

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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In the matter of: *

MARINE BOARD OF INVESTIGATION *

INTO THE SINKING THE *EL FARO* *

ON OCTOBER 1, 2015 *

*

* * * * *

Prime F. Osborn III Convention Center
Jacksonville, Florida

Thursday,
February 16, 2017

APPEARANCES:

Marine Board of Investigation

CAPT JASON NEUBAUER, Chairman
KEITH FAWCETT, Member
CDR MATTHEW J. DENNING, Member
LCDR DAMIAN YEMMA, Recorder
CDR JEFF R. BRAY, Legal Counsel

Technical Advisors

CDR MICHAEL ODOM
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National Transportation Safety Board

BRIAN YOUNG, Investigator in Charge
MICHAEL J. KUCHARSKI, Marine Accident Investigator
CARRIE BELL, Marine Accident Investigator

Parties in Interest

LUKE M. REID, Esq.
JERRY HAMILTON, Esq.
TOTE Services

GERARD W. WHITE, Esq.
American Bureau of Shipping (ABS)

SPENCER A. SCHILLING, P.E.
Herbert Engineering Corporation

WILLIAM R. BENNETT, III, Esq.
On behalf of Mrs. Theresa Davidson
(Next of kin to Captain Michael Davidson)

Also Present:

THOMAS BOYD, Esq.
(On behalf of Mr. Villacampa)

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P R O C E E D I N G S

(9:04 a.m.)

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2
3 CAPT NEUBAUER: Good morning. This hearing will come of
4 order. Today is February 16th and the time is 9:04 a.m. We're
5 continuing at the Prime F. Osborn Convention Center in
6 Jacksonville, Florida.

7 I am Captain Jason Neubauer with the United States Coast
8 Guard, Chief of the Coast Guard Office of Investigations and
9 Analysis in Washington D.C. I'm the Chairman of the Coast Guard
10 Marine Board of Investigation and the presiding officer over these
11 proceedings. The Commandant of the Coast Guard has convened this
12 board under the authority of Title 46, United States Code, Section
13 6301 and Title 46, Code of Federal of Regulations, Part 4 to
14 investigate the circumstances surrounding the sinking of the SS
15 *El Faro* with the loss of 33 lives on October 1st, 2015 while
16 transiting east of the Bahamas.

17 I'm conducting the investigation under the rules in 46 C.F.R.
18 Part 4. The investigation will determine as closely as possible,
19 the factors that contributed to the incident so that proper
20 recommendations for the prevention of similar casualties may be
21 made; whether there is evidence that any act of misconduct,
22 inattention to duty, negligence or willful violation of law on the
23 part of any conventional merchant mariners contributed to the
24 casualties; and whether there is evidence that any Coast Guard
25 personnel or any representative or employee of any other

1 government agency or any other person caused or contributed to the
2 casualty.

3 I previously determined that the following organizations or
4 individuals are parties in interest to this investigation: TOTE
5 Services represented by Mr. Luke Reid; ABS represented by
6 Mr. Gerard White; Herbert Engineering Corporation represented by
7 Mr. Spencer Schilling; and Mrs. Theresa Davidson as next of kin
8 for Captain Michael Davidson, Master of the S.S. *El Faro*,
9 represented by Mr. William Bennett.

10 These parties have a direct interest in the investigation and
11 have demonstrated the potential for contributing significantly to
12 the completeness of the investigation or otherwise enhancing the
13 safety of life and property at sea through participation as a
14 party in interest. All parties in interest have a statutory right
15 to employ counsel to represent them, to cross-examine witnesses
16 and to have witnesses called on their behalf.

17 I will examine all witnesses at this formal hearing under
18 oath or affirmation and witnesses will be subject to federal laws
19 and penalties governing false official statements. Witnesses who
20 are not parties in interest may be advised by their counsel
21 concerning their rights; however, such counsel may not examine or
22 cross-examine other witnesses or otherwise participate.

23 These proceedings are open to the public and to the media. I
24 ask for the cooperation of all persons present to minimize any
25 disruptive influence on the proceedings in general and on the

1 witnesses in particular. Please turn your cell phones or other
2 electronic devices off or to silent or vibrate mode. Photography
3 will be permitted during this opening statement and during recess
4 periods.

5 The members of the press are welcome and an area has been set
6 aside for your use during these proceedings. The news media may
7 question witnesses concerning the testimony they have given after
8 I've released them from these proceedings. I ask that such
9 interviews be conducted outside of this room.

10 Since the date of the casualty, the National Transportation
11 Safety Board (NTSB) and the Coast Guard have conducted substantial
12 evidence collection activities. Some of that previously collected
13 evidence will be considered during these hearings. Should any
14 person have or believe he or she has information not brought
15 forward but which might be of direct significance, that person is
16 urged to bring that information to my attention by emailing
17 elfaro@uscg.mil.

18 The Coast Guard relies on strong partnerships to execute its
19 missions and this Marine Board of Investigation is no exception.
20 The NTSB is providing representatives for this hearing and Mr.
21 Brian Young, also seated to my left, is the Investigator in Charge
22 for the NTSB investigation.

23 Mr. Young, would you like to make a brief statement?

24 MR. YOUNG: Yes. Thank you, Captain. Good morning. Good
25 morning, all. I am Brian Young, the Investigator in Charge for

1 the National Transportation Safety Board's investigation of this
2 accident.

3 The NTSB has joined this hearing to avoid duplicating the
4 development of facts. Nevertheless, I do wish to point out that
5 this does not preclude the NTSB from developing additional
6 information separately from this proceeding if that becomes
7 necessary. At the conclusion of these hearings, the NTSB will
8 analyze the facts of this accident, determine the probable cause
9 independently of the Coast Guard, issue a report of the NTSB
10 findings and, if appropriate, issue recommendations to correct
11 safety problems discovered during this investigation. Thank you.

12 CAPT NEUBAUER: Thank you, Mr. Young.

13 We will now hear testimony from our first witness for the
14 day, Ms. Melissa Clark, former crewing manager for TOTE Services.

15 LCDR YEMMA: Ma'am, could you please stand and raise your
16 right hand?

17 (Witness sworn.)

18 LCDR YEMMA: Can you please start by stating your full --

19 MR. HAMILTON: Can you repeat the question?

20 LCDR YEMMA: And just for your awareness, the microphone
21 system that we have, only one mic can be live at a time. So
22 please start by stating your full name and spelling your last name
23 for the record.

24 THE WITNESS: Melissa Clark. Clark is C-L-A-R-K.

25 LCDR YEMMA: Counsel, can you also please state your name and

1 spell your last for the record?

2 MR. HAMILTON: Sure. It's Jerry Hamilton, H-A-M-I-L-T-O-N.

3 LCDR YEMMA: Thank you. Ms. Clark, can you tell the Board
4 where you're currently employed and what your position is?

5 THE WITNESS: I am currently employed as a crewing
6 administrator for Crowley Maritime.

7 LCDR YEMMA: And do we have it correct that you were
8 previously employed at TOTE Services as a crewing manager?

9 THE WITNESS: Yes, sir.

10 LCDR YEMMA: And what were some of your general
11 responsibilities in that job?

12 THE WITNESS: I oversaw the marine personnel department,
13 crewing TOTE's vessels, recruiting, checking credentials, and
14 getting the mariners to the vessels.

15 LCDR YEMMA: And what is your highest level of education,
16 please?

17 THE WITNESS: Technical school.

18 LCDR YEMMA: And do you have any professional licenses or
19 certifications?

20 THE WITNESS: I do not.

21 LCDR YEMMA: Thank you, Ms. Clark. Mr. Fawcett will conduct
22 your interview.

23 (Whereupon,

24 MELISSA CLARK

25 was called as a witness and, having been duly sworn, was examined

1 and testified as follows:)

2 INTERVIEW OF MELISSA CLARK

3 BY MR. FAWCETT:

4 Q. Good morning, Ms. Clark.

5 A. Good morning.

6 Q. All of my questions will be related to the time before the
7 accident unless I tell you otherwise. And I know that you were
8 very close with the crew and the families and if you need to take
9 a break at any time, please let us know.

10 A. Thank you.

11 Q. And we appreciate your being here today.

12 So prior to the accident, how long had you been involved with
13 crewing vessels?

14 A. Since May of 2005.

15 Q. So when we talk about the TOTE crewing department, what was
16 the fleet? How big was the fleet that you were required to crew?

17 A. It ranged over the years, upwards of 18 to approximately 25,
18 28 at times.

19 Q. And so what was the size of the people that you work with in
20 your department to support those vessels?

21 A. During which periods?

22 Q. I'm sorry. Just before the accident time frame.

23 A. There were two crewing assistants in my department and
24 myself.

25 Q. So there were other offices that also had crewing people?

1 A. No, sir. Just our office.

2 Q. Did you have enough people in your department to handle the
3 workload for the crewing department?

4 A. I felt at times I could have used additional staff.

5 Q. Did you share that information with management and did they
6 support your -- the need for additional staff?

7 A. We did bring on a temp, towards the end of my time with the
8 company, to help with filing and answering phones and travel
9 arrangements.

10 Q. But prior to the accident, did they give you some temporary
11 help to assist you in your management of the crews?

12 A. Not that I recall.

13 Q. Could you take a moment, think about the crewing of the
14 Marlins and talk about how you were involved with crewing the
15 ships and go into as much detail as possible?

16 A. I gathered resumes from our existing employees on the ships
17 who were interested in going to Marlin Class vessels, and provided
18 them to the selection committee.

19 Q. So in the months of -- well, earlier, but particularly July,
20 August and September, you were trying to crew the Marlins with a
21 full compliment of officers and crew, one vessel first and then
22 the second vessel. Would that be correct?

23 A. Yes.

24 Q. So in the same time frame, you had Captain Richie resign or
25 move to another vessel, you had Captain Axelsson resign, and you

1 had the demotion of the chief mate. Did that put a strain on your
2 ability to find crews for the *El Faro* or the *El Yunque*?

3 A. No.

4 Q. Did it present any challenges for the crewing of the new
5 ships?

6 A. Not that I recall.

7 Q. So we've been provided the personnel files for the crew on
8 the accident voyage and also personnel files for other officers
9 that we requested, and TOTE was very forthcoming in providing
10 them.

11 Taking just one example, that would be the accident voyage
12 second mate, she only had an evaluation -- the last one she had on
13 file, was in 2013. And a host of other officers, in particular,
14 did not have what appeared to be all of the evaluations. My first
15 question is, when were evaluations supposed to be conducted for
16 crewpersons and junior officers?

17 A. At the end of each of their tours, unless there was something
18 that prompted an evaluation mid-tour.

19 Q. In the case of the senior officers who would be chief
20 engineers and masters -- well, I guess, first, would a chief mate
21 be considered a senior officer for the purposes of evaluation?

22 A. No. They were evaluated by the master.

23 Q. And what would be the frequency of evaluations for the senior
24 officers?

25 A. They were done annually.

1 Q. So in the case of Chief Mate Thompson, there were no
2 evaluations in his personnel file except one that occurred after
3 the accident voyage, and in the case of Captain Davidson, there
4 was only one evaluation that was not signed by his -- it was
5 signed by the port engineer but not the person that supervised the
6 port engineer. Do you have any explanation on why those wouldn't
7 be in the files?

8 A. I'm not sure why that evaluation wasn't completed.

9 Q. So there's other forms. There's a form that's called an
10 Illness and Injury Certification Form. And as I understand it,
11 it's a TOTE form and it's supposed to be signed when someone
12 completes a tour. So it would indicate, for example, if I was on
13 the ship, I didn't get injured on the ship or I didn't have an
14 illness. I don't find those in the personnel files for the
15 completion of each tour. How does TOTE ensure that those forms
16 are completed?

17 A. I don't recall on that specific form what the instructions
18 are, if they are supposed to forward it to the personnel
19 department or if it's remained on board until requested.

20 Q. So in the files that we've looked at for particularly
21 officers that served on *El Faro*, we don't see any discipline
22 records. For example, no documentation of performance issues.
23 Are you aware of any performance issues that have been documented
24 in the *El Faro* officers' files?

25 A. Are you asking about someone specific?

1 Q. Well, for example, the chief mate that's left on watch, in
2 his file, there is no mention of -- there's mention of his
3 service; in other words, what roles he served on different
4 vessels. So if I was to pick up the file and look at it, I would
5 see him all of a sudden become a second mate, but there's no
6 explanation of any disciplinary areas or any investigation or
7 anything related to a performance issue for that mate.

8 A. I'm not certain why that packet did not make it into his
9 personnel file.

10 Q. Through informal discussions, we've asked if there were other
11 files that TOTE maintained other than the personnel files related
12 to personnel, for example, files related to an investigation of a
13 personnel action or any other disciplinary files. Are you aware
14 of any other files related to performance issues or disciplinary
15 actions?

16 A. Not that I'm aware of.

17 Q. Has there been an audit, to your knowledge, prior to the
18 accident, of the paperwork and, you know, for example, like the
19 personnel files to make sure they're in compliance with TOTE's
20 expectations and policies?

21 A. Yes. We have internal audits.

22 Q. Do you remember if anybody requested to audit the paperwork
23 for crew personnel?

24 A. They did audit the personnel files, yes.

25 Q. Did they just make a sampling of files from throughout the

1 fleet or did someone look at the *El Faro's* personnel files?

2 A. It was just a random sample.

3 Q. And what was the outcome of that audit?

4 A. For which year?

5 Q. Well, let's take 2015. Do you remember the findings?

6 A. I do not.

7 Q. Do you know if there would be a record of that audit?

8 A. Yes, sir, there should be.

9 Q. Who would -- within the company, would ensure that the safety
10 policies or the company policies for like the drug and alcohol
11 program were completed properly?

12 A. I believe that duty fell under Captain John Lawrence.

13 Q. Were you ever engaged in any discussions about the STCW
14 requirements for rest periods for seafarers on the *El Faro* or any
15 other ship?

16 A. Not that I can recall.

17 Q. Do you know who was responsible for the STCW records at TOTE?

18 A. I'm not sure.

19 Q. So Chief Mate Thompson mentioned a form that I hadn't seen.
20 Maybe I didn't see the designation on it, but he called it a
21 PERS-5. Do you know what a PERS-5 form is?

22 A. I don't recall exactly which form that is.

23 Q. Could it be related to some type of certification that a
24 seaman fills out when they come aboard that says they are
25 medically fit for duty and not taking medications?

1 A. There is a seaman's statement of physical condition form that
2 they fill out when they sign on.

3 Q. So if you would just take a moment to talk about how you crew
4 the *El Faro*. So you know, for example, that a sailor requests
5 relief, no matter what capacity the sailor's in. Could you talk
6 about what you do next?

7 A. The captain sends in a relief request to our department. We
8 would call back a person on vacation who was due to reclaim. And
9 if the position was open, we would call it into the union.

10 Q. And then what would happen?

11 A. For unlicensed, the union would provide us with a candidate.
12 We would review their credentials and put them on the vessel if
13 there were no prior disciplinary history or any issues.

14 Q. And that includes the officers too?

15 A. For junior officers, yes. For senior officers, we had a
16 little bit more of an ability to select.

17 Q. So at that time, when you're -- you know, you're in the
18 office, you're making the crewing call. At that time, do you
19 engage with a conversation with the seaman about their medical
20 fitness for service or if they're seeing a physician or if they're
21 taking any medications, prescriptions, anything like that?

22 A. No, sir. We just ensure that they have a current physical.

23 Q. And that current physical could have been done a lengthy
24 period of time ago in the case of, say, a Coast Guard credentialed
25 officer, it could be up to 5 years. Would that be correct?

1 A. No. The Coast Guard medical certificate requires a physical
2 every 2 -- it's good for 2 years. And the unlicensed union has a
3 physical requirement that is more frequent.

4 Q. So has anybody suggested that the crewing department -- you
5 know, from TOTE management, that the crewing department should
6 certify that a sailor is ready to serve and ask the questions, for
7 example, like do you have any medical conditions; are you under
8 the care of a doctor. before he steps aboard the ship?

9 A. No, sir.

10 Q. With the *El Faro*, do you ever recall a captain saying, hey, I
11 got a guy on here that's stepped aboard and he is not ready to go
12 and, in essence, said you have to send me somebody else because
13 this guy's got some medical condition that may affect his fitness
14 for service?

15 A. I only recall that ever happening one time quite some time
16 ago.

17 Q. So is there a TOTE policy that you're aware of that speaks
18 about over-the-counter medications? And just to give you an
19 example, there are a number of medications that can impair
20 performance that are over-the-counter, like Tylenol PM, those type
21 of things. Is there a policy for seafarers on over-the-counter
22 medication?

23 A. Not that I'm aware of.

24 Q. So ultimately, who makes the call about the suitability of a
25 seafarer to work on the *El Faro*?

1 A. It would depend on the position.

2 Q. Let's just take unlicensed.

3 A. The crewing assistants vetted the unlicensed under my
4 supervision.

5 Q. And then what about the junior officers?

6 A. They also vetted the junior officers with a little more
7 oversight from myself.

8 Q. And then turning to the senior officers, who determined the
9 suitability of the senior officers to serve on *El Faro*?

10 A. The director of HR and labor relations.

11 Q. Are you aware of any policy that TOTE has that would allow a
12 seafarer to be taking prescription medications onboard *El Faro*?

13 A. I'm sorry. Could you repeat that?

14 Q. Yes. Are you aware of any policy that TOTE has regarding a
15 seafarer and the ability of that seafarer to take prescription
16 medications on board *El Faro*? I'm not talking about if they get
17 sick at sea and you call your doctor on-call and the doctor says
18 go into the ship's medicine chest and give him something. What
19 I'm saying is he reports aboard and he is taking a prescription
20 medicine that may impair his ability to stand watch.

21 A. I'm not sure if there's any policy, per se, for TOTE. The
22 captains were provided with a copy of the Coast Guard medical NVIC
23 and those medications listed on that, that would be disqualifying.

24 Q. Do you ever participate in management meetings like weekly
25 flash meetings or any other meetings similar to that?

1 A. Yes, sir.

2 Q. At any of those meetings -- and take a minute, if you would,
3 just to think about it -- have you ever heard a discussion about
4 infractions of the STCW rest requirements?

5 A. I don't recall any conversations about infractions.

6 Q. And so, you know what the position of the port mate is,
7 correct?

8 A. Yes, sir.

9 Q. So what's your understanding of what they do? It would be
10 very helpful if you could give us your take on it.

11 A. To my knowledge, a port mate is to assist while the vessel's
12 in port with cargo operations, to assist and/or relieve the chief
13 mate so that he can get some rest.

14 Q. Did you get involved with finding port mates for *El Faro*?

15 A. Yes, sir.

16 Q. So from the records I've looked at, it looks like the last
17 port mate for *El Faro* in Jacksonville was the 1st of September.

18 Do you know why they couldn't find port mates for the rest of
19 September when she called on Jacksonville?

20 A. I don't recall which dates they did not have port mates.

21 Q. Was there ever any management discussion about the difficulty
22 in trying to find port mates? In other words, any conversation
23 like we've got to help them out, we've got to find some port
24 mates, or any direction to you to look for more candidates to fill
25 the position or anything like that?

1 A. We were always looking for people who live in this area and
2 San Juan who would be interested in port-mating.

3 Q. But specific to the month of September, did anybody come to
4 you or did management say this is essential that we find port
5 mates?

6 A. Not that I recall.

7 Q. So in August, Lisa Glaze alerted you that evaluations were
8 not being completed on the ships. Do you recall that exchange of
9 emails? I can call up an exhibit, but you may remember that.

10 A. I don't remember that specific email, but I did ask that they
11 track the evaluations to make sure that they were coming in from
12 the vessel. If they were not, then I sent a reminder out to all
13 ships, telling them how important it was that they complete the
14 evaluations and send them in.

15 MR. BENNETT: Can we -- I'm sorry to interrupt, but the email
16 you referred to, that's marked as an exhibit, right?

17 MR. FAWCETT: Yes, sir. I'm going to call it up now. Thank
18 you.

19 BY MR. FAWCETT:

20 Q. That's Coast Guard Exhibit 399 and we'll put it on your
21 screen. Just let me know when you've had a chance to look at the
22 August 24th, 2015 email. And you can scroll down. There's a
23 little bit more, but I'm looking at the first part of that, which
24 the timestamp is 9:41. Do you see that, Ms. Clark?

25 A. Yes.

1 Q. So it's from Lisa Glaze to you and the subject is
2 Evaluations. But it says, "Melissa, I do not have evaluations
3 from *Bellatrix*, *Cape Hudson*, *Cornhusker*, *Flickertail*, *Pacific*
4 *Tracker*, and both ARC ships (*Resolve* and *Freedom*). Lisa."

5 Do you know why the *El Yunque* and the *El Faro* would not be on
6 that list?

7 A. No. I would have to assume that they were sending their
8 evaluations in.

9 Q. So I'd like to change directions a little bit and move off
10 the paperwork. So in Mr. Kondracki's testimony, he explained that
11 Captain Davidson had worked for Crowley since 2008. Would that be
12 approximately correct?

13 A. To my knowledge, he worked for Crowley since 2010.

14 Q. Okay. And I was going to ask you to help me because when I
15 look up the records of his former ship in our Coast Guard
16 database, it indicates at one time it was somehow connected with
17 TOTE. When Captain Davidson worked -- and this often happens the
18 way ships are owned, operated and crewed. So during the time that
19 Captain Davidson worked aboard the *Courage*, did TOTE have any
20 involvement with the vessel?

21 A. Yes. They were the ship managers for that fleet around 2005
22 to 2010.

23 Q. And would -- so I get it straight, they managed the ship, but
24 did they crew the ship?

25 A. Yes, sir.

1 Q. So Captain Davidson left Crowley in 2013. Would that be
2 correct?

3 A. Yes.

4 Q. So when Captain Davidson left Crowley, he came to TOTE for a
5 position of employment; is that correct?

6 A. Yes.

7 Q. Did he come to you or who did he come to?

8 A. Yes, sir. He called me.

9 Q. And if you could, and take as much time as possible,
10 beginning with that phone call, talk to me about how you came to
11 take the phone call and then how he came to actually be employed
12 by TOTE.

13 A. He called and told me that he had resigned from Crowley and
14 that he was interested in employment with TOTE. I advised him we
15 did not have any senior positions available at the time, to which
16 he replied that he would be happy to take a third mate position if
17 I had one available.

18 Q. And he became master at TOTE on the *El Morro*; is that
19 correct?

20 A. Yes, sir.

21 Q. And what were the circumstances of him going from third mate
22 to master?

23 A. I was asked to gather candidates and resumes for masters
24 positions aboard the *El Morro* and I provided several, one of which
25 was Captain Davidson's.

1 Q. All right. So Captain Davidson calls you on the phone and
2 you have a conversation regarding him leaving Crowley and he'd be
3 happy to take the third mate's position. How did you determine
4 his suitability for employment at TOTE?

5 A. He was coming in as a third mate. He had sailed master. He
6 had sailed with us before with no prior disciplinary issues. His
7 documents were in order, and we put him on as third mate.

8 Q. All right. So I can understand the timing of this, he left
9 TOTE and he had sailed as master with TOTE. When did he leave
10 TOTE? What year?

11 A. I believe those ships transferred management in 2010.

12 Q. And so he made the call to you in, would it be mid-2013?

13 A. I don't recall the month, but yes, it was in 2013.

14 Q. Did you make a call to Crowley and ask about his employment
15 history at Crowley?

16 A. I did not.

17 Q. Would that be typical for someone going to work for your
18 company, that you would check the previous employer and ask them
19 for references and background?

20 A. Typically, no.

21 Q. That's for any officer? In other words, not just speaking
22 about Captain Davidson, would you pick up the phone and call the
23 previous employer and ask them for background and references and
24 how they did their job at their previous job before you employed
25 them?

1 A. Typically, no.

2 Q. So looking at the last months of the *El Faro*, there was
3 uncertainty among officers and also the crew about what was going
4 to happen. We've talked to different people, with the crew, with
5 different officers, to ask what was going on, and we've asked
6 various people about the status of Captain Davidson in the last
7 months of the *El Faro*. What did you understand on the accident
8 day or the days leading up to the accident was the status of
9 Captain Davison with regard to the Marlins?

10 A. That he had not been selected to sail aboard the Marlins.

11 Q. Did anybody communicate that to Captain Davidson?

12 A. I'm not certain.

13 Q. Did you tell -- like earlier in May, there was email
14 correspondence that the company had actually notified people that
15 weren't going to be getting the ships. For example, Captain
16 Richie was told, other masters were told. There were plans to
17 tell all of them. Do you know why Captain Davidson wasn't told
18 his status?

19 A. I do not.

20 Q. If you'll turn your attention to Coast Guard Exhibit 303.
21 Correction on that.

22 MR. FAWCETT: I'm sorry. 302, sir.

23 BY MR. FAWCETT:

24 Q. We'll put it up on the screen. There is a redacted version
25 of an email correspondence. Commander Yemma has put it on the

1 screen. Do you see that, Ms. Clark?

2 A. Yes.

3 Q. On the afternoon of September 24th, Captain Davidson wrote:
4 Afternoon, It's looking like I won't be home until 03 December,
5 period. They have no one to relieve me and now I'm actually on my
6 scheduled rotation, comma, which has me home for Christmas,
7 period. Again, comma, I feel taken advantage of -- there's a
8 series of dots -- but, comma, they pay really good, period. Who
9 knows how long this good fortune will last, period. I have no
10 idea if I'm even going on the Marlin Class vessels yet.

11 So would you agree that on that date, he didn't know his
12 status on the Marlins?

13 A. I can't be certain.

14 Q. If you'll turn your attention to Coast Guard Exhibit 398.
15 This is -- while we're getting it up -- page 1 -- this is an email
16 -- do you see it now?

17 A. Yes.

18 Q. Thank you. I'm sorry. This is an email from you and it's to
19 a group of individuals, including your associates and
20 Mr. Kondracki, who is the crewing manager -- or correction -- the
21 director of human relations. And so you're replying to Kevin, who
22 is the chief mate on board *El Faro*, and the date is 17 August
23 2015. If you'll draw your attention to the last line, it says,
24 "Plans for relief of Captain Davidson are currently being reviewed
25 internally. Will advise. Thanks."

1 Can you talk about the internal review of the plans for
2 Captain Davidson?

3 A. It was my understanding that Captain Davidson had an
4 agreement with Mick Kondracki regarding his rotation, and I was
5 not involved in those discussions.

6 Q. So you repeatedly expressed your concerns through the Marlin
7 crewing process about Captain Davidson. We've discussed in
8 previous testimony, an email that you sent. Why did you
9 repeatedly express those concerns?

10 A. I felt that there was better candidates available for the
11 Marlins.

12 Q. Did you think that perhaps Captain Davidson might fill
13 another officer position on the Marlins like chief mate or second
14 or third?

15 A. I suppose that was possible, but I had little participation
16 in the senior positions on the Marlins, especially as we got
17 further along in the process.

18 Q. So you expressed a series of concerns about Captain Davidson.
19 But crewing is not just for the Marlins; it's about command of the
20 *El Faro*. So were those concerns that you expressed -- how can you
21 reconcile that he was an active master on the *El Faro*?

22 A. My dealings with Captain Davidson were regarding crewing, and
23 so I would not have judged his suitability as a master.

24 Q. But you kept going to management and you were talking about
25 the position of master on the Marlins. So you were expressing

1 concerns about his suitability for master in that position. Am I
2 expressing that wrong?

3 A. The email that I believe you're referring to was one in which
4 I was asked to provide a response. Mick Kondracki asked me to
5 provide some history, and the information that was contained in
6 that email was a general collective summary of the discussions
7 that were had within the selection committee.

8 Q. So in previous testimony, we discussed that email of Admiral
9 Greene and Captain Neubauer asked a series of questions. And he
10 said, "Yes, sir. Can you just tell me the general concern that
11 you remember," question mark.

12 Admiral Greene said, "I didn't have a concern," period. "The
13 email expressed a comment, comma, it was from the crewing manager
14 concerning his leadership," period. The content of the email in
15 my assessment was overly emotional and I read it," comma, "I sat
16 it aside and I moved on," period.

17 Were you being overly emotional or were you professionally,
18 as crewing manager, expressing your concerns?

19 A. In that email, I was expressing discussions that had been --
20 that had taken place within the -- with members of the selection
21 committee. There were times in that email that I used the word I.
22 I regret doing that. I wasn't in any way trying to take ownership
23 of the facts that were listed there.

24 Q. So when we talked in Jacksonville during the NTSB interview,
25 you had mentioned that there were records of the interview

1 process. Do you recall if in fact there were records kept, even,
2 you know, that -- let me put it this way. I'm having a hard time
3 expressing this. I'm sorry.

4 CAPT NEUBAUER: Mr. Fawcett, we're going to withdraw that
5 question. We're not going to refer to the NTSB interviews.

6 MR. FAWCETT: Yes, sir, Captain.

7 BY MR. FAWCETT:

8 Q. So in early part of 2015, there was a written warning that
9 was going to be given to Captain Davidson related to some welding
10 repairs that weren't carried out. Are you familiar with that?

11 A. I wouldn't say I'm familiar with that. I wasn't involved in
12 those discussions.

13 Q. So just looking at that process -- I know you weren't
14 familiar with it, but are you engaged -- if a decision is made to
15 issue a written warning, are you involved with those discussions
16 at any level?

17 A. Sometimes.

18 Q. There was no discussion or no paperwork whatsoever related to
19 that in Captain Davidson's personnel file. Is there a policy --
20 even if you choose to issue a verbal warning, do you still retain,
21 as per TOTE policy -- is there a policy to retain the contents of
22 the incident, so if you give an individual a series of verbal
23 warnings you then can take more stringent action?

24 A. It would depend on the incident, whether or not it would be
25 documented and kept in the personnel file.

1 Q. So if you'll turn your attention to Coast Guard Exhibit 004,
2 page 2, on your screen, you should see a email from Mr. Fisker-
3 Anderson, dated Wednesday, July 29th, 2015. That would be page 2.

4 Stand by just a moment. Are you okay, Ms. Clark, for a break
5 or --

6 A. Yes, sir. If we could take a break, that would be great.
7 Thank you.

8 CAPT NEUBAUER: The hearing will now recess and reconvene at
9 10:10.

10 (Off the record at 9:57 a.m.)

11 (On the record at 10:14 a.m.)

12 CAPT NEUBAUER: The hearing is now back in session.

13 Mr. Fawcett can continue on with his line.

14 BY MR. FAWCETT:

15 Q. Ms. Clark, I'm sorry about that exhibit. It's Exhibit 005,
16 page 2, and this is a email from Mr. Fisker-Anderson on Wednesday,
17 July 29th, 2015 to Mick Kondracki. You're copied, as is Phil
18 Morrell. Subject forward, Captain Davidson Warning.

19 Mick, comma, I was unable to meet with Captain Davison face-
20 to-face, so this interview was over the phone by me. His answers
21 were polished and rehearsed. He had also briefed the chief so his
22 feedback concurred, period. They were left with a verbal warning.
23 Kind regards, Jim Fisker-Anderson.

24 Do you recall what the subject of that dialogue was about?

25 A. Not specifically.

1 Q. Do you recall when the event took place that they were
2 talking about?

3 A. Yes.

4 Q. And when would that have been?

5 A. I'm not certain of the time frame.

6 Q. So by time frame, you couldn't say which month and which
7 year?

8 A. No, sir.

9 Q. Right around the time on that letter, Captain Davidson was
10 re-interviewed, and as a result of that interview, on August 4th
11 there were emails which TOTE had plans to go down to the ship.
12 There was discussion about Mr. Nolan, Admiral Greene, going to
13 give them the good news that he was going to get command of the
14 Marlin -- one of the Marlins. Do you know that?

15 A. I was aware of that. Yes.

16 Q. So based on testimony of Mr. Kondracki, you and Mr. Kondracki
17 did something. You went to Admiral Greene; is that correct?

18 A. Yes.

19 Q. And you talked to Admiral Greene about the impending
20 promotion of Captain Davidson. What did you tell Admiral Greene?

21 A. Mick Kondracki had a discussion with Admiral Greene.

22 Q. Did you supply information to Mr. Kondracki so that he could
23 go to Admiral Greene and have this conversation?

24 A. We had a brief discussion about it.

25 Q. Did it relate to this letter of warning?

1 A. I can't recall if that was one of the points that was
2 mentioned in the conversation.

3 Q. Were there multiple points discussed?

4 A. More of a generalization.

5 Q. If you'll turn to exhibit 5, page 36? In that email, there's
6 an email that you sent regarding Chief Mate Schultz and what his
7 duties were going to be. And you talk about briefing Chief Mate
8 Shultz on the divide and conquer plan. What is the divide and
9 conquer plan?

10 A. Mick Kondracki and I had been having conversations with some
11 of the senior officers regarding crew cooperation and setting
12 expectations with regard to the crew, making sure that policies
13 were being followed and enforced, and also, you know, in an
14 attempt to get away from the licensed versus unlicensed, us
15 against them mentality. So we discussed different ways to ensure
16 the unlicensed crew felt comfortable bringing forth concerns, any
17 issues that they had, and work collectively as a team, boost
18 morale and that sort of thing.

19 Q. Could you talk about the plan?

20 A. That essentially was it.

21 Q. And was that plan carried out? In other words, how was that
22 communicated to the ship's officers and the crews to facilitate
23 better crew cooperation? And just to be clear, are we talking
24 about the *El Faro* or the *El Yunque* or both?

25 A. Both.

1 Q. So how was that plan communicated to the *El Faro* and the *El*
2 *Yunque*?

3 A. Just discussions with the senior officers.

4 Q. Did Mr. Kondracki and yourself prepare a spreadsheet that
5 listed issues on board the vessel?

6 A. I believe so, yes.

7 Q. And did the *El Faro* have a significant number of issues that
8 you were concerned about?

9 A. I don't recall how many issues they have versus the other
10 vessels.

11 Q. Does Mr. Holt at TOTE maintain any files related to
12 discipline or the actions of crew people in any way?

13 A. I don't know.

14 Q. Were you aware of any former crew or crew people that posted
15 negative comments about TOTE operations on any websites?

16 A. Before or after the incident?

17 Q. Before.

18 A. Not that I'm aware of.

19 Q. So I'd like to turn your attention to human relations
20 department investigations. Who conducts those investigations
21 related to personal performance issues or conduct on ships?

22 A. The director of HR and labor relations.

23 Q. Does he maintain files on those investigations?

24 A. I don't know.

25 Q. Have you ever been asked to supply information such as

1 medical information or fatigue-related information to assist in an
2 investigation?

3 A. Yes, sir.

4 Q. So we had testimony the other day about a chief mate sleeping
5 on watch. How did that investigation unfold?

6 A. I was notified that the DPA had received an anonymous phone
7 call and photos were provided. As far as the investigation
8 itself, I didn't participate. I had very little participation in
9 that.

10 Q. So did anybody ask you to support the investigation by
11 looking into the records that you had related to the individual
12 that might have shown any medical conditions or other infractions
13 of TOTE policy or rules?

14 A. Not that I remember.

15 Q. So from your perspective as a crewing manager, you dealt with
16 the Coast Guard licenses and credentials in various capacities,
17 haven't you?

18 A. Yes, sir.

19 Q. Would you know if sleeping on watch is misconduct by the
20 officer?

21 A. Yes, sir.

22 Q. So Captain Lawrence got these text messages with pictures.
23 And do you know how long the chief mate had been sleeping on watch
24 on the vessel?

25 A. I do not.

1 Q. Now eventually, that chief mate -- and I don't want to you to
2 use that individual's name, but they were demoted. Do you recall
3 approximately when they were demoted?

4 A. I don't recall the time frame of that.

5 Q. Was it relatively close to the time that the pictures were
6 received or did some time take place? Because you're going to
7 have to reassign a second mate. Do you remember the duration of
8 time, just --

9 A. No. I'm sorry. I don't.

10 Q. At some point did that chief mate send you a letter
11 explaining his actions?

12 A. I know that it was received by someone at the company. Yes.

13 Q. So even though Mr. Kondracki conducted the investigation, do
14 you know the outcome of that investigation? And by that, I don't
15 mean demotion of the chief mate. I mean collection of
16 documentation that would have interviews, statements and any other
17 supporting documentation for that event.

18 A. If there was an investigation, I wasn't -- I didn't
19 participate in it.

20 Q. Before the DPA got those pictures and the text messages, did
21 you know that the chief mate was sleeping on the watch?

22 A. No, sir.

23 Q. After the event, did anybody suggest to you that you should
24 have a medical examination of the chief mate to determine if he
25 had any medical conditions that may cause him to fall asleep on

1 watch?

2 A. No, sir.

3 Q. Have you ever done that before? In other words, you've got
4 an issue related to something medical that happens and you arrange
5 a physician or some other medical professional to evaluate an
6 individual.

7 A. What's the question specifically?

8 Q. In your career with TOTE, has there ever been an instance
9 where someone fell asleep on watch or had some other medical issue
10 that could have possibly affected performance, where the crewing
11 department suggested, hey, we should send this guy out to see a
12 medical professional?

13 A. Yes.

14 Q. And what would be an example of that?

15 A. An example would be that someone had visible difficulty
16 climbing ladders, for instance.

17 Q. So they have a performance issue like climbing ladders and
18 you would send them to a physician. And then what would you
19 expect the physician to do?

20 A. Advise whether or not that individual was fit for duty at
21 sea.

22 Q. And how would you ultimately make that determination? Would
23 you take the physician's statement and then discuss it with
24 management and the management people would make the decision?

25 A. Yes, sir.

1 Q. So turning to testimony we had the other day about
2 Mr. Hearman, the AB. Are you aware of the dog search that was
3 conducted, the subsequent drug test, and the union action in terms
4 of looking into that issue; that would be July 17th?

5 A. I remember the dog search, yes.

6 Q. And we heard questions and answers about the event that took
7 place. So Mr. Hearman served aboard the ship until late August.
8 Did that affect his being posted to the *El Faro*?

9 A. No.

10 Q. So I just want to be clear about something. That May 19 --
11 or 2015 email that you sent with the issues related to the
12 captain, those were the collective thoughts of the interview board
13 or the -- whose collective thoughts were they?

14 A. They were items that had been discussed among the selection
15 committee members for the Marlin Class.

16 Q. And then I just have a couple more questions. Were records
17 of the interviews for the Marlin Class kept by TOTE?

18 A. Not that I'm aware of.

19 Q. And why did you leave TOTE?

20 A. I left under mutual terms and I didn't see opportunities for
21 advancement with the company. I decided to move on.

22 MR. FAWCETT: Thank you, Ms. Clark.

23 Captain, that's all I have.

24 BY CAPT NEUBAUER:

25 Q. Good morning, Ms. Clark.

1 A. Good morning.

2 Q. I just have follow-up questions from Mr. Fawcett's line. In
3 regards to the evaluations, did you ever inform TOTE managers that
4 evaluations weren't being completed per the company's required
5 cycle?

6 A. Yes.

7 Q. Who did you specifically raise the concern to?

8 A. My supervisor at the time.

9 Q. Do you know if your supervisor took any action to correct
10 that issue?

11 A. No. I would send out a reminder, as I mentioned earlier, to
12 the vessels letting them know that we needed them to complete the
13 evaluations and copy him on those emails.

14 Q. Was that his direction to you after you raised the concern?

15 A. Yes.

16 Q. I'd like to discuss the conversations that you had with
17 Mr. Kondracki ahead of the meeting that morning. Do you know that
18 -- do you remember that conversation?

19 A. I don't remember the specifics of that conversation. I do
20 remember having a conversation.

21 Q. I believe you mentioned that you discussed some
22 generalizations about Captain Davidson, and I think it'd be
23 important if you could remember any specifics of those
24 generalizations.

25 A. I don't recall exactly what was brought up in the discussion,

1 and it was very brief and --

2 Q. Were you present for the following discussion with
3 Admiral Greene and Mr. Kondracki?

4 A. I was present, yes.

5 Q. Can you give a brief description of any concerns raised about
6 Captain Davidson at that meeting that you recall?

7 A. I don't remember the exact conversation that we had that day.

8 Q. Understanding that you can't provide direct quotes from that,
9 but can you give me a general -- your general understanding of
10 that conversation?

11 A. The general points that were raised were different points
12 that had been discussed with several people in the selection
13 committee and they were raised again at that time with Admiral
14 Greene. And then a discussion took place after that I was not --
15 that I didn't participate in.

16 Q. Do you specifically remember any comments made about Captain
17 Davidson's leadership?

18 A. Nothing specific.

19 Q. Did you ever personally field any concerns by email or phone
20 call in your position in regards to Captain Davidson's ability to
21 lead the crew?

22 A. There were times that I would be aboard the ship and receive
23 comments, general comments in passing, nothing specific, no
24 details or that sort of thing.

25 Q. Can you characterize those comments a little further?

1 A. Without receiving a specific information, they left me with
2 the sense that they were frustrated.

3 Q. Who generally would provide those comments? What types of
4 positions on the vessel?

5 A. Chief cooks, steward department members, ABs.

6 Q. How about, were any comments received from the ship's
7 officers along those lines?

8 A. I'm sure there was.

9 Q. Were the comments related to treatment, like lack of respect?
10 I'm trying to get more specific.

11 A. There was a reluctance to give specific details. There was a
12 reluctance to make formal complaints. So when they would make
13 comments, I would ask questions, really wouldn't get anywhere, and
14 then would advise them that if they had concerns what their
15 options were for bringing those concerns to management.

16 Q. You served as the crewing manager for several vessels. Was
17 that your general experience on other vessels like the *El Yunque*?

18 A. Absolutely.

19 Q. Would you say those comments are common from almost every
20 vessel you visited, just complaints?

21 A. Yes, sir.

22 Q. Did the comments make you more concerned about Captain
23 Davidson than other captains that you crewed?

24 A. I wouldn't say more concerned because there was no specifics
25 given with the comments.

1 CAPT NEUBAUER: Thank you.

2 At this time, we'd like to go to Mr. Young with the NTSB.

3 BY MR. YOUNG:

4 Q. Thank you, Ms. Clark. I have one follow-up question to
5 Captain Neubauer's line of questioning regarding the frustration
6 passed on to yourself. What options did you tell the crew that
7 they did have available to them to report these feelings of
8 frustration?

9 A. The unlicensed, to talk to their immediate supervisor, the
10 union chairman, contact the company anonymously, if they chose,
11 through the DPA and the hotline.

12 Q. And as a result of that, were any of those options exercised?

13 A. Not that I can recall.

14 MR. YOUNG: Thank you.

15 CAPT NEUBAUER: Ms. Clark, just to remind you, if you want to
16 take a break at any time, just let me know. But I think this is
17 the only round, so we're going to keep going with the NTSB at this
18 time. Ms. Young -- I'm sorry -- Ms. Bell.

19 BY MS. BELL:

20 Q. Good morning, Ms. Clark.

21 A. Good morning.

22 Q. Following on Mr. Young's question about the crew's reluctance
23 to make formal complaints, and you kind of went through the chain
24 of command. Were you trying to make a change to that chain of
25 command so that they were more willing or able to voice their

1 concerns?

2 A. I wasn't necessarily trying to make a change to the chain of
3 command, but to make them feel comfortable bringing issues
4 forward. And so if they weren't comfortable telling me, giving
5 them -- making sure that they were educated on the different ways
6 that they could report their concerns.

7 Q. You mentioned the DPA. We know that the DPA's phone number
8 is listed on the bridge, all over the ship. Is there any other --
9 is there an alternative way to get in touch with the DPA such as
10 an email address?

11 A. I'm not sure if they are provided with an email address or
12 not.

13 Q. We know that there is only one ship phone that the crew is
14 able to use, as far as I understand, on the bridge of the ship.
15 So if they have a concern, it would be hard for them probably --
16 it might be difficult for them to feel comfortable going to the
17 bridge to make a phone call. So would that be something, an
18 alternative way that they might be able to get in touch with
19 someone is through email?

20 A. I'm not a hundred percent sure what communication options
21 were available to them on the vessel, but the vessel was in port
22 twice a week. So they were in cell phone range and could use
23 their personal phones if they chose.

24 Q. I just a few follow-up questions from the previous. When
25 Mr. Fawcett was asking you about the email from Lisa Glaze

1 regarding the submission of performance evaluations, you -- I'm
2 paraphrasing here. You said that you assumed that *El Faro* and the
3 *El Yunque* evaluations had been submitted. Who's responsible for
4 reviewing those evaluations?

5 A. They would come in to the crewing assistants and be logged
6 in. And then, if there were any evaluations that were
7 extraordinarily positive or negative, they would bring those to my
8 attention.

9 Q. And what would you do with those if there was something of
10 that nature?

11 A. Take them to the director of HR.

12 Q. And how would something like that normally be dealt with?

13 A. It depends on the evaluation.

14 Q. So let's say if there was an evaluation with negative
15 comments and it raised concern and you took it to management,
16 would they then talk to that person or -- I'm just trying to get a
17 sense of how that would be dealt with and if there would be
18 training or anything like that?

19 A. The director of HR would go to the vessel first for further
20 information.

21 Q. From the officer or from the person doing the evaluation?

22 A. From the evaluator.

23 Q. And it seemed that there was some turnover with captains and
24 chief mates on the *El Faro* in the 2014-2015 time frame. Why do
25 you think there was so much turnover during that time frame?

1 A. Based on the 2014 and '15 time frame, I'm not sure. What
2 turnover are you referring to?

3 Q. Just seems there's a general -- there were a couple
4 resignations. Seems like there were a lot of different chief
5 mates.

6 A. There was a time when, if there was a position available, we
7 were utilizing that opportunity to train anybody on the run and
8 the vessel, so you may have seen some additional turnover there.

9 Q. Thank you. And I have one more question. This relates back
10 to the first MBI. Mr. Kondracki, the former labor relations
11 manager, stated that -- or director -- I'm sorry -- stated that
12 when he started in his position in March 2015, that the parameters
13 had been set, that they were not considering the current masters
14 on *El Faro* and *El Yunque* for the new LNG ships. Do you know why
15 that was?

16 A. I do not.

17 Q. You were not involved in discussions about that?

18 A. I was never given an explanation for that decision.

19 Q. That's all the questions I have. Thank you.

20 CAPT NEUBAUER: Mr. Young?

21 BY MR. YOUNG:

22 Q. Thank you, Ms. Clark. Just a few more questions. Under your
23 job description as crewing manager for TOTE, were you responsible
24 for providing any training to the officers and crew of the
25 vessels?

1 A. I would not directly provide training. There were times that
2 I scheduled training classes for them.

3 Q. And are these scheduled classes above and beyond the Coast
4 Guard or union requirements?

5 A. Primarily, they would be classes required by Military Sealift
6 Command.

7 Q. In regards to the new ships that were being built and manned,
8 did you provide any direction or make arrangement to have any of
9 the crew trained to prepare?

10 A. Yes, sir. I also arranged for them to go to engine-specific
11 training and LNG training.

12 Q. And can you recall if any of the engineers that were on the
13 accident voyage were sent to main engine manufacturers' specific
14 classes?

15 A. Some of them were, yes.

16 Q. And was that as a result of them having been chosen to join
17 the new ships at some time in the future?

18 A. Yes, sir.

19 Q. Are you aware if TOTE provided any training to any of the
20 officers for the Marlin Class vessels in CargoMax?

21 A. I'm not aware of that.

22 MR. YOUNG: Thank you. That's all the questions that I have.

23 CAPT NEUBAUER: Commander Denning?

24 CDR DENNING: Captain, I have no other questions. I think

25 Mr. Fawcett might have one follow-up.

1 CAPT NEUBAUER: Mr. Fawcett?

2 BY MR. FAWCETT:

3 Q. Yes. Leading up to the time of the accident, can you tell me
4 what TOTE's zero tolerance policies were? Not the details, but
5 what the categories were?

6 A. Zero tolerance drug and alcohol policy.

7 Q. Any other policies related to personal conduct?

8 A. Sexual harassment, discrimination, those types of things.

9 Q. I just want to make sure. Is it your understanding at this
10 time and at the time you spoke to Captain Davidson that he
11 resigned from his previous position at Crowley?

12 A. Yes.

13 Q. And if you'll turn to Coast Guard Exhibit 266, page 193 of
14 the VDR transcript, and we're going to bring it up on the screen.
15 Time, 18:59:54. There is a conversation between the chief mate
16 and the captain.

17 The chief mate says, "I hear what you're saying, Captain,"
18 period. "I'm in line for the chopping block," period, period,
19 period. Captain says, "Yeah," period. "Same here," period.
20 Chief mate says, dot, dot, dot, "I'm waiting to get screwed."
21 Captain says, "Same here," period. Chief mate says, "I don't know
22 what's going to happen to me," period.

23 My question is -- seafarers are under a great deal of stress,
24 fatigue and anxiety. Was there any plan at any point for TOTE to
25 tell the senior officers what their future employment plans were?

1 And the reason I ask that is because the *El Faro* was supposed to
2 go to the West Coast and so forth. So up until the time of the
3 accident, did anybody reach out to these officers and tell them
4 what the detailed plans were for them?

5 A. Those notifications were to be executed by my supervisor and
6 I'm unaware of what the specific plan was.

7 MR. FAWCETT: Thank you very much, Ms. Clark.

8 CAPT NEUBAUER: Mr. Fawcett, your microphone.

9 BY CAPT NEUBAUER:

10 Q. Ms. Clark, I just have a couple follow-up questions before we
11 go to the parties of interest. Did you and Captain Davidson
12 discuss any reasons for his resignation from Crowley?

13 A. He mentioned that he had an incident where he had expressed a
14 safety concern, and he did not go into very much detail
15 surrounding the terms of his resignation.

16 Q. Can you give more details on what happened after he raised
17 the safety concern?

18 A. He didn't tell me a lot about it.

19 Q. Going back to one last question on evaluations. Are you
20 aware of any mariner evaluations ever being removed from a file
21 like after a probationary period perhaps?

22 A. No.

23 CAPT NEUBAUER: At this time, I'd like to go to the parties
24 of interest. TOTE?

25 THE WITNESS: Can we take a break?

1 CAPT NEUBAUER: Yes.

2 THE WITNESS: Thank you.

3 CAPT NEUBAUER: The hearing will recess and reconvene at
4 11:05.

5 (Off the record at 10:53 a.m.)

6 (On the record at 11:05 a.m.)

7 CAPT NEUBAUER: The hearing is now back in session.

8 BY CAPT NEUBAUER:

9 Q. Ms. Clark, before we go to the parties of interest, I'd like
10 to clarify one point for the record. In regards to the comments
11 you heard while you were visiting the *El Faro*, would you say that
12 the frequency of those comments were more than other vessels that
13 you attended?

14 A. At times. Yes.

15 CAPT NEUBAUER: At this time, I'd like to go to TOTE.

16 MR. REID: No questions, sir.

17 CAPT NEUBAUER: Mrs. Davidson?

18 BY MR. BENNETT:

19 Q. Ms. Clark, good morning.

20 A. Good morning.

21 Q. As you sit here today, are you aware that the reason that
22 Captain Davidson left the employer or prior shipping company was
23 because there was a safety issue, and that safety issue was the
24 company wanted him to move a ship that had steering gear problem
25 under its own power and he refused and ordered tugs because that

1 was the safest means to do it? Are you aware of that?

2 A. He did mention a steering gear issue. He didn't go into that
3 great of detail.

4 Q. And he was willing to give up his seagoing career as a
5 captain over a safety concern. It's pretty honorable, isn't it?

6 A. Yes.

7 Q. And you hired him as a third mate, correct?

8 A. Correct.

9 Q. With respect to some of the concerns that you heard about, is
10 it fair to say that we should take the sworn testimony of the crew
11 members and the officers who have testified and the executives who
12 testified about the quality of Captain Davidson in this MBI; we
13 should listen to them, shouldn't we?

14 A. I think all the testimony has been relevant, yes.

15 MR. BENNETT: Thank you very much. No further questions.

16 CAPT NEUBAUER: ABS?

17 MR. WHITE: ABS has no questions.

18 CAPT NEUBAUER: Are there any follow-up questions for

19 Ms. Clark at this time?

20 Ms. Clark, I'm curious, is there anything else you would like
21 to add to the Marine Board in regards to any issues that we may
22 not have covered that may be relevant to the accident?

23 THE WITNESS: No, sir.

24 CAPT NEUBAUER: Ms. Clark, you are now released as a witness
25 from this Marine Board of Investigation. Thank you for your

1 testimony and cooperation. If I later determine that this board
2 needs additional information from you, I will contact you through
3 your counsel. If you have any questions about this investigation,
4 you may contact the Marine Board reporter, Lieutenant Commander
5 Damian Yemma.

6 (Witness excused.)

7 CAPT NEUBAUER: At this time, do any of the PIIs have any
8 issues with the testimony that we just received?

9 MR. REID: No, sir.

10 MR. WHITE: No, sir.

11 MR. BENNETT: No, sir.

12 CAPT NEUBAUER: The hearing will now adjourn and reconvene
13 after lunch at 12:15.

14 (Whereupon, at 11:08 a.m., a lunch recess was taken.)
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A F T E R N O O N S E S S I O N

(12:19 p.m.)

CAPT NEUBAUER: The hearing is now back in session.

At this time, we will hear testimony from Captain Peter Villacampa, former master of the *El Morro*.

LCDR YEMMA: Captain, please stand and raise your right hand.

(Witness sworn.)

LCDR YEMMA: Thank you. Please be seated, Captain. Captain, please start by stating your full name and spelling your last name for the record.

THE WITNESS: My name is Peter John Villacampa, V as in Victor, I-L-L-A-C-A-M-P-A.

LCDR YEMMA: Counsel, will you please also state your name and spell your last?

MR. BOYD: Yes. Thomas Boyd, B-O-Y-D, with the law firm of Boyd Law, P.A.

LCDR YEMMA: Captain, can you please tell the board where you're currently employed and what your position is?

THE WITNESS: I am retired at this point.

LCDR YEMMA: Would you also please tell the board a little bit about your prior work history please?

THE WITNESS: I'm a graduate of New York State Maritime Academy, Fort Schuyler. I graduated in 1977 with a Third Mate Unlimited License, as well as a Bachelor of Science in Marine Transportation. I've worked on oceangoing tug and barges, car

1 carriers, LASH vessels and Ro-Ro vessels.

2 LCDR YEMMA: And what is your highest level of education that
3 you completed?

4 THE WITNESS: My highest level of education is a Bachelor of
5 Science in Marine Transportation Economics.

6 LCDR YEMMA: And do you currently hold any licenses or
7 professional certification?

8 THE WITNESS: I had a Master's Unlimited License, but I
9 haven't sailed on it since 2013 and it has expired.

10 LCDR YEMMA: Thank you, Captain. Commander Denning will
11 start your questions.

12 (Whereupon,

13 PETER JOHN VILLACAMPA

14 was called as a witness and, having been duly sworn, was examined
15 and testified as follows:)

16 INTERVIEW OF PETER JOHN VILLACAMPA

17 BY CDR DENNING:

18 Q. Good afternoon, Captain Villacampa. Thanks for being here
19 today. If you could please go into a little bit more detail for
20 us about the positions you've held in your seagoing career,
21 especially on vessels operated by Interocean, Sea Star and TOTE?

22 A. First job with Interocean was in January 1978. I was a third
23 mate on the vessel the *Great Land* on the West Coast from Tacoma,
24 Washington to Anchorage, Alaska. My next employment with TOTE was
25 November 8th of 1998, where I was the chief mate on the *El Morro*

1 on the West Coast in the shipyard, and I remained as chief mate
2 until December of '98. And then, when I went home on vacation, I
3 returned in January of 1999 as master of the *El Morro*, and I
4 remained there until July 16th of 2013.

5 Q. When you were on the *Great Land* on the Tacoma, Washington to
6 Anchorage, Alaska run, was that vessel in the full Ro-Ro
7 configuration at that time?

8 A. Yes. It was strictly Ro-Ro.

9 Q. And then on *El Morro*, I understand you sailed that vessel
10 from the shipyard in San Francisco to the East Coast. Can you
11 tell us a little bit about that and the work that was conducted in
12 the shipyard?

13 A. There was extensive work, steel work that done on the ship in
14 San Francisco, in addition to which there was quite a bit of
15 preparation to get through the Suez Canal. Due to the
16 configuration of the *El Morro* with the overhang on the main deck,
17 they have to ensure that transiting the lochs that there would be
18 no hang-ups on the walls of the lochs, in addition to which there
19 was extensive boiler repair in -- well, the West Coast. I'm not
20 sure if we were in Oakland or San Francisco at this point, the
21 shipyard. But we remained in there -- I think from the time that
22 I came aboard, we were probably in there approximately 3 months in
23 the shipyard, and I'm not sure how long they were in the shipyard
24 before I came aboard.

25 Q. And you proceeded to North Florida Shipyard and what work was

1 conducted there?

2 A. In North Florida Shipyard, they inserted the fructose tanks
3 on fourth deck in holds 4-A and 4-B. That required a cutout on
4 starboard hull so that the tanks could be brought in. And then
5 there was a additional cutout -- they came in on third deck -- an
6 additional cutout in the area of the elevator so that these tanks
7 could be put on the ship's elevator and lowered down into the
8 fourth deck and maneuvered and permanently placed on fourth deck.

9 Q. And unlike the *Great Land*, when you were on board *El Morro*,
10 it was already in the container configuration; is that correct?

11 A. We were on the *El Morro*, I believe we were putting in the --
12 on the main deck, the structures for containers.

13 Q. And your route on that vessel, can you tell us which ports
14 were included in the route in your duration of time on the *El*
15 *Morro*?

16 A. When we started the run, it was the *El Morro*. The *El Yunque*
17 was already in service. We hit -- the voyage started in
18 Jacksonville. Then we would go down to San Juan, Puerto Rico,
19 discharge our cargo and backload, go up to Port Everglades,
20 Florida and discharge and backload some cargo. Then proceed to
21 Jacksonville where would again discharge all the cargo and
22 backload. At some time, I'm not sure if it was 2007 or so, they
23 also added in Philadelphia, Pennsylvania to our run.

24 Q. So you served approximately 14 years as master; is that
25 correct?

1 A. That's correct.

2 Q. And was the Ponce Class vessels, was that the only class of
3 vessels that you served as master on or did you serve as master on
4 other types of vessels as well?

5 A. I served master on other types of vessels -- LASH vessels,
6 car carriers -- but the only vessels that I served master on with
7 TOTE were the Ponce Class, the *El Morro*.

8 Q. And your time on those other vessels was prior to *El Morro*.
9 So after you began on *El Morro*, did you sail master exclusively on
10 that vessel?

11 A. Yes. From 1998, November of '98 through July of 2013, I
12 worked solely for TOTE on the *El Morro*.

13 Q. And you never served on *El Faro*; is that correct?

14 A. No, I never served on the *El Faro*.

15 Q. However, the vessels are virtually identical in terms of
16 configuration, characteristics, route, things of that nature,
17 correct?

18 A. That's what I've been told, yes.

19 Q. So knowing that you were on a nearly identical vessel on
20 nearly identical routes, I'd like to talk with you about the
21 process that you followed as master of that vessel in your long
22 career for voyage planning on *El Morro*. Now although some of the
23 ports changed -- you mentioned Fort Lauderdale and Philadelphia
24 which are no longer on the route -- during your approximately 14
25 years as a master, you would essentially describe it as a liner

1 service to San Juan on a fairly set schedule for a fairly long
2 period of time, correct?

3 A. That's correct. We were a line service, fast turnaround.

4 Q. And what do you mean by -- when you say fast turnaround, what
5 does that mean?

6 A. Well, we were -- the first possibly 2 years, we would get an
7 overnight in Jacksonville and usually an overnight in San Juan,
8 but I think it's the second or third year of my tenure, they did
9 away with the overnights and we strictly -- we would come in as in
10 Jacksonville. We usually take arrival probably around 6:00 in the
11 morning and, normally, we would try to get out of port by 8:00
12 that evening, unless there was some cargo delays.

13 In San Juan, Puerto Rico, we would take arrival approximately
14 5:00 in the morning, sail usually between 7 and 8 p.m. In Fort
15 Lauderdale, we would take arrival approximately 5:00 in the
16 morning and usually sail somewhere around 4 in the afternoon.

17 Q. Are you aware of why that changed as far as the amount of
18 hours in port, the overnight was stopped? Is there any particular
19 reason that occurred?

20 A. Economics.

21 Q. Would you mind going into a little more detail on that for
22 us, please?

23 A. Well, we didn't need that much time in port to do our cargo
24 evolutions. We were able to do it within the 12 to 14-hour
25 period.

1 Q. And what changed to allow it to be done in a shorter amount
2 of time than it was previously done?

3 A. Management made that decision.

4 Q. And you mentioned economics. Did they consult the master or
5 the crew on that decision? I'm just trying to understand that
6 change and all of the factors that led to those types of --

7 A. What was explained to me by, I believe it was Mr. Bill
8 Weisenborn, that at some point somebody realized that they were
9 being charged, I believe it was \$2500 a night to keep the ship at
10 the dock at San Juan, Puerto Rico, and so they reevaluated that
11 expense for the two ships. They felt it was no longer necessary,
12 and we went to what I call a fast turnaround. But I personally
13 was never consulted regardless of the change in the service.

14 Q. How do you feel that that change affected your ability to get
15 everything completed while in port that needed to be done?

16 A. We were able to do it for 14 years.

17 Q. We may come back to that later, but I'll continue on with my
18 originally planned questions right now. Regarding potential
19 routes between Jacksonville and San Juan, what routes were
20 available to you as the master of the *El Morro*?

21 A. Well, the majority of the time was a direct route from
22 Jacksonville, Florida to San Juan, Puerto Rico, both to and from.
23 There are other options available depending upon weather
24 conditions, that we could use the Northwest Providence Channel
25 and/or the Old Bahama Channel if it was deemed to be necessary.

1 Q. And by deemed to be necessary, that would be if weather
2 avoidance was necessary; is that correct?

3 A. Majority of the time, due to weather, but there were a number
4 of times where they wanted to have some work with riding gangs
5 done aboard the ship and the best time usually for us to do that
6 was on the return voyage from San Juan, Puerto Rico where we would
7 use the Old Bahama Channel. The rolling on the ship was reduced
8 quite a bit due to the fact when -- especially in the early years
9 when we were sailing out of San Juan, Puerto Rico, we were -- the
10 ship was very light. We had a very -- you know, a shallower draft
11 than what we did years later when the cargo picked up. And
12 usually the ship would roll quite a bit, but when we took the Old
13 Bahama Channel, the rolling of the ship was reduced quite a bit
14 and that allowed the contractors to do some of the jobs that they
15 had much more safely.

16 Q. The reduction of rolling, was that due to the lee provided by
17 islands, or rather, the sheltering from the seas?

18 A. Yes, that's right. The Bahama chain there would cut down
19 quite a bit on the swell that we would encounter otherwise.

20 Q. Regarding the potential routes, did you have to touch base
21 with any company entity to discuss the possible routes for bad
22 weather?

23 A. No two voyages are the same. A number of times I let them
24 know that, due to the circumstances, weather conditions, I would
25 be taking my alternate, the Old Bahama Channel. Sometimes I

1 didn't make that decision until we had already taken departure.

2 But whatever decision that I made, if it was anything but the
3 normal route that we would take, it would always appear on my
4 departure notice to the office under comments.

5 Q. And how did you send that departure notice?

6 A. It was emailed to the office.

7 Q. Back to prior departure, did you have conversations prior to
8 departure with management personnel about potential routes when
9 you're looking at the weather, you're trying to make your voyage
10 plan prior to departure? Did you have conversations with shore-
11 side personnel?

12 A. Yes. The operations people in Voorhees would touch base with
13 me and we would discuss the route that I was going to take and
14 they would ask comments as to why I thought that I should take
15 that route as opposed to the normal, but at no time did they ever
16 try to persuade me from taking a particular route if I deemed that
17 it was necessary.

18 Q. So did I hear you right, you said they reached out to you,
19 not vice versa?

20 A. It was -- in the beginning, they would reach out to me, but
21 as we all became much more comfortable with each other, and I did
22 have a long-term relationship with one of the operations
23 personnel, but as myself, we became comfortable with each other, I
24 would sometimes call them; they would sometimes call me. But
25 yeah, we would usually touch base when it was necessary.

1 Q. Through these hearings we've heard names like Harry Rogers.
2 Was that your primary point of contact in New Jersey?

3 A. Yes. Harry Rogers was one of the two people that was on a
4 regular basis in Voorhees, New Jersey.

5 Q. And who was the other person you dealt with most regularly?

6 A. The other gentleman was a Mr. Bob Rogers. He was the VP of
7 human resources.

8 Q. So they're in New Jersey. Did anyone from Jacksonville come
9 aboard or call you or discuss voyage planning with you?

10 A. I would -- again, as we became more familiar with each other,
11 I would touch base with the operations people in Jacksonville.
12 The staff was made up primarily of Bill Weisenborn and Marshall
13 Kaltenbach, and as time went by, as they left the company, there
14 were other personnel, Mr. Jamie Ferguson or Mr. Don Matthews, and
15 we would speak with each other throughout the day prior to taking
16 departure concerning the anticipated weather and cargo.

17 Q. Was there any written company guidance on the process of who
18 you were to interact with in company management? Any written
19 procedures on that interaction?

20 A. I don't recall at this point any particular procedure.

21 Q. We have a copy of TOTE's safety management system manuals.
22 I'd like to review some of the excerpts with you and you can tell
23 me if this is the guidance that you followed regarding heavy
24 weather and other matters in the voyage planning. We're going to
25 refer to Exhibit 198 first, which is the operations manual for

1 vessels.

2 The one I'm going to refer to you -- we have two different
3 versions as exhibits and the one we're going to refer to is
4 Revision 20, which is dated April 2014. First, on page 8 is the
5 table of contents. And the thing I want to point out here, we're
6 going to look at Section 10.8, which is weather monitoring, and
7 also Section 10.9, which is bunker requirements, real quick.

8 The thing I wanted to point out here is that these revision
9 dates, many of them are 1996, which is just prior to you coming
10 aboard. So I believe these may have been in place while you were
11 on board. I'd like you to look at them and tell me if it seems to
12 be what you recall using at the time or if there was something
13 additional that you used.

14 So with that, I'd like to go to pages 206 through 208.
15 Beginning on page 206, you'll see a section on weather monitoring,
16 10.8. 10.8.1 is more general. 10.8.2 is adverse weather. 10.8.3
17 is additional ballast in heavy weather. 10.8.4 discusses weather
18 routing. We'll skip over 10.8.5 because it's regarding anchoring
19 and being anchored and moored. And then 10.9 on page 208 is
20 bunker requirements.

21 If you could take a moment, just review those for me? And
22 I'd like you to just tell us if that's the procedures that you
23 followed during your tenure regarding voyage planning and heavy
24 weather.

25 A. This is one of the procedures that I did follow. Yes, sir.

1 Q. Were there other procedures that you followed in addition to
2 this?

3 A. Yes, sir. I remember we had what was referred to as a
4 hurricane plan. And during the hurricane season, I would consult
5 it and, basically, it had this information and it also listed some
6 possible additional routes that you could consider on the
7 Caribbean run.

8 Q. So it had the possible additional routes. Was there any
9 other information that you can recall from that plan?

10 A. No. It's been a few years since I've looked at it, but I
11 don't think I remember anything else being in there, supplementing
12 this paperwork here.

13 Q. And I'd also like you to take a look at Exhibit 26, which is
14 the emergency preparedness manual for vessels. This one is also
15 revised in April of 2014. Section 5.12 of that addresses severe
16 weather. 15.12.2 is severe weather at sea. On page 107 of that
17 manual, there's a very brief paragraph that says, "At sea, severe
18 weather is to be avoided where possible by altering the track of
19 the vessel. Instruction for maneuvering in extreme heavy weather"
20 -- extreme weather -- I'm sorry -- "can be found in *The American*
21 *Practical Navigator*, H.O. Pub. No. 9."

22 And that's the extent of the severe weather at sea guidance
23 that I see in the emergency preparedness manual. Is this the
24 extent of the guidance that you had during your tenure or was
25 there something more perhaps at the time?

1 A. Can you go to the top of this page? I don't recall that
2 5.12.2, in particular. It may very well have been there, but I
3 don't recall that section.

4 Q. Do you recall any different guidance than what you see here?

5 A. This is dated April of '14. I left the company July '13, so
6 I'm not sure if I've seen this document.

7 Q. And that's why I looked at the table of contents which
8 indicates that Section 5.12.2 was in Revision 0, I guess the
9 beginning, the first edition of this manual, and it gives a date
10 of March 1996. That's on page 6 in the table of contents.

11 So that's why I thought maybe this might have been in
12 existence during your tenure. But if you don't -- I mean, I
13 understand it's been a while, so if you don't recall it, that's
14 fine. I'm just trying to understand if you had additional
15 references that you used.

16 A. Well, if it's dated March of '96, then even though I don't
17 recall it at this time, I would have seen it.

18 Q. Now I'd like you to look at Exhibit 287. Exhibit 287 is a
19 copy of a master's review that was conducted by you as part of the
20 ISM procedures. On page -- if you could just briefly look at page
21 7 in that document, it appears to have your signature. Can you
22 verify, sir, that that's your signature on that document?

23 A. That is my signature, yes.

24 Q. Do you recall preparing these master reviews as part of the
25 ISM process on a regular basis?

1 A. Yes. If I remember correctly, the ship was required to
2 prepare two master's reviews per year. Each of the captains would
3 do one every 6 months.

4 Q. And I just want to read one sentence. It talks about
5 communications. It says, "Communication with IS Jacksonville,
6 Florida and IS Morristown, New Jersey is on a continual basis."
7 Besides the information you just told us about voyage planning,
8 what else did you communicate with them on a regular basis?

9 A. With Voorhees, New Jersey, that would be where Captain Harry
10 Rogers and Bob Rogers are located. We would discuss personnel
11 problems, possibly some safety issues. I'm sure it covered quite
12 a gambit of things that we would be discussing.

13 Q. And then same question with Sea Star personnel in Florida.
14 What types of conversations did you have with them on a regular
15 basis during your tenure?

16 A. With the port engineers, we were -- again, our schedule was
17 we were in port either two or three times a week, but every week
18 we would be in Jacksonville and the port engineers would come down
19 and you would see them throughout the day, phone calls. Usually
20 you had time at lunch to sit and talk. But we had a constant
21 contact with each other all day long in port.

22 Q. So we've covered preparing your voyage plan and interaction
23 you've had with company management. Did you then discuss your
24 voyage plan with your bridge team?

25 A. Yes. Especially the second mate. We would -- in

1 Jacksonville, the second mate was usually doing his cargo rounds
2 and I would be keeping an eye on the weather through the Weather
3 Channel for severe weather. In addition to which, in the
4 wheelhouse we had a cabinet, and on top of the cabinet was a
5 chart. I don't recall the exact number, but I believe it covered
6 in the area from approximately 40 degrees west longitude into the
7 Gulf, and we had a clear plastic sheet over it. And as any
8 adverse weather would come in, we would plot this weather,
9 sometimes as many as 10 days out, so that we would try to get an
10 idea if and when it was going to interfere with our course and our
11 route, and so that we could even zero in on it further and keep an
12 eye out for that particular storm.

13 Q. And how did you explain your decisions regarding voyage
14 planning to the deck officers?

15 A. Well, at a minimum, it would be the second mate and myself,
16 and we would go over what we anticipated the weather to be. I'm
17 not exactly sure when, but sometime around 2008, I think we
18 received a program called Bon Voyage, and we use that heavily and
19 it had some very good features, one of which was it could tell you
20 what they anticipated the size of the swells to be. In addition
21 to which, you could put particular times in and, you know, you
22 would advance the ship's position as well as the storm's position
23 and see how you two are going to interface with each other.

24 Q. So are you saying you went over BVS with the mates prior to
25 departure?

1 A. Yes.

2 Q. And during those discussions, did you seek their input on the
3 routes or was it you had already made your decision and were just
4 informing them on the route you were going to take? How did those
5 discussions go?

6 A. No. The second mates sail with me. I think I can remember,
7 in the 14 years I've been on board there, maybe four second mates
8 that I had, and we were very comfortable with each other. And any
9 input that they had, I was certainly looking for. I certainly was
10 not infallible. They could easily catch something that I didn't
11 see, and we had a very open relationship as far as discussing
12 weather routing.

13 Q. And on *El Morro*, you served with Danielle Randolph and Jeremy
14 Riehm on *El Morro*; is that correct?

15 A. That's' correct. Yes, sir.

16 Q. And how did you find them, as far as, were they -- did you
17 find them to be reliable officers for you?

18 A. Yes.

19 Q. Is it fair to say you had a very good working relationship
20 with those two officers?

21 A. Yes, I did.

22 CDR DENNING: Thank you, Captain Villacampa. At this time,
23 I'd like to ask Captain Mike Kucharski from the NTSB if he has --
24 I believe he has further questions on background and voyage
25 planning, and then he has some additional topic areas he's going

1 to address as well. Thank you, sir.

2 THE WITNESS: You're welcome.

3 BY MR. KUCHARSKI:

4 Q. Good afternoon, Captain Villacampa and counsel.

5 Just a couple little bookkeeping things, if I may. When you
6 took the ship from San Francisco to the East Coast, was that
7 through the Panama Canal that you went?

8 A. Yes. The Panama Canal.

9 Q. And you mentioned the lochs and overhangs of the ship. Can
10 you elaborate a little bit on the concerns?

11 A. Yeah. The Panama Canal was concerned with the design of the
12 *El Morro*. The main deck overhung the hull by approximately 4 feet
13 on either side, I believe it was, and they required us to make
14 some cutouts in the main deck so that they, in the wheelhouse or
15 on the bridge, I should say, could look over the side and see if
16 the main deck was overhanging the locks. We also removed a stern
17 ramp outwards, as well as the embarkation ladder. And the company
18 also had cameras on board the ship to overlook the main deck and
19 we had monitors in the wheelhouse for the pilots to consult.

20 Q. Now this will be slightly off topic, but you mentioned
21 cameras. Was there ever any discussion to putting cameras down on
22 the second deck?

23 A. I don't recall at this moment.

24 Q. And you mentioned that you were master on LASH and car
25 carriers -- LASH, lighter aboard ship, and car carriers. About

1 how many years did you serve as master on those types of vessels?

2 A. I'm not sure. I would assume maybe 6 years total.

3 Q. So your masters time, you had approximately 6 years on those
4 types of ships and then another 14 years on the Ponce Class as
5 master. So approximately 20 years of master time?

6 A. I believe that's correct. Yes.

7 Q. You mentioned you left the *El Morro* in, I think it was
8 July 16th of 2013. You mentioned the exact date; is that correct?

9 A. Yeah. I don't think I'll forget that date.

10 Q. Yes, sir. And was Mr. Peterson your port engineer at the
11 time you left the *El Morro*?

12 A. Yeah. Mr. Lee Peterson was the port -- he was one of the
13 port engineers at that time.

14 Q. And did they have different port engineers for different
15 ships? The *El Morro*, did it have a specific port engineer, do you
16 recollect?

17 A. The way I remember the operation, Mr. Lee Peterson was the
18 engineer in Jacksonville and then there was a port engineer, Cliff
19 Hill, Turk Christensen, and I believe a Mr. Jim Fisker-Anderson
20 from Tacoma, who, maybe 2 or 3 weeks that I remember, would fly
21 out to the East Coast and assist Mr. Peterson.

22 Q. Thank you for that.

23 Back to voyage planning now. How many times would you say in
24 your 14 years of master on *El Morro* and while on the Puerto Rico
25 run -- well, I guess on the *El Morro* you also went up to

1 Philadelphia; is that correct?

2 A. Yeah. The Philadelphia run, I think, I want to say lasted
3 about 12 to 18 months.

4 Q. So how many times would you say that you had to change your
5 voyage plan due to heavy weather approximately in the 14 years?
6 Can you give us an idea of how many times?

7 A. When you say change, are you talking about starting the
8 voyage, taking departure, and then decided somewhere into the
9 voyage that I was going to take an alternate route?

10 Q. Any kind of departure, whether it's from the get-go coming
11 out of the port -- you said you had pretty much direct routes that
12 you took. It was line service and you went pretty much on the
13 direct route if you could. So whether it was leaving port and not
14 going on the direct route or changing at midstream, if you will,
15 while you were in the voyage, altered that voyage plan because
16 heavy weather, either one; how many times, approximately? Was it
17 like five? Was it more like 20? Could you give us an idea?

18 A. Well, in the 14 years that I was master of the *El Morro*, I
19 would assume probably each one of those years, I probably was
20 involved during the hurricane season, maybe 3 months. And I
21 probably think that in a 14-year period, maybe 10 times, but I
22 don't have an exact number. But I would assume maybe 10-plus
23 times.

24 Q. Thank you. Was the Yucatan Channel ever an option, going
25 around Cuba, the western part of Cuba, the Strait of Florida and

1 then going underneath Cuba, was that ever an option?

2 A. If I remember correctly, the option was that if you deemed it
3 necessary, you could certainly go down towards the west coast of
4 Cuba and wait out the storm, if needed be. I never was required
5 to do that, but it was an option to me.

6 Q. Was taking the Crooked Island Passage ever an option? Have
7 you ever looked at that? Did you ever look at that while you were
8 on board the ship, not post-accident? Did you ever look at that
9 as an option?

10 A. No, I did not.

11 Q. You mentioned that you talked with the operations people in
12 Voorhees and then we heard Morristown. That was Interocean,
13 American Shipping, Interocean management, the different entities.
14 Is that the same one we're talking about?

15 A. Yeah. Voorhees, New Jersey, that's where Harry Rogers, Vince
16 Corry, and Bob Rogers were stationed.

17 Q. Did Bob Rogers participate in any of the weather routing or
18 voyage plan conversations?

19 A. Yes, he did.

20 Q. You mentioned that Voorhees initially asked you to call in to
21 discuss the route, what your plan was and discuss it. And then,
22 after -- I don't want to put words in your mouth; please correct
23 me if I use the wrong words. Then after they got to know you
24 better, then you called them to inform them; is that correct?

25 A. I believe I had a pretty good relationship with Captain

1 Rogers and Bob Rogers, and I would call when I felt it was
2 necessary to, especially if I thought they should be kept in the
3 loop on a particular item.

4 Q. So I guess my question is, did they actually tell you to call
5 them before you were going to change the route or to take a
6 different route? Did they ever tell you to call them?

7 A. No, I don't recall that being a requirement.

8 Q. Besides taking the route when you called, whether you called
9 them or they called you, you know, regarding heavy weather or
10 changes to the route, did you also talk about cargo securement?
11 Was that ever part of the conversations of securing the vessels at
12 sea, what your plan was? Did you discuss that also?

13 A. That is -- I'd primarily discuss with the operations
14 personnel in Jacksonville, Florida. Again, Bill Weisenborn,
15 Marshall Kaltenbach and James Ferguson and Don Matthews, I would
16 have conversations with them.

17 Q. You mentioned that you discussed the route you were going to
18 take with the second mate primarily and your decision making, you
19 discussed it. Did you also discuss the route with the chief
20 engineer in any way?

21 A. Yeah. As I said, going southbound, we would return, say,
22 from Puerto Rico and we would pick up DirecTV approximately 18-
23 plus hours outside of Jacksonville. So most of the crew knew if
24 there was any adverse weather coming, and I would discuss it with
25 the chief and they would ask me many times, Captain, you think

1 you're going to take the Old Bahama Channel this time or are we
2 going to go the regular route? And myself, the chief engineer,
3 the chief mate, and the first engineer, we sat together at the
4 same table, so they were all privy to these conversations in the
5 dining room, as well as the other mates and engineers who sat at
6 the next table. It was -- I had an old saying on it that there's
7 no secrets on board here. If I know something, you're going to
8 know it.

9 Q. So would it be your opinion that your bridge team -- and when
10 I say bridge team, especially with third mate, second mate, chief
11 mate, they all have a clear mental model to the decision making,
12 why you're going to take that certain route?

13 A. Yes. And as I said to them, each time weather information
14 would come out, whoever was on watch, it would be their duty to
15 take that information and transfer it to the chart that we had
16 with grease pencil, plot it. And you could call me or any time
17 they come up to say, you know, Cap, this is the latest info we
18 have on a particular storm, whether or not we think at this point
19 it will be interfering with us. So they were all in the loop on
20 this.

21 Q. And you mentioned also to Commander Denning when you were
22 talking about, you said you look at the Weather Channel and that
23 you receive the BVS on board, the weather program, if you will.
24 Did you also consult other transmissions, if you will, or sources
25 of information for weather in developing this weather plan for the

1 weather?

2 A. Yes. In port, again, we had the Weather Channel. We had Bon
3 Voyage, and out at sea, we had weather faxes, we had SAT-C. We
4 had Internet, where we would receive emails with weather
5 information, and we also had VHF going up and down the coast of
6 Florida or off the north side of Puerto Rico.

7 Q. And I want to be really clear about this. You say you have
8 Internet, emails, weather information. Did you have access to the
9 Internet where you could look at different sites or was it just,
10 when you say Internet access, was it just emails that you would
11 get?

12 A. It was emails that I would receive.

13 Q. Did you have any formal weather training, forecasting,
14 weather forecasting, weather routing, working with web services,
15 past -- any formal training after your undergraduate work at
16 school? Did you have weather training at school? You went to the
17 maritime. Did they actually have weather courses that you were
18 required to take?

19 A. Yes. We had meteorology courses. Yes, we did.

20 Q. Was there any formal training after that that you had?

21 A. The only other training that I had was from experiences
22 dealing with other captains, as it was, each time I upgraded my
23 license, reviewing weather observations.

24 Q. So no type of schooling or anything like that, when I say
25 formal, that you attended either through a union school or any

1 other type of formal weather training?

2 A. No, I don't believe so.

3 MR. KUCHARSKI: Commander Denning, I'm finished with my
4 voyage planning questions. Do you want the captain to -- yeah.

5 BY CAPT NEUBAUER:

6 Q. Good afternoon, Captain. Would you like to keep going or
7 take a break at this time?

8 A. No. We can proceed.

9 Q. Thank you. Just have some questions, follow-up questions
10 from the weather routing and operations that we just discussed.
11 Did you ever take the direct route to or from Jacksonville with
12 riding gangs working on board?

13 A. Yes, we did.

14 Q. I believe you mentioned that you had to defer due to weather
15 about 10 times over the course of your career. Did you ever have
16 to divert from the direct route and take the Old Bahama Channel or
17 Providence Channel mid-voyage?

18 A. I don't recall that at this time.

19 Q. Would there have been any concerns about doing a diversion
20 mid-voyage? And I mean fuel restrictions, any type of additional
21 concerns that may prevent you from diverting?

22 A. No, nothing comes to mind.

23 Q. Would you consult with the navigator prior to making any
24 unanticipated course diversions at sea for weather, for unexpected
25 protocols, things like that?

1 A. Yes, I would.

2 Q. Toward the end of your service time with TOTE, did you notice
3 a decline in the level of shore-side support you received at sea?

4 A. I don't -- I'm not sure exactly what you're asking.

5 Q. Did you feel, towards the end of your career on the *El Morro*
6 that the availability of shore-side support, somebody called it,
7 did that level drop off towards the end?

8 A. No. Again, while I was with the company, Harry Rogers was
9 still there, Bob Rogers was still there, Mr. Lee Peterson was
10 still there. So towards the end of my tenure with the company,
11 these people were still there and I felt very comfortable and free
12 to call them any time I thought it was necessary.

13 Q. Did you ever have any trouble reaching someone on shore by
14 telephone?

15 A. No. I can usually track them down if I had to.

16 Q. It sounds like you used the Weather Channel at times to
17 monitor the weather; is that correct?

18 A. Yes, that is.

19 Q. Did you ever request to have DirectTV coverage for the entire
20 route?

21 A. Yes, I did.

22 Q. And what was the answer?

23 A. I think we looked into it down in -- to get it in San Juan,
24 Puerto Rico, but what we on the ship learned, that there wasn't a
25 system that would've gone more than, if I remember correctly, more

1 than 40 or 50 miles off the coast of Puerto Rico that would serve
2 our purposes.

3 CAPT NEUBAUER: At this time, I'd like to go to the parties
4 in interest for questions. TOTE, do you have any?

5 MR. REID: No questions, sir.

6 CAPT NEUBAUER: Mrs. Davidson?

7 BY MR. BENNETT:

8 Q. Captain, how long did you -- excuse me. My name is Bill
9 Bennett. I represent Theresa Davidson, widow of the Captain,
10 Michael Davidson.

11 How long did you -- was your sailing career?

12 A. My sailing career started on graduation in 1977 and it went
13 until 2013.

14 Q. And you sailed regularly throughout that time, correct?

15 A. That's correct.

16 Q. Did you ever sail in heavy weather?

17 A. Yes, I did.

18 Q. Did you ever sail in tropical storm weather?

19 A. I'm sure I did.

20 Q. Did you ever sail in hurricane winds?

21 A. I believe I did, yes.

22 Q. No further questions.

23 CAPT NEUBAUER: ABS?

24 MR. WHITE: Thanks, and we have no questions.

25 CAPT NEUBAUER: Mr. Fawcett?

1 MR. FAWCETT: Captain, not on this topic.

2 CAPT NEUBAUER: Mr. Young?

3 BY MR. YOUNG:

4 Q. Good afternoon, Captain. Regarding your experience in heavy
5 weather, during your extensive career with the Ponce Class
6 vessels, did you ever experience a loss of propulsion as a result
7 of heavy weather?

8 A. Not as a result of heavy weather, no.

9 MR. YOUNG: Thank you.

10 CAPT NEUBAUER: Commander Denning?

11 BY CDR DENNING:

12 Q. Captain, just a few follow-on questions before we move on to
13 the next topic area. You had mentioned to Captain Kucharski that
14 you had received emails while underway with weather information.
15 Who did those emails come from?

16 A. Usually if I asked for additional information, it would come
17 from operations out of Jacksonville, either Bill Weisenborn or
18 Jamie Ferguson or Don Matthews.

19 Q. So those emails were sent because you requested additional
20 information; is that correct? Is that what I heard?

21 A. Sometimes I had requested it. Sometimes they would send it
22 out to me without being asked.

23 Q. And when that would occur, what type of information would
24 they provide to you?

25 A. Usually it would be updated weather forecasts and weather

1 maps with anticipated storm directions.

2 Q. Was that information that you had received the same or
3 different than what you were seeing on the Bon Voyage system? Was
4 it more recent, more current, or was it the same? Can you just
5 compare and contrast those for me?

6 A. I think some of it was before we had Bon Voyage and, whether
7 or not it differed from Bon Voyage, I couldn't answer that, sir.

8 Q. The reason I ask this question is we've talked with several
9 witnesses now about trying to understand the delay, how current
10 information on Bon Voyage is to the mariners, and sources of
11 potentially more current information. So thank you for your
12 answer.

13 Captain Kucharski also asked you about the Crooked Island
14 Passage. You said you had never really considered that as an
15 alternate route. Was there any particular reason that you didn't
16 consider that as an alternate route?

17 A. I'm sure there was, but at this time I couldn't give you an
18 answer.

19 Q. Do you have any thoughts now on whether you would consider
20 that a viable route if a situation presented itself? The reason I
21 ask about that route particularly is -- I'm not sure if you've had
22 an opportunity to listen to the -- or to read the transcript from
23 the voice data recorded from the *El Faro*, but at the time *El Faro*
24 was approaching Hurricane Joaquin, Second Mate Danielle Randolph
25 and Third Mate Jeremy Riehm, both called Captain Davidson and

1 that's essentially the route that they suggested taking and he
2 opted not to do that.

3 So as a fellow master, I'd like to know if there's anything
4 particular about that route that would give you hesitation?

5 A. Without -- I couldn't give you an answer at this point, sir.

6 CAPT NEUBAUER: Captain, just wanted to check. Have you had
7 a chance to review the transcript from the VDR?

8 THE WITNESS: Yes, I did read it.

9 CAPT NEUBAUER: Thank you.

10 CDR DENNING: I have no further follow-on questions.

11 Captain Kucharski, if you wouldn't mind continuing please?

12 CAPT NEUBAUER: At this time, it's a good time, good juncture
13 to take a break. The hearing will recess and reconvene at 1:30.

14 (Off the record at 1:18 p.m.)

15 (On the record at 1:32 p.m.)

16 CAPT NEUBAUER: The hearing is now back in session. At this
17 time, Mr. Kucharski with the NTSB will have questions.

18 BY MR. KUCHARSKI:

19 Q. Captain, some questions were asked by others in some of the
20 testimony this afternoon and I'd like to go to those. You said
21 that when you sailed on the Ponce Class vessels, you had riding
22 crews on from time to time; is that correct?

23 A. Yes, that's correct.

24 Q. Did you require them to show up to their muster stations for
25 the abandon ship drill?

1 A. Yes. They would report to their lifeboats.

2 Q. You were also asked about if you were in tropical storm force
3 winds and hurricane force winds and you said you were; is that
4 correct?

5 A. Yes. In my -- the course of my 35 years, yes, I was.

6 Q. Was that while you were a master?

7 A. Yes, but I don't believe it was -- I don't recall if it was
8 while on the *El Morro*. I believe it was other ships.

9 Q. And during that time, did you ever pass within 25 miles of
10 the eye of the hurricane? And if you did, could you tell us the
11 circumstances?

12 A. No, I never passed within 25 miles of the eye of a hurricane.

13 Q. I'd like to shift a little bit to management, back to
14 management. Was the port engineer the shore-side person you
15 reported to like a day-to-day basis for operational type matters?

16 A. I dealt with Mr. Lee Peterson and Mr. Jim Coleman and Skip
17 McCray on a regular basis. Yes, I did.

18 Q. And would you consider Harry Rogers a direct report? And if
19 so, under what circumstances would he be a direct report?

20 A. Yes, I reported to Harry on a regular basis on different
21 items. I did report to him quite a bit, especially in the end
22 regarding the auditing process and safety management issues.

23 Q. So who would you say you would go to, to discuss -- when I
24 say go to, shore side, to discuss nautical-related matters,
25 besides voyage planning, which you mentioned you discussed with,

1 but -- so weather related, stability, navigational type issues,
2 who would you go to?

3 A. In the end there, it'd usually be -- depending upon different
4 issues, I would report to Harry Rogers or Lee Peterson.

5 Q. I'd like to shift now to the safety management system. Do
6 you recollect if there was a ISM committee on board the *El Morro*?

7 A. Yes, we did have a committee.

8 Q. Do you know if there was a binder of procedures to be
9 followed for special critical operations? Was there a binder, a
10 physical binder on board, which identified when special or
11 critical procedures during special or critical operations?

12 A. Yes. We had a check-off list for a number of critical
13 situations.

14 Q. Do you remember if heavy weather was one of those?

15 A. At this moment I don't recall, but it probably would have
16 been, yes.

17 Q. Do you remember if loss of lube oil was one of those special
18 or critical operations? Do you remember if loss of lube oil had
19 procedures, lube oil system had procedures for that?

20 A. I primarily dealt with deck issues. Something like a lube
21 oil situation would more than likely come under the chief
22 engineer's purview.

23 Q. But you don't recollect seeing that procedure in the binder
24 itself?

25 A. No, I do not recall that.

1 Q. Do you recall if there was a critical equipment list on the
2 *El Morro*?

3 A. Yes, we had a critical equipment list.

4 Q. And where was that? Where was that list? Where did it
5 reside, if you will, or where was it kept?

6 A. I maintained a critical equipment list and a copy was on my
7 computer. There was a hard copy in the wheelhouse and shore side,
8 Jacksonville had a copy and I probably forwarded it also on to
9 Voorhees. It listed the equipment, any serial numbers that I was
10 able to locate, any date of installation, that sort of
11 information.

12 Q. I'd like to move into stability now.

13 MR. KUCHARSKI: Commander Yemma, if you would please call up
14 Exhibits 59 and Exhibits 8. And specifically, the page numbers on
15 Exhibit 59, its page 2, and Exhibit 8, page 32. And I'd like to
16 start with, if you would please, Exhibit 8 and page 32.

17 BY MR. KUCHARSKI:

18 Q. And, Captain, when you're ready to go, I'd like you to look
19 down at the bottom left-hand corner of that page 32, which is a
20 stability calculation. Do you see that?

21 A. Yes, I see it.

22 Q. Okay. Great. And then, if you can draw your attention to --
23 look at, it says GMT and, parenthetically, corrected 5.87 feet,
24 FT. Do you see that?

25 A. Yes, I do.

1 Q. Okay. Then it has GM-small t, require 3.92 FT. Do you see
2 that?

3 A. Yes.

4 Q. And then the GM-small t margin of 1.95 feet, FT. Do you see
5 that?

6 A. Yes.

7 Q. And would you agree that if you subtracted the GM-small t
8 required from the GMT corrected, you would arrive at the GM margin
9 essentially?

10 A. Yes.

11 Q. So my question is, do you recollect what kind of GM margins
12 you sailed with during your time on the *El Morro*? And start as
13 far back as you can remember and then bring us up to the most
14 current in July of 2013.

15 A. I'm starting to draw a blank on this. The way I remember it,
16 we usually had a -- we sail with a required GM of approximately
17 2.5 feet was required, and towards the end, when we were carrying
18 some very heavy loads, somewhere in vicinity of 12,400 tons, we
19 would try to have a 6-inch marginal GM.

20 Q. And when you weren't carrying the heavy loads, do you
21 remember what your margin was?

22 A. Well, we weren't carrying heavy loads in the early days of
23 the operation, '98, '99. The tonnage was probably around 2,000,
24 2,400 tons and I don't recall what the GMs were, no.

25 Q. Did you notice any difference in the motion of the ship as

1 the -- when you got down to a 6-inch GM margin?

2 A. Well, of course, the ship would become more tender and when
3 we were carrying the big loads, and I used to -- my instructions
4 to the mates were, you know, as best as possible -- especially
5 when we were leaving San Juan, Puerto Rico at full sea speed, 120
6 RPM, making anywhere between 19½, 20 knots, that we would -- the
7 instructions were try to keep the rudder to no more than 3
8 degrees, if possible, only because the fact that the ship would
9 heel over quite a bit if you use anything more than 3 degrees.

10 Q. Just out of curiosity, leaving San Juan, Puerto Rico, did you
11 usually have a heavier cargo, a heavier load leaving San Juan than
12 when you left Jacksonville?

13 A. We would leave San Juan, Puerto Rico, again, the last 2
14 years, I want to say somewhere around 4,500 tons would be the
15 cargo on board. And leaving Jacksonville, the heavy loads was
16 somewhere around in the vicinity of 12,400 tons. So Jacksonville
17 was much heavier than San Juan, Puerto Rico.

18 Q. So would you say it was more tender with the heavier load on
19 it leaving out of Jacksonville than when it left San Juan with the
20 lighter load?

21 A. Yes. It would be much more tender leaving Jacksonville.

22 Q. So did you have concerns about the use of rudder when you
23 were more tender leaving Jacksonville? Did you also have those
24 concerns?

25 A. Yes. Yes, I did.

1 Q. Did you discuss the tenderness of the vessel or the GM
2 margin, if you will, did you discuss that with anyone shore side?

3 A. Not that I can recall. Towards the end, we had pretty steady
4 loads and cargo-wise, in the end, we were getting to be very
5 consistent with the cargo. We were getting to be consistent with
6 fueling, and usually the ballasting that we would do, generally it
7 would be more to take off list at the dock, and -- I mean, I don't
8 recall really having to that much ballasting for trim of the ship.

9 Q. So is your statement that you do have discussions about the
10 GM margin with anybody shore side?

11 A. I don't recall having to have discussions with anybody in the
12 last end of my tenure.

13 Q. Had stability margins changed at all seasonally? Was there
14 any adjusted stability margin or GM margin seasonally?

15 A. No, I don't recall that.

16 Q. Did you have any idea of the angle of heel or list the vessel
17 would take under defined -- a certain wind speed, if you will, and
18 with a certain container stack-up?

19 A. The *El Morro* did not heel over that much due to wind
20 conditions as compared to the car carriers that I sailed on years
21 before. I don't recall it being a very big factor for the ship,
22 even when we were containers four and sometimes five high.

23 Q. When you say you listened to the VDR or you reviewed the VDR
24 transcript, did you see where Captain Davidson mentioned wind heel
25 in the transcript?

1 A. I don't recall at this time.

2 Q. Did you have any idea while you were on board the *El Morro*,
3 what angle of heel or list the vessel -- what the maximum wind
4 heel or list the vessel could sustain and still right itself?

5 A. I know we did take some rolls in excess of 20-plus degrees
6 and we righted ourselves. The ship righted itself.

7 Q. So your statement is you do or you do not recollect the
8 maximum heel the vessel could take and still right itself, the
9 maximum?

10 A. I don't recall reading anything with that information. I
11 just recall the experience on the ship with the rolls that we did
12 take.

13 Q. You also mentioned you were on the *Great Land* as third mate,
14 I believe?

15 A. Yes, third mate.

16 Q. Now do you have an opinion on the difference the way the
17 vessel felt in heavy winds on the *Great Land* as opposed to the *El*
18 *Morro*?

19 A. It was 35 plus years ago, but I do remember it could be a
20 pretty nasty ride on the *Great Land*.

21 Q. When you were master on the *El Morro*, was there a sea
22 condition or wind condition you avoided?

23 A. When we would leave San Juan, Puerto Rico and the vessel was
24 light, maybe 26 feet aft, I know we would have to tack quite a bit
25 due to the sea conditions, which usually were maybe force 5, force

1 6; because of the swells that we would take, the ship would roll
2 quite a bit. And as I had mentioned to you in the past, that it
3 wasn't uncommon to roll 18 degrees and I knew when we hit 18
4 degrees because the coffee table in my office literally would flip
5 over on the deck.

6 Q. Okay. So besides the coffee table, was there anything else
7 that gave you a tip as far as -- or anything -- I'd like you to
8 talk about wind conditions and sea conditions, anything that you
9 would try to avoid. Did you have any set number or was it just an
10 18-degree roll that you were concerned about?

11 A. Well, I was always hoping not to get in an 18-degree roll.
12 Again, with Bon Voyage, we would have an idea of what the swell
13 was. And if we were rolling quite heavily, especially coming out
14 of San Juan, Puerto Rico, I knew with the schedule going back to
15 Jacksonville, that I had quite a bit of time up my sleeve that I
16 could alter course considerably a number of times to hopefully get
17 a better ride so that the crew could get some rest and while they
18 were out there working and so on. I didn't want to see anybody
19 injured, so I did whatever I could to get the best ride that was
20 possible.

21 Q. You mentioned you were tacking, you said tacking back and
22 forth. Was that to avoid the roll? Would you -- was that to
23 avoid the roll?

24 A. Yes. To avoid the roll, yes.

25 Q. Would you consider that a worse situation for the vessel, get

1 into a bad roll?

2 A. Yes. For those of you who have gone to sea, you know how
3 dangerous it can be when a ship rolls heavily. And I particularly
4 did not like that and I would do everything I could not to roll
5 heavily.

6 Q. Please take a look at Exhibit 8, page 16. And I'll give you
7 a little time to review that graph, if you will, table.

8 A. Okay.

9 Q. And it says at the top, Minimum Required GM Curve, and I'd
10 like to note for the record, this is for the *El Faro*. It says
11 parenthetically *ex-Northern Lights*. But can you recollect if the
12 *El Morro* had a similar table in the vessel's trim and stability
13 book?

14 A. I would assume it did. I don't recall this particular table.

15 Q. Take a look at the upper left-hand callout box, the white box
16 there, and where it says the minimum required GM values in this
17 diagram must be maintained for all operating conditions to meet
18 the weather criteria as specified by the USCG. Do you see that?

19 A. Yes.

20 Q. Do you have any idea what the USCG weather criteria is?

21 A. I could only assume that you would have to meet these minimum
22 standards to satisfy the US Coast Guard.

23 Q. But can you answer my question, is you actually know what the
24 weather criteria is, how that was developed?

25 A. No, I don't recall.

1 Q. Do you know if wind sea conditions are used in developing a
2 USCG weather criteria?

3 A. No, I'm not aware.

4 Q. As a master for some 20 years, do you believe it would be
5 helpful to have this information, type of information to maintain
6 a safe distance from heavy weather?

7 A. I would assume so.

8 Q. I'd like to go back to the statement you mentioned about
9 stack height of five high in wind conditions. Were those after
10 you leaving out of San Juan or did you leave that out of
11 Jacksonville five high loaded?

12 A. No. They would be empties out of San Juan, Puerto Rico.

13 Q. And you said leaving San Juan, you would generally -- even as
14 the loads increased, you were more around 4,000 tons of cargo
15 leaving San Juan, in that vicinity?

16 A. Yeah. That was the usually the way I remember it, about 4500
17 tons was the cargo.

18 Q. Were cargo hold fans, the ventilation system into the cargo
19 holds, were those fans operated at sea?

20 A. No, they would not normally be operated at sea.

21 Q. Did you ever, while you were on board there, close the
22 dampers to those -- you know the dampers I'm talking about on the
23 second deck which go into the ventilation system for the cargo
24 hold? I think they're called fire dampers. But do you ever
25 recollect closing those at sea?

1 A. The second mates, I believe it was the second mate's duties
2 was to go around and check ventilation, so that if we had to close
3 them for a fire for any reason, that they did work. But if you're
4 asking do we every have to -- or did we ever close them due to
5 adverse weather, I don't recall ever having to do that.

6 Q. Did you ever discuss with anyone, ship, shore side, the
7 possibility of water entering the cargo -- that system when at sea
8 and under what conditions? Did you ever discuss that?

9 A. No, I do not recall that.

10 Q. Were you aware or ever made aware of what angle of heel the
11 vessel would need to take for water to enter those vents trunks
12 and downflood to the holes if the dampers were not closed?

13 A. I do not recall that.

14 Q. Do you recollect how much fuel you left with -- bunkers if
15 you will, left with on departure from Jacksonville?

16 A. I think normally, depending upon the season, if I remember
17 correctly, anywhere between 8500 and 10,000 barrels.

18 Q. You qualified that depending upon the season. Could you
19 elaborate on that please?

20 A. Sometimes during the hurricane season the fuel would almost
21 double up as a ballast for us.

22 Q. So does that mean take more fuel -- or you say double up as
23 ballast. I asked you how much did you carry. Did you carry more
24 fuel during hurricane season?

25 A. Yes, sometimes we did.

1 Q. Was the fuel carried -- extra fuel ever a consideration for
2 having enough fuel on board for a weather route, if you will, or
3 going a further distance than you normally did?

4 A. Yes, I believe so.

5 Q. Did you receive any formal training for the use of the
6 CargoMax stability computer, if you will, on the vessel?

7 A. No, I do not recall.

8 Q. Do you remember if you ever used the damage stability module
9 of the CargoMax program?

10 A. There was some times when the chief mate would be
11 experimenting with it and he would show me what would happen if
12 some hulls were full and how it would affect us, but I personally
13 did not do it. The chief mate did it though.

14 Q. So you looked at this not under any emergency condition, but
15 he showed it to you in a normal condition when there wasn't any
16 kind of an emergency?

17 A. That's correct.

18 Q. I think you were asked or you may have answered, did you ever
19 have to take on additional ballast? And by ballast, I mean water
20 into the tanks to improve the stability of the vessel?

21 A. No, I do not recall ever having to take on additional ballast
22 due to weather conditions.

23 Q. Please look at Exhibit 59, page 2. And let me, while you're
24 looking at that, the page 1 in blue letters near the top, it says
25 Departure Trim and Stability Summary, JAX, J-A-X, final. And on

1 page 2, if you would please, the freshwater tanks, would you look
2 at those?

3 A. Okay.

4 Q. Do you recollect if the *El Morro* had freshwater tanks set up
5 in this configuration?

6 A. Pretty much so, but I do not recall putting freshwater in the
7 double bottoms for port and starboard. That doesn't come to mind.
8 And we -- I don't recall ever putting freshwater in the after
9 peaks.

10 Q. Were those tanks used for anything else? When you say don't
11 recollect putting freshwater, did you ever put saltwater in those
12 tanks?

13 A. No, we never put saltwater in them.

14 Q. Were you ever directed not to put saltwater into a tank that
15 was carrying freshwater?

16 A. No, I don't recall anything like that.

17 Q. Captain, if you want me to -- I have additional questions,
18 but it may be convenient if some of the parties want to ask
19 questions along this line.

20 CAPT NEUBAUER: Thank you. I have a couple of questions and
21 then we'll go to the parties.

22 BY CAPT NEUBAUER:

23 Q. Captain, did you ever order a reduction in cargo to increase
24 your GM margin prior to departure for any reason?

25 A. No, I don't ever recall doing that.

1 Q. Do you ever remember having any issues with the vent trunks
2 on the *El Morro*? And by that, I mean excessive wastage, water
3 intrusion, anything like that?

4 A. I believe some steel work was done in the tanks. Yes.

5 Q. Can you provide some more details on that?

6 A. Just that I remember there was some contractors that I
7 believe came on board and did some steel work inside the vent
8 trunks on second deck.

9 Q. Can you remember what cargo hold those vent trucks may have
10 served?

11 A. They would have gone down to third and fourth deck.

12 Q. Do you know what hold they may have served?

13 A. I believe there was either number 3 or number 4.

14 Q. And do you remember if the watertight integrity of the *El*
15 *Morro* was compromised prior to that work? Was it an issue with
16 any hull openings or the watertight deck itself?

17 A. No. The way I remember it, it was just an inspection and the
18 engineers decided to do some steel work, is the way I remember it.

19 Q. Can you give an approximate timeline of that work, what year
20 that may have been?

21 A. I'd only be guessing, but I would imagine sometime around
22 2008.

23 Q. Captain, did you ever become concerned with your GM margin at
24 the end of the voyage to San Juan for any reason, the fuel burning
25 and that nature?

1 A. No, I don't -- I wouldn't say concerned, no. There was some
2 times when we arrived to, like I said, there was sometimes when it
3 was close, but it was not a major concern to us, no.

4 Q. Did you ever exceed the margin and dip into your required GM,
5 do you remember?

6 A. I don't ever recall doing that, no.

7 Q. I'd like to go back to a weather question briefly. Did you
8 receive training on the BVS system when it was initially installed
9 on the *El Morro*, I think you said around 2007?

10 A. No, I don't recall any formal training. It was just
11 something that, between myself and the three mates, we just played
12 around with it and found what suited us, what we needed and, in
13 turn, we taught each other how to use the system.

14 Q. Were you aware of any features that were not being utilized
15 but available on BVS?

16 A. I don't recall anything like that.

17 Q. And I think you might have answered this question, but I just
18 want to clarify. Would you have ordered extra fuel if you knew
19 you were departing into a heavy weather voyage where there's a
20 possibility of you meeting a storm system?

21 A. That would be discussed, yes, with the port engineers.

22 CAPT NEUBAUER: Thank you.

23 At this time I'd like to go to the parties in interest.

24 TOTE?

25 MR. REID: No questions, sir.

1 CAPT NEUBAUER: Mrs. Davidson?

2 BY MR. BENNETT:

3 Q. Captain, good afternoon. Your testimony about that riding
4 crew, there's been some testimony from four officers of the *El*
5 *Faro*, that being Mr. Berrios, Mr. Robinson, Mr. Baird, and Captain
6 -- well, Captain Stith, that the riding crew would either muster
7 on the bridge or go to their lifeboats. And in fact, Mr. Berrios,
8 who was a third mate, Davidson -- specifically recalls Captain
9 Davidson would report on VH radio, quote, "He reported he had
10 riders with him," end quote, up on the bridge. Was that similar
11 to your practice?

12 A. Yes. During the fire drill, we usually had the riders report
13 up to the bridge deck and then, when we finish with the fire drill
14 and went to the boat drill, they would then go down to the
15 assigned boats that -- and be mustered in with that crew.

16 Q. Sir, prior to today, were you aware that the company, Applied
17 Weather Technologies, was the supplier of the BVS weather data?

18 A. Can you repeat that please?

19 Q. Have you ever heard of the company called Applied Weather
20 Technologies?

21 A. I don't recall that name, no.

22 Q. You mentioned that you relied of BVS to provide you with
23 accurate weather data; is that correct?

24 A. It was one of the sources that I used, yes.

25 Q. And you also used SAT-C, correct?

1 A. Yes, SAT-C, weather fax, DirectTV. When we were out at sea, I
2 wouldn't hesitate to other ships that were in the area, asking
3 what kind of weather they've been encountering. That was quite
4 normal, yes.

5 Q. And are you aware that the SAT-C and the weather fax and the
6 BVS, that the data was all based upon the forecast by the National
7 Weather Hurricane Center?

8 A. I know the weather maps were from NOAA. Usually the
9 information that came in would somewhere have the National Weather
10 Service's name on it. So yes, I assume that they were the ones
11 that were publishing it.

12 Q. And were you aware before you got here today that two
13 gentleman from Applied Weather testified under oath that, due to
14 anomaly, the ship did not receive an accurate storm track for up
15 to 21 hours?

16 A. This is the first I've heard that.

17 Q. And prior to today, were you aware that gentlemen from the
18 National Hurricane Weather Center testified that when forecasting
19 Hurricane Joaquin, they've had significant errors in the
20 forecasting? In fact, it was one of the worst storms in history
21 with the forecasting. Were you aware of that?

22 A. Until you mentioned that, I had not heard that.

23 MR. BENNETT: Thank you, sir. No further questions.

24 CAPT NEUBAUER: ABS?

25 MR. WHITE: Yes.

1 BY MR. WHITE:

2 Q. Go afternoon, Captain. My name is Gerry White representing
3 ABS. I just had a few questions for you this afternoon.

4 As far as your experience on the *El Morro*, you indicated you
5 had also sailed as third mate on the *Great Land*. Were you ever
6 aboard *El Faro*?

7 A. No, sir. Not to the best of my knowledge, no.

8 Q. And to the extent that so many questions were directed at
9 what sea conditions you have sailed through, had you ever been
10 aboard the *El Morro* in 70, 80, 90 or 100-knot winds?

11 A. No, I do not believe I have within those conditions.

12 Q. There was some further discussion of rolling. The testimony
13 to date suggests that the *El Faro* may very well have suffered a
14 sustained heel of 15 degrees. Had you ever experienced on the *El*
15 *Morro* the vessel being subject to a sustained heel of 15 degrees?

16 A. No.

17 Q. There was some further discussion of ventilation ducts on *El*
18 *Morro*. I understood from your testimony that based on your
19 experience as captain aboard the *El Morro*, the fans, the
20 ventilation fans were not normally operated at sea, but it was the
21 second mate's duty to check the ventilation dampers in the event
22 they needed to be closed in adverse weather; is that correct?

23 A. It was the second mate's duty to check the ventilation
24 dampers to ensure that they could be closed if need be. That was
25 my testimony.

1 Q. Getting back to the CargoMax program for a minute, I
2 understood from your testimony that the chief mate aboard the *El*
3 *Morro* had knowledge of the CargoMax program including,
4 quote/unquote, the damage component mentioned by Captain
5 Kucharski; is that correct?

6 A. Yes.

7 Q. And would you expect that the chief mate aboard the *El Morro*
8 would be able to utilize that program in the event of a damage
9 scenario?

10 A. Yes.

11 Q. You indicated, sir, that you had the opportunity to review
12 the VDR transcript. Looking at Exhibit 266, as a point of
13 reference, on page 484 at approximately -- or at time of 716.11.7,
14 there is an entry by the -- indicating the chief mate stated as
15 follows: Quote, "Bilge alarm in 2 alpha," period. "Going to
16 check" -- open paren -- "(it)" -- closed paren, period. Do you
17 see that?

18 A. Yes.

19 Q. And that's on page 484 of the exhibit. As a matter of
20 context, thereafter, there was some discussion regarding the
21 lining up --

22 A. We're on page 485.

23 LCDR YEMMA: Gentlemen, its page 485 of the electronic file,
24 but 484 of the actual transcript.

25 THE WITNESS: Okay.

1 BY MR. WHITE:

2 Q. And there was some -- in the context of that entry or that
3 statement, there was some further discussion on concern of the
4 lining up of the bilge system.

5 I'd like to direct your attention to an entry on page 491. I
6 guess that would be 492 of your exhibit, and time, 722-56.80. And
7 if you're at the entry, this records communication by the captain
8 at 722-56.8. And it states: open paren -- "(off/on)" -- closed
9 paren -- "the downflooding angle," question mark. "Uh, that I
10 don't have an answer for" -- open paren, -- (ya, find any) --
11 closed paren, period. Do you see that, sir?

12 A. Yes, I do.

13 Q. Just going a little further along, the reply from the captain
14 at 723-07.9 is "Yup," period.

15 The following entry at 723-22.7 states "What's it called
16 again," question mark.

17 At 723-32.0, the captain states, "Okay, we'll check that" --
18 open paren, "(it's/that's)" -- closed paren -- "in the chief's
19 office," question mark.

20 Based on those entries, sir, and the reference to the
21 downflooding angle, and assuming that they're referring to the
22 chief mate's office, have you an understanding as to what document
23 they're referring to that would describe the downflooding angle?

24 A. No, I do not know what document they're referring to.

25 CAPT NEUBAUER: Mr. White, one point of clarification. You

1 said they're referring to the chief mate's office?

2 MR. WHITE: I asked for the basis of my question to assume
3 that they were referring to the chief mate's office, in that he
4 didn't say your office in a conversation to the chief engineer.

5 CAPT NEUBAUER: However, are you saying that he's talking to
6 the chief engineer at that moment?

7 MR. WHITE: He's talking to the engine room. For the
8 purposes of my question, I understood that he would be referring
9 to the chief mate's office.

10 BY MR. WHITE:

11 Q. Which similarly, Captain, to cover the other possibility, are
12 you aware of any particular document that might be in the chief
13 engineer's office that might address the downflooding?

14 A. I didn't know Captain Davis [sic], but it's always been my
15 recollection that when you use the term the chief, you're
16 referring to the chief engineer. If you're referring to the chief
17 mate, he would call him the chief mate.

18 As far as a particular document that you're referring to, I'm
19 not aware of what they would be looking for, no.

20 Q. Even if he was referring to the chief mate?

21 A. No. No, I don't know what document they would be looking
22 for.

23 Q. Okay.

24 BY MR. KUCHARSKI:

25 Q. Yes, Captain, I'd like to please have both parties look at

1 page -- well, in the PDF, it's the same -- it's 492. That's what
2 I have on mine. But the timestamp is 722-03.5, where it says,
3 "Captain ET." Do you see that, Captain Villacampa?

4 A. Yes, I do.

5 Q. And do you see right below that, "All right. Who's this,"
6 and then you see parenthetically "(AT SUP-1)" closed parentheses.
7 Do you see that?

8 A. Yes, I do.

9 Q. Okay. I don't believe that's the chief engineer. Okay. I
10 think he's, at the end of this here where it tells you the
11 symbols, what these are, who these people are, either before or
12 after. I don't believe it's the chief engineer he's talking to.
13 And I would just caution against assumptions.

14 MR. WHITE: I asked a question in the alternative. I brought
15 attention to what the record stated.

16 CAPT NEUBAUER: Mr. White, do you have any additional
17 questions?

18 MR. WHITE: Not at this time. Thank you.

19 CAPT NEUBAUER: Mr. Fawcett?

20 MR. FAWCETT: Yes. Thank you, Captain.

21 BY MR. FAWCETT:

22 Q. Captain, thank you for being here.

23 The SMS states that the masters should consult H.O. Pub 9,
24 which is Bowditch, the American Practical Navigator. It's been
25 around since 1802. It contains guidance for masters that may sail

1 on vessels without modern weather programs, SAT-C or anything
2 else; is that correct?

3 A. I'm familiar with Bowditch. As far as what you're referring
4 to, I would assume it's in there. It's in Bowditch. Yes.

5 MR. BENNETT: Captain Neubauer, for the record. The
6 reference that it's been around for 1800 or whenever seems to be a
7 mischaracterization since it's routinely updated and there's
8 multiple editions and accounts for modern technology.

9 CAPT NEUBAUER: Thank you. Noted for the record.

10 BY MR. FAWCETT:

11 Q. So would you expect a master mariner in command of a ship to
12 not only rely on modern technology, but to continually assess the
13 weather by the guidance that's contained in Bowditch, such as look
14 at the cloud patterns, the wave height, the swell direction, the
15 wind speed, and guidance such as by Bowditch law?

16 A. Yes.

17 Q. Turning our attention to voyage planning, as you prepare to
18 depart port on any voyage as a master mariner, what is your
19 consideration for staying out of the particular sea height
20 pattern? I mean, do you use like a rule of thumb to stay out of
21 certain sea height pattern?

22 A. As I stated in my testimony, no two voyages are the same, but
23 I would do everything that I could conceivably think to do to
24 ensure that we would get the best ride possible and still make our
25 arrival time at the next port.

1 Q. So based on your observations, would you expect that the *El*
2 *Morro* and the *El Faro* would have the same sea-keeping
3 characteristics heavily loaded?

4 A. Not ever sailing on the *El Faro*, but being told that the
5 ships were very similar, I would assume so, yes.

6 MR. FAWCETT: And if you could, Commander Yemma, turn your
7 attention to the transcript which is Coast Guard Exhibit 266, page
8 336, time 0253.

9 BY MR. FAWCETT:

10 Q. Something you said caught my attention. You mentioned the
11 3-degree rudder movement at speed.

12 So at 253 in brackets, [There is a sound of electronic tone
13 consistent with steering stand alarm] close brackets.

14 The AB says, "Hell's that," question mark.

15 Second mate, "Uh" - dash - "the helm." Second mate says,
16 "She's off course," question mark.

17 AB2 says, "She is."

18 Turning to the next page, the second mate said, "Oh, he's got
19 it set to like 3 degrees off course."

20 Second mate says, "Now she's coming back." Second mate says,
21 "She's doing good, I'm impressed, knock on wood," period. "A lot
22 better than the Jacksonville experience."

23 AB2 says, "Yeah, it is." AB2 says in brackets "[either
24 they/I]" -- closed brackets -- "got something set right."

25 The second mate, he says, "Yeah, I'm not touching a thing on

1 that."

2 Now about an hour and a half earlier at 1:32, there's another
3 mention of the Jacksonville outbound experience.

4 The rudder setting for the autopilot, based on your
5 experience, did you ever, at sea, set it over 3 degrees or have it
6 set?

7 A. Depending upon weather conditions, so as not to work the
8 rudder as much, sometimes you may set the setting a little higher.
9 Yeah.

10 Q. And so you might set it for -- by higher, do you mean more
11 than 3 degrees?

12 A. Yeah. You might decide to go up to 5 degrees.

13 Q. Under these conditions, would you expect the watch to notify
14 you?

15 A. The steering unit on the *El Morro* had audio alarms. Whenever
16 you would exceed the rudder limit, you would hear that. Depending
17 upon the weather conditions, sometimes I might just as soon tell
18 AB to put it on hand steering, rather than leave it on the mic in
19 those conditions.

20 Q. If the weather was worsening, would you put any note in your,
21 either, standing or night orders?

22 A. If the weather conditions intensified, it would always be in
23 my standing orders that I was to be notified.

24 Q. Specifically about the rudder settings or going to hand
25 steering?

1 A. I would have no problem if weather conditions increased and,
2 in addition to notifying me that the mate on watch switched over
3 to hand steering, I would not have a problem with that at all.

4 MR. FAWCETT: Thank you, sir.

5 CAPT NEUBAUER: Commander Denning?

6 BY CDR DENNING:

7 Q. Captain, just a few follow-up questions from Captain
8 Kucharski's. You said something that caught my ear when Captain
9 Kucharski asked about sea conditions or wind conditions you
10 avoided when you were master. Your answer spoke about departing
11 San Juan and then you said a phrase that caught my ear. You said
12 you had more time up your sleeve. Did you find that you just did
13 not have that same luxury from Jacksonville to San Juan?

14 A. The run from Jacksonville to San Juan was approximately 57
15 hours under normal conditions. If we left port late due to cargo
16 operations, an hour, 2 hours late would seriously or could
17 seriously affect our arrival time in San Juan on Monday morning at
18 5:00.

19 Q. Was that arrival time important to make?

20 A. Yes, it was important to make. That's how they determined
21 our on-time delivery percentage.

22 Q. And was there pressure to make on-time deliveries every time?

23 A. I was never pressured to make an on-time delivery. If we,
24 for whatever reason, didn't make it until 5:15, 5:30, I don't
25 recall it being questioned as to why that was the case, but the

1 schedule was for the ship to be in at 5:00 in the morning.

2 Q. Were on-time deliveries in San Juan more important than on-
3 time deliveries in Jacksonville?

4 A. I wouldn't say it was more important, but in San Juan, there
5 were quite a few variables that could, because you were maybe 15
6 minutes late arriving at the pilot station, it could well go up to
7 as much as 1 or 2 hours from being off at the dock due to tugboat
8 availability, pilot's availability. So we always tried to shoot
9 for 0500 arrival time as best we could.

10 Q. Okay. Back to safety management system, Captain Kucharski
11 asked you some questions about that. We were able to obtain some
12 of the internal audits. You also mentioned during your testimony
13 so far today that Harry Rogers played a key role in auditing the
14 safety management. In these exhibits that we've obtained, Exhibit
15 296, it contains some of the internal audits specifically on *El*
16 *Morro*.

17 Commander Young, if you could show that on the screen to
18 Captain Villacampa? It's a 25-page document. It covers several
19 internal audits spanning the time frame from December 13, 2007
20 through September 27, 2013. Your name appears on several of these
21 documents as does Mr. Harry Rogers. These audits include several
22 introductory paragraphs, sections described in the audit
23 activities and the various areas and departments that are audited
24 in the bridge, the deck, department steward, engine department and
25 security.

1 Then there's a conclusion section on each and a listing of
2 corrective actions requests which were issued, as well as
3 observations issued during the audits. Do you remember
4 participating with Mr. Rogers when he came aboard *El Morro* to
5 conduct internal audits?

6 A. Yes, I do.

7 CDR DENNING: And, Commander Yemma, if you could turn to
8 Exhibits -- or I'm sorry -- page 17 of that exhibit? And while
9 you're doing that --

10 BY CDR DENNING:

11 Q. Captain Villacampa, do you recall these audits being thorough
12 and comprehensive by Mr. Rogers?

13 A. Yes.

14 Q. On page 17, this is a particular audit conducted in September
15 of 2012. Captain Neubauer asked you about some steel work that
16 was done. You replied about some steel work conducted in the 2008
17 time frame. This particular paragraph, if you go about halfway
18 down the page, there's a paragraph beginning with, "There was an
19 intermediate non-conformance issued by TSI as a result of failing
20 maintenance procedures on board the vessel. The root cause of the
21 problem was traced to lack of communication between the ship staff
22 and office staff." It goes on to talk about some maintenance
23 projects and work procedures.

24 One of the questions that I want to ask is, apparently there
25 was some steel maintenance issues on *El Morro* that are being

1 identified in this audit and were addressed, it appears. My
2 question is, since these vessels were on similar runs, the *El*
3 *Morro*, *El Yunque* and *El Faro*, very similar vessels, if one
4 experienced steel issues, do you know how the results of one audit
5 on one vessel communicated to the other vessels in the fleet in
6 case it had similar steel work or maintenance issues?

7 A. I'm not sure exactly what you're asking me.

8 Q. So you're the captain of the *El Morro* and there are some
9 maintenance issues that are identified during the safety
10 management system audits. You have very similar ships operated
11 under the same company that might be expected to have similar
12 issues. Are the concerns from one vessel, maintenance issues that
13 are encountered on one vessel, communicated to the other vessels,
14 to the best of your recollection?

15 A. I would assume that Harry Rogers as well as the port
16 engineers would certainly communicate these items to the other
17 ship.

18 Q. Did you talk to other captains on other ships -- did you all
19 compare notes on maintenance issues that you receive on your
20 vessel and did they communicate similar issues that they were
21 seeing on their vessels to bring to your awareness?

22 A. I don't ever remember communicating with the other captain.

23 CDR DENNING: Thank you, sir. I don't have any further
24 questions.

25 I don't know if this is maybe a good time for a break,

1 Captain.

2 CAPT NEUBAUER: Yes. The hearing will recess and reconvene
3 at 2:50.

4 (Off the record at 2:41 p.m.)

5 (On the record at 2:57 p.m.)

6 CAPT NEUBAUER: The hearing is now back in session. At this
7 time, Mr. Young has one follow-up question from the last line and
8 then Mr. Kucharski will start a new line.

9 MR. YOUNG: Thank you, Captain.

10 BY MR. YOUNG:

11 Q. Captain, previously, we've discussed the modifications in the
12 quantity of fuel that was carried aboard the *El Morro* based on
13 weather conditions. Do you recall any adjustments or
14 modifications in the main engine lube oil system, whether the
15 levels were carried at a higher level in anticipated heavy weather
16 conditions?

17 A. No, I would think that that would be a question directed
18 towards one of the chief engineers. I would have no comment on
19 that.

20 Q. Thank you. And were you ever made aware of the angle of heel
21 that would cause adverse effects on the critical equipment such as
22 the main engine or the boiler?

23 A. No, I do not recall that.

24 MR. YOUNG: Thank you, Captain.

25 CAPT NEUBAUER: Mr. Kucharski.

1 MR. KUCHARSKI: Yes. Thank you, Captain.

2 BY MR. KUCHARSKI:

3 Q. Captain Villacampa, a couple follow-on questions to some of
4 the questions that have been asked of you and based on your
5 answers.

6 Did water ever enter any of the holds from an unknown source,
7 that somebody reported that you had water there that wasn't from
8 washing down the cargo holds or wasn't from possible filling of a
9 tank or something like that? But do you recollect that ever
10 happening on the Ponce Class vessels, where somebody -- like I
11 said, somebody said, hey, we got water down in the hold? It may
12 not have been a lot, just water down there?

13 A. Yes, I do.

14 Q. Could you elaborate? Do you recollect if it was freshwater,
15 saltwater? Could you talk to us about those situations?

16 A. My recollection is that more than once, we would be washing
17 down, especially in one 4-A, 4-B hold, where the fructose tanks
18 were and you'd get the residue of fructose on the deck and you'd
19 be cleaning it up, go down and have freshwater pressure washing
20 it, and the next morning when the chief mate would make his
21 rounds, he would find some saltwater in the hold. And we usually
22 attributed that to the bilges, that they would be pumping out the
23 water as the hold was being cleaned and then sometimes the bilge
24 system wasn't secured properly and some saltwater would work its
25 way back into the hold.

1 Q. Did it work its way back into that same hold or did it
2 migrate to a different area?

3 A. No. My recollection is that it would be the hold that we had
4 washed.

5 Q. Talking about the CargoMax program and stability, if you were
6 master on your ship -- let's say on your ship, would you expect
7 the chief mate to be down -- leave the bridge, say, go down and go
8 down into his CargoMax computer -- the CargoMax computer was in
9 the chief mate's office?

10 A. Yes. CargoMax was in the chief mate's office.

11 Q. So would you expect them to go down there and light up the
12 program and run down the stability scenarios when you're trying to
13 determine where the water's coming from, close hatches, close the
14 scuttle? I'm talking about what happened on the *El Faro*. Where
15 would you have had your chief mate? Would you have sent them down
16 there to run the damage stability program at that time?

17 A. The incident on the *El Faro*, I would have used the chief mate
18 to source where the water was coming in so that we could stop it;
19 first stop it, then figure out how to get rid of it and what our
20 condition was at that time with the water on board. But my
21 immediate concern would be to stop the ingress of the water coming
22 into the ship.

23 Q. Thank you. I'd like to just move into watertight closures as
24 secured for sea. Were there any checklists that you recollect on
25 the *El Morro* for making these closures, whether it be the

1 scuttles, the watertight doors, whether it be man-size watertight
2 doors or any of the large watertight doors? Was there a checklist
3 to go through all these?

4 A. I don't recall a checklist. But as far as the watertight
5 doors on board the ship, my recollection is that we had seven
6 cargo watertight doors, and as each of the holds were finished
7 with cargo and lashing and the stevedores were out, the man on
8 watch would secure that particular door.

9 And as far as the scuttles and so on, after departure the
10 chief mate would direct the bosun and maybe one of the AB
11 maintenance to make a round of the deck and ensure that all the
12 scuttles were secure, all the watertight doors on the second deck
13 down to the steering gear room, up in the bow, the forepeak area,
14 that they were all secured before the entire deck gang get knocked
15 off.

16 Q. Thank you. And how about out at sea? Was there a policy for
17 opening and closing the scuttles to make sure that they were
18 secure?

19 A. The scuttles out at sea were used every day. The chief mate
20 would make his cargo rounds and they would be opened. We had a
21 sign that would state, you know, "Men down below; Do not secure."
22 When the man who had opened that scuttle, when he came out, he
23 would then secure it and turn the sign around. Does that answer
24 your question?

25 Q. Yes. And then, was there any check made of those that you're

1 aware of at the end of the day to be sure that they were all
2 closed?

3 A. Yeah. Again, that would fall under the bosun and -- one of
4 the AB maintenance men would ensure, he would the mate after --
5 usually, I believe they worked until 1900 overtime, and then he
6 would call up and say everything is secured.

7 Q. Would the mate lock that?

8 A. No. I don't believe we would lock the scuttles being closed
9 and opened only, because it was done quite a bit. But if a
10 watertight door was opened, it would be logged, and if it was
11 closed, it would be locked.

12 Q. And when you say watertight door, you're talking about the
13 cargo doors, the large cargo doors?

14 A. That's correct.

15 Q. I'd like to move now to the cargo hold bilge alarms, if they
16 were fitted. Did you have -- were they fitted on the *El Morro*,
17 have alarms for the cargo holds, bilge alarms?

18 A. Yeah. We had bilge alarms and the alarms were in the engine
19 room.

20 Q. When you say the alarms, the alarm panel was in the engine
21 room?

22 A. Yeah. The alarm panel, yes.

23 Q. I couldn't remember what it was, but I had a question back on
24 the scuttles. I apologize. The scuttles on the *El Morro*, was it
25 wheel-type security system or did they have individual dogs on

1 there?

2 A. The scuttles on the *El Morro*, I remember, they had -- I'm
3 trying -- there would be a tab on the top of the scuttle and you
4 would have a threaded piece of stock with a wing nut on it that
5 you could raise and lower. And when you secured it, you would
6 raise the threaded stock and close it down with the wing nut.

7 Q. Okay. Thank you. Thank you for the clarification. Back to
8 the bilge alarms, were you aware of or made aware of any cargo
9 hold bilge alarm situations on the *El Morro*? In other words, the
10 situation where the bilge alarms went off?

11 A. I would also be told as well as the chief mate, yes.

12 Q. And when an alarm went off, how was the -- was there any
13 protocol for an investigation or to see what caused the alarm to
14 go off?

15 A. Yeah. Usually what would happen is if the chief mate was on
16 watch at the time, I would go up and relieve him and he would take
17 a walkie-talkie with him and go down and investigate. If we
18 couldn't locate the chief mate, I would usually relieve whoever
19 was in the wheelhouse at the time and they would go down and take
20 a look, usually try to grab another AB to go with him or the
21 bosun. But we would visually investigate it.

22 Q. Was that a company or shipboard policy? Can you elaborate on
23 that?

24 A. It was the instructions I gave to the crew.

25 Q. So was it your own policy, if you will?

1 A. I don't recall if it was or was not company policy, but that
2 was my instructions.

3 Q. How many sailors, ratings, if you will, or ABs, were on a
4 bridge watch when you left the *El Morro*?

5 A. We had three AB watchstanders. There would be three quarter
6 masters. You know, they would do their 4 hours on, 8 hours off
7 the bridge schedule.

8 Q. So on any particular watch, say, either midnight to 4:00 in
9 the morning, how many sailors were there actually on the watch?

10 A. The man on watch and the AB on watch.

11 Q. When you first joined the *El Morro* -- you said 1998, was it?

12 A. '98.

13 Q. How many sailors were on the watch back then? How many
14 unlicensed, if you will?

15 A. When we departed San Francisco to come around to the East
16 Coast, we had additional unlicensed deck department personnel on
17 board the ship with us to help with the maintenance. But at this
18 point, to the best of my recollection, it was just one AB was
19 assigned. Now when I was on the *Great Land* back in 1978, I want
20 to say that the watch consisted of the man on watch and I believe
21 we had two ABs and an ordinary seaman assigned to the watch.
22 That's what I recommend -- that's what I remember.

23 Q. So as captain of the vessel on the *El Morro*, would you have
24 authorized an AB sailor to leave the bridge and go down to check a
25 cargo hold at night, see if an alarm went off? Would you have

1 authorized that?

2 A. Are you talking in the midnight to 4, that we got an alarm?

3 I would more than likely call the man on watch. I would not like
4 to leave the wheelhouse unattended with just one person up there.

5 I never wanted to do that. I always wanted two men in the
6 wheelhouse for safety reasons. If it was just one man up there
7 and because the other crew member's down doing something that may
8 be critical, and yet, the one crew member in the wheelhouse could
9 have an incident and that could possibly put him out of commission
10 and affect the safety of the ship. So I would not do that.

11 Q. Would you consider taking on an unaccounted for list at sea
12 or taking on water in a cargo hold which you couldn't determine
13 the source of a critical situation or event?

14 A. If we did not know why water was coming and give a list of
15 the ship, yes, I would definitely considered that a critical
16 event.

17 Q. How about if you didn't -- let's take the water out of
18 scenario. If it was just an unaccounted for list without water,
19 would you consider that a critical situation? Maybe a 7-degree
20 list or a 10-degree list, would that be critical to your mind?

21 A. If we couldn't account for it, yes, that would be critical.

22 Q. So then do you know if that scenario was ever identified as a
23 critical type scenario which would require some kind of a
24 procedure for?

25 A. At this time I have no recollection of that.

1 Q. So you don't know if it was in the binder which I asked you
2 about, that --

3 A. No, I do not know. It's not to say that it wouldn't be
4 there, but at this time, I don't recall.

5 MR. KUCHARSKI: Captain Neubauer, I'd like to work into cargo
6 securing. It's a short section. Then we can take a break, if
7 that's okay?

8 CAPT NEUBAUER: Yes, sir.

9 BY MR. KUCHARSKI:

10 Q. Captain Villacampa, were there -- well, let me back up a
11 little bit. Was PORTUS stevedore when you left the *El Morro*?

12 A. Yes.

13 Q. Were there any problems reported to you about the lashing job
14 that was done on the vessel, either the Ro-Ro cargo or the
15 container stacks?

16 A. No. We -- as I said or I'm saying now, we had a very -- the
17 *El Morro* had a very good relationship with PORTUS, and I can
18 remember more than once going down on deck and having some of the
19 stevedores actually come up to me and say we hear there's pretty
20 lousy weather out there; we'll give you a good lash. They would
21 take it upon themselves to tell me this.

22 Q. Essentially that goes in with my next question. Do you know
23 if there was a hurricane or heavy weather lashing that was done
24 year round every sail from Jacksonville?

25 A. No, I don't recall a lashing that was done all year long, no.

1 When we were anticipating heavy weather, we would, after
2 conferring with the operations people in Jacksonville, again,
3 Jamie Ferguson, Don Matthews and I would request extra lashing,
4 and they would -- especially on the containers, on the main deck,
5 they would use the lashing rods on the containers.

6 Q. The lashing rods on the containers, okay. Were certain
7 containers automatically, did they have lashing rods on them for
8 every sail? Are you saying extra lashing rods or did certain rows
9 or stacks automatically have lashing rods every sail, do you
10 recollect?

11 A. No, I don't recollect lashing rods on every row, but if we --
12 again, my recollection from almost 4 years ago is that if we were
13 going to have severe weather, they would use the lashing rods on
14 the port or starboard side, the two outward rows of containers,
15 and then usually the center two containers, they would also put
16 lashing rods on.

17 Q. That was for heavy weather?

18 A. Yes, for heavy weather.

19 Q. Was there any routine at sea for checking the lashings of the
20 cargo?

21 A. Yes. Every day the man on watch would make his rounds
22 checking the lashing. In addition to which the electricians would
23 do their reefer readings, would also take notice and if there was
24 any lashings that they noticed that were loose, they would advise
25 the chief mate. The bosun and the AB maintenance would start

1 their OT at 6:00 in the morning, and if they noticed that any of
2 the lashing was loose, they would take it upon themselves to
3 secure, tighten it up and notify me that that had been done.

4 Q. And I thought I heard you said the man on watch would check
5 it. Could you go back to -- can we of revisit that, the routine?

6 A. What I'm -- I apologize if I'm misleading. The man I'm
7 talking about, the chief mate.

8 Q. Did you ever have cargo break loose during a voyage and, if
9 so, what were the circumstances?

10 A. I can't tell you the date, but years back, we had some
11 trailers that were nested on top of each other and I believe it
12 was hold 3-A, right at the bottom of the ramp. They had stowed, I
13 believe it was either -- it was either two- or three-high nested
14 trailers, but there was not a button where that trailer was
15 stowed, so they only secured it with a chain. And we did take
16 some rolls and that configure fell over. And in port, they
17 removed it and they immediately, the port engineers immediately
18 had a Roloc button installed there for future use.

19 Q. Did the chief mate ever bring to your attention that there
20 were a number of off-button stows, a higher number of off-button
21 stows on a particular voyage?

22 A. When you say off-button stow, are you talking about cargo
23 that there was no button for, the way that the cargo was stowed?

24 Q. Either no button stowed or due to the angle they had to bring
25 in the trailers, say, that they couldn't get the Roloc box on

1 button?

2 A. There were. We did have some of those situations. But what
3 would happen is it would be marked and then as soon as possible --
4 I would like to say within the week, a button would be stowed
5 there. Due to the fact that the size of the trailers had changed
6 from the time the ship was originally built in the '70s and sizes
7 of carriers that we were carrying in the 2000s, they had increased
8 quite a bit in size, so the original configuration didn't always
9 line up with the cargo we were carrying.

10 Q. Did you feel that the lashings and twist locks and the
11 lashing bars, that you had sufficient numbers on the vessel?

12 A. Yes, we did. And the operations people in Jacksonville would
13 get an inventory from us. I'm not sure if it was quarterly or
14 maybe a little longer, but they knew how much lashing we required
15 for a full stow, and if any lashings were broken, we would notify
16 them and they would replace them in a timely manner.

17 Q. Were there any problems with the D-rings or buttons on board
18 the *El Morro*?

19 A. Over time, the D-rings would waste from saltwater, cargo.
20 The straps would sometimes be wasted. D-ring, buttons, they would
21 be fractures at the deck and, again, as we identified them, if it
22 was something that the shipboard could take care of, they did;
23 otherwise, we would notify the port engineers and they would
24 arrange for outside contractors to come in and make the needed
25 repairs.

1 Q. And my last question on cargo related. While you were master
2 on the *El Morro*, were there any patrols sent on regular intervals
3 to check the cargo lashings, securing of the cargo?

4 A. Well, again, that's the chief mate's duties was the cargo,
5 ensuring cargo securing, and I don't think there was a set hour
6 that you would do it, and/or -- again, second mate, third mate
7 might be out on deck doing something, and you could see if a piece
8 of lashing was loose. And again, it was understood if you saw a
9 piece of loose lashing, tighten it up. If you couldn't secure it,
10 then certainly get some help and secure it and, of course, you'd
11 always notify the chief mate if you had done anything.

12 Q. So my question as far as a patrol at regular intervals
13 throughout the night, throughout the day, day and night, was there
14 any such type of procedure, if you would, to send out patrols at
15 regular intervals to check the lashings throughout the day, day
16 and night?

17 A. No, I can't think of any time when we would send anybody out
18 at night. Again, you couldn't go anywhere on the ship and not
19 pass lashing cargo. So again, if you just were out exercising,
20 you would pass the cargo and, again, if you saw anything was
21 loose, you tried to tighten it up or notify somebody so it would
22 be tightened up. But I don't recall that being a set schedule
23 that they would go out to check lashings.

24 MR. KUCHARSKI: Okay. Thank you, Captain.

25 Captain Neubauer, if you want to take a break here?

1 CAPT NEUBAUER: Captain, would you like to take a break or
2 keep going, sir?

3 THE WITNESS: Just keep going.

4 CAPT NEUBAUER: I think, let's ask the final round for
5 emergency response. We have one more line of questioning on
6 emergency response.

7 For the parties of interest, would you like us to continue or
8 would you like to ask some questions at this time? TOTE?

9 MR. REID: Sir, we can go ahead and continue. We'll wait
10 until the end.

11 CAPT NEUBAUER: ABS, concur?

12 MR. WHITE: Yes, we concur.

13 CAPT NEUBAUER: Mr. Kucharski.

14 MR. KUCHARSKI: Okay. Captain, there are actually two more
15 lines: weather and then emergency response.

16 BY MR. KUCHARSKI:

17 Q. So did you ever see water on the second deck while you were
18 master on the *El Morro* or were you aware of water coming on the
19 second deck?

20 A. Yes.

21 Q. Did you ever notice of the collection of -- collection, I
22 mean water would remain or stay on the deck there, on the second
23 deck?

24 A. Usually if you had water on the second deck, it was because
25 the ship was rolling and there was -- on the starboard side, we

1 had three very large openings where the ramps were connected and
2 water could roll off that way, as well as we had scuttles on
3 second deck where the water that did come on second deck could
4 eventually go down the scupper or over the side.

5 Q. I just want to make sure. You said on the *El Morro*, there
6 were three large openings on the starboard side?

7 A. Let me correct that. There were two. The forward opening
8 was eventually converted over to the Picardi manifold, and that
9 was closed up. But water could still -- it was, I don't know,
10 maybe 2 inches from the deck to the bulkhead where water could
11 roll off over the side.

12 Q. After that change to close up that opening, the Picardi
13 opening or whatever you say you converted, did you notice any
14 change in when you got water on the second deck, ever took any
15 longer for it to leave?

16 A. I never noted it.

17 Q. While on the *El Morro* did you ever use a Web routing
18 services?

19 A. No, we did not.

20 Q. There was a lot of talk about BVS or questions about BVS.
21 Was the weather information received from BVS sent to just the
22 master's computer or did it go elsewhere?

23 A. The only computer on the ship that would receive any emails
24 was my computer, but I in turn set up distribution lists where I
25 would send the -- like the Bon Voyage maps that came in, I would

1 send it to the wheelhouse. The chief mate would get a copy. I
2 believe I'd send it to the chief engineer and the first engineer
3 also. All the computers that we had on board with the exception
4 of one, which was that we let crew use to send emails, would
5 receive the weather map from Bon Voyage.

6 Q. So when you say they would receive it, was that an automatic
7 distribution once it came into the master's computer? Did it go
8 out automatically to those other ones you assigned it to or did
9 you have to push it, if you will, or send it to those?

10 A. No. I had to physically send it up to the wheelhouse and the
11 other crew members.

12 Q. While you were on *El Morro*, did you have working anemometer
13 or anemometers?

14 A. Yes, we did.

15 Q. Did they require maintenance?

16 A. Well, the anemometer is usually on the foremast -- on the
17 main mast. On ours, I believe it was outboard of the starboard
18 side and the only way you could physically get to it was a crane.
19 So it wasn't a piece of equipment that was maintained on a monthly
20 basis or not. If we noted there was a problem, we would notify
21 the office. But I don't recall ever having to really do anything
22 with the anemometer that -- I don't even recall even in the
23 shipyards having to change it out. But I was not on board for
24 every ship run period, so I don't know what took place when I
25 wasn't there.

1 Q. Was it just one anemometer that the vessel had or did it have
2 more than one?

3 A. No, it just had -- I recall just the one on the starboard
4 side.

5 MR. KUCHARSKI: Thank you, Captain. The weather-related,
6 I'll stop there.

7 BY CAPT NEUBAUER:

8 Q. Captain, just a couple of follow-up questions. Did you ever
9 increase the number of deck or bridge watchstanders on *El Morro*
10 due to heavy weather or seas?

11 A. No. The only time I ever remember increasing the deck watch
12 was for a search and rescue that we were notified by the Coast
13 Guard and ready to leave Jacksonville, Florida, and they asked us
14 to search for a small craft. And we did for an hour or 2, and at
15 that point the Coast Guard released us. But that's the only time
16 I can remember bringing additional people up to the wheelhouse and
17 I believe someone to look out also.

18 Q. Did you have the ability as master to read all incoming and
19 outgoing emails?

20 A. I believe so, yes.

21 Q. Did the crew need to ask permission to use the Sat phone?

22 A. Yes.

23 Q. And who would give that permission?

24 A. In my case, I would be the one to give the permission.

25 Q. Was that a TOTE policy or was that your policy?

1 A. I don't recall it being a TOTE policy, but I believe it was
2 my policy.

3 CAPT NEUBAUER: Mr. Fawcett.

4 BY MR. FAWCETT:

5 Q. Captain, would you have been able to print out the BVS track
6 and weather information and post it for the crew in the crew
7 spaces so they could see it?

8 A. Yes, I could.

9 Q. If you'll turn your attention to Exhibit 287, which is your
10 master's review, page 7, you completed that in December 31st,
11 2008. And I will read a section saying Consideration/Suggestions
12 for Future Improvement. Do you see that, sir?

13 A. Yes.

14 Q. The first line in that paragraph says, "The new required
15 physical for all crew members administered by Anderson Kelley
16 seems to be working good," period. "This should weed out the
17 personnel that aren't physically able to do their jobs or have
18 preexisting conditions that they don't write on their sign-on
19 forms," period.

20 Now in that, you say seems to be working good. But as
21 master, did you fully support that policy or that plan to have
22 crew members get physicals?

23 A. I had no input on that. That was a company decision. I
24 don't recall ever being asked if it was something that I would
25 recommend or not. It was just something that the company did.

1 Q. Did you think it was a good idea?

2 A. Yes.

3 MR. FAWCETT: Thank you, sir.

4 CAPT NEUBAUER: At this time we'll go to the parties in
5 interest. TOTE?

6 BY MR. REID:

7 Q. Thank you, Captain Villacampa for your testimony. During
8 your time with working on the *El Morro*, was it common knowledge or
9 was it your understanding that the *El Faro* was in the best
10 condition of the three Ponce Class vessels?

11 A. I believe I heard that from crew members that have sailed on
12 that ship. I don't recall ever hearing something like that from
13 any of the company officials.

14 Q. So as crew members who sailed on board the vessel, you heard
15 that from?

16 A. Yes.

17 Q. You testified that the service of the *El Morro* was one of an
18 overnight nature at one time and then the route or schedule of the
19 vessel changed to a same-day turnaround time. What year do you
20 think that that change occurred?

21 A. I believe it occurred somewhere between 2000 and 2001.
22 That's my best recollection at this point.

23 Q. Sir, do you know, of the three vessels, the three Ponce Class
24 vessels, do you know which one was scrapped first?

25 A. I believe I was just told a little while ago that the *El*

1 Morro was scrapped first.

2 MR. REID: Thank you, sir, for your testimony.

3 CAPT NEUBAUER: Mrs. Davidson?

4 BY MR. BENNETT:

5 Q. Captain, can you go to Exhibit 266, which is the VDR
6 transcript, and go to page 34? That's 34 of the exhibit, not of
7 the transcript. And it's timestamped 06:29:40.1, chief mate and
8 captain are talking about the weather, they're analyzing BVS. The
9 chief mate also says, quote, "And so we'll look out the window."
10 Do you see that?

11 A. Yes.

12 Q. And if you go to page 53 of the transcript, the captain talks
13 about watching the wind and the swells. Do you see that?

14 A. Yes, I do.

15 Q. Please go to page 71 of the transcript. At 09:21:34, captain
16 says, "I'd recommend start logging that weather every 3 hours."
17 The third -- sentence, do you see that?

18 A. Yes, I do.

19 Q. And just on the next page starting out, the captain says, "We
20 can see the wind veer and start to back." Do you see that as
21 well?

22 A. Yes, I do.

23 Q. And if you go to page 113, timestamped 13:17.04.8 -- sorry.
24 That's 114 of the transcript. The captain says, "Well, from here,
25 here on out, plot the weather, wind direction force, barometer

1 every hour." Do you see that?

2 A. Yes, I do.

3 Q. In the law that Captain Fawcett referred to as Bowditch law,
4 it's a very simple law, put your back to the wind and the load is
5 on your left, right?

6 A. In the Northern Hemisphere low pressure or, in this case, a
7 hurricane, if you're standing, the wind is hitting you in the
8 face, the low pressure would be to the right. If you -- as you
9 refer to, if you have your back to it, it would be to the left.
10 That is correct.

11 Q. So not only was the captain on the bridge every hour for
12 about 10 out of -- 14 hours is the prior testimony, every hour
13 talking about weather, looking at the BVS, looking at the SAT-C,
14 but he was also using the tools that Mr. Fawcett talked about in
15 Bowditch, wasn't he?

16 A. Yes. I don't know anything about him being out on the bridge
17 for 14 hours. I don't think I saw that. But as far as using the
18 tools for identifying the location of the storm, he was using a
19 lot of the tools that we were talking about.

20 MR. BENNETT: Thank you, Captain. No further questions.

21 CAPT NEUBAUER: ABS?

22 MR. WHITE: No questions.

23 CAPT NEUBAUER: At this time, I'd like to take a recess and
24 then when we come back, we'll have one last short line of
25 questions. The hearing will reconvene at 3:50.

1 (Off the record at 3:41 p.m.)

2 (On the record at 3:54 p.m.)

3 CAPT NEUBAUER: The hearing is now back in session.

4 At this time, we'll begin with the last line of questioning.

5 Mr. Kucharski.

6 MR. KUCHARSKI: Thank you, Captain Neubauer.

7 BY MR. KUCHARSKI:

8 Q. Captain Villacampa --

9 MR. KUCHARSKI: I'd ask Lieutenant Commander Yemma to first
10 pull up -- I think it's Exhibit 266, the voice data recorder audio
11 transcript, and it's at page 395 of the PDF, starts at the very
12 bottom -- or page 394 of the transcript, the very bottom at time
13 signature 05:04:15.8.

14 BY MR. KUCHARSKI:

15 Q. Captain Villacampa, when you're ready go to, let me know.

16 A. I'm ready.

17 Q. Okay. It says, "Captain, let's put the rudder hard right,"
18 and it continues on to the next page.

19 AB1 answers, "Hard right."

20 Captain says, "Go hard right."

21 Then there's further conversation about the rudder and he's
22 -- right 20. Would you say that the captain is maneuvering the
23 vessel at this point?

24 A. Yes. Swinging the rudder like that, yes, I would assume he's
25 maneuvering the ship.

1 Q. Would you go down to time signature 05:05:05.4? The captain
2 says, "Our biggest enemy right here right now is we can't see."
3 And then the time signature right below that, 05"05:13.6, captain
4 says, "That's our biggest enemy." Do you see that?

5 A. Yes, I do.

6 Q. So as captain of a ship, I'm going to ask you, would you
7 consider not being able to see looking out the window, in whatever
8 fashion you can't see, would that be something of a difficult
9 situation for you?

10 A. I would consider it certainly a hindrance to me, yes.

11 Q. Emergency response, I'd like to move into emergency response.
12 Had you ever had formal training in damage control precepts? And
13 if so, what was it? What was the training?

14 A. No, I don't recall any formal training.

15 Q. Were you aware if any of your crew had any of this type of
16 training?

17 A. At this time, nothing comes to mind.

18 Q. While you were a master on the *El Morro*, was there any
19 external entity outside the ship which provided emergency response
20 advice, if you will, besides the oil pollution, the OPP, the oil
21 pollution plan requirements?

22 A. Nothing comes to mind.

23 Q. So who would you rely on or turn to if you needed help shore
24 side to help you if you had stability concerns or experiencing
25 flooding? You were trying to manage personnel to save the ship.

1 Who would you turn to?

2 A. We had an emergency situation December 7th of 2003, when we
3 had a fire on board the ship, and as soon as I could, I notified
4 the office. We, the ship, suppressed the fire with the CO2
5 system. But in that particular situation, I did notify the
6 company and, of course, they asked a few questions regarding the
7 condition of the ship and if there was anything -- any advice that
8 was needed from them at that point.

9 But again, it was a point of contact that I -- in this
10 particular case, it was the port engineer, and he was kept abreast
11 of the situation and they, of course, arranged everything when we
12 got to San Juan, Puerto Rico. As a matter of fact, I believe they
13 started sources immediately, new CO2 bottles and a few other items
14 that were needed, O-ring kits so that we could get the situation
15 repaired as soon as possible.

16 Q. So that was a fire situation. Do you know if port engineer
17 or any of the shore-side personnel have any damage control
18 training or if they had any training in the use of CargoMax and
19 damage stability?

20 A. No, I don't ever recall that coming up in a conversation.

21 Q. My last question along this line. Is there someone shore
22 side you can turn to to determine if a condition was to the point
23 where you could not save the ship, where you had to abandon ship?

24 A. I don't know, sir. I was never in that situation. But I do
25 know that immediately -- I would certainly try, immediately after

1 sending out the distress messages, to notify the office about the
2 situation. But I don't know if we were in a situation where we're
3 ready to abandon ship, and at this time, I don't imagine -- I
4 can't think of any help that they could provide to us.

5 Q. One last question. It's not on emergency response, but it's
6 in reference to the riding. While you were master on the *El*
7 *Morro*, did you require your riding crew, supernumeraries, those
8 people outside of the crew as listed on the crew list of the
9 vessel, did you require them to don their survival suits?

10 A. No, I don't recall ever having a rider don a survival suit.
11 They would don lifejackets, but I don't recall ever putting on a
12 survival suit.

13 MR. KUCHARSKI: Thank you, Captain.

14 Captain Neubauer, that's all.

15 CAPT NEUBAUER: Commander Denning?

16 BY CDR DENNING:

17 Q. Sir, just one follow-up question for me. We referenced
18 earlier, the internal audit dated September 19, 2012. That audit,
19 again, was conducted by Harry Rogers and his report was addressed
20 to the masters of the *El Morro*, yourself and Captain Jack Hearn.
21 It was signed on November 5th, 2012, so just to get the dates to
22 preface the question. I read --

23 CAPT NEUBAUER: Sorry, but could you give the exhibit number
24 and what page on this one?

25 BY CDR DENNING:

1 Q. Yes, sir. I'm sorry, Captain. Again, it was Exhibit 296,
2 page number 17. In that paragraph that I read from before, talked
3 about maintenance procedures, failing maintenance procedures, lack
4 of communication between the ship staff and office staff.

5 It says the situation was addressed by increase in vessel
6 visits, by TSI mobile port engineer to check maintenance projects
7 and work procedures. But it speaks to some maintenance issues on
8 board, and a sentence in that paragraph says, "The personnel
9 shakeup at SSL," which I assume is Sea Star Line, "was a large
10 contributor to the problem."

11 Do you know what's meant by that sentence, sir, where it says
12 the personnel shakeup in Sea Star Line was a contributor to the
13 problem? It seems to be speaking of personnel problems shore side
14 affecting maintenance on the vessels. Can you expand on that for
15 us at all, sir?

16 A. I believe this refers to the two or three port engineers in
17 Jacksonville were no longer with the company.

18 Q. And their departure somehow affected the ability of the ships
19 to complete their maintenance? Is that what you're saying?

20 A. I believe this is referring to some scheduled maintenance
21 that was going to take place, and with the loss of these two
22 personnel, it hadn't taken place as it was originally scheduled.

23 Q. Thank you. And just my final question, who were the two
24 personnel that had departed?

25 A. They were two port engineers, Mr. James Coleman and Mr. Skip

1 McCray.

2 CAPT DENNING: Thank you, sir. I don't have any further
3 questions.

4 BY CAPT NEUBAUER:

5 Q. Captain, did you -- was it your experience that the
6 maintenance support dropped off around that time period?

7 A. I wouldn't call it dropping off, but we had different port
8 engineers who came in and they were looking at things that had to
9 be done differently than what we were looking at with the other
10 port engineers.

11 Q. In your opinion, did the situation resolve after this report?

12 A. Yes.

13 Q. Did you ever experience any friction with TOTE management for
14 trying to get a safety issue addressed?

15 A. No. No, I did not have any situations where there was any
16 kind of friction at all, no.

17 Q. Sir, I'd like to get your opinion as an officer and a master
18 on the Coast Guard's Alternate Compliance Program. Are you
19 familiar with that program?

20 A. Yes.

21 Q. Do you remember undergoing Coast Guard inspections prior to
22 Alternate Compliance Program coming into effect around 1995, 1996
23 time frame?

24 A. Yes, I do.

25 Q. Can you give an assessment on the level of quality the

1 inspections prior to ACP and after the program instituted? I
2 mean, was there, in your opinion, a rise in compliance or a
3 lowering or about the same?

4 A. Prior to the ACP Program going into effect, I was involved in
5 some very thorough inspections by the United States Coast Guard
6 personnel and these took place of all the vessels in the shipyard.
7 And Coast Guard personnel, when they found a deficiency, the
8 response was you're in the shipyard; well, there can't be a better
9 place than now to fix it. And that's what the company did, made
10 the repairs immediately.

11 Q. And after the ACP program came into effect, did that change
12 with ABS or ACS surveyors doing the primary surveys --

13 A. I'm sure it changed, but I don't know at this point, like I
14 say, it changed for the better or for the worse. It was, again,
15 different eyes looking at different situations.

16 Q. Did you find it more difficult to get issues addressed that
17 were found during those surveys under ACP?

18 A. Well, again, an issue that could be -- that you find in a
19 shipyard can easily be addressed. An issue while the ship is
20 underway, sometimes, you know, for different reasons, will take
21 longer to correct. But that's basically the only issue that I can
22 recall as far as the difference between the two.

23 Q. Are you saying that under ACP, that the issues were more
24 often deferred? Is that a correct characterization?

25 A. Well, anytime you couldn't, for different reasons, make a

1 repair immediately -- sometimes you had to source material, source
2 personnel that were certified to do certain repairs, while in the
3 shipyard, you didn't really have these kind of constraints.

4 Q. You mentioned that the inspections conducted with the Coast
5 Guard were thorough. Was the thoroughness of the ACP surveys
6 about the same level? I'm sorry. And I do mean the dry dock
7 periods.

8 A. Yeah. I would say they were very similar in thoroughness.

9 Q. I believe you said when the Coast Guard found an issue, that
10 the company rectified that immediately or very quickly. Is that
11 the same process under ACP, if an issue was discovered by an ABS
12 surveyor?

13 A. Well, what I had -- regarding that statement, again, that was
14 while we were in the shipyard, okay? There was -- I don't think
15 it mattered who -- under normal circumstances, who found a
16 deficiency, whether it be Coast Guard or ABS, I don't think it
17 would cause the repairs to be slowed down any.

18 Q. What about when the vessel was not in the shipyard and a
19 safety item was found by a Coast Guard inspector? Were there any
20 issues delaying the vessel or would the issue get corrected?

21 A. I can't think of any incident on the *El Morro* where we had a
22 deficiency, a safety deficiency that precluded us from sailing on
23 time, on schedule. But again, anytime we had a deficiency,
24 especially safety deficiency, we addressed it immediately.

25 CAPT NEUBAUER: Thank you.

1 At this time, I'd like to go to the parties in interest.

2 TOTE?

3 MR. REID: Thank you, sir.

4 BY MR. REID:

5 Q. Captain Villacampa, you were asked about an audit report.

6 It's Exhibit 296. You were asked about an audit report in
7 September 2012. And your name is listed as -- you and Captain
8 Hearn were listed as the captains for that audit. Do you recall
9 being there for that audit?

10 A. Yes. I believe I was present for that audit.

11 Q. Okay. And Commander Denning indicated that in terms of part
12 of the problem of what contributed to problem of -- the
13 maintenance problems they were having was a shakeup at Sea Star
14 Lines. Do you remember him asking that?

15 A. Yes, I do.

16 Q. And the sentence that follows that says, "The situation was
17 addressed by increasing the vessel visits by TSI and the local
18 port engineer to check on maintenance progress and work
19 procedures. A tour of the cargo space was made during this audit
20 with the port engineer and the chief mate and captains who
21 specifically observed the progress on a specific maintenance
22 project and methodology in particular."

23 So is that your recollection as to how that matter was
24 addressed? Is that accurate?

25 A. Yes.

1 MR. REID: Thank you, sir.

2 CAPT NEUBAUER: Mrs. Davidson?

3 MR. BENNETT: No questions, Captain.

4 CAPT NEUBAUER: ABS?

5 MR. WHITE: No questions, Captain.

6 CAPT NEUBAUER: Are there any final questions for Captain
7 Villacampa at this time?

8 Captain Villacampa, you are now released as a witness of this
9 Marine Board of Investigation. Thank you for your testimony and
10 cooperation. If I later determine this board needs additional
11 information from you, I will contact you through your counsel. If
12 you have any questions about this investigation, you may contact
13 the Marine Board Recorder, Lieutenant Commander Damien Yemma.

14 (Witness excused.)

15 CAPT NEUBAUER: At this time, do any of the PIIs have any
16 issues with the testimony that we just received?

17 MR. REID: No issue, sir.

18 MR. BENNETT: No issues, sir.

19 MR. WHITE: No issues.

20 CAPT NEUBAUER: Thank you. Before we adjourn for the day, I
21 want to make one note for the record. We received Exhibit 401
22 from TOTE. That is a warning letter that was issued to the chief
23 mate on July 21st, 2015 in regards to the sleeping on watch issue
24 that has been discussed during testimony. That document was --
25 the hard copy of the document was found today in TOTE's office

1 spaces and has been submitted as Exhibit 401.

2 The hearing will now adjourn and reconvene at 9:00 a.m.
3 tomorrow morning.

4 (Whereupon, at 4:15 p.m., the hearing was recessed, to
5 reconvene, Friday, February 17, 2017, at 9:00 a.m.)

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CERTIFICATE

This is to certify that the attached proceeding before the

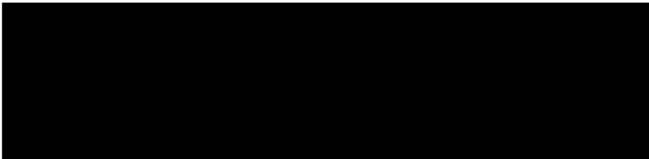
NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: MARINE BOARD OF INVESTIGATION
INTO THE SINKING OF THE EL FARO
ON OCTOBER 1, 2015

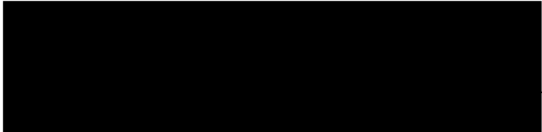
PLACE: Jacksonville, Florida

DATE: February 16, 2017

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.



U.S. Coast Guard
Official Reporter



Transcriber