribbean Fantasy with regard
25 to deployment of that particular device. How familiar

1 are you with that installation that was on the
2 Caribbean Fantasy and the deployment procedures for the
3 MES?

4 A. I was trained with another system, this is a
5 chute from Soliak (sounds like). I took the
6 installation when I was a technical superintendent. I
7 was in charge of the installation of the chute,
8 previous to these slides.

9 With the slides, we have a -- I followed a
10 training video only. And I was present with the
11 deployment of the starboard side MES in 2011. That was
12 in front of the Port State Control officers, deployed
13 the MES and the life rafts of that starboard side. All
14 of them, and I was present and witnessed the operation
15 and the system.

16 Q. And during those experiences you just
17 described, was the vessel using its fast rescue boat,
18 also called a man overboard boat, or was it using
19 outside sources to work with the slide, manage the life
20 rafts in the water, how was that being performed?

21 A. In the opinion of the experts from the slides
22 they say that the, the bowing line was not properly
23 handled. What I remember of the -- in the deployment
24 of the MES, when the MES is properly inflated doesn't
25 require any pulling, or nothing to strengthen.

1 Goes straight, and doesn't require any help.
2 The bousing line is just to keep in position, in my
3 opinion. But the experts have a different opinion,
4 they say, as far as I understood, that the bousing line
5 is to help the slide to be straight. My opinion is
6 different, that.

7 Q. Okay, and the -- with regard to the rafts,
8 life rafts, inflatable life rafts.

9 A. Um-hmm.

10 Q. Pulling them to the loading platform at the
11 end of the MES, or the slide. How was that done in
12 your previous experience?

13 A. Once you have the slide deployed, you start
14 releasing one by one the life rafts, and the rescue
15 boat has to take the life raft and help to approach to
16 the platform of the slide. And crewmembers help
17 transfer the passengers which are coming from the
18 Slide, from the platform to the life rafts.

19 Q. And within the Safety Management System, the
20 procedure that address the deployment of the lifesaving
21 gear, are there any allowances that the ship be able,
22 or would be authorized to utilize an outside source
23 other than its own craft to deploy the lifesaving
24 appliances?

25 A. To deploy the --

1 Q. Yes. Let me rephrase the question. The --
2 with regard to the training procedures that are in
3 place, or were in place on the Caribbean Fantasy on the
4 morning of August 17th. Are the abandon ship, is the
5 abandon ship process something that the Company
6 expected to be completed independently, with just the
7 assets on the ship? As in crew, and their fast rescue
8 boat?

9 Or was it, are there procedure where the --
10 you can employ Good Samaritan vessels, first response
11 vessels -- do you follow the question?

12 A. Yes, there is no procedure which specifies
13 that the vessel can use outside resources. If this
14 happened far from shore, the vessel should be able to
15 handle by itself.

16 However, then the, the captain is allowed, and
17 it is written, to ask for any help that he might need,
18 or consider is necessary. When things like this happen
19 in port, or close to the port, in my experience, I
20 always, all of the boats available in the port approach
21 and to assist and help to the people in casualty.

22 Q. And in that scenario, are there anything that
23 addresses communications between those other vessels
24 and the Caribbean Fantasy, how is that handled?

25 A. Well they are -- in VHF is the contact channel

1 the number sixteen. In case this happens in other
2 situation, geographical situation, I mean, could be
3 used the DS systems. There is also the, the alarm
4 boat, I mean the Inmarsats. So there are different
5 ways to contact and request for help if required.
6 In the case of the abandon, the GMDSS portable radios
7 also.

8 Q. Okay. The Caribbean Fantasy had a Certificate
9 of Compliance issued from the U.S. Coast Guard,
10 correct?

11 A. Yes.

12 Q. And did the Company operate, or manage in any
13 form any other vessels that had a Certificate of
14 Compliance issued by the United States Coast Guard that
15 you are aware of?

16 A. No.

17 Q. On August the tenth?

18 A. No.

19 Q. Okay.

20 A. The Caribbean Fantasy is the only one.

21 Q. Okay, and up to August the tenth, when you
22 were on the Caribbean Fantasy for the Port State
23 Control examination, up to that time had you ever been
24 involved or previously discussed any potential changes
25 to the Caribbean Fantasy's route, something to Miami

1 or Ft. Lauderdale, were there any discussions about
2 changing the vessel's route?

3 A. No, no.

4 Q. Okay, thank you. Thank you Commander Capelli,
5 I have no further questions.

6 **WITNESS**

7 **GUSTAVO ABAROA**

8 **DESIGNATED PERSON ASHORE FOR BAJA FERRIES**

9 **EXAMINATION**

10 BY MR. TUCKER:

11 Q. Good morning, Adam Tucker with the National
12 Transportation Safety Board. Just one follow-up with
13 question for the witness.

14 The, with respect to the modifications to the
15 shipboard emergency plan, I understand that in addition
16 to the emergency plan, station bill there was existing
17 shipboard Emergency Operation Manual which details 145
18 pages of it, what each crewmember, and what they are
19 expected to do during an emergency. Do you know if
20 this was also updated to be in accordance with the new
21 Emergency Plan?

22 A. No.

23 Q. Okay, thank you very much, and that's all the
24 questions I have.

25 **WITNESS**

1 **GUSTAVO ABAROA**

2 **DESIGNATED PERSON ASHORE FOR BAJA FERRIES**

3 **EXAMINATION**

4 BY MR. YETS:

5 Q. This is Jason Yets of the United States Coast
6 Guard. I have a cold so please bear with me.

7 The auditor training that you received in Ft.
8 Lauderdale that you spoke about during this testimony,
9 when did you receive that training? When did you go to
10 MPT and take the auditor course?

11 A. I think it was late 2014, I think, or maybe
12 October, November, I don't have the date.

13 Q. How do you communicate to the crew on board,
14 who you are, and what you do, and what your
15 responsibilities are? And when I say you, how does the
16 Company communicate to the crew on board who you are
17 and what you do as a DP?

18 A. I used to visit all the spaces on the vessel,
19 the mess rooms, galley, cargo decks, engine room,
20 bridge, mooring decks, and the -- when I see someone
21 which is not familiar to me, I start asking, who is
22 DPA? What does he do? How to contact him?

23 Sometimes some crewmembers they didn't know
24 physically, me, but know which is the position, which
25 is the job, how to contact him. And I do samples all

1 over the vessel.

2 Q. Is there anything on board by way of signage,
3 or a bulletin, or anything that says, this is the DPA,
4 this is what they do, this is how you contact them, and
5 this is why you would contact a DPA. Is anything like
6 that available on board that the crew can read or see
7 outside of just you going on board and...

8 A. Yes, there is posted information. They are
9 posted pages with the address, the phone number and
10 everything. And there is, the mess rooms there is
11 information also for the Company Policies, DPA, the
12 Safety Management System, it is posted.

13 Q. Thank you. And when you were speaking earlier
14 during your testimony about the use of the old station
15 bill, I'm sorry, the old muster list until the new one
16 could be fully implemented.

17 How are the 124 crewmembers on board the ship
18 -- and I am taking that number off the number of
19 crewmembers on the ship the day of the incident -- how
20 are all the crewmembers on board informed that they
21 would be following an older version -- because
22 obviously you had one, and then you went back to the
23 other one, so how was that accounted for that all 124
24 crewmembers, or however many were on board at that
25 time, were notified of this change so you could ensure

1 everybody was --

2 A. On the same page --

3 Q. On the same page, yeah.

4 Q. Yes, I didn't do it, however I can tell you
5 that the second or the newer muster bill was not
6 posted. So it is not necessary inform everyone. We
7 use the number one, or the number two, just the one
8 posted. And the safety cards that each crewmember had
9 they were valid.

10 Q. So you were running on one crew muster, and
11 then a new muster list was implemented, and then -- or
12 I'm sorry, there was a new crew muster list. And then
13 the captain decided to go back to using the old one
14 again.

15 So what I'm asking is, when you went from one
16 crew muster list to another, and then back to the
17 original, how were all the crewmembers on board
18 informed that that process had taken place? That this
19 is the one we are using now, I know we were using this
20 one, but now we are going back to this one.

21 A. Yes, what I understood from the captain is
22 that, or staff captain, I don't remember which one, is
23 that the new muster bill was not in place, and was
24 going to be implemented when all the crewmembers were
25 on board.

1 However, the hotel crewmembers signed on the,
2 some few days before the Port State Control. And all
3 the drills are performed on Saturdays in Santo Domingo,
4 it is a, where the vessel has more time to do it,
5 that's what I understood.

6 Q. Okay.

7 MR. CHENAULT: Mr. Yets.

8 MR. YETS: Yes, sir.

9 MR. CHENAULT: If I can just clarify, just to
10 make sure there is no confusion.

11 MR. YETS: Yes, sir.

12 MR. CHENAULT: What he is saying is that the
13 new muster bill that we have, that is Exhibit #012, was
14 never posted or implemented. So the crew was
15 unfamiliar with that. So it was not a change of muster
16 bills, it was a continuation of using of one that was
17 in place.

18 Q. Okay, thanks for that clarification.

19 MR. CHENAULT: Okay.

20 BY MR. YETS:

21 Q. Noted. Did the salvage company ever contact
22 you regarding the removal of the lifeboats, the life
23 rafts or the Marine Evacuation System from the water
24 and place them on the pier?

25 A. No. No, and that was, as far as I know that

1 was arranged between the salvage company and the Coast
2 Guard. In terms of don't touch nothing until I --
3 until the Coast Guard allowed to do.

4 Q. Okay, I have no further questions, thank you
5 very much.

6 A. You are welcome.

7 **WITNESS**

8 **GUSTAVO ABAROA**

9 **DESIGNATED PERSON ASHORE FOR BAJA FERRIES**

10 **EXAMINATION**

11 BY MR. BOWLING:

12 Q. Sir, I have a few more questions, I'm sorry I
13 missed a section I want to cover. If we could bring up
14 the Exhibit #068 if you can. Here we go. And this is
15 an IACS Form, International Association of
16 Classification Societies, Form, Procedural Report #17.
17 "Reporting on deficiencies possibly affecting the
18 implementation of the ISM code on board during
19 surveys". Have you ever seen this form?

20 A. Yes.

21 Q. And if we could close that and bring up RINA,
22 or Exhibit #121. And right here, this is a narrative
23 report from RINA, and it was issued after the second
24 detention in San Juan around the 22nd of October, 2015.
25 Do you recall seeing that particular survey report from

1 RINA at any time afterwards, being brought to your
2 attention?

3 A. I didn't see this one previously.

4 Q. Okay, and Lieutenant, roll down through the
5 list of recommendations class put out, right to there.
6 And if you look at that Item #11, in closed files,
7 there is notes from the surveyor, Erik Mark. And you
8 see the PR at 17.PDF, at that point, RINA had issued,
9 or completed that procedural Report #17. Reporting up
10 their food chain, their chain of command, I should say,
11 that there were some ISM concerns at that time on the
12 ship. Were you aware of that?

13 A. No.

14 Q. Thank you. Thank you, Commander Capelli.

15 **WITNESS**

16 **GUSTAVO ABAROA**

17 **DESIGNATED PERSON ASHORE FOR BAJA FERRIES**

18 **EXAMINATION**

19 BY CDR CAPELLI:

20 Q. Morning sir, I have a few questions, this is
21 Commander Mike Capelli with the U.S. Coast Guard. You
22 had mentioned that you use a different MES on the other
23 vessels in the Company. You have MES -- SMS, Safety
24 Management System for the Baja Ferries, you have a
25 different Safety Management System for the other three

1 boats.

2 A. Yes.

3 Q. Why do you have a different Safety Management
4 System?

5 A. The Safety Management System which is in place
6 in the -- with the Mexican flag vessels comes from, I
7 don't know, 2002 or 2001, the year 2001 or 2002. And
8 the -- when we took over the Caribbean Fantasy back
9 from V Ships, we saw the system is bigger than the one
10 that we have in Mexico. And that is the reason,
11 because the CEO instructed to implement the same system
12 in the Mexican flag vessels.

13 Q. Okay, so the Safety Management System on the
14 Caribbean Fantasy is more thorough than the other
15 Safety Management System?

16 A. Yes, that's correct. Let's say the other one
17 is light.

18 Q. Are your other vessels examined the same
19 amount as the Caribbean Fantasy, or more, or less?

20 A. Well, regarding internal audits, I used to do
21 one every year, now the system is two every year.
22 Besides that the port authorities, they do inspections
23 also. Not in the same frequency as in San Juan.

24 But the surveyors from the flag, they are
25 almost every week on board the vessel, they are sitting

1 in La Paz on the vessels. Or arrive to La Paz, and the
2 surveyors just come by and make some inspections or
3 comments, and they issue sometimes some deficiencies.
4 And the annual examination is in enforced.

5 Q. Okay, and did you ever complete a full
6 inspection of the main engines?

7 A. Full inspection of the main engines in which
8 regard?

9 Q. Did you or someone from the Company examine
10 the entirety of the engines?

11 MR. CHENAULT: On what ship, Commander?

12 BY CDR CAPELLI:

13 Q. On -- oh sorry, on the Caribbean Fantasy.

14 A. Yes, I think the superintendents did.

15 Q. Okay, and do you know how often that is
16 conducted?

17 A. There is a once a year full inspection of the
18 vessel.

19 Q. When you were with us in the lab, and you saw
20 the piece of machinery that was in the lab with us,
21 would that be permitted on the engine for the Caribbean
22 Fantasy?

23 A. No. Do you mean the blind flange?

24 Q. Yes sir.

25 A. No, I have no idea why it was there.

1 Q. Okay. And then if someone on the vessel was
2 using incorrect safety procedures, how would the
3 Company find out about that?

4 A. By example this blind flange? Or whatever?

5 Q. No, any procedure. Say -- let's use launching
6 of the life rafts. If someone on the vessel was using
7 the wrong procedure to launch the life rafts, how would
8 the company find out they were not following the
9 procedure that you thought they should?

10 A. Well, everyone has a head of Department which
11 supervises the activities of the crewmembers, and the -
12 - if the head of the department doesn't realize that
13 there is somebody or someone doing the wrong procedure,
14 or the captain doesn't realize, it is difficult to say
15 because the vessel is sailing, usually. But only --

16 Q. Well --

17 A. -- with an inspections to the vessel and the
18 internal audits, it is possible to find out
19 deficiencies.

20 Q. And what if the, you said the head of the
21 department would know, what if the head of the
22 department was, had the incorrect procedures, what if
23 they were teaching incorrect procedures? How would you
24 know that?

25 A. If I am not on board and I don't witness

1 something which is being done, I would never know.

2 Q. Okay.

3 A. However the, all the inspections and reports,
4 and supervision of the -- from the technical
5 superintendent also, they point out to find the
6 mistakes or wrong procedures. Once they are known they
7 have to be addressed then properly.

8 Q. And then during the casualty, you said that
9 the master had call O'Brien and Ardent, directly?

10 A. No, they call Witt O'Brien's.

11 Q. O'Briens.

12 A. And I instructed Witt O'Brien's to deploy all
13 the, the putting in service all the, the plan, calling
14 Ardent and National Response Corporation.

15 Q. And when was the first time the master
16 contacted you? Or did he ever contact you directly?

17 A. He called me in Dallas, I think. Because I
18 was traveling by that time and I didn't have a
19 telephone connection.

20 Q. So who from shoreside was he in contact with
21 then, if you didn't have contact?

22 A. The agent was in contact with the master. The
23 people from Witt O'Brien was also in contact with him
24 because they have representatives in place. I know
25 that -- I think Officer Alan Roth was in contact with

1 the master, but by radio. Because Alan Roth called me
2 and gave me some information about the situation which
3 we have, the vessel.

4 Q. That's Alan Roth from the Coast Guard?

5 A. Yes, the Officer Alan Roth.

6 Q. Okay. I don't have any more questions at this
7 time, Lieutenant Diaz.

8 LTJG DIAZ-COLON: Thank you.

9 **WITNESS**

10 **GUSTAVO ABAROA**

11 **DESIGNATED PERSON ASHORE FOR BAJA FERRIES**

12 **EXAMINATION**

13 BY LTJG DIAZ-COLON:

14 Q. This is LTJG Diaz, from the U.S. Coast Guard.
15 I just had a follow-up question to a statement that you
16 just made. You said everyone has a department head
17 that supervises the procedure. Are these supervisors
18 ship's officers?

19 A. Yes.

20 Q. Is that written down anywhere in your Safety
21 Management System?

22 A. Yes, and there is reference to the report to
23 the head of department, or supervised by the head of
24 the department which may be the first engineer, the
25 staff captain, the safety officer, hotel head of

1 department.

2 Q. Just to be clear it is -- is the expectation
3 for them to report to them, or for the supervisor to
4 witness the work or whatever the procedure is?

5 A. Both.

6 Q. All right.

7 A. Both when the -- someone is ordered or
8 instructed to do some job, he has to report when it is
9 finished, or if there is some complication, which could
10 happen, and the head of the department has the
11 obligation to supervise the job which is in progress.

12 Q. Okay, and this is applicable to both
13 engineering and the deck department?

14 A. And deck, yes.

15 Q. Thank you, I don't have any further questions.

16 CDR CAPELLI: Okay, at the time we will go
17 around to all the Parties-in-Interest. Panama do you
18 have any questions for the witness?

19 MR. ARENAS/PANAMA: No questions.

20 CDR CAPELLI: Panama has no questions for the
21 witness. RINA, do you have any questions?

22 MR. CALVESBERT: No questions.

23 CDR CAPELLI: RINA has no questions for the
24 witness. Baja Ferries do you have any questions for
25 the witness?

1 MR. RIVERA-MORALES: Could we have three
2 minutes please?

3 CDR CAPELLI: Yes sir, you may have as much
4 time as you need.

5 MR. RODRIGUEZ-BIRD: Thank you.

6 CDR CAPELLI: The time is 1206 we will recess
7 for ten minutes.

8 (Whereupon a ten minute recess was taken.)

9 CDR CAPELLI: Good afternoon, the time is
10 1220 and we will reconvene. During the recess it was
11 brought to our attention we have one more question. So
12 we will start out with the question and then we will go
13 through all the Parties-in-Interest again.

14 MR. YETS: Give us one moment to get the
15 computer up here.

16 (Brief pause.)

17 **WITNESS**

18 **GUSTAVO ABAROA**

19 **DESIGNATED PERSON ASHORE FOR BAJA FERRIES**

20 **EXAMINATION**

21 BY MR. YETS:

22 Q. This is Jason Yets with the United States
23 Coast Guard. So I just want to clarify some things for
24 the record. If I can pull up Exhibit #012. And I
25 apologize for that confusion with this crew muster list

1 thing, but I need to get this clarified.

2 So this is the station bill, the old one that
3 the ship was running on. All right? And there is a
4 different version that is a newer version that has not
5 yet been -- or at the time was not implemented into the
6 ship. That was the clarification you had made on the
7 record.

8 A. Yes.

9 Q. Correct, okay. So if you could scroll over to
10 number, Safety #4 and zoom in for me. All right, so
11 on this station bill it says that Safety #4 is the
12 second officer, and he is the life raft #4 commander is
13 that correct?

14 A. It is what is there, yes.

15 Q. Okay. Now Carlos, if I could pull up Exhibit
16 E315. So, this is one of the safety cards that we had
17 found on board the ship when we had went on board. And
18 I guess, my question is, if the new station bill crew
19 muster list was not implemented at the time of the
20 incident, then why do the safety cards that are in
21 crew's cabins that were issued to them, not match the
22 station bill that you say was in effect on the day of
23 the accident?

24 A. This was in the -- in which place the safety
25 card?

1 Q. The safety -- these were found in the crew's
2 cabins. So this one, for example was found -- scroll
3 up please -- this one was found in Third Officer
4 Boulivar's room, in his cabin? You understand my
5 question, sir?

6 A. Yes, yes. Yes I do.

7 Q. If the new station bill was not implemented at
8 the time of the incident then why do the cards not
9 match the station bill?

10 A. Doesn't match with the previous muster bill?

11 Q. Yes.

12 A. I don't know why. I could presume that the
13 safety cards were on the way, being prepared, or
14 distributed, but I really don't know.

15 Q. Okay, thank you.

16 CDR CAPELLI: At this time we will go around
17 the room for all the Parties-in-Interest. Panama do
18 you have any questions for the witness?

19 MR. ARENAS: No sir.

20 CDR CAPELLI: Panama has no questions for the
21 witness. RINA do you have any questions for the
22 witness?

23 MR. CALVESBERT: No, no questions.

24 CDR CAPELLI: RINA has no questions for the
25 witness. Baja Ferries?

1 MR. RIVERA-MORALES: Baja Ferries does not
2 have any questions.

3 CDR CAPELLI: Baja Ferries has no questions
4 for the witness. Okay, thank you for your testimony,
5 you are now released as a witness at this hearing.
6 Thank you for your testimony and cooperation. If I
7 later determine that we need additional information
8 from you, I'll contact you through your counsel. If
9 you have any questions about this investigation you may
10 contact the recorder LTJG LTJG Diaz-Colon.

11 The time is 1226 and we will recess until
12 1330, thank you very much.

13 THE WITNESS: You are welcome.

14 (At 1226 luncheon recess until 1330.)

15 CDR CAPELLI: Good afternoon, the time is
16 1338 the hearing will now recommence. We will now hear
17 testimony from witnesses from RINA. LTJG Diaz-Colon
18 will administer your oath and ask you some preliminary
19 questions.

20 **WITNESSES**

21 **ARTURO SANTARELLA**

22 **GIORGIOA SALETTI**

23 **(EMPLOYEES OF RINA.)**

24 **(COUNSEL CALVESBERT AT WITNESS TABLE.)**

25 LTJG DIAZ-COLON: Would the witnesses please

1 stand and raise your right hand.

2 Two witnesses produced on call of the Coast
3 Guard were duly sworn according to the law, examined
4 and testified as follows:

5 MR. SALETTI: Yes, I do.

6 MR. SANTARELLA: I do.

7 LTJG DIAZ-COLON: All right, please be seated.

8 For the record would the witnesses starting from your
9 left please state your full name and spell your last.

10 MR. SALETTI: Good afternoon, my name is
11 Giorgio Saletti, S-A-L-E-T-T-I.

12 LTJG DIAZ-COLON: Thank you.

13 MR. SANTARELLA: And my name is Arturo
14 Santarella, like S-A-N-T-A-R-E-L-L-A.

15 LTJG DIAZ-COLON: Thank you, for the record
16 would the Counsel please state your full name and spell
17 your last?

18 MR. CALVESBERT: Good afternoon, for the
19 record my name is Paul Calvesbert, C-A-L-V-E-S-B-E-R-T,
20 I am Counsel for RINA and both of these witnesses.

21 **EXAMINATION**

22 BY LTJG DIAZ-COLON:

23 Q. Starting with the first witness to the left,
24 where are you currently employed, and what is your
25 position there?

1 A. MR. SALETTI: I am working in RINA USA. I am
2 area manager for North and Central America, based in
3 our Ft. Lauderdale office. I am working with RINA for
4 the last 21 years.

5 Q. Okay, thank you. Same question, sir?

6 A. MR. SANTARELLA: Okay, and I am a Marine
7 Manager, for Ft. Lauderdale office, and I start with
8 RINA in 2000, 16 years ago. I was coming USA since
9 2015.

10 Q. Do any of you hold any professional licenses
11 or certificates?

12 A. MR. SALETTI: I have a master's degree in
13 naval architecture and marine engineering.

14 A. MR. SANTARELLA: The same for me, in the same
15 city, in Genoa, and after this I have completed some
16 additional courses with RINA and regarding, for
17 example, the ISM, and the Certificate of Compliance for
18 an auditor.

19 Q. Thank you.

20 A. MR. SALETTI: You are welcome.

21 LTJG DIAZ-COLON: Okay, now I am going to open
22 up the floor to Mr. Yets who will begin with
23 questioning.

24

WITNESSES

25

ARTURO SANTARELLA

1 **GIORGIOA SALETTI**

2 **(EMPLOYEES OF RINA.)**

3 **EXAMINATION**

4 BY MR. YETS:

5 Q. I'd like to begin by talking about surveyor
6 competency, specifically how are surveyors, prior to
7 being hired, how are they screened, filtered to
8 determine if they are competent enough to be a, in fact
9 be a surveyor for RINA?

10 A. MR. SANTARELLA: Okay, basically there is
11 different stages. First is the qualification, the
12 single (inaudible word) of the qualification. And the
13 -- this is something that is relevant to the previous
14 experience.

15 Then, for example, if we have already
16 qualified auditor for another classification society,
17 the training plan, and the practical and theoretical
18 plan can be reduced based on the previous experience.

19 And in case we need to start at zero and
20 qualify for example an auditor, or surveyor, the
21 training plan, and the theoretical, practical training
22 plan is quite different and it would be, for sure more
23 accurate require more time because in particular, the
24 practical training requires several survey on board for
25 different type of ship, and for different type of

1 survey.

2 Then we start with the general, that are
3 basically the first survey, occasional, and then we
4 proceed with the renewal survey.

5 If, prior auditor, in particular we have a
6 theoretical course that is two or three weeks, also
7 this is a relevant to the previous experience because
8 the normal is two weeks, but if we have already
9 experience on board for the auditor. If their
10 experience on board was not received in the past, then
11 there is an additional model.

12 And after the theoretical, there is a
13 practical training. And for the practical training we
14 need to perform four audits, in company or on board the
15 ship. And there is a reference of the type audit,
16 initial or renewal.

17 And then basically, after these different
18 stages, we qualify the auditor for ISM security, and
19 inspector MSC (sounds like) also.

20 Q. Okay, thank you. What verifications are made
21 throughout a surveyor's career? And when I say a
22 surveyor, I'm referring to, just for future, a surveyor
23 that would carry out a PSSC, a Passenger Ship Safety
24 Certificate survey, and then issue a PSSC to a vessel.

25 Throughout a career with RINA what

1 verifications do you guys make to ensure that the
2 surveyors are keeping pace with technology, updates in
3 international regulation, and domestic law to make sure
4 that, you know, they keep their competency?

5 A. MR. SANTARELLA: Okay, there is, there are
6 different stages and models. We have some training in
7 our head office, and it can be organized in different
8 office in order to have some update model, and some
9 other is with a learning model with software that can
10 be used by remote.

11 Then typically we have some learning model.
12 When we -- we have a new requirement, a new resolution
13 or if we have a -- discover that in our survey there is
14 some weak point, there is something to improve.

15 Then, for example if we have experienced some
16 bad performance in the Port State Control survey, then
17 we can issue a module in order to refresh what is
18 important to do, what is important to survey during a
19 passenger annual survey, this is another option.

20 And there are also refresher courses, that in
21 some cases, if some particular area we discover, and we
22 found that there are area of improvement for, for
23 example, ISM, for security then it can be organized a
24 refresh course. And there is a mandatory step as
25 monitoring. Because there is a requirement given by

1 IACS but mostly the surveyor and the -- if we speak
2 about auditor, a surveyor and auditor have different
3 monitoring because one is for survey and one is for
4 audit on board.

5 But at least every two years the -- each
6 surveyor has to be monitored, and monitor it means that
7 the surveyor, or the auditor perform the survey, and
8 another surveyor, experienced, reviews how the surveyor
9 perform, or the auditor performed the audit, just to be
10 sure that nothing is -- that it is properly done,
11 especially if the surveyor can perform few audit.
12 Because not for all the officer, we have the same
13 amount of survey and audit, and it is always important
14 to keep the monitoring of the situation.

15 A. MR. SALETTI: Giorgio Saletti. Just to
16 clarify, for us surveyor is defined as you did
17 previously for us, auditor means surveyor, an auditor
18 for ISM code, just matter of clarification.

19 Q. Thank you. Have either of you ever been
20 surveyors? Like have you ever been on board a ship,
21 done a survey, and issued a Passenger Ship Safety
22 Certificate to a vessel?

23 A. MR. SALETTI: I was a surveyor, but I was not
24 qualified for passenger ships in the past.

25 A. MR. SANTARELLA: Yes, I held the qualification

1 for survey on board of passenger ship for annual and
2 renewal survey, and also for auditor.

3 Q. Can you describe to me the scope of inspection
4 for the issuance of a Passenger Ship Safety
5 Certificate? And by that, I mean is it a spot check,
6 or is it a full system check? And kind of give me the
7 high level details.

8 A. MR. SANTARELLA: Okay, the initial survey is
9 the very most important survey on board the, any kind
10 of ship, passenger or cargo, in particular passenger.

11 And there are several steps, but if we think
12 about new building activity, then a new passenger ship
13 build for a new owner, for a new company, the first
14 step is to perform the drawing assessment.

15 Then there is, in our rules and reference,
16 there is a -- there are some minimum drawing that has
17 to be submitted, reviewed, and approved.

18 Based on the drawing assessment, the surveyor
19 in charge of the first classification, performs the
20 survey on board. And then one of the first steps is to
21 verify that on board that what is written, what is in
22 the drawing is made in exactly the same way.

23 For sure if found something that according his
24 experience, and knowledge, is wrong, because the
25 drawing is not clear. And found a difference, a gap

1 between rules, and what is in the drawing he can point
2 out, and he can solve the problem according. Then this
3 is one of the first.

4 After this then there is for example for a
5 passenger ship we are speaking about passive fire
6 protection, lifesaving appliances, we are speaking
7 about also systems that they have for bilges, for
8 whatever is in, just according to SOLAS, and MARPOLE,
9 and the other convention.

10 And after the drawing check on board, and the
11 other step is to make the test that are mandatory in
12 order to issue a certificate. Then there are, for
13 reference, checklist for any kind of survey that can be
14 initial, it can be renewal, or it can be an annual and
15 the items to be checked are different in the case of
16 initial, in case of renewal, or on a survey.

17 Then on the other point is performed all the
18 tests that are required. In the case of inspection
19 there is not spot check. Inspection is the -- the item
20 has to be checked all. Then if we are speaking about
21 water tight door we cannot test two water tight door,
22 and the ship is provided with 22, then it means that
23 all the water tight doors have to be checked according
24 to the drawing.

25 For according to the initial test, because for

1 sure some tests that are required at the beginning are
2 different by the periodical check, and I am speaking
3 about pressure test of a pipeline. There are systems
4 on board with high pressure two hundred bar, and then
5 at the beginning, the test is -- and test the 1.5
6 pressure of the system just to be sure that nothing
7 will be, and can happen during the life of the ship.

8 Then basically we have not only the RINA
9 rules, the convention, the SOLAS, the MARPOLE, but we
10 have also as a guideline, these checklist in order to
11 have to have under control what is to be checked for
12 the issue Safety Passenger Certificate, (inaudible
13 word) Line Certificate, or MARPOLE Certificate.

14 Q. Thank you. Do you have experience in
15 inspecting Marine Evacuation Systems?

16 A. MR. SANTARELLA: Yes, the part of evacuation,
17 the drill are usually witnessed during the Safety
18 Passenger Renewal Survey and during the Safety
19 Management Survey. Because the Safety Management
20 Survey is not only what is on board, which system is on
21 board and the functionality of the system, but also is
22 the proper familiarization of the crew on board, proper
23 acknowledgement of rules, proper acknowledgement of
24 duty, and then normal the audit for the ISM system is
25 the -- when we perform and we witness the drill

1 onboard.

2 Q. I'd like to call Exhibit E286, if I may, LTJG
3 Diaz-Colon. So, this is the port side Marine
4 Evacuation System winch on the Caribbean Fantasy. I
5 took this picture the day after the incident when I was
6 on board --

7 A. MR. SANTARELLA: Um-hmm.

8 Q. -- in my investigation. Would RINA consider
9 this to be an acceptable orientation of the bousing
10 line on the winch, with regards to the operational
11 readiness of the Marine Evacuation System?

12 A. MR. SANTARELLA: I see --

13 Q. Would you like me to zoom in on the picture so
14 you can see it closer, or would you like to go up to
15 the screen and take a look at it, you are welcome to do
16 that as well.

17 A. MR. SANTARELLA: No, it seem that the
18 direction is wrong because it is not able to break the,
19 the second part is the brake. And then in this part
20 you can stop, you can halt there. And then in this
21 case by point seem that it is not able to brake.

22 Q. Now, I want to clarify one thing very quickly
23 before I keep moving forward. If RINA finds something
24 that the Coast Guard we use the term deficiency. All
25 right, we find deficiencies, and we put them on the

1 Form B. Do you guys use the term deficiency? Do you
2 use non-conformity, what's the correct term that I
3 should be using from this point forward so we are
4 talking about the same thing?

5 A. MR. SANTARELLA: As general?

6 Q. Just generally speaking.

7 A. MR. SANTARELLA: Okay.

8 Q. If you find something wrong, it is a
9 deficiency, a non-conformity? What do you call it at
10 RINA?

11 A. MR. SANTARELLA: Yes, okay, basically we are
12 involved quite often after a Port State Control survey,
13 inspection and it depend by the code of the deficiency
14 there is sort of a mandatory survey or not. Then
15 depend by the gravity, what is pointed out on board,
16 and what is the code. Then normal, the code A and C,
17 then when is request a survey by a recognized
18 organization, it is clearly stated by the Coast Guard
19 officer, Port State Control.

20 But, in any case, this is something in
21 general, because if the owner provide -- we are
22 speaking about a ship not detained, just with two
23 deficiency. If for some reason, the code is not -- or,
24 I don't know, it was not clearly written that the
25 recognized organization has to be on board, and check.

1 But we found that the description is something
2 that can be a danger, or it can be very (inaudible
3 word). Then we can, in any case, have the
4 (unintelligible word) organize (unintelligible word)
5 and verify if these things is according our rules, or
6 International Code is --

7 Then we usually ask to the company that
8 manages the ship to send, in any case the Port State
9 Control report Form B, just to have a double check of
10 the deficiency and confirm or not confirm that the
11 (unintelligible word) is before departure, or can be
12 postponed to the next port.

13 Q. All right, so just for the record --

14 A. MR. SALETTI: Sorry -- sorry, I --

15 Q. Oh, go ahead, sorry.

16 A. MR. SALETTI: I don't know, I understood that
17 you were asking, just about the definition, right?

18 Q. Well, I'm just looking for the correct
19 vernacular to use for the rest of this -- so, if I say
20 non-conformity --

21 A. MR. SALETTI: Yes, no -- deficiency is okay,
22 non-conformity is something not in compliance with --

23 Q. Either one of those is fine?

24 A. MR. SALETTI: -- when -- it is about an
25 advice, and instrument or something.

1 Q. Okay.

2 A. MR. SALETTI: Non-conformity we use more about
3 procedures.

4 Q. Okay.

5 A. MR. SALETTI: So non-conformity according to
6 ISM Code, a deficiency according to an installation a
7 device on board.

8 Q. Thank you very much.

9 A. MR. SANTARELLA: In our system, just to
10 complete the picture about this. We call a
11 recommendation, and in the ship's status, then the --
12 you can find a recommendation or a memoranda. Then
13 basically the difference is recommendation is something
14 that has to be fixed for a rule requirement, for SOLAS
15 requirement.

16 Memoranda is an additional information that
17 can be used for next inspection, or for example, if we
18 have a few, an area a little bit damaged, but it is
19 acceptable, then this is just to have a warning when we
20 are on board during the annual survey, okay we take a
21 look at this area, and we check that the situation is
22 unchanged, or if there is some change we need to verify
23 if it is still acceptable or not.

24 Q. Okay, so just for the record, RINA would
25 consider the orientation of this bowing line on the

1 winch to be a deficiency. This would be something that
2 would be identified as not being correct, if I
3 understood you correctly?

4 A. MR. SANTARELLA: Yes, it is just by what is my
5 experience on this, sailing, because this is something
6 that I know by sailing, about this. Yes, for sure we,
7 it is very particular item that is more effect the
8 person, the training the personnel, and the person that
9 is normally involved in the deployment.

10 Q. As part of the survey does RINA verify
11 accuracy and adequacy of the signage on board the ship?

12 A. MR. SANTARELLA: Excuse me, can you repeat?

13 Q. As part of the annual survey or as part of a
14 survey.

15 A. MR. SANTARELLA: Um-hmm.

16 Q. When a PSSC would be issued to a ship, whether
17 it be a renewal or new one, does RINA verify the
18 accuracy and the adequacy of the signage on board?

19 A. MR. SANTARELLA: Of the?

20 Q. Signage.

21 A. MR. SANTARELLA: Okay.

22 Q. Signs, like safety signs, evacuation signs.

23 A. MR. SANTARELLA: Okay, yes, this is part of
24 the renewal because passenger -- the survey for the
25 passengers is annual but it is called a renewal every

1 time. But it is a part of the item to be checked, and
2 the -- then there is again, if we come back during any
3 initial survey for sure it is more accurate because you
4 have an approved drawing where it is clearly written
5 where is necessary (sounds like).

6 And during the renewal, basically, you take a look
7 around the ship, and okay if it is an exit, if it is a
8 (unintelligible word) it is depend by the sign, you
9 take a look that they are properly posted, and also
10 that if it is a type of (unintelligible word) that it
11 is working still.

12 And there is, for sort of -- for the low
13 location light, that there is also mandatory check
14 every five years, accurate check with the proper
15 instrument. But in any case, during the annual survey
16 we verify that they are in place and that they are in
17 good working condition, and good shape.

18 Q. At this time I'd like to call Exhibit #E306.
19 And will you zoom in on that sign for me, Carlos,
20 please. All right, so this what I -- I labeled this as
21 generic abandon ship instructions, because that is what
22 they are, they are generic abandon ship instructions
23 that are not specific to this vessel.

24 And since every person on board the ship is
25 not issued an emergent suit, and being that -- and if

1 you could scroll down a little for me Carlos, keep
2 going down -- and being that the vessel does not have
3 davit launched life rafts on board the ship, would RINA
4 consider it a deficiency, non-conformity, or whatever
5 you want to call it, to have this type of signage on
6 board a ship since it could be confusing to new crew,
7 passenger, or people that cannot read English and
8 would rely on the visuals only?

9 A. MR. SANTARELLA: Yeah, if it is not the proper
10 poster, is something that has to be fixed. Because --

11 Q. All right.

12 A. Yes, it is a part of the evacuation
13 instruction. Normally these instruction are posted
14 under emergency light, but has to be according to what
15 they have on board.

16 I can tell -- I don't know if there is -- is
17 generic or they are specific. But in case for means of
18 evacuation, like for Caribbean Fantasy, yes, it has to
19 be also the proper one because the MES is different by
20 launch of life raft.

21 Q. Thank you. Talking about the rescue boat, or
22 rescue boats in general on board passenger ships, can
23 you explain to me how a rescue boat and its launch
24 appliance would be inspected for operational readiness?
25 What are some things that you would look at, and again,

1 we can stay at the high level stuff.

2 A. MR. SANTARELLA: Okay, during the -- a
3 renewal, safety passengers, we have at least to check
4 the proper working condition. It means that we don't
5 perform the (unintelligible word) by ourself, we don't
6 open the break to check the condition. But we need to
7 verify that the system able to swing out and lower the
8 rescue boat.

9 For sure, if we are lucky and we have the good
10 sight, and we can put into the water the rescue boat is
11 always released into the water and test by five minute
12 the working condition into the water.

13 If for some reason it is not possible to put
14 into the water then we can have an alternative test,
15 like in case to see the engine that are working swing
16 out, to check visually the condition of wire, of winch.
17 Then visual examination is always a part. But also is
18 to be perform the test as much as possible, then the
19 other things we have to check, and this is considered
20 also a part of the safety passenger, we have to check
21 the annual examination, because for this system, an
22 authorized firm, an authorized service supplier has to
23 be inspected and also in a different way, in -- with
24 the overhauling of the different part. And then during
25 the safety passenger, we have to review report relevant

1 to this annual (inaudible word) examination, or five
2 year, because depend by -- there is also a test every
3 five years about the crane. And during the review, for
4 sure, we need to verify that we don't have a remark
5 open, in this inspection.

6 Because, for example, if during the annual
7 examination, the technician state that the brake has to
8 be renewed, and he give one year in order to renew the
9 brake, we need to verify that the brake is working
10 properly, and is something acceptable or not. This is
11 an example.

12 But, in any case, if we have a remark, we need
13 to verify careful what is the remark, and if it is
14 correct, address the remark, and if it is acceptable.
15 If it is a minor or not. Because, in any case our
16 lifesaving appliance then is the most important things
17 on board.

18 Q. All right, at this time I'd like to call
19 Exhibit E309. And if you could zoom in at the top for
20 me there, Carlos, where the wire goes through the
21 sheave. So this is the lowering wire for the rescue
22 boat as it was found the day after the incident, back
23 in August. Is this an acceptable orientation for the
24 rescue boat lowering wire? Or would this be considered
25 a deficiency?

1 A. MR. SANTARELLA: No, because in this case it
2 is not possible to perform the lowering inside the
3 rescue boat. Due these different -- normal it is to be
4 straight, and it is to be very easy to pull down the
5 handle and to release the brake.

6 In this case, I think that cannot work,
7 because there is no way to perform the right force on
8 the brake, on the winch.

9 Q. You mentioned earlier that as part of the
10 survey, that you evaluate a drill, is that correct?

11 A. MR. SANTARELLA: It is a drawing review.

12 Q. No, no, a drill.

13 A. MR. SANTARELLA: Oh drill, excuse me.

14 Q. Do you evaluate a fire, and abandon ship drill
15 as part of the issuance, or renewal of the PSSC, of the
16 Passenger Ship Safety Certificate?

17 A. MR. SANTARELLA: Yes, for the initial, yes we
18 do the drill. And also because it is the first time on
19 that, the people on board, the officer start with this
20 ship, and then it is important to verify that they are
21 properly aware about the procedure, and all the things.

22 Then -- and the same is also -- if we issue
23 the Safety Management Certificate. Also if it is an
24 interim, but the ship is new, the -- a drill is part of
25 the audit. A different is if we are speaking about

1 cargo ship, and there is a reason to perform an interim
2 audit, because, for example, they change the flag.
3 Then, the crew, is for sure that same, they need --
4 they are just changing the flag, then in this case we
5 don't ask for drill because are all already aware about
6 the procedure, about the lifesaving appliances on
7 board, and that is different.

8 Q. So SOLAS Chapter Three, in Regulation 19,
9 says, "That as far as practical drills shall be
10 performed --

11 A. MR. SANTARELLA: Um-hmm.

12 Q. -- as if they were an actual emergency.

13 A. MR. SANTARELLA: Um-hmm.

14 Q. Okay. Does RINA verify during the surveys
15 that the crew are conducting the drill, as far as
16 practicable, as if it were an actual emergency? Is
17 that part of the evaluation of the surveyor during the
18 drill evaluation?

19 A. MR. SANTARELLA: Yes, during the SOLAS, Safety
20 Passenger Renewal Survey, we also verify that the drill
21 as requested by the convention, or as requested by the
22 flag, are properly done, and recorded.

23 This is because some flag can have different
24 requirement, and some can be, I don't know, can ask a
25 weekly test, a weekly drill for fire drill, just

1 because they prefer to have a ship very well prepared
2 on this. But, for sure the minimum requested by the
3 SOLAS, all the ship has to be done, and there is a
4 dedicated logbook where they need to record when it is
5 carried out and just a description of the outcome if it
6 was satisfactory, and then this is --

7 Q. In speaking to the individual crewmembers, and
8 their job description as defined by the crew muster
9 list, all right, now I know said it is a full system
10 check, and it is not realistic to check thousands of
11 crewmembers on really big ships. But, do you spot
12 check, you know, like go to the station bill, or go to
13 the crew muster list.

14 A. MR. SANTARELLA: Um-hmm.

15 Q. You know, pick four or five people and, you
16 know (inaudible few words), then I apologize. But, and
17 say okay, this is what is says they do, and now I
18 should go verify that they are actually doing that.
19 Would that fall within the scope of an annual survey of
20 a drill evaluation? Or is that not part of it?

21 A. MR. SANTARELLA: Yes, it is a part of --
22 mostly it is part of the ISM audit. Then this --in
23 case of the -- we are speaking about it can also an
24 additional, or intermediate, or renewal.

25 But, for example, if during the scope of an

1 additional ISM audit because it was discovered during a
2 Port State Control lack of familiarization in a drill,
3 then we can include in scope of the additional, also
4 the drill.

5 And we will interview. Based on spot check,
6 not all. The proper person for his duty. Then
7 according to what is written in muster list, we can
8 verify that he is fully aware about the duty, in the
9 case of fire, or in case of an abandon ship. But it is
10 a spot check, it is not all the crewmembers are
11 interviewed.

12 Q. So in previous testimony with the staff
13 captain and the captain we had learned that the staff
14 captain, rather than reporting to the bridge, which is
15 what the crew muster list says he is supposed to report
16 to, and this is during drills, not during the
17 emergency, during drills he would go from station to
18 station, and he would check on the ship, he was the
19 captain's eyes. All right, so although the station
20 bill said, or the station bill/crew muster list said
21 that he was supposed to go to the bridge, and perform
22 one function, he was performing another function during
23 the drills.

24 So if RINA were to identify that, or see that
25 during a drill, would that be identified as a non-

1 conformity, or a deficiency?

2 A. MR. SANTARELLA: Yes.

3 Q. That they are working outside of that, that
4 approved plan?

5 A. MR. SANTARELLA: Yes.

6 Q. Okay.

7 A. MR. SANTARELLA: This is a non-conformity, and
8 we usually, when familiarization is not, is a critical
9 item, and that is an important item. Then we usually
10 ask to perform again a drill in this case to have a
11 double check and to verify that can happen, because, I
12 don't know, was a in some panic, or some not very --
13 Then with the second drill we can verify if really was
14 a temporary problem or is a different matter.

15 Q. As part of an initial, or renewal survey would
16 verifying that the starting instructions that are
17 posted inside lifeboats verifying that they actually
18 match the type of boat that the instructions are posted
19 in. Would that be part of the survey?

20 A. MR. SANTARELLA: Yes, it is a part of survey,
21 um-hmm.

22 Q. So if the surveyor identified a lifeboat that
23 had a manual start motor.

24 A. MR. SANTARELLA: um-hmm.

25 Q. The starting instructions were that of a

1 lifeboat with a battery operated starter, instead of a
2 hand crank starter, because of the disparity between
3 the instructions and the way the boat actually
4 operates, would that be considered a non-conformity?

5 A. MR. SANTARELLA: Yes. Also the training
6 manual is quite the same, during the audit we review,
7 because it can happen that for some reason ship 30
8 years old makes a modification on the fire active
9 protection, or lifesaving appliance. And then we take
10 a look about training manual and if we found that there
11 is a system, like an element that is not anymore in
12 use, they have renewed two years before with the CO2,
13 and then this is to be immediately rectified, because
14 it is a system that is not on board.

15 Q. Does RINA have Class Rule, or otherwise
16 regarding operational readiness of the lifeboat, and
17 speaking specifically to the lifeboat plugs? In
18 previous testimonies, during the course of the week, we
19 were informed that the lifeboat are stowed with the
20 plugs out or open to allow for drainage of water from
21 the, just the general sea state, and water that may
22 ingress the boat during the operation.

23 Is this something that RINA would consider
24 non-conformity, if the boats were stowed with the plugs
25 out or open? And then the commander, or the prep team

1 would have to physically close the plugs prior to
2 making the boat waterborne?

3 A. MR. SANTARELLA: No.

4 Q. Is there anything that you identify that would
5 consider that a non-conformity? Or is the ship allowed
6 to make that determination, that they can leave the
7 boats like that?

8 A. MR. SANTARELLA: Not it is not in the RINA
9 Rules. But it is a practical standard procedure that
10 the plug, just before the drill they plug adjusted for
11 then -- they -- no, they have in the procedure to be
12 verified that it is an item that they have to check
13 before a drill, or before an abandon ship.

14 Q. So it would be acceptable to have the boats
15 stowed --

16 A. MR. SANTARELLA: Yeah.

17 Q. -- with the plugs open.

18 A. MR. SANTARELLA: Yes.

19 Q. Or removed?

20 A. MR. SANTARELLA: Normally the plug is keep
21 with a small chain, just there in the place, not in
22 bridge. And then it is placed there. And they,
23 according to procedure they needed to plug before start
24 to swing out the boat.

25 Q. Okay, thank you. As part of the annual

1 survey, does RINA verify the availability of a decision
2 support system on the navigational bridge?

3 A. MR. SANTARELLA: Yes.

4 Q. Does RINA verify the captain's familiarity
5 with the decision support system on the navigational
6 bridge?

7 A. MR. SANTARELLA: This is mostly again, ISM
8 safety management item. Then in the -- we have a
9 specific item in the checklist for the safety
10 passenger, and then it is, according to this checklist
11 is easy to remember because it is clearly written. But
12 in the safety management, again we choose some spot
13 check critical example. Then this can be one, in order
14 to check the familiarization of the master and on this.

15 But again, the audit is different, but the
16 inspection is not the one hundred percent of all people
17 all familiarization. Then it can be asked, or can be
18 asked some different familiarization, not this one.

19 Q. Okay, I have no further question at this time,
20 thank you.

21 CDR CAPELLI: Good afternoon, we will now hear
22 from Larry Bowling from the National Transportation
23 Safety Board.

24 MR. BOWLING: Thank you.

25 **WITNESSES**

1 **ARTURO SANTARELLA**

2 **GIORGIO SALETTI**

3 **(EMPLOYEES OF RINA.)**

4 **EXAMINATION**

5 BY MR. BOWLING:

6 Q. For Mr. Saletti. I'd like to explore
7 questions related to, specifically to the Baja Ferries
8 vessel Caribbean Fantasy. Can you tell me about the
9 relationship between RINA and the flag of Panama with
10 regard to the acting as issuance of statutory
11 certificates on behalf of Panama? And the same thing
12 with regard to, as a recognized organization?

13 A. MR. SALETTI: Yes, this is Giorgio Saletti
14 again. The relationship between RINA and the Panama
15 flag are regulated, and based on the instructions that
16 we have from Panama, Panama administration.

17 And we are acting according to those
18 instructions, those requirements, and those procedures.
19 And we did also in regards of Baja Ferries and
20 Caribbean Fantasy in particular.

21 The relationship with the company, this is
22 another point in all of your question, I understood
23 correctly?

24 Q. Yes.

25 A. MR. SALETTI: Okay, the relations are

1 obviously technical and commercial relations. Class
2 has to carry out its own proper work keeping the ship
3 according to standards where we feel that there are
4 some misunderstandings or weak points we use to
5 corporate, to highlight to the company where they are
6 supposed to improve.

7 This is, in general, what is happening.

8 Q. Okay.

9 A. MR. SALETTI: Whenever -- sorry -- just --
10 whenever we are going in some problems, and so on,
11 where we are supposed to go out of the procedures given
12 by the Flag Administration, we are supposed to ask the
13 Flag Administrations to take a different or alternative
14 procedures. But otherwise we are stick to the
15 regulations.

16 Q. Okay. And I'm going to clarify my questions
17 with regard to whether I am referring to the Safety
18 Management System, or a survey, as an examination from
19 a Port State Control, or a survey examination by RINA
20 on behalf of flag.

21 Does RINA perform the annual requirement that
22 Panama has for safety surveys?

23 A. MR. SALETTI: Everything is required, yes.

24 Q. Okay, and the record, the -- bring up E078,
25 this is RINA's summary or database, it is -- the

1 acronym they use is LEONARDO.

2 A. MR. SALETTI: Yeah.

3 Q. If we could bring that up and take a quick
4 look at it. This was provided to the investigative
5 team on site. Tell me a little bit about this summary.

6 A. MR. SALETTI: Um-hmm.

7 Q. And what we can gain from the information on
8 that summary. Right here, where is shows,
9 certificates.

10 A. MR. SALETTI: Um-hmm.

11 Q. What's that little section tracking there?

12 A. MR. SALETTI: Sorry, what you are talking,
13 which section? Which?

14 Q. Yes, on this section of the LEONARDO print
15 out.

16 A. MR. SALETTI: Yeah, it is the summary of the
17 certificates. There is the code, the period of the
18 certificate is issued, the issue date, and expires
19 date.

20 Q. Okay, and then for each of the certificates,
21 for example the International load line.

22 A. MR. SALETTI: Yes.

23 Q. And then the Safety Passenger Ship
24 Certificate.

25 A. MR. SALETTI: Yes.

1 Q. You have the period of validity, I assume.

2 And you have, full, short, --

3 A. MR. SALETTI: Yes.

4 Q. -- and conditional.

5 A. MR. SALETTI: Conditional yes.

6 Q. What are the differences there?

7 A. It is, for instance, you know, the short,
8 first of all going, you know, the short period means
9 that the certificate has a limited duration of -- the
10 certificate is not a full certificate according to the
11 other harmonized system certificate.

12 Q. Okay, and then the -- how it is the HSSC,
13 which is, I guess, the Harmonized --

14 A. MR. SALETTI: Yes.

15 Q. -- Safety Passenger Ship Certificate.

16 A. MR. SALETTI: Yes.

17 Q. But, when that particular document is showing
18 conditional.

19 A. MR. SALETTI: Yeah.

20 Q. And it was issued on the 26th of July for
21 2016.

22 A. MR. SALETTI: Yes.

23 Q. Expiration 18, August, 2016, but --

24 A. MR. SALETTI: There were some conditions in
25 which the ship was supposed to be maintained, or there

1 were some devices, or something that was supposed to be
2 corrected, to be maintained.

3 Q. Okay, and would that.

4 A. MR. SALETTI: Repaired, or prepared, I don't
5 know.

6 Q. Would those be listed, would those conditions
7 be listed further down on this printout? Where would
8 we be able to find what conditions were required to
9 maintain that certificate?

10 A. MR. SALETTI: Yeah, it is supposed to be, it
11 is supposed to be in the reports, or in the service
12 status, itself.

13 Q. Will they be further down in the --

14 A. MR. SALETTI: In the notes.

15 Q. Lieutenant Diaz, if you don't mind, bring,
16 scroll on up, in that particular document. And we just
17 went through statutory surveys required.

18 A. MR. SALETTI: Um-hmm.

19 Q. Right here, if we can hold right here, I'm
20 probably getting a little ahead of myself here, but
21 class recommendations.

22 A. MR. SALETTI: Yeah.

23 Q. Tell me about the recommendations that are on
24 this particular document. This, I understood was
25 current at the time of the fire.

1 A. MR. SALETTI: 183A, for instance, the -- you
2 want to go through each one? Or, I don't understand,
3 sorry.

4 Q. No, that's fine. Are these something that the
5 RINA surveyors have identified, are these, they seem to
6 be mirror images of what was pulled on the Coast Guard
7 Port State Control exam earlier.

8 A. MR. SALETTI: Yeah, yes, if I am not wrong,
9 yes.

10 Q. Where would the results of the RINA survey be
11 captured on this form, because I understood that there
12 was a RINA surveyor on board at the same time?

13 A. MR. SALETTI: Sure, sure. This one coming, I
14 suppose, let me see. Third of July, it was coming from
15 the Port State, I think.

16 A. MR. SANTARELLA: Can I --

17 A. MR. SALETTI: You remember? Yes, please.

18 Q. Yes, please, if you have your own records.

19 A. MR. SANTARELLA: Yes, normal we link the
20 certificate -- okay, the first one was electrical
21 receptacle was a finding after the Port State Control.
22 And this was identified during the 9 August 2000 -- a
23 compression of the survey together with the Port State
24 Control, U.S.A. Coast Guard.

25 And the second, the ramp, there is the "issue

1 at", and then there is the, "Place", it is
2 (unintelligible word), and the code of the
3 recommendation can help to identify the job, because
4 the code -- you see that, for example, for the second
5 one there is R105. 105 is the job, when this
6 recommendation has been issued, and it was at
7 completion of the intermediate survey carried out in
8 (Unintelligible place). And then this, for example,
9 was discovered and issued by the classification, by the
10 colleague, class society.

11 Q. Okay.

12 A. MR. SANTARELLA: And then, in this case, then
13 based on what is the subject and what is relevant to,
14 we have a link only to the Certificate of Class and not
15 to the (inaudible two words) certificate.

16 And the --

17 Q. Okay, any --

18 A. MR. SANTARELLA: That one is a special scheme
19 that we use for ship under monitoring, and the -- was
20 issued by the head of the office, and with the job of
21 57, it means very -- in December 2014, and this
22 recommendation basically give the information to the
23 owner that every three months, we have to perform an
24 additional survey on board. And the scope of this
25 additional survey is to improve the ship condition.

1 Q. Okay, and that's the one I wanted to take a
2 look at, because I didn't understand that. So, I'm
3 referring to code, R.57.1.B, and that was issued by the
4 RINA head office?

5 A. MR. SANTARELLA: Yes.

6 Q. Correct? And the subject, where it says,
7 "Unscheduled survey scheme", and it goes down to item
8 one and two. That was something that was handed down
9 from the RINA parent office in New Jersey? Or Genoa?

10 A. MR. SANTARELLA: No, Genoa.

11 Q. And --

12 A. MR. SANTARELLA: Basically just explain, in
13 this case we have two item, the reason of the two item
14 is in the first to explain what is the deficiency. An
15 occasional survey has to be carried out, and every
16 three months.

17 And in the second item, we update every time
18 that we perform these on a scheduled survey, we give
19 the information of the last carried out, in order to
20 have also the next due date. Because, in this case, it
21 was 3, July, 2016. And we know that within October, 3,
22 we have to perform another as scheduled.

23 Q. Okay, and then the vessel was formally
24 detained by the Coast Guard, their first detention on
25 August 20th, 2014. Was this part of RINA's response to

1 that first detention?

2 A. MR. SANTARELLA: Yes.

3 Q. Were there other actions by RINA that were
4 taken by RINA after that first detention?

5 A. MR. SANTARELLA: For sure there was a -- this
6 is the most -- the scheme or schedule is the survey
7 that will -- basically, it mean that we need to perform
8 four survey additional every year. Then is the
9 condition worse in this case, because we identify that
10 for some reason we have to improve the condition on
11 board, we have to improve the machinery maintenance the
12 oil condition, the (inaudible word). And then we apply
13 and this is a decision of the head officer, we apply
14 this system.

15 Then the other action that was identified
16 during the -- after the detention was also the
17 application of the PR17, and according also the kind --
18 I can take a look -- but I remember that we have also
19 request an additional audit on board for ISM.

20 Q. Okay, if I could, I would ask, what we will do
21 is, I do want to cover that Procedural Report 17 that
22 the witness just mentioned. But if we could, we will
23 stay on the survey side of it, and then we will go over
24 to the ISM, if that's okay.

25 A. MR. SANTARELLA: Okay.

1 Q. With Counsel and the witnesses. Okay?

2 A. MR. SANTARELLA: Yes, yes, I just confirmed
3 that yes, the additional audit was performed on 13
4 January 2015. Then it is link for sure to the
5 detention.

6 Q. Okay, so after that first detention, as I
7 understand, RINA put the vessel on a quarterly survey
8 schedule, correct?

9 A. MR. SALETTI: Yes.

10 A. MR. SANTARELLA: Yes, you see that there is an
11 -- excuse me, it is a certain difference on that,
12 because it was issued in December, because the
13 procedure is that according the review of the report,
14 there is a second stage of review. Not by our
15 colleagues in the head office.

16 Then, before apply there is a careful review
17 of the report, there is a change of communication, and
18 after some period we confirm the scheme.

19 Q. Okay. So let's move up in time, and I don't
20 think we need this anymore Lieutenant Diaz, we might.
21 But let's pull up E058, if we can. And this was the --
22 from that period in time, let's -- December 14, 2015,
23 we are moving forward now to what was the second formal
24 detention by the U.S. Coast Guard on October 21st, 2015.
25 So between the point that RINA, the corporate office on

1 a special survey schedule to this point, how many times
2 have RINA surveyors been on the vessel?

3 A. MR. SANTARELLA: At least three. At least
4 three additional, and then we have the other
5 periodical. Because these surveys are complete
6 additional. The other survey for annual, for renewal
7 is something that are in any case to be carried out.
8 And then we have performed the normal survey for
9 maintenance of class, and the annual certificate, and
10 additional, at least three scheduled.

11 Q. Okay, so at this point in time, when the
12 vessel was contained a second time by the U.S. Coast
13 Guard had RINA pulled, rescinded, withdrawn any of the
14 statutory certificates that the vessel was sailing
15 under issued by RINA under the authority of Panama?
16 Right, all the certificates remain in full?

17 A. MR. SANTARELLA: Yes the, after the detention
18 there is -- we, for sure has to be take a look about
19 the pending deficiency, and the deficiency that are
20 affected, statutory, or Class Certificate, because if,
21 make an example we have a deficiency, and then
22 recommendation relevant to lifesaving appliance, then
23 it means that it is, the flag is to be also approached
24 and before issue a short term certificate, or
25 conditional, we have to approach the flag in this

1 (inaudible word.)

2 The flag, not all the flags are the same
3 approach to the management of the recommendation.
4 Because there are flags that they are very strictly,
5 and they want to have information about all kind of
6 deficiency, and recommendation, minor and major.

7 There are other flag that allow the
8 classification to manage the minor one. Then I make an
9 example, if one generator on board is under
10 maintenance, but the other three and the three that
11 they have they can provide electrical power according
12 to SOLAS, then this is a recommendation.

13 But it is minor, because, minor because the --
14 in any case there is not any -- based on the review of
15 the electrical system, the three that are on board are
16 still enough to provide what is request on board during
17 the primary service and secondary service. And this is
18 their approach.

19 Panama, for example, if we find a minor
20 deficiency, allow the classification society to manage
21 as a class matter the minor, the recommendation.

22 Q. Okay, and so my question earlier, and I should
23 -- I'll rephrase it, at this point were all statutory
24 and Class Certificates still valid on the ship at this
25 point? From the period of 2014 up through this

1 detention?

2 A. MR. SANTARELLA: Yes.

3 Q. Okay, and if you can scroll down, Lieutenant
4 Diaz. This is where the Coast Guard calls into
5 question the Safety Management System, the
6 effectiveness of the system on the ship. And we can
7 run on down until we see that, I think it may have been
8 number four there. Let me see, can you go back up,
9 Lieutenant? Right there, no keep going up, I'm sorry.

10 A. MR. SALETTI: It's the last one.

11 Q. It's the last one?

12 A. MR. SALETTI: It's the last one, yes.

13 Q. Okay. All right, so right here, the Port
14 State Control team, the individual that we interviewed
15 him earlier, Jerry McMillan who is the Coast Guard
16 marine inspection training officer here at Sector San
17 Juan.

18 Wrote, Item 21, "Based upon observations while
19 on board, as well as general lack of upkeep and
20 maintenance to the vessel, enough objective evidence of
21 non-conformities have been discovered to show the
22 vessel is not fully implementing its Safety Management
23 System. An external ISM audit is recommended".

24 So at this point, with that recommendation
25 being an external audit that would fall over to RINA,

1 correct?

2 A. MR. SANTARELLA: Okay, this case, there is
3 also in this case, also some different approach by flag
4 and flag. For example, the Panama flag have a specific
5 requirement in case of detention and additional audit.

6 Panama flag required to have the evidence of
7 deficiency and ask to authorize, case by case the
8 additional audit. Then in this case it was submitted
9 the report to the flag. And was agreed, the additional
10 audit within one month, if I remember, basically, was
11 not before departure, but was within one month. And
12 the audit was carried out in 19 of November.

13 Q. Okay, and if we can pull up Exhibit E121, this
14 should be a RINA document. So I, again, I believe this
15 is the first survey of the vessel after the detention
16 is that correct?

17 A. MR. SANTARELLA: Yes.

18 Q. After the second detention, I should say.

19 A. MR. SANTARELLA: Yes.

20 Q. Okay, and so if we can scroll down and look at
21 the individual that surveyed the ship at that point.
22 The individual on the lower right, it is -- is it last
23 name, first name, or first name, last name with the
24 print. Because he signed Eric Mark. So his family
25 name is Mark?

1 A. MR. SANTARELLA: Yes.

2 Q. Okay, so Mr. Mark, when he went and performed
3 this particular survey, he was wearing a RINA surveyor
4 hat, not an auditor hat, correct?

5 A. MR. SANTARELLA: Eric Mark is a surveyor and
6 auditor -- have both.

7 A. MR. SALETTI: This case was a surveyor.

8 A. MR. SANTARELLA: Yes, in this case. But in,
9 just to explain, when we have case like this where we
10 discover, by the Form B, that there is something
11 relevant to ISM procedure, we try to send always a
12 qualified surveyor and auditor at the same time.

13 Q. Okay.

14 A. MR. SANTARELLA: Because if we found that
15 there is something to manage according to ISM, we have
16 the qualified auditor on board. And in this case, for
17 the reason that I have already explained, was carried
18 out the survey, the (inaudible word), but not the
19 audit.

20 Q. Okay, and Lieutenant Diaz, we will need this
21 Exhibit here in a minute. But if we could also pop
22 open or close that and bring open E08, which is this
23 IACS International Association of Classification
24 Society's procedural report 068.

25 And so with the RINA narrative that we just

1 saw by Mr. Mark, when I see that PR17, is it correct
2 that he submitted, at that point, completed this
3 International Association of Classification Society's
4 procedural report on deficiencies, possibly affecting
5 the implementation of the ISM Code on board? Is that
6 correct?

7 A. MR. SANTARELLA: Yes.

8 A MR. SALETTI: Yes.

9 A. MR. SANTARELLA: Yes, there was issue the
10 PR17.

11 Q. Okay, and I'm going, I want to hear what
12 happened with that report, but I want to make sure at
13 least on other records, I have them, we have them in
14 the visit or in the Exhibit List. I understood that
15 Mr. Mark did the initial Document of Compliance
16 Examination on the company.

17 And then he also did the initial on the ship.
18 So he issued both the Document of Compliance to Baja
19 Ferries, and he also issued the Safety Management
20 Certificate, and was the principle auditor --

21 A. MR. SANTARELLA: Um-hmm.

22 Q. In both of those issuances, is that correct?

23 A. MR. SANTARELLA: Yes, was involved in the
24 Company audit and in the ship audit also.

25 Q. Okay, so --

1 A. MR. SANTARELLA: Sometimes we try to have the
2 same auditor at the -- because it is a very important
3 to have the knowledgement of the procedure. And then
4 in the company you can have the first point of view
5 then you can understand how it works, the company and
6 how is the duties.

7 And then after this, if you can perform most
8 of the audit on board, you already have a good
9 background about manual, ISM Manual, or duty, or
10 procedure that can be a good help for the audit on
11 board, itself.

12 Q. Okay, thank you. So with -- back to the
13 earlier exhibit, the 121 when Mr. Mark noted that he
14 had put together this Procedural Report 17, what did
15 RINA -- and starting with the Ft. Lauderdale office on
16 up through the chain of command with RINA, what was
17 done, and how did that get resolved with regard to that
18 report that was provided? What action was taken?

19 A. MR. SANTARELLA: This Form, has to be
20 submitted to our ISM section in head office, where we
21 have our expert about the Safety Management
22 Certificate, and ISM. And according this Form, what is
23 the (inaudible word) point, and this point, and
24 deficiency, and there is an evaluation, and after this
25 evaluation can be decided to have additional corrective

1 action or additional scheme, something like that.

2 And then basically, this case was decided to -
3 - because was identified a failure in the system and
4 then we have to consider the company and their special
5 audit scheme, that is something that are similar to the
6 scheme additional that we have for the ship, and we
7 have also for the company.

8 Q. All right, and what, exactly is a special
9 audit scheme?

10 A. MR. SANTARELLA: Basically, is an additional
11 way -- there is not only a matter, additional
12 instruction during the audit, but also there is a
13 double check when we complete the audit with our
14 colleague in the head office to have a, for example if
15 we issue a non-conformity, if we issue, then there is a
16 second review. And each report has to be reviewed also
17 by the head office.

18 Then there is a double review, because in any
19 case the report issued by the auditor is reviewed
20 locally in the office area, by the manager or a deputy.
21 And in this case, also, the audit report for the
22 company has to be reviewed by a second person qualified
23 in head office, expert in this matter.

24 Q. Okay, thank you. I had asked the Designated
25 Person if he was aware that this particular form had

1 been completed on the ship. And I believe his
2 indication was that he had not. Should that individual
3 have been aware of this particular report being
4 completed by the RINA surveyor and submitted to RINA?

5 A. MR. SANTARELLA: But the -- I can tell you
6 that the evidence of the issue of this report is in the
7 document. This is additional, it is the narrative.
8 But as soon we complete on board the survey, each kind
9 of survey, we issue Survey Endorsement Sheet, document.
10 This document provides evidence of the action carried
11 out on board. Then it mean, survey carried out,
12 certificate issued, item checked, or recommendation
13 issued.

14 And in this Survey Endorsement Sheet relevant
15 to the job 101 was clearly written that the PR17 was
16 applied. There is an item it is just one item, but it
17 is written that the Procedure Requirement 17 has been
18 applied.

19 Q. Okay so the audit frequency, the external
20 audit frequency that RINA had applied to the ship also
21 increased, am I correct?

22 A. MR. SANTARELLA: No, not for this special
23 audit scheme, you speak about --

24 Q. Yes, yes.

25 A. MR. SANTARELLA: No, there is no additional

1 audit, periodical, like for a scheduled scheme. But in
2 any case, can be decided upon result, or bad result of
3 a Port State Control or our survey, because if we, for
4 example, we perform a Safety Passenger Survey, and we
5 found other item that are linked to the Safety
6 Management System, then at this point we can decide to
7 ask an additional audit, or (inaudible few words), you
8 know.

9 Normally, on board has to be properly
10 addressed. If there is a failure in the system
11 relevant to something on board, or is a failure that
12 can also link to the company, then in this case, we --
13 there is an analysis, and if the system has to be
14 reassessed, re-verified, we can ask for an additional
15 audit also to the company.

16 Q. Thank you. Lieutenant Diaz can you bring up
17 I think it is Exhibit #113. And what I hope comes up,
18 is RINA Job #102, if you have it on your computer.

19 If I am not mistaken, this was the November,
20 19th, 2015 job. And actually, look at the Exhibits are
21 numbered 113 through 119. I'm looking for the audit
22 summary which identified two non-conformities.

23 Try that right there. I think that's the
24 record, but scroll on down. Okay, right here. So Mr.
25 Santarella did I understand -- I'm looking at this

1 document, did you perform that particular audit?

2 A. MR. SANTARELLA: Yes.

3 Q. Okay, tell me about the two non-conformities
4 you found.

5 A. MR. SANTARELLA: Okay, the non-conformity was
6 relevant two items, basically. The first item was the
7 identification of the proper corrective action, like
8 ISM require. Because --

9 Q. And if we scroll on through this report we'll
10 see those, correct?

11 A. MR. SANTARELLA: Yes because in the column
12 "Outcome", you, you have to find NC1 and NC2.

13 Q. Continue to scroll down real quick, Lieutenant
14 Diaz and watch for the -- it will say not ok. Right
15 there, Non-Conformity #1.

16 A. MR. SANTARELLA: Okay, for example the first
17 one was a -- and here we explain the objective evidence
18 according to the ISM, no. And the -- the
19 identification of the corrective action was one of the
20 point that we have -- I have identified not according
21 to the ISM. Because in the report, I think that we
22 have also some example of what was the finding.

23 But, I have identified that for some item it
24 was clearly identified the control of the non-
25 conformity, then how to fix. But there was area of

1 improvement in the identification of the corrective
2 action. Then corrective action is something more
3 because with proper identification of the corrective
4 action you can avoid the recurrence of the same
5 problem.

6 And then, this is one example. And then, I
7 don't know, one example can be the drencher nozzle that
8 was found, two drencher nozzles, then the control is to
9 renew the drencher hose nozzle.

10 Q. And Non-conformity 2 --

11 A. MR. SANTARELLA: Yes.

12 Q. -- found some order, I guess as far as screen
13 doors?

14 A. MR. SANTARELLA: Yes, this was the second one,
15 and this is the objective evidence, the text of the
16 non-conformity was relevant to the routine inspection,
17 and also in the management of the order. Because we, I
18 have identified that some order that was relevant to
19 safety issue in the system they have an electronic
20 system was not under control.

21 The problem was basically that there not good
22 follow-up of the order. Then we have found three
23 examples. For example I go to -- with memory, that
24 there was a part to be renewed for a fire door. And
25 the first order that was, for example, the #58 was

1 cancelled without a reason.

2 After this we have verified that was open
3 another order. And then the same matter was managed,
4 but the -- not in the proper way. Then there was no
5 reason in the (inaudible word) of an item relevant to
6 the safety.

7 And then the scope of the non-conformity was
8 to identify a proper way to manage the order, in
9 particular if it is relevant to safety, and to
10 important order, no -- in order to be sure that if on
11 board is necessary an item, like a safety -- like life
12 raft, or life jacket the order is not canceled without
13 reason just to avoid it to provide on board.

14 Then in -- it was found that the things
15 finally was provide on board. Then in -- the things
16 was managing the reality, but the written record was
17 not properly done. Then we had found all the evidence
18 that this safety item was provided in due time on
19 board, and then by the ISM point was managed,
20 correctly.

21 But in the paper document in this software
22 system there was something not well done, then this was
23 the reason.

24 Q. Thank you. And Mr. Saletti, at this point,
25 after the second detention, before we get into the 2016

1 year. Because RINA did an audit on 17 March, 2016, at
2 the company. But on January 1, 2016, the vessel had
3 been detained two times by the Port State Control
4 Authorities here, as Sector San Juan.

5 Within RINA were there concerns, were there
6 discussions? I mean, you had a vessel under your
7 Classification and with Safety Management Certificates
8 issued by RINA that had been detained twice formally.
9 Were there any internal discussions going on at RINA?
10 Were there discussions with Panama, with the Company?
11 Tell me what was going on.

12 A. MR. SALETTI: Yes, in general there are
13 discussions among us. What I can tell you is my direct
14 involvement, because I joined RINA USA only in May
15 2016. When I found this situation and I identified
16 with the help also of our Headquarters in Genoa, some -
17 - how to say -- some actions we were supposed to take,
18 and that was the reason why, at the beginning of my
19 assignment in the U.S. I paid a visit to the Company in
20 order to highlight this risky situation in terms of
21 management and so on.

22 So, this is what I did. The ship was coming
23 at that time, so I am talking about a little bit later
24 than the first of January you mentioned, but just
25 because I came in U.S. after May, okay?

1 Q. Okay.

2 A. MR. SALETTI: So just to, just to give you my
3 comments on that. And the ship was coming from major
4 repairs, major maintenance in the Mediterranean Sea in
5 Tunisia. That after the history, 2014, 2015, it was
6 definitely a good action taken by the Company to
7 undergo major repairs and maintenance.

8 They were in the Mediterranean Sea for the
9 dry-dock, for the intermediate survey, if I am not
10 wrong, and in general a normal dry-dock it takes twenty
11 days, three weeks in general. They spent three months
12 in the shipyard.

13 So, from my point of view, I mean, there was
14 some effort from the Company to improve the situation.
15 But notwithstanding that, and considering even at the
16 later detention in Gibraltar, just after -- you are
17 going back and on, the trip coming back to the
18 Caribbean Sea, we spent meeting, quite some time with
19 the Company, with the top management of the Company,
20 and this was the issue.

21 We have to improve the maintenance of the ship
22 we understood that you are going on this direction, but
23 we definitely needed to avoid the occurrences of the
24 same non-conformities, of the same deficiencies, and so
25 on. The top management confirmed at that time, their

1 commitment in doing that.

2 And on the other hand, I would say that this
3 commitment was -- how to say -- encouraging us during
4 the audit, the survey carried out in August with not
5 only, I mean, as you know we were also on board during
6 the Certificate of Compliance Survey in August.

7 And the situation was not as it was
8 previously. I mean, so there was step forward in order
9 to discuss with the Company, in order to highlight the
10 weak points and try to solve this situation. And the
11 commitment from the Company was there. This is what --
12 this is the result of our meeting that time.

13 Q. All right, thank you. And with regard to that
14 meeting.

15 A. MR. SALETTI: Yes.

16 Q. Was that in Ft. Lauderdale or La Paz?

17 A. MR. SALETTI: That was in Miami.

18 Q. Okay, and who do -- can you recall who you met
19 with from Baja Ferries, by name?

20 A. MR. SALETTI: Yes, yes. It was the CEO Oscar
21 Ruano, and I think that for the first time I met also
22 Mr. Gustavo, and Mr. Santarella was with me at that
23 time, right?

24 A. MR. SANTARELLA: Yes.

25 Q. Okay.

1 A. MR. SALETTI: I think at that time we were
2 four of us. For sure Mr. -- sorry -- for sure Mr.
3 Oscar Ruano, I'm not sure, but I think we might also
4 Mr. Gustova.

5 Q. Okay, thank you. And were there any
6 discussions at that point regarding the potential of
7 RINA suspending or withdrawing class from the vessel?

8 A. MR. SALETTI: Not from my side.

9 Q. Okay, what about Panama, was Panama present,
10 or was Panama on telephonic on that meeting, or --

11 A. MR. SALETTI: No.

12 Q. Did you have any discussions with flag
13 regarding the vessel, any of the flag surveyors or --

14 A. MR. SALETTI: Not me, at the time not me.

15 Q. Okay, thank you.

16 A. MR. SALETTI: You are welcome.

17 MR. BOWLING: Thank you, Commander Capelli, I
18 think that's all the questions I have at this time.

19 CDR CAPELLI: Good afternoon, the time is 1507
20 let's take a recess of fifteen minutes.

21 (Whereupon a fifteen minutes recess was taken 1507
22 to 1532.)

23 CDR CAPELLI: Good afternoon the time is 1532
24 we will now continue the hearing. The witnesses are
25 from RINA and Mr. Adam Tucker will be doing the

1 questioning.

2 **WITNESSES**

3 **ARTURO SANTARELLA**

4 **GIORGIOA SALETTI**

5 **(EMPLOYEES OF RINA.)**

6 **EXAMINATION**

7 BY MR. TUCKER:

8 Q. Good afternoon.

9 A. MR. SALETTI: Good afternoon.

10 A. MR. SANTARELLA: Good afternoon.

11 Q. Commander wanted me to remind you that you are
12 still under oath. A few follow-up questions for RINA.
13 My first question is related to the installation of
14 life rafts that took place in the dry-dock in Tunisia,
15 in I believe June or July.

16 We understood that the installation of those
17 life rafts were not supervised or inspected by any
18 person from the original equipment manufacturer and I'm
19 just wondering we were informed that RINA had inspected
20 and authorized this. Does RINA have any specialized
21 training or certification in the installation and the
22 approval of a life raft installation on board the ship?

23 A. MR. SANTARELLA: Not for these life raft we --
24 yes, there is approved authorized service supplier for
25 the maintenance, and also for the installation. This

1 normally is the database is called the service
2 supplier, and there is a category for the maintenance
3 and installation of the life raft on board.

4 But in, if it is specific for the life raft,
5 or also for the lifeboat, because there is also the --
6 I not check all the lifeboat and the cranes, specific
7 for the life raft you are asking?

8 Q. Specific for the life rafts.

9 A. MR. SANTARELLA: Yeah, because I remember that
10 was an authorization issued by Panama regarding the
11 maintenance and the -- of the lifeboat and the crane,
12 and this, but it was not. Then yes, normally the
13 service supplier, that are authorized with RINA are
14 listed in the database, and this is the -- the place
15 where we have the list of the authorized.

16 Bu in any case, there is a sort of an
17 agreement, and there is also, if we don't have a
18 service station, or a supplier in this location, but in
19 the same location there is a service supplier approved
20 by other classification society, we the service
21 supplier approved by other classification societies.

22 A. MR. SALETTI: IACS.

23 A. MR. SANTARELLA: Yes, the requirement is to be
24 IACS that is issue by a recognized organization, IACS.
25 And regarding then this previous picture about the

1 winch, I have reviewed the picture because I have a
2 wrong -- see the direction. If we can bring it in in
3 the picture 286 for the MES.

4 Because of the way how it is (inaudible word)
5 is correct it is clockwise. The problem is in any case
6 that the position, in this case we cannot not brake,
7 because the last step, you see, in the wrong position
8 has to be close to brake, then that was my mistake to
9 say that that is in the wrong direction. It is the
10 wrong direction, just to clarify, because the end is in
11 the wrong position. But the direction is the right
12 one.

13 Q. Okay.

14 A. MR. SANTARELLA: Okay.

15 Q. Thank you for clarifying. The next question I
16 have is -- and I understand this must be a challenge
17 to, as ships get older more documents and things that
18 exist on board. On this specific, I am wondering what
19 class's approach is with respect to documentation, or
20 specific instructions that are not in the official
21 language of the ship.

22 In particular one item that we found was the
23 operational instructions of the HPN nebula system, the
24 machinery space water mist. We found instructions on
25 board, and what appears to be very specific from RINA,

1 as to the operation and the limitation.

2 But it was issued to the motor vessel Victory,
3 and the instructions are all in Italian. I was
4 wondering what -- how does class approach that to bring
5 instructions from one language into another, so that
6 the crew can understand the operation and limitations
7 of the equipment as class defines?

8 A. MR. SANTARELLA: What is relevant to
9 firefighting equipment that was, or lifesaving, this
10 has to be translated to working language on board. And
11 in this case in English.

12 And if it was found the booklet just in
13 Italian, and was the only one that was available on
14 board, yes, this is something that has to be translated
15 into English. But we have to check if there was a
16 translation in English about the same.

17 Q. I that something that is normally checked
18 during any type of class audit, or class inspection?

19 A. MR. SANTARELLA: Yes, as I said before the
20 training manual is normal, there are these booklet,
21 SOLAS, it is a requirement by SOLAS. And in this
22 booklet you have the operational instruction in the
23 working language.

24 Then I believe that in the training manual was
25 included also this system, and the proper instruction

1 was in English in this booklet.

2 Q. And in particular, approval, class approval
3 documents, should they also be in English in relation,
4 in specific relation to the water mist, the engine room
5 water mist system?

6 A. MR. SANTARELLA: Okay, if it is, for sure, if
7 it is a new system, I'm speaking about a new drawing,
8 or if there are in this document instruction how to
9 operate, yes. The minimum instruction, how to operate
10 and how to maintenance, do the proper maintenance
11 recommendations, has to be in the working, their
12 language.

13 Q. Okay. Staying with documents, again, what we
14 found on board were old class documents from BV, from
15 Bureau Veritas. And I'm wondering, is there a
16 requirement, once the ship has changed classification,
17 to maintain old certificates on board? Is there any
18 requirement to do that? Or necessity?

19 A. MR. SANTARELLA: We have to check which
20 document we are referring to. Because there are some
21 documents I can speak about some record, for example,
22 there is one document that is the record of the load
23 line assignment or record of -- these documents are the
24 original one.

25 Then if the ship was built under ABS, for

1 example, and the record was issued with ABS, this
2 document is review, is for acceptance, but it is not
3 re-issued, again, because the content is quite the
4 same, then there is no change.

5 We have sort of instruction about doing a
6 change of class, or doing a change of flag which
7 document has to be re-issued, which one has to be
8 amended, which can be approved on behalf, which can be
9 -- which has to be re-approved again. And this is also
10 according the flag instruction. Each flag, can ask
11 different.

12 But, basically if it is -- we are speaking
13 about Safety Passenger Certificate issued by Bureau
14 Veritas, and we have issued a new one, no. Because
15 Safety Passenger is one. The ship can have double
16 class, dual class, then we can found on board two Class
17 Certificates, this happened. And based on the record
18 Bureau Veritas, we (Inaudible word) the class in July,
19 then we bring in March. And then for three months on
20 board, it was, the class was issued by RINA and Bureau
21 Veritas.

22 Q. Okay. So in particular, like a certificate
23 for a connecting rod, or a specific engine machinery,
24 does all of that need to re-classed by RINA, or are
25 they accepted, the original BV certificates, are the

1 accepted.

2 A. MR. SANTARELLA: Excuse me, you are speaking
3 about the Test Certificate of some, like a machinery,
4 like an incinerator?

5 Q. Yes.

6 A. MR. SANTARELLA: No, there is a mutual
7 recognition about the class society. Then if we are
8 on board, and we have a change of class between Bureau
9 Veritas and RINA, and the engine was tested under
10 Bureau Veritas requirement, we don't ask to reissue or
11 make additional verification about the engine, and
12 speak about the crankshaft, or complete engine itself.

13 What is requested is if there are new
14 equipment, then in this case it is different. Or if
15 there is a modification, then if there is a
16 modification, we need to assess the modification, yes.

17 Q. Thank you. And staying with the machinery, I
18 understand that there was a continuous survey for
19 machinery on board the Caribbean Fantasy. In
20 particular is there any type of survey that takes place
21 on that fuel supply line, and the fuel pumps, what can
22 you tell me about the surveys that take place there?

23 A. MR. SANTARELLA: Yes, the scheme of the
24 survey of the machinery item can be under this scheme
25 that is called a continuous, or under PMS. Or the

1 other option is that the -- at the end of the five
2 year, during the annual survey, all the items has to be
3 inspected at the same time.

4 Then normal, the ship prefer to adopt the
5 continuous machinery scheme because you have to inspect
6 each item once every five years. Then you can chose to
7 have the inspection of everything in the five-year
8 period and you don't have to overhaul all the item in
9 the short period.

10 The item that has to be listed in the ship
11 status, then if we bring ship status we will found for
12 each item subject to class survey, description of the
13 item and the due date of the inspection. And there are
14 items that can be surveyed by chief engineering, and
15 there are item that we have to witness during the
16 overhauling. And for example hire vessel has to be
17 inspected, in any case, with our presence.

18 But, for example (inaudible word) can be
19 inspected one time by chief engine, and then next time
20 has to be inspected by us. Then it mean that if the
21 chief engineering perform one inspection, in any case,
22 within ten years we have to make our inspection of the
23 same item.

24 Q. So in relation to this fuel supply line on the
25 port main engine, would a class surveyor ever get to

1 the level of detail to assessing that fuel blank and
2 flange and gasket material?

3 A. MR. SANTARELLA: This, if we are speaking
4 about the protection of the flange, this is something
5 that is assessed after the completion of the work.
6 That is not the item itself, there reason no continuous
7 machinery item for flange protection just to -- but in
8 any case, it is a part of the survey, in particular
9 after overhauling to check the protection, that can be
10 metallic, or tape, when improved, has to be properly
11 refitted on the place.

12 Q. Okay, and Carlos are you able to bring up the
13 lab report? The NTSB lab examination? Scroll down,
14 I'll let you know when to stop. Okay, right here is
15 good. So this is what we found and we analyzed at the
16 NTSB Lab. This appears to be the portion of the fuel
17 pipe with blank, and the plate is removed in the lower
18 picture.

19 My question, is specific, is there any class
20 inspection regime to take a look at this type of
21 material on the fuel supply line?

22 A. MR. SANTARELLA: Yes, fuel line, we have a
23 categorization of the system, this, the system are
24 normal on board are identified with a different
25 perimeter, like pressure, temperature, and like type of

1 fluid.

2 Then fuel is normal class two because of the
3 temperature. Then the material has to be subject to
4 additional or dedicate a different requirement like
5 material notification. But is also relevant to the
6 dimension of the pipe, the size, the normal diameter.
7 Then, just for reference the -- if the diameter is
8 small diameter, the requirement are few requirement.
9 If the diameter is bigger the requirement are different.

10 MR. CALVESBERT/COUNSEL: Mr. Tucker could you
11 identify that Exhibit for the record, please?

12 MR. TUCKER: Yeah, sorry, that is Exhibit
13 E275.

14 MR. CALVESBERT/COUNSEL: Thank you.

15 MR. TUCKER: I apologize.

16 BY MR. TUCKER:

17 Q. All right, thank you Carlos, thank you
18 Lieutenant.

19 Earlier when you were talking with Mr. Bowling
20 it was mentioned that these class surveys are quite
21 detailed, and I'm wondering if there is -- if you can
22 tell me based on your experience on board that vessel,
23 or what happens with the inspection of A60 boundaries
24 namely, in the area directly above the port main engine
25 and the above, the deck above, it is Garage B. Is

1 there any detailed inspection of A60 boundaries in that
2 area?

3 A. MR. SANTARELLA: We have for this I have to
4 take a look about the record. Because, at the renewal
5 survey for Safety Passenger Ship, we have a dedicated
6 checklist relevant to the assessment of the passive
7 fire protection. This checklist, basically, is the
8 focus on passive fire protection and we identify some
9 area, because we cannot inspect all the fire protection
10 on board -- the passive fire protection. But every
11 year we select some area, it can be machinery, it can
12 be RORO space, it can be accommodation, and we sample
13 some area to be inspected by removal of insulation, for
14 example, or removal of ceiling in order to evaluate the
15 condition of the insulation.

16 Then we have this report that was done in
17 (inaudible word) during the Safety Passenger Survey.
18 And this report is the detailed the area, the check,
19 the spot area. Normally there is a frame deck, and
20 main vertical zone, and the item that was inspected, if
21 it is insulation A60, if it is a (inaudible word) stop
22 and (inaudible word).

23 Q. So, as I understand annually it is a spot
24 check, pretty much based on the checklist, is that
25 correct?

1 A. MR. SANTARELLA: There is -- it is a little
2 bit difference. The condition of the passive fire
3 protection is examined where it is visible all around
4 the ship. But the true examination, that mean removal
5 of ceiling, then check, for example in accommodation,
6 in area that are not visible, then we go in these
7 detail in some area, spot, in this case, for area that
8 are not easily accessible, and visible by a walk
9 through, this is different.

10 But different is for cable, I don't know.
11 Cable where is visible, you check every bulkhead that
12 is replaced. If there is some cable, you check that
13 the proper passages is replaced with the right
14 material.

15 Then the passive fire protection is assessed
16 during the Safety Passenger, every annual survey to the
17 ship, and in particular, some area, spot area, is
18 examined with removal of ceiling.

19 Q. Okay. The other question is, does
20 classification, does class get involved in the spray
21 tape that is applied around the previous fuel flange
22 that we looked at in accordance with the IMO
23 regulations, how does RINA evaluate that?

24 A. MR. SANTARELLA: This, the tape, if it is used
25 has to be approved, then it is a requirement. Normal,

1 the tape, the approval is clearly written on the tape.
2 There is the reference of the recognized organization
3 that approved the tape.

4 The other option is the plate, because you can
5 also avoid the spray --

6 Q. Um-hmm.

7 A. MR. SANTARELLA: -- with a metallic shield.

8 And then, in this case, the metallic shield is
9 something that is quite different then. But it is a
10 material (inaudible few words) limit there is not much.
11 But, in any case, the important thing is to avoid the
12 leakages in spray condition that is a dangerous
13 situation.

14 Or can be in some area insulation, because in
15 some area you can cover the flange where you can have a
16 leakage with the insulation. This also is considered a
17 protection of the flange.

18 Q. So would, will class ever get down to the
19 level of evaluating how these are wrapped with respect
20 to the splash tape?

21 A. MR. SANTARELLA: It -- can you repeat
22 (inaudible word) the question?

23 Q. So would it, during any type of survey --

24 A. MR. SANTARELLA: Um-hmm.

25 Q. -- around this particular flange.

1 A. MR. SANTARELLA: Yeah.

2 Q. There was an anti-splash tape wrapped around
3 it.

4 A. MR. SANTARELLA: Um-hmm.

5 Q. Would that be something that a class surveyor
6 would check?

7 A. MR. SANTARELLA: Yes, because it is a SOLAS
8 requirement that the flange, itself, have protection.
9 There is a system because not all the system, for
10 example is related to a flammable system, like fuel,
11 diesel, lube oil, and it is also related to all surface
12 that are -- is a part of the safety construction, or
13 safety passenger depend the type of the ship to verify
14 that the proper area where is requested or provided
15 with the protection. The protection can be different.

16 Q. Okay, thank you. Back to the change of
17 classification, what was the date that RINA had taken
18 classification of the Caribbean Fantasy from BV?

19 A. MR. SANTARELLA: It was March 2013, 22 March,
20 2013.

21 Q. Twenty-second of March, 2013?

22 A. MR. SANTARELLA: Yes.

23 Q. Okay.

24 A. MR. SANTARELLA: But the ship was with RINA
25 before, was before -- until November 2009, was with

1 class RINA, with the name of Victory, trading in
2 Mediterranean.

3 Q. Is it -- this is a general question, is it
4 common for ships, or ship's owners to change
5 classification?

6 A. MR. SANTARELLA: Common what do you mean? If
7 you mean every two years, no it is not.

8 Q. Okay.

9 A. MR. SANTARELLA: But because, in any case,
10 there are different problem, know of additional survey,
11 request for change of class, COSTA (sounds like), then
12 you can find a ship that are with (inaudible word)
13 register by the first day until the last day. Or you
14 can find a ship with two, three changes, is there is no
15 statistics. I think there is statistic about that,
16 that is something that is not very common, frequently
17 at least.

18 Q. Okay, for this particular case of -- I'm
19 sorry, go ahead.

20 A. MR. SALETTI: Sorry, Giorgio Saletti.
21 Actually it is a matter of owners, if the ship change
22 owners, maybe the owner want to change also the class
23 because he has all the other ships with the same class.
24 It is a commercial reason maybe one class is cheaper
25 than the other.

1 There are also technical issues relevant to,
2 for instance, the presence of one particular class in
3 the area where the ship is trading. So, if I am -- I
4 have no presence in North Pole, probably the owner that
5 is trading the ship in the North Pole is not choosing
6 RINA, because every time the surveyor has to come from
7 Miami, for instance, I don't know.

8 There are different kind of reasons why. But
9 we have ships with same owner that never change the
10 class, and ships that are changing class.

11 Q. Okay, thank you. And for this particular
12 change of class, what was the reason, were you given a
13 reason for why the owner wanted to change
14 classification?

15 A. MR. SANTARELLA: Not to my knowledge.

16 Q. Okay.

17 A. MR. SALETTI: Yes, you are speaking about to
18 come back RINA, or when they change it RINA to Bureau
19 Veritas? There was two changes.

20 Q. Yeah, I believe I understood when they went to
21 --

22 A. MR. SALETTI: To RINA again.

23 Q. BV because it was Mexican flag. But, I guess
24 when it -- so yeah, from the transition from BV back to
25 RINA.

1 A. MR. SANTARELLA: No, no, I do not know, no.

2 Q. Okay. You mentioned as well, I was curious,
3 with respect to -- you mentioned your surveyors have to
4 have a certain certification to be able to inspect, or
5 survey passengers' vessels. What particular trainings
6 or certain requirements are needed for passenger
7 vessels?

8 A. MR. SANTARELLA: Okay, there are theoretical
9 model, basically our training is a combination of a
10 theoretical and practical training. Then we have to
11 perform some course, and study model, and this is on
12 theoretical point, no.

13 And after this, we have to do a practical
14 training. It mean that the surveyor has to do,
15 together with the qualified surveyor a minimum number
16 of survey, and this survey has to be practically
17 witness only, without make the survey itself.

18 And after this, upon evaluation and exam there
19 is the qualification. For some particular survey, like
20 a renewal survey, there is additional course in our
21 head office, or organized locally, depend by the area,
22 and basically yes for passengers, when you have to do
23 renewal, you have to do also this course.

24 And for the maintenance you have to -- as I
25 told you before, there is a monitoring activity to be

1 carried out.

2 Q. Thank you. Back to my question earlier, I
3 forgot one thing, I'm sorry, I have to go back. But
4 with the flange and that anti-splash tape that is
5 wrapped around the fuel flange, would it be acceptable
6 to just have a single wrapping around the flange? Or
7 are multiple layers expected?

8 A. MR. SANTARELLA: By my experience one layer is
9 enough.

10 Q. One layer, okay, thank you.

11 A. MR. SANTARELLA: Yes.

12 Q. Okay.

13 A. MR. SANTARELLA: As I know.

14 Q. Thank you. Okay now, as you heard this
15 morning there seems to be a lot of confusion for me,
16 anyway, with respect to the emergency plan and station
17 bill for the ship. What I understood is that class had
18 approved an emergency plan and station bill, and it was
19 date 2 February, 2016.

20 I'm just wondering how you evaluate these
21 plans, how does class evaluate these plans, and how do
22 they ensure that there are implemented on the ship?

23 A. MR. SANTARELLA: Okay, if we are speaking
24 about the muster list?

25 Q. Correct.

1 A. MR. SANTARELLA: Yeah, because there is also
2 the evacuation plan, and there are other plan and these
3 are also subjected to approval.

4 Q. Yes.

5 A. MR. SANTARELLA: But it is different with more
6 the date.

7 Q. Yes, just the muster list.

8 A. MR. SANTARELLA: Okay, the muster list, there
9 is a SOLAS requirement about approval of the muster
10 list, and in particular, the Panama flag as additional
11 national requirement that the format of the muster list
12 is, there is a designation for the classification
13 society. In this case, we had authorized, we have this
14 authorization for the review of the format of the
15 master list.

16 And then it means that we review the master
17 list, and how is made. And during the survey on board
18 we verify that the muster lists are properly posted, in
19 the different location, also this is a requirement of
20 the SOLAS.

21 Q. Okay, so for this particular muster list that
22 we have in evidence, is dated 2 February, 2016, and as,
23 throughout this hearing, we have learned that that was
24 not the one that was employed on the vessel at the time
25 of the casualty.

1 A. MR. SANTARELLA: Um-hmm.

2 Q. So my specific question is, is from the time
3 that this muster list is approved, and I understand the
4 vessel goes to dry-dock for an extended period of time.
5 Is there an implementation period, based on this
6 February 2, 2016, is there a period of time that the
7 ship has allowed to them to implement this new plan?

8 A. MR. SANTARELLA: No again, what is in the
9 muster list, is to be verified, because it has to be
10 properly addressed the duties, properly, but if this
11 muster list as posted after one month, or after three
12 months is not something that we ask, or we have a
13 requirement. And it can be located after for more than
14 one month, two months, but there is no requirement
15 about the minimum time that it has to be implemented.

16 Q. Okay, so as I understand no minimum time, so
17 that's really up to the vessel, the ship's management,
18 or the vessel owner to implement that.

19 A. MR. SANTARELLA: And to post it, basically,
20 what is important is that if they are posted, the
21 previous one they are -- they follow what is written in
22 this one. If they are posted a new one, they are aware
23 about what is included in the new one, this is the
24 point.

25 Q. Okay, and are you able, I know you have your

1 notes in front of you, are you able to confirm what was
2 the most up to date emergency plan, and muster list
3 that was approved by RINA.

4 A. MR. SANTARELLA: The one that we have
5 received one in January, and then -- and it was, after
6 a few weeks it was stamped. But it was stamped locally
7 by the surveyor. Then we don't have in our file the
8 copy that was -- there is not a record of the approved
9 one. Then as, this is case it was stamped and directly
10 on board. And then this is the evidence that we verify
11 this muster list. But we don't have a record of the
12 last update, this is the --

13 Q. Okay.

14 A. MR. SANTARELLA: -- the point.

15 Q. Okay, so they are stamped locally by the
16 surveyor.

17 A. MR. SANTARELLA: Yes.

18 Q. And they are not --

19 A. MR. SANTARELLA: In this case --

20 Q. And they are not submitted back to -- they are
21 not resubmitted back to the office.

22 A. MR. SANTARELLA: I think it was stamped on
23 board, because Eric Mark was on board in this period.
24 And then I believe that it was reviewed and stamp on
25 board.

1 Q. Okay. With respect to the water mist system,
2 I mentioned earlier, this system they call nebula, in
3 the engine space. Is there any type, specific class
4 testing of these local application water mist systems
5 in the engine spaces? And if so can you talk of the
6 frequency of it?

7 A. MR. SANTARELLA: If we are speaking about
8 periodical check, normally the periodical check after
9 the installation is based on a flag requirement, and
10 IMO Circular.

11 If you are speaking about initial test, yes,
12 we have our reference rule in order to commission the
13 system when it is installed the first time on board.
14 And we are speaking about drawing, pressure test of
15 line, electrical verification of the system, alarm what
16 is -- because this is normal first approval done, and
17 drawing, and after verified on board, we did the test.

18 But the periodical check, in order to maintain
19 the system, in this case, for example, Panama require
20 the application of IMO Circular, one is the 13.12.
21 There are several IMO Circular that manage the
22 periodicity of the test for each kind of active fire
23 protection.

24 For example, we can have a weekly check, we
25 can have a monthly, or we can have a yearly. Then for

1 some system, like CO2 every week you have to take a
2 look about the cylinder. Every month -- there is,
3 depending on the system. And how often you have to do
4 the requirement or more stringent, not then they have
5 to make more check after one year, and every week you
6 have to do only some, some check.

7 But yes, this is -- if we wanted detail, the
8 Panama Circular is the MMC281 and in this Circular,
9 basically, are recalled the IMO Circular 1318, 1432,
10 and 1312 that are relevant to the periodical check of a
11 fixed system on board.

12 For example, for a water mist, every weekly
13 there is the control of the control panel.

14 Q. Um-hmm.

15 A. MR. SANTARELLA: If there are alarm, a
16 failure, if there are -- then this is an example of a
17 weekly test. And the visual examination of the valve.
18 If it is in the -- that are monthly, if it is in open,
19 closed because if we have a manual valve in this
20 system, it very important that the manual valve are
21 keep open, because we have the electrical one, but we
22 have also the manual. Then it is very important to
23 check with good periodicity, the position of the valve
24 if they are the manual.

25 Q. Okay. With respect to the Voice Data

1 Recorder, can you just describe to me how class is
2 involved in the Voice Data Recorder Systems?

3 A. MR. SANTARELLA: This system as a -- is
4 something like the lifeboat is the same here. Because
5 there is a mandatory annual performance test of the
6 system carried out by authorized firm. That are
7 authorized by the manufacturer.

8 Normal the procedure is that the authorized
9 firm goes on board, check the system, and upon
10 completion leave they send -- and they left on board a
11 checklist with all the details for all input that the
12 system has provide. And if it is a passenger or cargo,
13 it is different the type of the recording, and the
14 input.

15 Then the first thing is during the renewal
16 survey, passengers ship is to review the report, and to
17 renew we have a pending remark in the report. That can
18 be a recommendation for us. If the report is with no
19 outcome, with no pending item, and there is no follow-
20 up, in this report, we sample basis, we test the
21 system, with some input, and check that again, panel
22 there is no alarm for failure or supply, (inaudible
23 word) supply, for example.

24 There are a minimum alarm then we can check by
25 the panel, but also we can take a look in the system if

1 there are something. Because normal the monitor system
2 give the information if something, some input is not
3 available, and then you can have a look by the panel.

4 Q. So is -- in addition to the annual performance
5 test, is that something that class surveyors typically
6 look at?

7 A. MR. SANTARELLA: Yes, for sure. The panel
8 itself, with the alarm is checked because it is the
9 first things, and the first item that prove that there
10 is something wrong.

11 If it is, for example, (unintelligible word),
12 and the cosander (sounds like) is a switch off, then
13 the system don't recognize the input from the cosander
14 (sounds like) you can just switch on the consander
15 (sounds like) and you can verify that the information
16 is provided to the system. It was just switched off.
17 This is an example.

18 But according also to in type of VDR, there is
19 also a friendly interface to check if all the input
20 like microphone, like rapid response are working.
21 There is a like a list of all the item, and you can
22 also take a look or test by directly, by test the
23 microphone, make an example, and check the information
24 that this is record.

25 Q. Thank you. My last question that I have is

1 throughout this investigation again, throughout this
2 hearing, sorry; we've learned that this drencher system
3 this deluge system on the car decks had been quite
4 problematic for the Company and the crew.

5 We understand it used to be sea water system,
6 and it had transitioned from sea water to taking water
7 from the ballast tanks. Was RINA involved in that
8 system redesign? And if so, can you explain how that
9 was reviewed?

10 A. MR. SANTARELLA: For this I'd have to check
11 the record. Because I was not directly present during
12 this change of the system. Then we have to check if
13 there was a modification, because also if you have some
14 modification has to be evaluated. If it is a request a
15 re-approval, a drawing, or if it is a minimal
16 modification then it is not a request.

17 Then normally, during the survey one of the
18 first things, we approach and we ask to the master, if
19 there are modification, if there are new equipment on
20 board, and if we have a modification and we are about
21 this, we have to evaluate if the modification is
22 according to rules, or the convention.

23 Q. Okay, we will make that request for the -- see
24 if you have any records, at a later date. That's, I
25 may have one or two more questions on the back end, but

1 for now I'm finished my questions, so thank you very
2 much.

3 A. MR. SANTARELLA: You are welcome.

4 **WITNESSES**

5 **ARTURO SANTARELLA**

6 **GIORGIO SALETTI**

7 **(EMPLOYEES OF RINA.)**

8 **EXAMINATION**

9 BY MR. BOWLING:

10 Q. Gentlemen, sorry for -- to take the mic back
11 over here, but I did want to, as I listened to the
12 feedback to -- Larry Bowling with the National
13 Transportation Safety Board sorry.

14 As I listened to the feedback to Mr. Tucker, I
15 was thinking about during your earlier statements that
16 what RINA was doing from a survey standpoint on the
17 Caribbean Fantasy after the detentions, and let's just
18 say the -- I think the 15th, is when you put them on a
19 different, or a quarterly survey, correct, from RINA?

20 So how is it that with that quarterly survey
21 schedule that the Coast Guard Port State Control teams
22 are continually finding deficiencies? And I'm trying
23 to -- is it, when, when, why, how is that happening?

24 A. MR. SANTARELLA: This is something is not easy
25 to reply about. I can tell that the type of the ship

1 is not -- there is one, the RORO passenger ship,
2 because are passenger, then with all the requirement of
3 passenger and also RORO, then there is that different
4 matter involved. Then are quite the most difficult, in
5 my opinion, ship. And those are the age, for sure is
6 something that affects the discovery of deficiency.

7 Not the -- but this is something that we can
8 tell about this. For sure what we have seen during the
9 last two years, we have seen very good improvement in
10 the condition, and in particular after the dry-dock
11 work. Then after this long stay, and three months of
12 work we see very very good improvement on the
13 condition, and speaking about machinery all RORO space
14 and also lifeboat arrangement.

15 But for sure this kind of ship not easy to
16 manage.

17 Q. Okay, thank you. Lieutenant Diaz, could you
18 being up Exhibit No. 083 please and we -- I think we
19 looked at this earlier, but I want to point out one
20 thing on the alternative DPA. And for the record, when
21 this comes up, this is a MA, a Maritime Authority,
22 Declaration of Designated Persons. And I couldn't find
23 a date on this. So maybe one of you two can tell me
24 when that was executed. But that was in the package
25 that was titled, "RINA Job 1", that was provided to

1 RINA when the initial Safety Management System was,
2 along with the cover letter.

3 Do you know, roughly when that was executed?

4 A. MR. SANTARELLA: This document is a form; the
5 format of this document is given by the flag. Because
6 some flag has Panama have a specific format, and I can
7 tell that we have as our requirement to -- we need to
8 verify that the declaration is on board during the
9 audit as a -- also the company declaration.

10 And then, yes, it was, was on board, and was
11 completed with all the details, about the date, I don't
12 know. If it was, because we can also, normally we scan
13 all the documents in the system. Then, I don't know if
14 it can happen that during the scan was removed the
15 date, this, we can check on the original.

16 Q. Okay.

17 A. MR. SANTARELLA: And see if the date is on the
18 original document.

19 Q. Then, this second question there, you see
20 Gustavo Abaroa Galvas, and I understood that Mr.
21 Saletti, you indicated you thought he was at the
22 meeting.

23 A. MR. SALETTI: Yeah.

24 Q. That you had? And then this second individual
25 Gorge Casillas Ruano, did -- are you familiar with him,

1 have you met him elsewhere?

2 A. MR. SALETTI: I'm not sure, honestly --

3 Q. Okay, and --

4 A. MR. SALETTI: I met several people in the
5 Company, but honestly, I don't remember the names.

6 Q. Okay, and Mr. Santarella?

7 A. MR. SANTARELLA: I met on board during the
8 additional audit on November 2015.

9 Q. Okay, so that would be E116. Can we bring
10 that up? Scroll down please, Lieutenant, go back up,
11 I'm sorry.

12 A. MR. SANTARELLA: Yeah, it is the first page.

13 Q. Right there, is that the same individual that
14 at that time was serving in the engine room with the
15 chief engineer?

16 A. MR. SANTARELLA: If I -- I need to check if I
17 have a report, because this report is (inaudible word)
18 then I can check if I don't have a mistake in the
19 indication --

20 Q. Okay, go ahead --

21 A. MR. SANTARELLA: Yeah, because I have the crew
22 list and sometime the format can be --

23 (Brief pause.)

24 A. MR. SANTARELLA: Yes, is in the checklist, in
25 the crew list that is included, and this is the same

1 report. Yes, it is --

2 (Conferring with Mr. Saletti, and Counsel.)

3 A. MR. SANTARELLA: Ah yes, it is Casillas
4 Serrano Raphael Antonio is -- yes, is probably a
5 different one.

6 A. MR. SALETTI: There are four names in the
7 list.

8 Q. Okay.

9 A. MR. SANTARELLA: Yes, and the chief engineer.
10 I just put there Casillas Ruano.

11 Q. So those are different individuals? Okay, and
12 that -- for the record, you obtained that from what?
13 From the crew list?

14 A. MR. SANTARELLA: Yes, I -- every time that we
15 perform the audit, we also take a copy of the crew list
16 and because it is a reference. And also we, we have
17 the reference to the person that was present during the
18 audit.

19 Q. Okay, so that is a different individual. But
20 back to the, the list of the alternate DPA. You said
21 that you knew him?

22 A. MR. SANTARELLA: I can tell that that same
23 name, the full name was different, it was Casillas
24 Serrano Raphael Antonio and he is a chief engineer.
25 There -- in my document I put only Casillas, the

1 Casillas Serrano.

2 Q. Okay, all right.

3 A. MR. SANTARELLA: Then but is George, then it
4 different.

5 Q. All right, but now so the alternative, George?

6 A. Yeah, because this is Raphael Antonio, not
7 George, excuse me.

8 Q. Okay, and had you met him previously and
9 interacted with the alternative DPA?

10 A. No.

11 Q. Okay, thank you, thank you Commander Capelli,
12 I have no further questions, thank you.

13 CDR CAPELLI: Good afternoon, Commander
14 Capelli with the U.S. Coast Guard. I have no further
15 questions; does Panama have questions for the witness?

16 MR. ARENAS: No questions.

17 CDR CAPELLI: Panama has no questions for the
18 witnesses.

19 MR. BLASINI: Give me one minute, please?

20 Okay, no sir we don't have any questions.

21 CDR CAPELLI: Okay, Baja Ferries has no
22 questions for the witness. RINA, since you are a
23 Party-in-Interest, if you have any questions -- now you
24 can address them.

25 MR. SANTARELLA: No, questions.

1 MR. CALVESBERT: I have one, one
2 clarification to Mr. Yets' question about the -- this
3 is Paul Calvesbert for the record -- the signage I
4 think was Exhibit #6, is -- was it represented that
5 that signage was signage that was on the vessel in
6 question, or is that some generic signage?

7 MR. YETS: Yeah the pic --

8 MR. CALVESBERT: I suppose it is a point of
9 clarification.

10 MR. YETS: Absolutely, Jason Yets from the
11 United States Coast Guard, the picture of the signage
12 that I have shown you guys, which was Exhibit --

13 MR. CALVESBERT: I think it was six.

14 MR. SALETTI: Exhibit E306.

15 MR. YETS: 306, E306.

16 MR. CALVESBERT: Oh 306.

17 MR. YETS: E306, yeah, so this picture was
18 taken on board the ship a day after the incident,
19 before the ship even pulled back into port. Yeah,
20 thank you.

21 MR. YETS: You are welcome.

22 CDR CAPELLI: RINA any more questions?

23 MR. SANTARELLA: No.

24 MR. CALVESBERT: No.

25 CDR CAPELLI: Gentlemen thank you -- you are

1 now released as a witness at this hearing, thank you
2 for your testimony and cooperation. If I later
3 determine that we need additional information from you,
4 I will contact through your counsel. If you have any
5 questions about this investigation, you may contact the
6 recorder LTJG Diaz-Colon. The time is 1632 and we will
7 recess until tomorrow at 0800.

8 (Monday's proceeding concluded at 1633.)

9

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 the Formal Investigation of the Caribbean Fantasy Marine Casualty, heard in the Hilton Caribe, San Juan, Puerto Rico, Monday March 27, 2017, were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers one to two hundred and two 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 19th day of May, 2017.

Sally S. Gessner, Court Reporter