


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 EIGHT OF EIGHT

DATE TAKEN: Tuesday, March 28, 2017

TIME: Start time 0810-1031

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P R O C E E D I N G S

1
2 Start Time 0810

3 CDR CAPELLI: Good morning, the hearing will
4 come to order. Today is March 28th 2017, and the time
5 is 0810 we are continuing at the Caribe Hilton, in San
6 Juan, Puerto Rico. I am Commander Mike Capelli of the
7 United States Coast Guard, from the Seventh Coast Guard
8 District, Inspection and Investigation Branch, in
9 Miami, Florida.

10 I have been directed to serve as the Lead
11 Investigating Officer for this Formal Investigation
12 which has been convened by the Commander of the Seventh
13 Coast Guard District, Rear Admiral Scott Bushman under
14 the authority of Title 46, United States Code, Section
15 6301, and Title 46 Code of the Federal Regulations,
16 Part 4.

17 To investigate the circumstances surrounding
18 the fire, subsequent grounding, and full evacuation of
19 511 passengers and crew off the Caribbean Fantasy on
20 August 17th, 2016 while approaching the pilot boarding
21 station to the Port of San Juan, Puerto Rico. I am
22 conducting the investigation under the Rules in 46
23 C.F.R. Part 4.

24 The investigation will closely determine as
25 closely as possible the factors that contributed to the

1 incident so that proper recommendations for the
2 prevention of similar 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 whether there is
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. All Parties-in-Interest have a
21 statutory right to employ counsel to represent them, to
22 cross-examine witnesses, have witnesses called on their
23 behalf.

24 I will examine all witnesses at this formal
25 hearing under oath or affirmation and witnesses will be

1 subject to federal laws and penalties governing false
2 official statements.

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

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

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

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

1 [REDACTED]@USCG.mil.

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

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

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 this accident, and
3 determine probable 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 the 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: As a first order of business
12 Baja Ferries has an exhibit that they would like to
13 enter as evidence and part of the record, for
14 consideration in these proceedings. The document that
15 they would like to enter is a muster list posted on the
16 Caribbean Fantasy. And do you have the date, Counsel?
17 That is posted on that muster list?

18 MR. CHENAULT: The muster list has a date on
19 it with the RINA signature of July 3, 2016.

20 CDR CAPELLI: Are there any objections to
21 Exhibit No. 324? Panama?

22 MR. ARENAS: No.

23 CDR CAPELLI: No objections from Panama.
24 RINA?

25 MR. CALVESBERT: No objection.

1 CDR CAPELLI: No objection from RINA.
2 American Cruise Ferries?

3 MR. BAYRON: (No audible response.)

4 CDR CAPELLI: No objections from American
5 Cruise Ferries. Baja Ferries? They put it in the
6 record, okay. Exhibit # 324 has been accepted as part
7 of the record.

8 (Muster list was admitted into
9 the record as Exhibit No. 324.)

10 MR. CALVESBERT: Commander Capelli, good
11 morning sir. How can I get a copy of that exhibit?

12 CDR CAPELLI: We will have the Exhibit
13 scanned; it is a paper Exhibit right now. It will be
14 scanned and you will get it as you got the others on an
15 electronic disk.

16 MR. CALVESBERT: Okay, can I see it in the
17 meanwhile?

18 CDR CAPELLI: Yes, sir. The time 0818 we
19 will recess so that RINA can have a chance to look at
20 the document.

21 (A brief recess was taken 0818-0836.)

22 CDR CAPELLI: Good morning, we will now
23 reconvene the hearing, it is 0836. Before the recess
24 we were providing RINA a document that they just saw.
25 So we are now going to hear testimony from RINA. LTJG

1 Diaz-Colon will administer the oath and ask you some
2 preliminary questions.

3 **WITNESS**

4 **MR. GIORGIO SALETTI**

5 **(EMPLOYEE OF RINA)**

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

8 Whereupon a witness produced on behalf of the
9 Coast Guard was duly sworn according to the law, was
10 examined and testified as follows:

11 THE WITNESS/MR. SALETTI: Yes, I do.

12 LTJG DIAZ-COLON: Please be seated. For the
13 record, please state your name and spell your last
14 name.

15 THE WITNESS: Yes, good morning, I am Giorgio
16 Saletti, S-A-L-E-T-T-I.

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

20 MR. CALVESBERT: For the record good morning,
21 my name is Paul E. Calvesbert, C-A-L-V-E-S-B-E-R-T. I
22 am acting as attorney for RINA, and for this witness
23 also.

24 LTJG DIAZ-COLON: Thank you.

25 CDR CAPELLI: Sir the last exhibit, a lot of

1 discussion was done on the record between multiple
2 versions of a muster list. When the Coast Guard asked
3 for the most recent muster list, which muster list was
4 that?

5 MR. SALETTI: The one I just saw that was
6 approved by my colleague in (inaudible word), during
7 the survey in Tunisia, that if I remember well was
8 signed the 3rd of July last year.

9 CDR CAPELLI: Okay, so you know why when we
10 previously asked for the approved muster list the other
11 one was provided?

12 MR. SALETTI: Sorry, I didn't get your
13 question, sorry?

14 CDR CAPELLI: When we asked for the -- before
15 the hearing started, we asked for the approved muster
16 list. A different muster list was provided to us, do
17 you know why?

18 MR. SALETTI: No, I don't know why it was
19 provided that one.

20 CDR CAPELLI: Okay. I have no further
21 questions. Does Panama have any questions for the
22 witness?

23 MR. ARENAS: No.

24 CDR CAPELLI: Does American Cruise Ferries
25 have any questions for the witness?

1 MR. BAYRON: No we don't.

2 CDR CAPELLI: Does Baja Ferries have any
3 questions for the witness?

4 MR. RODRIGUEZ-BIRD: No questions.

5 CDR CAPELLI: RINA, you may question the
6 witness.

7 MR. CALVESBERT: I don't. I have no questions
8 for the witness other than to make it clear, for the
9 record, that the Exhibit that we are talking about is
10 Exhibit #324.

11 CDR CAPELLI: Exhibit #324 yes.

12 MR. CALVESBERT: And it was identified by the
13 witness as being the authentic muster list.

14 CDR CAPELLI: Okay, thank you very much.

15 MR. SALETTI: You are welcome.

16 CDR CAPELLI: Thank you for your testimony.
17 You are now released as a witness at this hearing. If
18 I later determine that we need additional information
19 from you, I will contact you through your counsel. If
20 you have any questions about this investigation, you
21 may contact the recorder LTJG Diaz-Colon. The hearing
22 is now in recess -- or actually, we will just go
23 straight into the next witness. We would like to call
24 --

25 THE WITNESS/MR. SALETTI: Thank you.

1 CDR CAPELLI: -- as the next witness the
2 Chief Executive Officer of Baja Ferries.

3 **WITNESS**

4 **MR. OSCAR RUANO**

5 **CHIEF EXECUTIVE OFFICER OF BAJA FERRIES**

6 LTJG DIAZ-COLON: Good morning sir, could you
7 please stand and raise your right hand.

8 Whereupon a witness produced on call of the
9 Coast Guard was duly sworn according to the law was
10 examined and testified as follows:

11 THE WITNESS: I do.

12 LTJG DIAZ-COLON: Please be seated. For the
13 record can you please state your full name and spell
14 your last?

15 THE WITNESS: Sure, my name is Oscar Ruano,
16 last name R-U-A-N-O.

17 LTJG DIAZ-COLON: For the record, will the
18 Counsel please state your full name and spell your
19 last?

20 COUNSEL/MR. CHENAULT: Yes, my name is A.T.
21 Chenault, C-H-E-N-A-U-L-T.

22 BY LTJG DIAZ-COLON:

23 Q. Thank you, Mr. Ruano, where are you currently
24 employed and what is your position there?

25 A. I am employed by Baja Ferries in Mexico as a

1 CEO, and Baja Ferries USA as a Managing Director.

2 Q. Okay, and how long have you held those titles?

3 A. CEO for the past eight years of Baja Ferries
4 in Mexico, and as managing director since 2005.

5 Q. Thank you.

6 A. In Baja Ferries USA.

7 LTJG DIAZ-COLON: I will pass the floor over
8 to Mr. Yets, who will continue questions for the Coast
9 Guard.

10 THE WITNESS: Sure.

11 **WITNESS**

12 **MR. OSCAR RUANO**

13 **CHIEF EXECUTIVE OFFICER OF BAJA FERRIES**

14 BY MR. YETS:

15 Q. Good morning.

16 A. Morning.

17 Q. This is Jason Yets with the United States
18 Coast Guard. So just so I am using the correct terms,
19 your involvement with Caribbean Fantasy, you would have
20 been the managing director for the company that
21 oversees the Caribbean Fantasy, is that correct?

22 A. The Baja Ferries is indirectly involved in the
23 technical management of the Caribbean Fantasy, yes.
24 Not the commercial management though.

25 Q. Okay, so as the Chief Executive Officer, as

1 the managing director what do you, like what's your job
2 in that position?

3 A. Well, I overlook all the operations of the
4 Company involving purchase of assets. I overlook
5 everything that is related directly with the
6 administration of ship, of the ships, and the Company
7 itself, finance, operations, you know, I mean, control,
8 internal control et cetera, et cetera. So the full
9 operations of the Company.

10 Q. And do you report directly to anybody?

11 A. To the Board of Directors, yes.

12 Q. Can you explain to me what your involvement is
13 in -- your role in the day to day operations of the
14 Caribbean Fantasy?

15 A. I have no direct involvement in the day to day
16 operation of the Fantasy. We have set up, I mean as, I
17 guess every company has set up a structure where you
18 rely on all the people in order, for everything to be
19 complied with. So in the structure of this Company
20 there is the CEO, then the Deputy CEO, and then you
21 have a technical director, technical manager, crew
22 manager, et cetera, et cetera, so it is, you know,
23 like, it is a pyramid.

24 MR. CHENAULT: Mr. Yets, if I could just make
25 a comment to avoid confusion, since there is Baja

1 Ferries in Mexico, which is the owner of the vessel.
2 And Baja Ferries USA, which is not involved in the
3 management of the vessel. It is important that we keep
4 those two entities separate. And please ask him any
5 questions about the different ones. But I just want to
6 keep the record from getting confused, since we are
7 using Baja Ferries and it could mean both ways.

8 Q. Okay, thank you.

9 MR. CHENAULT: You are welcome.

10 BY MR. YETS:

11 Q. Before the acquisition of the Caribbean
12 Fantasy did you ever have a third party independent
13 assessment done regarding the material condition of the
14 vessel?

15 A. I wasn't CEO back then. The vessel was
16 purchased in 2007, so I couldn't -- I don't know.

17 Q. Okay, thank you. Did you ever order or
18 request any inspections of the vessel be done after you
19 assumed the role of CEO?

20 A. Yes.

21 Q. Can you speak briefly to that?

22 A. Well, one of my roles as CEO is for me to make
23 sure that the vessels are running in a safe, and in the
24 best possible way and yeah, I have, I have instructed
25 people within the Company, and some external companies

1 to make an inspection on the ship yes. I mean, since,
2 I mean, since 2009. There have been, I don't know how
3 many, honestly.

4 Q. And as a result of those inspections did you
5 receive any written reports regarding that material
6 condition?

7 A. Yes.

8 Q. That would not be part of any official record?

9 A. Yes.

10 Q. To the best of your knowledge, or as far as
11 you can recollect, can you remember any of the details
12 of those independent assessments that you ordered? And
13 some of the, maybe the high points of things that were
14 concerning to you?

15 A. Well, I mean, during all these years what I
16 can say about that is that in the beginning we -- I
17 mean, there was found some issues that needed to be
18 corrected. And the whole idea of doing this was to
19 instruct the right people, or the right companies, in
20 order to make these things better.

21 It was, honestly, I mean, there are so many
22 points in a ship that I could not recall specifically
23 which ones right now.

24 Q. You had mentioned that there were some things
25 in the report that were wrong, can you remember those

1 specific things?

2 A. Well specifically no, I mean, what comes to my
3 mind let's say the temperature of the purifier of the
4 oil, it was set at 90 it should be set at 95, all these
5 kinds of stuff that gives you, you know, these little
6 corrections that they have to adjust in the, you know,
7 the crew. And of course, I mean, I rely on the
8 structure to be hands on depending on all these, on all
9 these reports.

10 But it is basically, I mean, these kinds of
11 things that come into these reports.

12 Q. As I understand it, the way that you staff the
13 Caribbean Fantasy with its crew, both its licensed
14 officers, deck and engine ratings, and hotel staff is
15 done through a few different avenues. Some are direct
16 hire employees, some are through manning agencies. Can
17 you explain how that, how that's all broken down, and
18 how that works, please?

19 A. Sure. The hotel crew is supplied by American
20 Cruise Ferries, which is the charter of the ship. Baja
21 Ferries is directly involved with the deck and engine
22 crewing. Deck and engine is done 100% by crewing
23 agencies. One of them is based in Florida, the other
24 one is based in Isle of Man, which is Mid-Ocean, which
25 they supply the engine crew, basically.

1 And before, before, I would say July we had also
2 this engine crew managed -- or sorry, contracted by
3 this manning agency in Florida, and we decided to
4 change to Mid-Ocean because one of my concerns, and I
5 actually was after going to dry-dock there was a period
6 where I sent the DPA and the technical manager to the
7 ship in order to assess all the sort of what risks, or
8 what could be done better.

9 And one of the things that they say and they
10 both concluded the same, was that the engine crew
11 needed to be more prepared, more knowledgeable about
12 the engine, sorry the engine crew, they have to be more
13 knowledgeable about technical matters and so on.

14 And that's the reason we decided, or I decided
15 to change to Mid-Ocean, which is a reputable company.
16 And it is a -- there is a -- it is a -- how to say it -
17 - subsidiary of Peter Dole, they manage a lot of ships.
18 And they are very well-known by -- because of they,
19 they manage these kinds of ships in their experience.
20 So, this was the reason why we have Mid-Ocean supplying
21 the engine crew, and crew supplying in Florida to
22 supply for the deck and engine -- sorry, the deck, the
23 deck crew, basically.

24 Q. And I just want to clarify for the record, you
25 had stated in July, were you referring to July 2016?

1 A. I am referring --

2 Q. That's when you made that shift?

3 A. -- yes, last year.

4 Q. Yes.

5 A. I don't know if it was July or May, around.

6 Q. But it was 2016?

7 A. Yes.

8 Q. Okay, thank you. You have, you said you had
9 three other vessels that operate in Mexico.

10 A. Correct.

11 Q. Are those three vessels also manned in the
12 same way, where you use one company for deck, one for
13 engine, and -- or is it done differently?

14 A. No, it's done differently. In Mexico, the
15 vessels have Mexican flag, so they have to be manned
16 with Mexicans, Mexican crew. And we have our own
17 department to do it. And our own human resources
18 department does all this.

19 Q. Okay, so all --

20 A. Through unions in Mexico.

21 Q. Okay, thank you.

22 A. You are welcome.

23 Q. I'd like to talk to you briefly about the ship
24 in class societies, beginning when the Company was
25 using RINA, and then you changed over to Bureau

1 Veritas, and then now, back to RINA.

2 A. Um-hmm.

3 Q. Can you speak to the decisions, or the
4 conversations that were had, and why those decisions
5 were made to shift from RINA to BV, and then back to
6 RINA again, please?

7 A. Sure. What I can recall, because I wasn't CEO
8 back then, when the vessel was acquired, basically the
9 change between RINA and BV was for commercial reasons
10 as far as I know. We had another vessel which is the
11 California Star, that were -- it was operating through
12 -- with BV.

13 So it basically made more sense, I believe for
14 the past officer to have both managed, or classed by
15 the same class society.

16 Then, the decision to go back to RINA was
17 because in 2011 when sent the ship to Puerto Rico we
18 started the preparation for the ICD, et cetera, et
19 cetera, with BV. And then after a couple months of
20 operating the ship, and we set up a structure where we
21 sent, we tried -- well, we hired several
22 superintendents back then in order to take care of the
23 ship, because we knew it was good to be hands on with
24 all our ships.

25 This is what we do in Mexico as well, we have

1 three ships, and we have three superintendents. So,
2 basically it is very intensive the way we want to look
3 and supervise the technical management of the ships.

4 We see that that structure was not working,
5 and then we decided, and well I decided back then, to
6 go through a different technical manager which was V
7 Ships back then. So we made this change to V Ships in
8 2011, as far as I remember, 2011 or the beginning of
9 2012, I don't know the exact dates.

10 And then down the road they have the ISM with
11 RINA, you know, their own ISM that they have to, you
12 know, to introduce, and to set all the structure for
13 it. And then, down the road it was brought to my
14 attention by V Ships saying that, hey, they have better
15 commercial conditions with RINA, and if I was, if I
16 agreed to change between BV and RINA. I had no
17 objections back then, so we changed it back to RINA.

18 Q. All right, thank you very much.

19 A. You are welcome.

20 Q. Did you have any involvement in the
21 development or implementation of the Safety Management
22 System on board the Caribbean Fantasy?

23 A. I am involved in the review of the Safety
24 Management System yes.

25 Q. Can you speak briefly to that, how -- what is

1 your involvement? You don't have to get into
2 specifics, but at a high level.

3 A. Okay, well this is, this is, I mean, basically
4 I mean, I have, since I have been CEO I try to enforce
5 the ISM Code, and the SMS system, you know, strongly,
6 within the Company. And one of my main objectives was
7 to review it myself with the DPA. So we meet, we meet
8 several times a year, we meet, I would say between 4-6
9 times a year. And but, I mean, we have set up -- we
10 review it jointly, I would say we dedicated this 7-10
11 days a year to review the SMS.

12 And we take into consideration what has
13 happened in the world, what can be done better. And we
14 take into consideration what has happened with our
15 ships, and what we can do better. So yes, I am
16 involved in that, in the review of the SMS.

17 I wasn't involved in the development, or, you
18 know, the creation of the manual, itself. But I was
19 involved in the reviews. I am actually.

20 Q. Okay. Were you aware at the time of the
21 incident that the Caribbean Fantasy has two different
22 stamped approved crew muster lists on board the ship?

23 A. No, I didn't.

24 Q. I'd like to talk to you about your
25 professional relationship with the DPA, okay,

1 specifically to how often do you guys speak, what kind
2 of reports to do you receive from the DPA, how often
3 are those reports made, how do you receive them, by
4 what avenue, you know, are they mailed, are they
5 emailed, are they hand delivered?

6 A. Yeah, I talk to him very often. I mean, as I
7 said before, I mean, safety matters are very important
8 to me. And in the Company we have the structure where,
9 I mean, you have the check and balance, you know. You
10 have a technical director, and the technical
11 superintendent taking care of the ship. And on the
12 other side you have the DPA checking that he is doing
13 the right job, and reporting directly to me.

14 So whenever he calls, or whenever he sends an
15 email, or a text, saying hey, I have to talk to you, I
16 mean I am avail for him all the time. And we set, you
17 know, conferences, and because I mean, basically I am
18 based in Miami he is based in Mexico, so we talk a lot,
19 for sure.

20 As far as reports, I receive the Internal
21 Audit Reports. And I receive also the Port State
22 Control reports, and that's it.

23 Q. So besides the ISM Audit Reports, and the Port
24 State Control Reports, do you receive any other reports
25 from the DPA weekly, monthly, quarterly?

1 A. There is no calendar for it, just for the
2 Internal Audit that they have to -- that he has to send
3 the reports to me. And whatever I ask him to do,
4 because I rely a lot on him, and on all his experience.
5 Sometimes I instruct him to go check and check one or
6 the other vessel, and that's -- and sometimes I ask him
7 to make a report out of it. So, it is sporadically,
8 not on frequent basis. But yeah, when I ask him to go
9 check something, he will.

10 Q. Since 2014 the Caribbean Fantasy has been
11 detained three times by Port State Control. I'd like
12 you to tell me about some of the conversations that you
13 had, that you can recall with your senior shoreside, or
14 shipboard management regarding corrective actions
15 following each of these detentions.

16 A. Well one of the basic things that I, I mean,
17 we do is for these, let's say detention or
18 deficiencies, we make a root cause analysis as per the
19 SMS. And one of the important things is to attack the
20 root cause of it. So whenever we identify a root
21 cause, there are two ways where I instruct, you know,
22 to correct this root cause. Because, I mean, in order
23 for it, to prevent it to happen again, is not just a
24 corrective action, you have to prevent the cause of it.

25 And yeah, I mean, there are direct -- out of

1 these things, there are a to do list, you know, that
2 comes out of each one of these root cause analysis in
3 order to prevent it from happening again. And there is
4 specific instructions to the management in order to
5 take proper action in order to prevent these causes to
6 happen again.

7 Q. Do you remember any of the details of any of
8 the corrective action items that you discussed
9 following the detentions? Things that were maybe more
10 concerning than others?

11 A. Well one of the things was the crankcase
12 doors, what happened in Gibraltar. And yeah, I mean,
13 one of the things was, you know, to correct it, you
14 know, and make sure that it didn't happen in the other
15 engine, or in the generators. And also to check it on
16 the other ships, which is basically what, you know, it
17 is not only what happens on one ship, we try to prevent
18 it on the others. So ...

19 Q. So did you make the decision to use the
20 shipyard in Tunisia when you guys were in the dry-dock
21 last year?

22 A. I approved it, yes.

23 Q. So in previous testimonies from this hearing
24 we understand there were issues getting OEM Original
25 Equipment Manufacturer technicians into Tunisia to

1 carry out service that you wanted done. And this was
2 due to something with a travel restriction. Were you
3 aware prior to approving the decision to use the
4 Tunisia shipyard that this travel restriction was going
5 to be an issue?

6 A. No. And actually, I mean, I was presented
7 with several quotations and options, and Tunisia
8 presented a good option because of logistics. We had
9 the other option to go to Bahamas, or to go to Panama,
10 but we have to cross the canal. And I mean, as far as
11 I remember we decided Tunisia because of the logistics
12 issue.

13 We knew that we were going to go to dry-dock
14 for a long time, because we had to make, you know big
15 work going on with the engine and the engine room.
16 That the idea of this, and actually, Mr. Saletti said
17 that yesterday, we were very committed to invest in the
18 ship and to bring it to the best condition possible.

19 So we know, we knew that it was going to be a
20 long time, and that we were going to purchase a lot of
21 spare parts. And basically all the manufacturers, or
22 most of the manufacturers, reputable manufacturers are
23 in Europe. So the logistic part was an issue in order
24 to take the decision for this. And well, of course, I
25 was not aware that there was a restriction from one of

1 the suppliers, you know, to go to Tunisia. You know, I
2 didn't have knowledge of that.

3 Q. I'd like to shift the conversation now to talk
4 about the day of the incident.

5 A. Um-hmm.

6 Q. Last year. Who on behalf of Baja Ferries
7 responded to the abandonment? Like when you found out
8 that the ship was abandoning two miles off the coast,
9 did anybody come to pier as the passengers and the crew
10 were arriving? Did you have anybody that represented
11 Baja Ferries?

12 A. We -- well from the Company, I instructed the
13 DPA to fly from, I think he was in Mazatlan, from
14 Mazatlan straight to Puerto Rico in order for him to be
15 here, and starting, you know, taking care of whatever
16 needed to be taken care of.

17 But we have, I mean, for sure we had a QI, and
18 when -- on the day of the incident I call from Witt
19 O'Brien the QI, and he said there is this situation
20 happening. So we activated, you know, all
21 communication procedures as per the SMS, actually. And
22 I called the DPA, and then the information started
23 spreading out, you know, to take action.

24 Q. So, I just want to be clear then, for the
25 record, so nobody from Baja Ferries, or behalf of Baja

1 Ferries was dispatched to the pier --

2 A. There was --

3 Q. -- before the passengers and the crew, or even
4 shortly thereafter, the passengers the crew started
5 arriving in the life boats, the asset boats, the life
6 rafts?

7 A. I mean the structure of Baja Ferries is based
8 in Mexico, we have nobody, you know, you know,
9 presently here in Puerto Rico. So, I guess there was
10 nobody, unless I am forgetting that somebody was here.
11 I wouldn't say that there was someone here at the pier.

12 So the fast -- the most expedited solution was
13 to, I mean, for me was to send the DPA right away from
14 Mexico to San Juan.

15 Q. Did you ever receive any communications
16 through any media, phone, email, any way of
17 communication from the salvage company or from anyone
18 else seeking approval or permission to remove the
19 Marine Evacuation System, the life rafts, and the
20 lifeboats from the water and place them on the pier?

21 A. I don't remember.

22 Q. When were you first made aware that the Marine
23 Evacuation Systems, the life rafts and the lifeboats
24 had been removed from water, and placed on the pier?

25 A. Can you repeat the question? Where was I?

1 Q. When were you first made aware? So when did
2 you know that the lifeboats, the Marine Evacuation
3 Systems, and the life rafts were no longer in the
4 water, and now they had been placed on the pier where
5 the ship was moored after it was brought in?

6 A. Honestly I don't remember, I mean, I rely on
7 the structure, I mean, that is more on a (inaudible
8 word) side. I wasn't, you know, dealing -- I mean, I
9 wasn't dealing straight with what happened with the
10 ship after it came to the pier. So, I wouldn't know.

11 Q. Thank you very much, I have no further
12 questions at this time.

13 CDR CAPELLI: Good morning sir, Commander Mike
14 Capelli with the U.S. Coast Guard, I'm going to pass
15 the microphone to Mr. Larry Bowling from the NTSB.

16 THE WITNESS: Um-hmm.

17 **WITNESS**

18 **MR. OSCAR RUANO**

19 **CHIEF EXECUTIVE OFFICER OF BAJA FERRIES**

20 BY MR. BOWLING:

21 Q. Good morning, Larry Bowling with the National
22 Transportation Safety Board. I want to step back,
23 actually, I want to -- I'd like to ask you a few
24 questions about your personal background, specifically
25 your formal education, and your maritime education.

1 A. Um-hmm.

2 Q. Can you tell me a little bit about that,
3 please?

4 A. I am a -- I have a bachelor degree in finance,
5 and I have a master's degree in economics. I have no
6 technical, engineerial, or maritime education.

7 Q. Thank you. And let's go back at the high
8 level. I want to get a better understanding of the
9 size and scope of Baja Ferries in La Paz, because I've
10 seen a, the Baja Ferries Group in Marseilles, and we
11 had the USA, so I'm trying to understand how this
12 structure is put together. Can you tell me how that,
13 or explain that for me?

14 A. Yes. Baja Ferries in Mexico, we operate three
15 ships right now, and we do agency stevedoring, and so
16 on. So it is a structure of about 450-500 people. And
17 we have Baja Ferries USA, which is basically the
18 general agent of Baja Ferries. And we deal with very
19 specific matters from Baja Ferries that has to be dealt
20 with, you know, in the U.S., more commercial matters,
21 and so on.

22 And then we have French Ferries, which is part
23 of the group. French Ferries is basically, it is a
24 Company set up in France and basically in order to pay
25 the two employee's that we have in France one of them

1 is a technical manager of the, well the technical
2 superintendent of the Caribbean Fantasy, and the other
3 one is a purchasing, I'll say purchasing manager.

4 Q. Okay, thank you. And you just mentioned the
5 vessels, I want to make sure I understand the vessels
6 in operation in Mexico, would that be the Cochano, the
7 Cabo Star, and the California Star?

8 A. No, the Chochano was sold a long time ago.
9 But we have the California Star and the Cabo Star right
10 now.

11 Q. All right, and the Baja Star is currently
12 under the flag of Mexico?

13 A. Yes.

14 Q. Do you know, was it one time under the flag of
15 Panama?

16 A. Yes, it was. When we --

17 Q. Were you present as the CEO when that changed
18 from Panama to Mexico?

19 A. Yes.

20 Q. Can you tell me why that vessel went from the
21 flag of Panama to Mexico?

22 A. When we purchased the vessel which was October
23 2015, it was flagged Panama. So we took over the
24 vessel as a Panamanian flag, but we needed to operate
25 in Mexico, and as per Mexican law we have to have a

1 Mexican flag vessel to operate in (inaudible word)
2 straight, so we need to change it to the Mexican flag.

3 Q. Got you, okay, thank you.

4 A. You are welcome.

5 Q. And there were some quotes in and around the
6 media that, where you had performed interviews in 2015
7 related to the potential for initiation of service
8 between the US and Cuba.

9 A. Um-hmm.

10 Q. Can you tell me a little bit about that plan
11 and what vessels you were intending to use for that
12 route?

13 A. Well we have been working on this project for
14 the past -- no, sorry, since 2005, I believe. And, I
15 mean, it is -- there is a -- we identified that there
16 was a big opportunity to offer a ferry service between
17 Florida and Cuba. And we started working on that. So
18 the -- whenever we got the first license, you know,
19 from the State Department, you know, authorizing us to
20 operate a ferry between Florida and Cuba.

21 Of course we made an announcement in the media
22 -- at that time there was no ship, target ship to
23 operate in that route, you know, I mean not from our
24 fleet. I mean, of course you target fleet, you target
25 vessels that are on the market, but there was no -- how

1 to say it -- no ship within our fleet that we would
2 appoint that immediately.

3 Q. Okay, thank you. And earlier you mentioned
4 the Board of Directors.

5 A. Yes.

6 Q. That you report to the Board of Directors.
7 Can you tell me a little bit about the composition of
8 that Board, and their involvement with the operation of
9 Baja Ferries in La Paz?

10 A. Yeah, the Board of Directors is, the Company
11 is owned basically by two families and this Board of
12 Directors, these directors are part of these families.
13 They have, long time, I mean, they are very experienced
14 in maritime matters. I come from a very technical
15 oriented family, you know, all cousins, fathers are
16 engineers, you know, they have served on board ships.

17 And one of the members of the Board has been a
18 ship owner since 1986. So they are, the level of
19 governance in Baja Ferries is moderate. I mean it is
20 moderate, and they are sometimes, you know, like
21 involved in the decisions, but they rely also on
22 reporting in order to make those decisions.

23 Q. Okay, and when you say they are within the
24 Board there is experience from the maritime, on the
25 maritime side, can you just give me a little more

1 detail there? I don't need names, necessarily, but
2 give me an example of that maritime experience that the
3 Board of Directors holds?

4 A. Well, one of them, I mean, which is, I mean,
5 it is my father, Marian Ruano (sounds like), he has
6 been an engineer for -- I mean, since he graduated a
7 naval engineer, he served on board vessels as a crew,
8 up to, you know, chief engineer.

9 Then he went down, off ships, he worked as
10 superintendent in different companies, different
11 shipping companies. He worked as class surveyor for
12 Lloyds for a long time. He worked as a technical
13 superintendent, and technical manager, then technical
14 director, and then general -- well, CEO of different
15 shipping companies.

16 Q. Okay, and then what about any other members of
17 the Board?

18 A. With technical experience?

19 Q. Um-hmm.

20 A. No.

21 Q. Okay, can you tell me, the Board of Directors,
22 what their posture is and position when it comes to the
23 cost of maintaining safety on not only the Caribbean
24 Fantasy, but the other three vessels that are in
25 service under Mexican flag?

1 A. It is non-restrictive -- I mean, we have a,
2 and I've been learning that for the past twenty years,
3 I mean, you can cut the cost of your operation
4 somewhere else, but never on the ships.

5 This is one basic thing that we have as a
6 Company, I mean, we don't sacrifice the technical
7 state of the ship in order to get, you know, more
8 margin, or whatever. Because, at the end of the day
9 this is what, you know, what produces you the revenues.
10 So you don't cut on that.

11 Q. Okay, and give me a good example to reinforce
12 that position. What was the last scenario that you
13 recall that you could tell us about where the -- it
14 would show the Board of Director's position.

15 A. Yeah sure. Well, the Caribbean Fantasy, I
16 mean, when we sent it to Tunisia we spent more than
17 five million dollars on the ship in the dry-dock, and
18 that's, I mean, I think that is clear position that we
19 don't, you know, lowball the cost on technical matters.

20 Q. Okay, thank you.

21 A. You are welcome.

22 Q. And with the corporate structure in La Paz, is
23 there a safety, and a regulatory compliance department,
24 or where do you -- where does that fall within the
25 Corporate Structure if there is no dedicated

1 department?

2 A. There is no dedicated department in Baja
3 Ferries.

4 Q. So for you, as the CEO, if you have issues
5 related to safety and regulatory compliance, where do
6 you go to?

7 A. For the ships?

8 Q. Yes.

9 A. Regulatory for the ships, we have a department
10 which is regulatory, but for, you now, the whole
11 operation of the Company, but not for the ships.

12 Q. Okay.

13 A. Which is basically just, it is a controller,
14 and it is, you know, like we have the, you know, in
15 house lawyers, and so on that make sure that we are in
16 compliance with every, you know, Mexican law and
17 regulation. But for the ships, I rely, basically on
18 the -- on my, and the technical director.

19 Q. On the technical, director, okay, thank you.
20 And as far as an operation department, is there an
21 individual or a department that manages the operation
22 of the vessels? Or does that do to the technical
23 superintendent as well?

24 A. No, I mean, for the vessels in Mexico we have
25 an operations department because we have a commercial

1 operation down there. But here in Puerto Rico, it is
2 just technical, it is just technical management, it is
3 technical operation, so we don't have somebody
4 overlooking the operation of the ship, itself. I mean,
5 it is relied on the technical, you know, department of
6 the Company.

7 Q. Okay the -- I want to step into basically some
8 of your role with regard to the International Safety
9 Management Code. From a Company standpoint, can you
10 explain what your understanding is of the Company
11 responsibility with regard to the implementation of
12 Safety Management System up on the Caribbean Fantasy?

13 A. What is my role as far as implementation?

14 Q. Yes, sir. The Company, the Company's role and
15 responsibility.

16 A. Well, I mean it is something that we have to
17 have, and it is a system, you know, it is a management
18 system of ships based on safety, at the end of the day.
19 So we have set a structure in order to -- for the ISM
20 to be implemented on our ships.

21 Q. Okay, and then from the Company's perspective
22 how do you ensure that the crewmen, the crewmembers of
23 -- for example, the Caribbean Fantasy, are properly
24 trained for their positions? Is that -- do you do any
25 review at your level? Or is it all referred over to

1 the crew and manning agency?

2 A. Yeah, it is on another level, it is on the
3 crew manning side.

4 Q. Okay, do you do any performance reviews, or
5 any oversight of the crew manning agencies that you are
6 using?

7 A. Not myself, not me, not personally. I mean,
8 I rely on the technical manager, and superintendent in
9 order to do that.

10 Q. Okay, and do you know, have you directed the
11 technical superintendent, or technical manager to do
12 that function specifically?

13 A. Specifically no, it is within the manual, I
14 mean, the manual says that specifically, that they have
15 to review the crew, and evaluate the crew.

16 Q. Okay, and kind of the same question, but with
17 regard to the credentialing, there were some detention
18 on the Caribbean Fantasy where I want to say it was a
19 couple of the engineering staff didn't have the proper
20 STCW paperwork with them. How does Baja Ferries in La
21 Paz, ensure that their vessels are manned in accordance
22 with their Safe Manning Certificate?

23 A. The vessels operating in Mexico, you mean?

24 Q. No, for example the Caribbean Fantasy.

25 A. Okay, I'm confused, can you --

1 Q. Are you familiar with the Certificate called
2 the Safe Manning Certificate?

3 A. Yeah, sure.

4 Q. So the question would be, as the President,
5 and CEO of the Company, how do you ensure that the
6 ship, and I am referring to the Caribbean Fantasy, is
7 manned with properly credentialed mariners?

8 A. I rely on the superintendent, technical
9 manager for it to be manned according to Rules.

10 Q. Okay, and do you ever see, or have you ever
11 seen any crew training and proficiency documentation on
12 senior people like the chief engineer, the master,
13 safety officer?

14 A. No.

15 Q. Okay. Tell me a little about the -- your
16 commitment to provide adequate resources to your DPA,
17 your technical manager, how do you ensure that they are
18 getting not only, financial, but other support needed
19 to keep ships like the Caribbean Fantasy in safe
20 operation?

21 A. What do I do to ensure they get the resources?
22 This is the question?

23 Q. Yes.

24 A. Well we have a, we have an established budget,
25 and everything that is approved within the budget is

1 automatically approved. So, if they rely on the budget
2 they don't have to come -- or they don't have to go to
3 the director, in order to get, ask for more funds. Or
4 you know, and there is also this structure, I mean, it
5 is a quite -- how do you say -- I would say strong
6 structure to support the operation, and the management
7 of all our ships.

8 Q. Okay. And do you play any role in the
9 validation of, for example the Master on the Caribbean
10 Fantasy his knowledge of the Safety Management System?
11 Or is that all at the DP level?

12 A. That is all at another level, the
13 superintendent level.

14 Q. Okay. And have you -- or had you, prior to
15 the fire, let's say, since 2015, January 2015, any
16 direct policy or orders to the master on the Caribbean
17 Fantasy that you recall?

18 A. I may have, yes. I may I don't remember, but
19 I mean, it is not, it is not something that would be
20 strange to me, I mean, to send an email and you know
21 that, in order to check on something, or to do
22 something.

23 Q. Okay, and prior to fire August of last year,
24 17th, when was the last time you visited the Caribbean
25 Fantasy, when was the last time you were on board?

1 A. I wouldn't know, I think 2015. But I don't
2 remember the date, to be honest.

3 Q. Okay.

4 A. The beginning of 2015, perhaps.

5 Q. And do you recall that last visit, and
6 generally in 2015, why you visited the ship?

7 A. Why I visited the ship? Not specifically, I
8 mean, I go there not on an often basis, but, I mean, it
9 is good to be, you know, to have presence on the ships.

10 Q. Okay, and I understand that there were
11 requirements on the Safety -- per the Safety Management
12 System to perform safety meetings, periodic safety
13 meetings on the ship. I think the master was holding
14 them. Was what we learned from the DP earlier this
15 week, or last week, I believe, but do you review safety
16 minutes from the ship?

17 A. Do I review what? Safety --

18 Q. The safety minutes, the minutes of the meeting
19 where they document what they talked about?

20 A. No, no.

21 Q. When the vessel was first detained by the
22 United States Coast Guard, the 2014 detention. Tell me
23 about any conversations that went on from your desk to
24 either the technical superintendent, or the DP in the
25 spirit of continuous improvement. Do you recall what

1 you did after that first detention?

2 A. Well, the first detention was under the
3 management of V Ships back then. So I wouldn't have,
4 you know, of course I talked to the managing director
5 of V Ships back then. But I wasn't, you know, directly
6 talking to the DP back then, nor to the technical
7 manager, technical superintendent.

8 Q. Okay and generally do you recall what was
9 conveyed on your part to the staff about that matter?

10 A. Well they would have to take, you know, take
11 all the actions, all the proper actions in order to,
12 you know, clear the ship from detention, and to prevent
13 it from happening again.

14 Q. Okay, and do you recall if you did any follow-
15 up, or how did you validate that your direction was
16 being followed?

17 A. I was, I mean, you know, I was relying on a
18 third party we have. I mean, not specifically, I was
19 not specifically involved in checking that everything
20 was going, you know as directed. But, I mean, it is
21 their job. So, and actually this is one of the reasons
22 we took the technical management back into our, back in
23 house, because we -- I wasn't happy with the
24 performance of V Ships back then as a technical
25 manager.

1 Q. And when, from your understanding, when did
2 you drop V Ships as the technical manager and the ISM
3 manager, because I understood that was -- they were --
4 dropped before the detention. The ship was detained
5 after V Ships left.

6 A. That was, I don't remember the exact date,
7 honestly. But I think it was -- when was the date of
8 the detention?

9 MR. CHENAULT: I don't remember. I don't
10 know.

11 MR. RODRIGUEZ-BIRD: The question was 2014.

12 Q. I think --

13 A. It was in 2014. And we went to dry-dock in
14 2014. And we went to dry-dock --

15 Q. I understood from records, I think --

16 A. May --

17 Q. -- they were RINA, that technical ship
18 management, ISM management terminate with V Ships
19 Leisure around April the 12th, 2014. At that time, Baja
20 Ferries, La Paz picked it up as the technical ship
21 management, and the ISM management.

22 A. Yeah, and that detention was when? Sorry?

23 Q. The detention was in August --

24 A. In August.

25 Q. The first detention, so it was approximately

1 four --

2 A. Yeah, so it was before, yeah it was before. I
3 mean we were not happy, and I wasn't happy with the
4 technical management of the ship, with V Ships. And,
5 of course when you take over management of a technical
6 ship it, I mean, if you have a ship on a standard, it
7 is I mean it is a, there is an effort to keep it in
8 that standard.

9 But if the standard of the vessel is lower, in
10 order to bring it back to a good standard it is, you
11 know it is a big effort, and it takes time, it takes
12 time to build up.

13 So we took over the management then, but of
14 course you, we, or you know, I expected, you know, that
15 it was going to start picking up again in some time so
16 ...

17 Q. And when you took over that tech management
18 and the ISM management in April the 12th, 2014 --

19 A. Um-hmm.

20 Q. What internal -- or were there internal
21 creations for positions to take up that responsibility,
22 or did you have staff already that was put into those
23 roles? How did you assume that, those two
24 responsibilities for the ship?

25 A. We had our staff in Mexico as the technical

1 director, and we hired a new, we promoted a new
2 superintendent for the ship.

3 Q. Okay, and who was that?

4 A. It was Jaqcues Prentice (sounds like)
5 something like that, I don't remember his last name.
6 He was a chief engineer before on the Fantasy.

7 Q. Okay, and is that individual still with the
8 Company, is he no longer --

9 A. No, no he left when Nicolas Carion step in the
10 Company in I would say, January 2016.

11 Q. Okay, and kind of the same line of questioning
12 with regard to what you did as the CEO when the ship
13 was detained a second time, and that was, would have
14 been October 21st, 2015.

15 A. Um-hmm.

16 Q. Tell me about actions taken on your part to
17 correct, or prevent a reoccurrence of that detention.

18 A. Well, this is when we discussed internally and
19 decided to send the vessel to dry-dock and to make, you
20 know, this, all this big corrections, and an investment
21 plan on the ship. That was after the second detention.
22 I actually met with the DPA for a meeting, with a
23 meeting with the Coast Guard here, in San Juan.

24 In order for, you know, I mean it is like, I
25 was concerned, I was really concerned that something

1 was happening and wasn't right.

2 Q. Okay, and once you met -- you indicated you
3 met with the Coast Guard at that time?

4 A. Yes.

5 Q. Do you recall who you met with?

6 A. I don't recall.

7 Q. All right, what about representatives from the
8 vessel flag of Panama or the classification society?

9 A. I did meet with the Panama flag, with members
10 of the Panama flag, I met with the classification
11 society for sure.

12 Q. Okay, and we learned from testimony earlier,
13 that the ship had been put on a more frequent survey
14 schedule. Were you -- when did you become aware of
15 that?

16 A. When it happened, and I mean, I completely
17 agree with it.

18 Q. Okay, and then did, was the Board aware of the
19 fact that the vessel had been put on a more frequent
20 survey schedule by the class?

21 A. I may have told them, yes, I believe.

22 Q. All right. We talked earlier about root cause
23 analysis, and with these two detentions, at your level,
24 what was being done to -- what were you seeing as a
25 reoccurring theme, if you were seeing anything, for the

1 vessel being detained? And what were you doing to
2 ensure that that vessel was not being, going to be tied
3 up a third time?

4 A. Well as far as I remember it was about the
5 cleanliness in the engine room that was kind of
6 recurring, as a deficiency. Now of course with the
7 SMS, you have the root cause analysis. And the, cause
8 of the different detentions of the cleanliness of the
9 engine was every time different.

10 So you attack the cause, but you can, I mean,
11 and the intention was to prevent it from happening
12 again, the same cause. You know, so I don't know,
13 honestly, I don't remember the cause of each one of
14 them. But you know, I think I could assure that it was
15 not the same cause between one and the other.

16 Q. Okay and while we are there, I don't know if
17 LT Diaz remembers the exhibit, but we looked at a RINA
18 survey which was post the third detention, which was in
19 Gibraltar, and RINA, well the Port State Control
20 Authorities in Gibraltar hit the vessel again, for the
21 general cleanliness of the engine room, and we talked
22 about it with a witness. I want to say it was the
23 Designated Person. But we looked at it because it was
24 something that was hit systematically over a period of
25 two years.

1 So with that comment, or your response you
2 just made, what was your understanding of what was
3 being done to keep that engine room, the fire risk in
4 that engine room down to a manageable --

5 A. Well, I mean, you rely on people, whenever you
6 are in this position, you rely on people to do the
7 jobs. And if they don't -- and this is the reason why
8 we hire people from Mid-Ocean, which is more
9 experienced in this kind of ships. So my only
10 directive was, okay, let's do whatever is best for the
11 ship, let's do whatever is best for safety, and let's
12 do whatever is best to maintain this thing, this engine
13 clean. Sorry, the engine room clean.

14 So, at my level you rely on people to do the
15 jobs. And if they don't, of course you have to make
16 decisions about it. And the decision has just been
17 taken, you know, we changed the engine crew.

18 Q. Okay and are you familiar with the term, mass
19 rescue operation?

20 A. No.

21 Q. Okay, the -- what about crisis action team?
22 Do you have any teams in place at Baja, for example
23 with what happened here, on the 17th, that are ready to
24 be deployed at that location and assist the Port State
25 Control authorities with handling the response in any

1 manner?

2 A. Not formally, no.

3 Q. Okay. And I think I'm getting close to
4 wrapping up here. When was the last time you recall
5 going through internal audits that were performed by
6 your DPA on the Caribbean Fantasy?

7 A. I don't remember, to be honest with you.

8 Q. Okay. All right, thank you very much.

9 A. You are welcome.

10 Q. Commander Capelli, thank you.

11 CDR CAPELLI: Thank you, Commander Capelli
12 with the U.S. Coast Guard, Mr. Adam Tucker has a few
13 questions.

14 **WITNESS**

15 **MR. OSCAR RUANO**

16 **CHIEF EXECUTIVE OFFICER BAJA FERRIES**

17 **EXAMINATION**

18 BY MR. TUCKER:

19 Q. Good morning Mr. Ruano.

20 A. Good morning.

21 Q. My name is Adam Tucker I'm with the National
22 Transportation Safety Board. I do have a few follow-up
23 questions to what my colleagues asked earlier. I
24 understand we went through the Company structure, and
25 how it is organized and managed out of the Mexico, Baja

1 Ferries unit, or office. Is there a specific
2 organization chart that you have for the Company?

3 A. For the Mexican part, yes.

4 Q. Okay, is that available, and like published in
5 your Safety Management System or anything?

6 A. That is, yeah, for the Caribbean Fantasy we
7 have that. Or it should be in the SMS, yes.

8 Q. And we spoke a lot about your reliance on
9 superintends, and technical managers, and I understand
10 from your level at CEO that you really have to rely on
11 these people. Are there job descriptions for these
12 people, these for shoreside persons who manage the
13 vessel?

14 A. Yes.

15 Q. Is that also available within the Safety
16 Management System?

17 A. It should be.

18 Q. So, we also poke on crew agencies, and crew
19 management as well, and I believe you had mentioned all
20 of the deck and engine crew are supplied by a third
21 party source. So I'm curious to know, I'm not very
22 familiar with crewing agencies, and how ships are
23 managed, but what I've seen in respect to the Caribbean
24 Fantasy is the senior management of the vessel appeared
25 to be new to the Company, new to the vessel.

1 Is there any consideration within the crew
2 agencies as to who is coming to the vessel, or who is
3 returning to the vessel who may have past familiarity,
4 or is someone just provided, is it a name, and a person
5 shows up on the ship?

6 A. No, I, I mean, I rely on the technical
7 superintendent in order to, you know, to approve the
8 hiring for these crew -- from these crewing agencies.
9 So we have people in the Company which have been with
10 us for some time, and they have, you know, worked with
11 the people on board. So up to that time with the new
12 senior management came, you know, came to work for the
13 Company. Of course they have, they communicating
14 between themselves in order to do this, I would say, I
15 don't know assessment of the crew on board.

16 Q. Okay, and for example if there is a crewmember
17 that supplied senior management, for example captain,
18 or chief engineer, if there is a -- that crewmember
19 supplied to the vessel, and then they hit vacation time
20 and they leave does the Company have the ability to
21 request for that person to return to the ship?

22 A. Yes.

23 Q. Based on their performance?

24 A. Yes.

25 Q. Okay, and is that allowed with the crew

1 agency, or what -- do they -- will they give you the
2 flexibility to do that?

3 A. To do?

4 Q. To ensure that person that had been an
5 employee previously, is able to return after the
6 vacation?

7 A. Yes.

8 Q. Okay. We spoke about the -- your role as CEO
9 and also managing director for the Mexican Baja
10 Ferries, and just on a day to day, or a work week, for
11 example, what's your level of engagement and
12 interaction with both the DPA and the technical manager
13 for communications and updates? Would you say you are
14 updated once a week or two, three times a week?

15 A. Yeah, we are --

16 Q. Just general.

17 A. Yeah, once a week.

18 Q. And is there confidence in them to bring
19 forward to you any type of safety issues or
20 observations, or any problems?

21 A. Yes.

22 Q. You spoke a little bit about budgets and
23 operating costs as well. I'm curious to know, are
24 senior management on board the vessel, are they
25 incentivized in any way in order to maintain budgets,

1 keep budgets at level, or fuel budgets?

2 A. No.

3 Q. No incentives?

4 A. No.

5 Q. Okay, you were asked earlier about the dry-
6 dock in Tunisia, I just wanted to make sure. It is my
7 understanding that the vessel had also been to dry-dock
8 in 2014. 2014, 2016 that's a two year interval between
9 the dry-docks. Was it a -- was the Tunisia dry-dock,
10 was it a mandatory dry-dock as required by class, or
11 was it more of a Company proactive approach to address
12 some of the issues that you had discovered from past
13 safety inspections?

14 A. It was both.

15 Q. Okay.

16 A. It was at a time when we had to go to comply
17 with class and knowing that in advance that we had to
18 send the vessel to dry-dock, I mean, we made all this
19 plan in order to, you know, invest more money on the
20 ship to bring it to the best condition possible.

21 Q. Back to a question that Mr. Bowling had for
22 you, your last time on board the vessel, you couldn't
23 remember, that's fine. I believe it was 2015, during
24 your time on that vessel as CEO did you take any time
25 to gather the ship's crew together to engage them to

1 get feedback?

2 A. No I sit down with the captain, and the chief
3 engineer, and the superintendent, back then, and yeah I
4 think it was after the second detention, and it was the
5 same time that I came to the meeting with the Coast
6 Guard, now that I remember. And we talked strongly
7 about what was happening that it was, you know, it was
8 you know -- how you say in English -- you know, it was
9 basically to say that, I mean, it wasn't possible that
10 we are going through this again, and they have to, you
11 know, be more professional about it.

12 Take action in order to have the ship on a
13 good standard. It is not what happens in the Port
14 State Control, it is an ongoing job, and it is not --
15 you don't have to wait until somebody reviews you in
16 order to take action. And this is, this was, you know,
17 the subject of the conversation.

18 Q. Still staying on board, and I know you were
19 there to discuss these particular events now that had
20 happened.

21 A. Um-hmm.

22 Q. Did you conduct any type of walk around with
23 senior management of the vessel to see personally, some
24 of these deficiencies, or problems?

25 A. I don't think so, no.

1 Q. Okay, I want to briefly touch on the Safety
2 Management System. And every vessel, every ship has
3 some type of near miss, or hazardous occurrence that
4 takes place. Are you aware of any type of hazardous
5 occurrence reporting structure in your Company, and
6 measures to mitigate those hazardous occurrences from
7 taking place again in the future?

8 A. Come again?

9 Q. So, for example maybe a ship has trash can
10 fire, and the crew address it, the put it out,
11 extinguish it, that's a hazardous occurrence. So in
12 that particular event, is there something within the
13 Company structure to report that into the Safety
14 Management System, and measures to mitigate that from
15 happening again?

16 A. I don't know, honestly, I mean it should be in
17 the SMS but I, I wouldn't, I can't confirm it.

18 Q. Okay. Also within the Safety Management
19 System and ISM the management staff are required to
20 conduct official reviews of the Safety Management
21 System to determine it is -- if it is effective and if
22 it is efficient, do you remember when this last review
23 had taken place? And if so, who was present?

24 A. By management, you mean by the ship
25 management?

1 Q. Correct.

2 A. Captain and --

3 Q. Shore based, ship and shore based management?

4 A. I don't know, I don't remember, I don't have a
5 date.

6 Q. All right, excuse me. I just wanted to go
7 back, I believe you were asked before, but when were
8 you notified, first notified of the accident for the
9 Caribbean Fantasy?

10 A. When?

11 Q. Yes.

12 A. It was the date of the accident around eight
13 a.m.

14 Q. Eight a.m.

15 A. I believe.

16 Q. And you were contacted by?

17 A. Witt O'Brien.

18 Q. And Witt O'Brien is, that's the non-tank
19 vessel response provider?

20 A. Um-hmm, correct.

21 Q. If you know, I don't know if it is at your
22 level or not, but how is a non-tank vessel response
23 provider vetted and selected as being the best provider
24 to your Company? Are you involved in that?

25 A. No.

1 Q. And back to crew and crew management. With
2 respect to crew agencies, and I understand the crew is
3 provided to the ship by these crewing agencies. Does
4 the Company maintain any record of their performance on
5 board during that time, or is that left to the crew
6 agency?

7 A. I don't know.

8 Q. Okay. Throughout this investigation we have
9 learned that the official language of the Caribbean
10 Fantasy was English. However, the majority of the
11 passengers were Spanish, and many of the hotel crew,
12 their first language was Spanish. Were you aware of
13 any communication challenges or difficulties before the
14 accident had taken place?

15 A. No.

16 Q. Okay, and after the accident, was anything
17 brought forward to you regarding this?

18 A. No.

19 Q. Okay, that's all the questions I have Mr.
20 Ruano, thank you very much for your time.

21 A. Thank you.

22 CDR CAPELLI: Sir, Commander Mike Capelli
23 with the U.S. Coast Guard, Mr. Jason Yets, has some
24 questions.

25

WITNESS

1 **MR. OSCAR RUANO**

2 **CHIEF EXECUTIVE OFFICER BAJA FERRIES**

3 **EXAMINATION**

4 BY MR. YETS:

5 Q. This is Jason Yets, with the United State
6 Coast Guard. Mr. Bowling asked you some questions
7 about the crew training on board the ship, and I kind
8 of wanted to follow-up and clarify on that. Were you
9 or anyone from Baja Ferries involved in evaluating or
10 choosing the training facilities where the crewmembers
11 would receive their STCW training from?

12 A. I wouldn't know.

13 Q. Do you know if Baja Ferries ever conducted an
14 independent review of the training centers where the
15 crewmembers received their STCW training from?

16 A. No.

17 Q. I have a couple clarifications I want to make,
18 for the record. During this testimony I had asked you
19 if you have ever received any communications from the
20 salvage company, or anyone else regarding approval or
21 permission to remove the Marine Evacuation Systems,
22 lifeboats and life rafts from the water and place them
23 on the pier, and your response is that you didn't
24 remember is that correct?

25 A. That is correct.

1 Q. So, are you saying that you may have received
2 communications regarding the removal of the lifesaving
3 appliances?

4 A. I may have.

5 Q. But you just don't recall at this time, is
6 that correct?

7 A. That is correct.

8 Q. Okay, thank you. You had mentioned during the
9 testimony that after becoming the CEO that you had
10 ordered independent inspections of the Caribbean
11 Fantasy, and that a report, some reports were provided
12 to you with regard to its material condition.

13 Did that independent report also address crew
14 performance, or was it strictly material condition of
15 the vessel?

16 A. No it, one of them addresses crew performance
17 for and it was before changing to Mid-Ocean from the --
18 for the engine crew.

19 Q. Okay.

20 A. As far as I remember.

21 Q. That's okay, would you be willing to share
22 those reports with the members of this board?

23 A. I have to check with the lawyers, I don't know
24 what the --

25 Q. Okay, thank you.

1 A. I would have to rely on counsel for that.

2 Q. I have no further questions at this time.

3 A. Thank you.

4 CDR CAPELLI: That's all the questions from
5 the investigation at this time, Panama, do you have any
6 questions for the witness?

7 MR. ARENAS: No.

8 CDR CAPELLI: Panama has no questions for the
9 witness.

10 CDR CAPELLI: RINA do you have any questions
11 for the witness?

12 MR. CALVESBERT: No, none whatsoever.

13 CDR CAPELLI: No questions for the witness
14 from RINA. Baja Ferries do you have any questions for
15 the witness?

16 MR. RIVERA-MORALES: Can we take a three
17 minute recess?

18 CDR CAPELLI: Yes, sir, we will take a recess,
19 the time is 0948.

20 (Whereupon a brief recess was taken at 0948.)

21 CDR CAPELLI: Good morning the time is 10:02
22 we will now reconvene the hearing. We left off Baja
23 Ferries had some question for the witness.

24 MR. RIVERA: Yes, than you.

25 CDR CAPELLI: I will remind you that you are

1 still under oath.

2 THE WITNESS: Thank you.

3 MR. RIVERA: Thank you.

4 **WITNESS**

5 **MR. OSCAR RUANO**

6 **CHIEF EXECUTIVE OFFICER BAJA FERRIES**

7 **EXAMINATION**

8 BY RAMON RIVERA/BAJA FERRIES:

9 Q. Than you, Ramon Rivera for Baja Ferries. Mr.
10 Ruano I just have a few questions follow-up and for
11 clarification. You were presented some questions with
12 respect to the selection of a dry dock in Tunisia. Who
13 recommended that, or who within Baja participated in
14 the selection of that dry-dock?

15 A. Nicolas Carion, he is the technical
16 superintendent of the ship and he has worked with the
17 shipyard before for another company.

18 Q. Do you know if he expressed any concern or had
19 had any difficulties with that dry-dock before?

20 A. No, he didn't. He said, actually, that it was
21 a very good shipyard and there was good workmanship in
22 the shipyard. And actually that the company that he
23 worked for before, which is SNCM send all their vessels
24 there without a problem.

25 Q. You also mentioned that the -- that there were

1 certain pieces of equipment procured from Europe for
2 that job at that dry-dock.

3 A. Yes.

4 Q. Do you know if they -- if there was any
5 difficulty in getting those pieces of equipment or
6 parts to Tunisia?

7 A. No, not at all.

8 Q. When you selected Tunisia were you aware of
9 any notification, or travel advisory from the United
10 Nations or from the Department of State or anything
11 like that that told people to avoid the area of Tunisia
12 where this dry-dock was?

13 A. No.

14 Q. With respect to a couple of questions that you
15 were asked about an emergency plan of Baja, with
16 respect to attending to passengers or crew that were
17 disembarked after the incident, do you know, or were
18 you aware that the time charter, the local time charter
19 in Puerto Rico had a crisis action team that attended at
20 the pier and assisted passengers and crew coming off
21 the ship?

22 A. Yeah, I know that they dispatched a lot of
23 people to the pier, but I don't know if they have a
24 formal plan or not, or you know a crisis action plan, I
25 don't know about that. But I know that they dispatched

1 a lot of people to the pier.

2 Q. Okay, that would be my clarification.

3 CDR CAPELLI: Thank you, sir. American Cruise
4 Ferries, do you have any questions?

5 MR. BAYRON: No, we do not.

6 CDR CAPELLI: American Cruise Ferries has no
7 questions. Investigative team?

8 MR. BOWLING: Yes, just a few.

9 **WITNESS**

10 **MR. OSCAR RUANO**

11 **CHIEF EXECUTIVE OFFICER BAJA FERRIES**

12 **EXAMINATION**

13 BY MR. BOWLING:

14 Q. Lieutenant Diaz would you bring up Exhibit
15 E010? And I am not real good at Spanish, but I believe
16 this is the Department of State Certificate of
17 Incorporation for American Cruise Ferries, and if you
18 scroll on down. Mr. Ruano your name appears as a
19 director on this there were some ties to corporate --
20 that same Corporation in the states. Can you tell me
21 how you fit in to American Cruise Ferries here?

22 A. It says that it is a previous director,
23 previous official, and yeah, actually, we were previous
24 officials of American Cruise Ferries in the beginning,
25 because our intention with Puerto Rican partners was to

1 form a company and operate commercially here.

2 Then it was decided that they were going to
3 stay as a tank charter and we were just going to manage
4 the vessel technically, and that's the reason why
5 there is a change, and we disappear as a -- from the
6 official list, list of officials.

7 Q. Okay but --

8 A. Or directors.

9 Q. Presently, is -- well, at the time of the
10 accident, on August 17th, 2016 were you reporting to any
11 board of directors with American Cruise Ferries?

12 A. No.

13 Q. And there is another name that -- a company
14 called Unishipping, how were you involved with
15 Unishipping?

16 A. Baja Ferries Mexico is owner of 40% of
17 Unishipping. Unishipping is a company established in
18 France, and they -- well we, I will say they/we operate
19 vessels commercially, bulk carriers, specifically.

20 Q. Okay, and then the last question related to
21 the Company structure, there were also some linkages to
22 United Americas Shipping Services, which is a Florida
23 based company, tell me about that.

24 A. United Americas is another company, I don't
25 report to them, nor that. I mean, there is a link in

1 between the companies because one of the shareholders
2 of Baja Ferries is also shareholder in United Americas.

3 Q. Okay, thank you. Lieutenant would you bring
4 Exhibit #E087, and this should be the first RINA audit
5 of the Company which prompted the issuance of the
6 initial Document of Compliance, and if we can bring
7 that up, I wanted to ask the witness if the employees
8 are still present with the company, or still employed
9 by Baja Ferries, if you could scroll up.

10 And right here, where you have Company
11 Representatives, these individuals were interviewed by
12 the RINA auditor back on the 18th of December of 2014,
13 which included with the Company being issued the
14 Document of Compliance. And I assume that individual
15 listed at the very top is you, as the managing
16 director, correct?

17 A. Yes.

18 Q. Okay, and the second individual that, his last
19 name ends in Osura, is that -- is he still with the
20 Company?

21 A. Yes.

22 Q. And is he still serving as a deputy managing
23 director?

24 A. Yeah, deputy CEO now.

25 Q. Okay, what about the fleet technical.

1 A. He is there, he is with us, all of them, they
2 are with us.

3 Q. All of them are still here?

4 A. Yes.

5 Q. Okay.

6 A. Except for the purchasing.

7 Q. With regard to the non-conformities that were
8 identified, I think if you scroll on down, you should
9 lay those out.

10 Keep going, I believe. All right, they are in
11 another exhibit. Do you recall after that audit report
12 your involvement in correcting any of the non-
13 conformities from that initial examination?

14 A. I don't remember the non-conformities, sorry.
15 If I can see them I refresh my memory.

16 Q. Okay, I'll have to ask the Lieutenant to try
17 and -- I think that might be 088, or 089, I believe it
18 is 089, there we go. Let's check the date on that,
19 please Lieutenant, before we go into -- I think it is
20 just looking at it.

21 Okay, that I believe is the observation,
22 related to documents, do you have any involvement in
23 the closure of that?

24 A. No, I didn't.

25 Q. Okay, and then, I think page four would be the

1 next one -- right there. That is related to a
2 periodical review for the office with regard to the
3 guidelines recommendations, and so forth. Did you have
4 any involvement in closure of that part non-conformity?

5 A. No.

6 Q. Okay, and page five, please? This one right
7 here, read that on the record, I'll read it, (reads),
8 "All Identified Risk Form CAF67 Procedure 55.017 to the
9 ship's environment, and shipboard personnel have been
10 addressed and appropriate safeguards have been
11 established. There is no objective evidence found that
12 the identified risk are periodically reviewed by the
13 Company."

14 And we kind of explored that a little bit with
15 you earlier, so my question is, did you have any
16 involvement in the corrective action on that non-
17 conformity? If so what do you recall?

18 A. Not that I remember.

19 Q. Okay, thank you. And Lieutenant, if you would
20 go to the final Exhibit I need brought up, I believe it
21 is #091. And this would be the most recent, and last
22 audit by RINA of the Company. If you roll down to the
23 date, let me verify the date. Yes, 17 March, 2016.
24 And I don't see your name there. Were you present for
25 that audit and just not listed by RINA?

1 A. No, I don't think -- I wasn't present.

2 Q. Do you -- are you familiar with that audit?

3 A. Am I familiar that it happened?

4 Q. Yes.

5 A. Yes.

6 Q. And do you know why you weren't present for
7 that Company audit?

8 A. Do I know if -- why I was not present?

9 Q. Yes, sir.

10 A. Which audit is that? Is it the annual?

11 Q. Scroll back up. It is your periodical.

12 A. Honestly I don't remember why I wasn't there.
13 I wasn't there.

14 MR. BOWLING: Okay, thank you. Thank you very
15 much Lieutenant. Thank you, Commander, I have no
16 further questions.

17 CDR CAPELLI: Good morning Commander Mike
18 Capelli with the U.S. Coast Guard, I have no questions.
19 Does Panama have any questions?

20 MR. ARENAS: No questions.

21 CDR CAPELLI: Panama has no questions. Does
22 RINA have any question?

23 MR. CALVESBERT: No questions.

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

1 MR. RIVERA-MORALES: No questions Baja
2 Ferries.

3 CDR CAPELLI: Baja Ferries has no questions.
4 Does American Cruise Ferries have any questions?

5 MR. BAYRON: No.

6 CDR CAPELLI: American Cruise Ferries has no
7 questions. You are now released as a witness at this
8 hearing, thank you for your testimony and cooperation.
9 If I later determine that we need additional
10 information from you I will contact you through your
11 counsel. If you have any questions about this
12 investigation you may contact the recorder LTJG Diaz-
13 Colon.

14 THE WITNESS: Thank you.

15 CDR CAPELLI: At this time we are going to go
16 around the room for closing statement, would the
17 parties like a recess?

18 MR. RIVERA: Baja would.

19 CDR CAPELLI: Okay, the time is 10:15, the
20 hearing will now be in recess.

21 (Whereupon a brief recess was taken at 10:15.)

22 CDR CAPELLI: Good morning, the time is 10:23
23 the hearing will now reconvene. I'd like to offer any
24 of the Parties-in-Interest, if you have any more
25 witnesses or closing statements to make, this will be

1 the time. American Cruise Ferries do you have any
2 witnesses or closing statement?

3 MR. BAYRON: No, we don't.

4 CDR CAPELLI: American Cruise Ferries has no
5 witnesses and no closing statements. Does Baja Ferries
6 have any more witnesses or closing statements?

7 **CLOSING STATEMENT**

8 BY MR. RIVERA-MORALES:

9 Baja Ferries does not have any additional
10 witnesses for these purposes and we do not have any
11 objections to the exhibit list that was circulated.
12 And that was -- we understood this was part of the
13 proceedings during the closing to put for the record
14 opposition on the Exhibits, and we do not have any.

15 With respect to a closing statement Baja
16 Ferries would say that we thank both the Coast Guard
17 and the National Transportation Safety Board for their
18 assistance to us in coming to these hearings and
19 participating, we would say they have been very
20 cooperative.

21 We would hope that the Board the members of
22 the -- both the National Transportation Safety Board
23 and the Coast Guard would recognize that Baja Ferries
24 has tried to be as cooperative in all of these
25 proceedings from the beginning as a party could be, and

1 that we remain open to giving any further information.

2 We have tried to make all witnesses available
3 as per the schedules of the investigation board. If
4 there is any other manner in which this Party-in-
5 Interest can assist we are still open to participating
6 in that.

7 It is our understanding that the two
8 components of the board have different procedures with
9 respect to how the reports proceed in this respect. We
10 understand that with respect to the National
11 Transportation Safety Board, the Parties-in-Interest do
12 participate in review, preliminary review of findings
13 of fact, and we welcome that.

14 For at least for ourselves, and we know that
15 the counsel for Baja Manolo Rodriquez, they have
16 participated also many of these board investigations.
17 There are some agencies that allow review of
18 preliminary findings, some agencies do not. For
19 example, the Chemical Safety Board, they allow a very
20 active participation of Parties-in-Interest in review
21 of the preliminary findings.

22 Others allow a discretionary review of the
23 preliminary findings. From our understanding with the
24 assistance that LTCDR Miros has provided us, as a
25 Party-in-Interest, we understand that with respect to

1 the Coast Guard may that may not be the case. That we
2 are allowed to participate in the review of preliminary
3 findings, or preliminary reports.

4 What we would say, is that given what we have
5 seen, what has come out in these hearings, that there
6 have been areas where there has been some confusion, or
7 some doubts that still may linger, and that you, during
8 the process of actually putting the information and the
9 Exhibits and the testimonies all to paper now, and in
10 your conclusions, you may have -- there may still be
11 lingering questions as to how to get one fact or
12 another right.

13 That we continue to be in a position to
14 participate in any review understanding it may be
15 discretionary on your part, but understanding also that
16 at the end of the day what the parties and what the
17 government agencies are looking for is to get the facts
18 right. And we have seen some instances where
19 especially the back and forth with some witnesses, and
20 the board, and the exhibits on the muster list, that's
21 one example. There have been others.

22 And just to close that we will continue to be
23 fully cooperative, and in that respect we continue to
24 offer for whatever good it can be, in the final report,
25 that we be allowed some kind of discretionary review

1 with respect to also the Coast Guard findings.

2 And I would guess this is just -- I think it
3 follows that the National Transportation Safety Board
4 Findings of Fact, would -- they would like to follow
5 Coast Guard Findings of Fact. So, and the Party-in-
6 Interest would also like that they all be, come to the
7 accurate Final Findings of Fact.

8 So just leave that as the Party-in-Interest
9 offer to continue to participate in that process, thank
10 you.

11 CDR CAPELLI: Thank you very much Baja
12 Ferries. Does RINA have any closing statements or
13 witnesses to call?

14 MR. CALVESBERT: No, RINA does not have any
15 witnesses to call. We provided two witnesses, to the
16 hearing. We do not have a closing statement either.
17 However, I do have an observation about the Exhibit
18 List. I was provided with the CDROM that contained an
19 Exhibits List.

20 That list finishes at #277, I noticed today
21 that the muster list was Exhibit #324, I don't know
22 what the Exhibits are between 278-324, I'd like to be
23 provided with, we would like to be provided with a
24 current Exhibits List, and if possible, as part of our
25 your continuing analysis about this incident, we would

1 like to be provided with a copy of those documents so
2 that we can review them. That would be all that RINA
3 has.

4 CDR CAPELLI: At this time RINA would like to
5 review documents that they were not here to see when
6 they were brought in to the hearing. So the time is
7 10:31, we will recess.

8 (Whereupon a brief recess was taken at 10:31.)

9 CDR CAPELLI: Good morning, the time is 10:48
10 hearing will now recommence. When we last left off,
11 RINA was reviewing the list of Exhibits for the
12 hearing. Does RINA have any further comments?

13 MR. CALVESBERT: Commander we worked with Lt.
14 Diaz and we verified the Exhibit List and the contents
15 of the CDROM that we were provided, and all the
16 documents are there, so we are satisfied that we have
17 everything that we need.

18 CDR CAPELLI: Thank you very much. Panama do
19 you have any closing statements or witnesses to call?

20 MR. ARENAS: No, no witnesses but I just want
21 to make acknowledge for the Board and all the parties
22 involved that I am as Panamanian Flag Representative,
23 Panama still remains fully cooperative with all parts
24 to good research of this investigation, that's all.

25 CDR CAPELLI: Thank you very much. Mr. Tucker

1 with the National Transportation Safety Board.

2 **CLOSING STATEMENT**

3 BY MR. TUCKER:

4 Sure, good morning, Adam Tucker with the
5 National Transportation Safety Board. First and
6 foremost to those who were affected by this accident,
7 especially those who suffered injuries, and the loss of
8 a pet, my thoughts are with you.

9 On behalf of the NTSB, especially the team
10 conducting this investigation, I wish to extend our
11 gratitude to all who have participated at this formal
12 hearing. I would also like to thank the parties to the
13 investigation for their support throughout the past
14 seven months by providing information, and expertise,
15 and by supporting this investigation while continuing
16 their daily functions at their respective companies,
17 and agencies.

18 All 511 passengers and crew have survived this
19 accident. While that is a credit to the actions of the
20 crew, search and rescue, state, local, federal
21 agencies, and Good Samaritans, we must not forget that
22 an accident and mass evacuation of this magnitude must
23 be analyzed to identify any safety related problems or
24 issues that recommendations can be made to prevent
25 future recurrence.

1 The hearing also included a review of the
2 Coast Guard mass rescue activities related to the
3 response phase of the accident.

4 The closing of formal proceedings does not
5 conclude the investigation. Instead it marks only the
6 end of the investigation in public. We will continue
7 to have contact with Parties-in-Interest after the
8 formal proceedings have been closed to determine, as
9 closely as possible the factors that contributed to the
10 incident, so that proper recommendations for prevention
11 of similar casualties may be made.

12 To determine whether there is any evidence
13 that any act of misconduct, incompetence, or
14 negligence, or willful violation of law on the part of
15 any licensed or certificated person may have
16 contributed to the casualty, and determine whether
17 there was any evidence that any Coast Guard personnel,
18 or any representative or employee of any other
19 government agency, or any other person caused or
20 contributed to the casualty.

21 Should any person have, or believe he or she
22 has any information not brought forward already and is
23 going to be significant to the ongoing investigation,
24 that person is urged to bring that information to my
25 attention by emailing [REDACTED] [@USCG.mil](mailto:[REDACTED]@USCG.mil).

1 We also have surveys available for all
2 passengers who were on board the Caribbean Fantasy
3 on August 17, 2016, available in both English and
4 Spanish. Those surveys can be searched using Survey
5 Monkey Caribbean Fantasy English, or Caribbean Fantasy
6 Espanol.

7 I want to thank Baja Ferries, American Cruise
8 Ferries, without your assistance it would have been
9 difficult to gather all of the necessary evidence for
10 this investigation. I appreciate working with you.

11 I want to thank RINA and Panama who both
12 dispatched representative with us seven months ago, and
13 to begin work on this investigation. And they have
14 been providing assistance throughout.

15 Most importantly our joint efforts with the
16 NTSB have been extremely helpful. Adam I know we have
17 spent many weeks, and trips to the Caribbean Fantasy
18 and to off sites, and working together helped make this
19 hearing go smoothing.

20 The time is 10:54 this hearing is now closed.

21 **(The proceeding then concluded.)**

22

CERTIFICATION

This certificate is valid only for a transcript accompanied by my original required signature on this page.

I hereby certify that the proceedings in the matter of Formal Investigation of the Caribbean Fantasy Marine Casualty, heard in the Hilton Caribe, San Juan, Puerto Rico, Tuesday March 28, 2017, were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers one to eighty-one 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 26th day of May, 2017.

Sally S. Gessner, Court Reporter