

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 U.S. Coast Guard Marine Board Investigation ICO the sinking of SS El Faro held in

2 Jacksonville, Florida held

3 18 February 2016

4 Volume 3

5 **CAPT Neubauer:** Good morning. This hearing will come to order. Today is February
6 18th, 2016 and the time is 9 O'clock a.m. We're continuing at the Prime F. Osborn
7 Convention Center in Jacksonville, Florida. I am Captain Jason Neubauer, of the
8 United States Coast Guard, Chief of the Coast Guard Office Investigations and analysis,
9 Washington D.C. I'm the Chairman of the Coast Guard Marine Board of Investigation
10 and the presiding officer over these proceedings. The Commandant of the Coast Guard
11 has convened this board under the authority of Title 46, United States Code, Section
12 6301 and Title 46 Code of Federal Regulations Part IV to investigate the circumstances
13 surrounding the sinking of the SS El Faro with the loss of 33 lives on October 1st, 2015
14 while transiting East of the Bahamas. I am conducting the investigation under the rules
15 in 46 C.F.R. Part IV. The investigation will determine as closely as possible the factors
16 that contributed to the incident so that proper recommendations for the prevention of
17 similar casualties may be made. Whether there is evidence that any act of misconduct,
18 inattention to duty, negligence or willful violation of the law on the part of any licensed or
19 certificated personnel contributed to the casualty, and whether there is evidence that
20 any Coast Guard personnel or any representative or employee of any other
21 Government agency or any other person cause or contributed to the casualty. I have
22 previously determined that the following organizations or individuals are parties in
23 interest to the investigation. Tote Incorporated, ABS, Herbert Engineering Corporation

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1 and Mrs. Teresa Davidson as next of kin for Captain Michael Davidson, Master of the
2 SS El Faro. These parties have a direct interest in the investigation and have
3 demonstrated the potential for contributing significantly to the completeness of the
4 investigation or otherwise enhancing the safety of life and property at sea through
5 participation as party in interest. All parties in interest have a statutory right to employ
6 counsel to represent them, to cross-examine witnesses and have witnesses called on
7 their behalf.

8 I will examine all witnesses at this formal hearing under oath or affirmation and
9 witnesses will be subject to Federal laws and penalties governing false official
10 statements. Witnesses who are not parties in interest may be advised by their counsel
11 concerning their rights. However, such counsel may not examine or cross-examine
12 other witnesses or otherwise participate.

13 These proceedings are open to the public and to the media. I ask for the
14 cooperation of all persons present to minimize any disruptive influence on the
15 proceedings in general and on the witnesses in particular. Please turn your cell phones
16 or other electronic devices off or to silent or vibrate mode. Please also minimize entry
17 and departure the hearing room during testimony. Flash photography will only be
18 permitted during this opening statement and during recess periods. The members of
19 the press are of course welcome and an area has been set aside for your use during
20 the proceedings. The news media may question witnesses concerning the testimony
21 that they have given after I have released them from these proceedings. I ask that such
22 interviews be conducted outside of this room. Since the date of the casualty the
23 National Transportation Safety Board and Coast Guard have conducted substantial

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1 evidence collection activities and some of that previously collected evidence will be
2 considered during these hearings. Should any person have or believe that he or she
3 has information not brought forward, but which might be of direct significance, that
4 person is urged to bring that information to my attention by emailing elfaro@uscg.mil.

5 The Coast Guard relies on strong partnerships to execute its missions. And this Marine
6 Board of Investigation is no exception. The NTSB, provided a representative for this
7 hearing. Mr. Tom Roth-Roffy, also seated to my left is the Investigator in Charge for the
8 NTSB investigation. Mr. Roth-Roffy, would you like to make a brief statement?

9 **Mr. Roth-Roffy:** Yes, sir. Good morning Captain. Good Morning, I am Tomas Roth-
10 Roffy, Investigator in Charge for the National Transportation Safety Board's
11 investigation of this accident. The NTSB has joined this hearing to avoid duplicating the
12 development of facts. Nevertheless, I do wish to point out that this does not preclude
13 the NTSB from developing additional information separately from this proceeding if that
14 becomes necessary. At the conclusion of these hearings the NTSB will analyze the
15 facts of this accident and determine a probable cause independently of the Coast
16 Guard. Issue a separate report of the NTSB's findings and if appropriate issue
17 recommendations to correct safety problems discovered during the investigation.

18 Thank you.

19 **CAPT Neubauer:** Thank you. We will now call our first witness of the day. Captain
20 Earl Lofffield. Captain Lofffield, will you please come forward to the witness table and
21 Lieutenant Commander Yemma will administer your oath and ask you some preliminary
22 questions.

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1 **LCDR Yemma:** Sir, would please raise your right hand. A false statement given to an
2 agency of the United States is punishable by a fine and or imprisonment under 18 U.S.
3 Code section 1001, knowing this do you solemnly swear that the testimony you're about
4 to give will be the truth, the whole truth and nothing but the truth, so help you God?

5 **WIT:** I do.

6 **LCDR Yemma:** Thanks, you can be seated please. Sir, can you please start by stating
7 your name and spelling your last for the record?

8 **WIT:** My full name is Earl Baker Lofffield, L-O-F-T-F-I-E-L-D.

9 **LCDR Yemma:** And counsel can you also state your name and spell your last please?

10 **Counsel:** Robert Birthisel, Hamilton, Miller and Birthisel, B-I-R-T-H-I-S-E-L.

11 **LCDR Yemma:** And Captain Lofffield, for whom are you currently employed?

12 **WIT:** I'm currently employed by Tote Services.

13 **LCDR Yemma:** And what's your position at Tote?

14 **WIT:** I'm Captain on the SS El Yunque.

15 **LCDR Yemma:** And can you just describe some of your general responsibilities in that
16 position?

17 **WIT:** As Captain of the vessel I'm responsible for the wellbeing of the crew, the smooth
18 functioning and operation of the vessel, schedule and everything that's involved with
19 that. It's of course the sea worthiness and safe keeping of the vessel.

20 **LCDR Yemma:** Thank you. Can you also describe some of your prior relevant work
21 history please?

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1 **WIT:** I've worked on this class of vessels since 1999, it's the PONCE class of vessel.
2 I've been Captain on 4 of them. I've been working as Captain on this class of vessel for
3 14 years. I've been on the run down to Puerto Rico probably about 8 of those years.

4 **LCDR Yemma:** And what's the highest level of education that you completed, sir?

5 **WIT:** I have a bachelors in marine transportation.

6 **LCDR Yemma:** And what licenses do you hold?

7 **WIT:** Hold Masters unlimited.

8 **LCDR Yemma:** Thank you. The board will ask some questions now.

9 **CDR Denning:** Good morning Captain, thanks for being here today.

10 **WIT:** Thank you.

11 **CDR Denning:** As you described your background, I just want to lay out for general
12 awareness the importance of your testimony today, it's based on your extensive
13 experience on this particular class of vessels and this run with the inability to you know
14 interview the crew of the El Faro, your testimony is extremely important. So thank you
15 for being here. I wonder if you could go into just a little bit more detail on your
16 experience on this particular class of vessel just to expand on what Lieutenant
17 Commander Yemma asked you about a minute ago?

18 **WIT:** I'm not really clear what additional detail. The different vessels I started on the El
19 Yunque as Second Mate in 1999 and 2000. I did a trip on the Northern Lights over to
20 the Persian Gulf from Beaumont, Texas in 2003. That was later renamed the El Faro.
21 Also in 2003 I began employment on the Westward Venture, picked that vessel up in
22 Tacoma, Washington, went by way of Alaska over to the Persian Gulf and from there
23 we shipped it over to Atlantic operations. Ran that vessel with primarily MSC charters,

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1 Military Sealift Command charters carrying military equipment to Kuwait, did that for 6
2 years. That work ran out. The El Faro was at that time laid up in Baltimore, also
3 without work and they had a small crew on board. I took a position there in what is
4 reduced operational status, skeleton crew. Stayed on there for about 5 months while
5 the vessel got scheduled into doing a run from Philadelphia to Puerto Rico to
6 Jacksonville. And then reverse. Got the vessel prepared at that time for doing that.
7 Handed it over to another Captain for the inaugural run. Then came back and did a 10
8 week tour on the El Faro on that run. After that there was an incident in which an
9 opening became available on the El Yunque and I got transferred over to the El
10 Yunque.

11 **CDR Denning:** That's great, thank you, sir. When the vessel, when the El Faro was
12 laid up in Baltimore, you described reduced operating status, skeleton crew, during that
13 time was the COI, the certificate of inspection on the vessel, did it maintain – was it
14 maintained as active because the vessel had gotten underway at any time, or would
15 things need to take place in order to prepare the vessel for getting underway relative to
16 the COI?

17 **WIT:** Relative to the COI everything was kept up to date.

18 **CDR Denning:** If you could compare and contrast for us the El Faro from the El
19 Yunque, I know there are a lot of similarities, but in terms of routes, vessel loading,
20 stability characteristics and ship handling, and I can repeat those as we go one by one.
21 Just very briefly compare and contrast, I know they're nearly identical, but not exactly.

22 **WIT:** They were very nearly identical. The most conspicuous thing when being on two
23 ships of the same class that small items like the coffee pot's over here and it's not there,

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1 that's rather irrelevant, but it does show up, that's what you notice. The engineering
2 bells for the ships that have been in the Alaska service were, the astern bells were 10,
3 20, 40 and 60 rpm astern, whereas the ships that had been MATSON previously and
4 were in the – had become a part of the Sea Star fleet their bell system was 15, 30, 45,
5 and 60 astern. Those were significant characteristics for maneuvering purposes. The
6 ballast, the tank system configurations were laid out the same. There were some
7 differences between which of the double bottoms were used for fuel and which were
8 done with permanent ballast. I can't recall exactly the discrepancies that – I was on four
9 vessels of this class and they were all just a little bit different, the tanks, the frames were
10 the same.

11 **CDR Denning:** In terms of loading operations in Jacksonville and San Juan, besides
12 the fructose tanks where there were differences in arrangement, as far as the ro-ro
13 cargo and the container cargo were those processes identical?

14 **WIT:** The cargo spaces were identical. There's a – the main deck of all of these
15 vessels has – there were some differences between which bays would take what size
16 containers. The containers that these vessels have been carrying are 20 foot, 40 foot,
17 45 foot, 48 foot and 53 foot. The 48 and 53 foot go on top of transfer beams because
18 they're 6 inches wider, those containers are. And some of the layout of precisely which
19 bay of containers goes where, but again that's fairly minor in terms of structural
20 differences for cargo layout.

21 **CDR Denning:** Were the stability characteristics almost the same for the two vessels?

22 **WIT:** Yes they were. The stability characteristics were based on the stability book
23 initially issued by Sun Ship Building at the time of construction. There have been

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1 revisions on the books, but the stability books were basically duplicate items coming out
2 of original ships drawings in the 70's.

3 **CDR Denning:** And besides the bells that you just described, ship handling pretty
4 much the same?

5 **WIT:** The rudders were the same, the plants were the same, the propellers were the
6 same. Among the fleet there was a slight bragging factor, and I can't even remember
7 which ship used to brag that it was slightly faster. I believe it was the Northern Lights,
8 the El Faro, but going full out they could make an extra 10th knot and would make
9 schedule a little bit more up in Alaska. But I did not hear anything about that after I was
10 no longer in connection with the people that had run the ships to Alaska.

11 **CDR Denning:** Do you recall, as far as bilge alarms, do you recall them being identical,
12 locations, the bilge alarms?

13 **WIT:** The bilge alarms have been primarily put in during a layup period when there's
14 not active manning. We do not have a bilge alarm system on the El Yunque. There
15 was a bilge alarm system on the El Faro when I got on it. I would suspect that was
16 primarily for being in the layup period. During normal operations of a vessel there's
17 daily rounds of the – of all of the cargo hold machinery. All spaces on the vessel have
18 security and safety rounds done on them.

19 **CDR Denning:** So during those rounds they would take soundings, is that how?

20 **WIT:** No, it's visually going down into the cargo holds to see if there's water in the rose
21 box.

22 **CDR Denning:** Do you recall on the, excuse me, on the El Faro whether there were –
23 were their bilge alarms identical on the port side and starboard side?

1 **WIT:** I don't have a recall of any differences. Usually I tend to notice when things are
2 asymmetrical. But I wouldn't be able to testify to that.

3 **CDR Denning:** So next, I'm going to go into three general topic areas and at the end of
4 each topic area I'm going to allow some of my colleagues to ask follow on questions.
5 So those topic areas are – the first one is going to concentrate on operations in port
6 related to cargo loading and stability. The second topic area is going to be underway
7 operations, routing, standing orders and the weather information available to the
8 vessels, and then the third general topic area is going to be the general safety culture
9 from the Master's perspective and interaction with Tote. So first focusing on in port, if
10 you can briefly describe for us what's meant by metacentric height, GM in terms of
11 stability as generally as you can? You don't have to go into specific calculations, but
12 just generally for the audience what metacentric height is.

13 **WIT:** Naval architects in their design process determine the metacentric height which is
14 defined as if the ship were on a pendulum that would be the top of the string that's
15 holding the pendulum with the bottom of the pendulum being the keel. So that's the
16 metacentric height. And what's determined from the calculations for stability are
17 determinations of where is the center of gravity, the virtual center of gravity of the entire
18 vessel. That's the keel to the KG, from the keel to the center of gravity. And the
19 subtraction from the total KM of the KG gives the GM, or the metacentric height. And
20 that's fundamental to determining the righting angle on the vessel or the vessel's
21 tendency to return to an upright position.

22 **CDR Denning:** Perfect, thank you. Can you describe for us what the required GM is
23 for a vessel and where you find that information?

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1 **WIT:** That comes from the trim and stability booklet. That's original issue with the
2 vessel. And it's a very straight forward make an assessment of where a weight is and
3 its height above the keel. And you work all of those out, add those up, divide them by
4 the total weight of the vessel and that gives you the center of the – center of gravity of
5 the vessel. And that's the core process of the trim and stability booklet.

6 **CDR Denning:** And then what's meant by the term GM margin?

7 **WIT:** GM margin is a determination of if the single largest compartment on the vessel
8 gets flooded, will you still have enough GM so that the vessel floats with the stack
9 pointing up.

10 **CDR Denning:** For Tote vessels who determines what the appropriate GM margin is
11 for any particular voyage?

12 **WIT:** For all vessels the GM margin is, the required GM is determined by the trim and
13 stability booklet.

14 **CDR Denning:** The required GM, GM margin what we've learned thus far, you know
15 describing from the CargoMax loading program, there's an additional margin above and
16 beyond the required GM the vessels will leave with. Another layer of safety, that's what
17 I'm really trying to get at.

18 **WIT:** I don't have a specific recall of the process by which a GM margin was
19 determined. It's been a function of Captains working with the cargo loaders and we
20 assessed that we will not leave with less than a .5 extra GM.

21 **CDR Denning:** You said .5, you mean?

22 **WIT:** .5 feet.

23 **CDR Denning:** A half foot.

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1 **WIT:** 6 inches.

2 **CDR Denning:** Does – is that formalized anywhere in writing?

3 **WIT:** I don't believe so.

4 **CDR Denning:** So there's no company policy? You could – could you change it as a
5 Master? Could you require additional GM margin if you wanted to?

6 **WIT:** I could.

7 **CDR Denning:** Do you happen to know whether Captain Davidson had the same 6
8 inches of GM margin that you require?

9 **WIT:** I don't.

10 **CDR Denning:** How does the GM margin affect the available dead weight for departure
11 from Jacksonville in terms of, you know how fuel burn is affected, affects the GM during
12 the transit, things of that nature?

13 **WIT:** You said available deadweight, so I stopped. I've worked on trying to figure out
14 how that was working into your question and so could you repeat the question?

15 **CDR Denning:** Yeah, we'll stick with the GM margin. How does the GM margin
16 change, or GM in general, the stability of the vessel, how does it change during the
17 transit from Jacksonville to San Juan as the vessel burns fuel?

18 **WIT:** Burning fuel is coming out of the double bottom tanks, it's a very low center of
19 gravity so as you remove the weight from the low down on the center of gravity you are
20 essentially moving the center of gravity upwards by having removed something from
21 down below. Back to the original determination of GM is by the center of gravity from
22 the metacentric height, as you raise the vertical center gravity the GM is going to
23 reduce.

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1 **CDR Denning:** Do you recall how much, if you leave Jacksonville with a GM margin of
2 6 inches, do you recall what it generally is as you arrive in San Juan?

3 **WIT:** We read, it's 6 inches is the half foot, the reduction in GM is generally about .12,
4 or probably about an inch and a half, so it's down to 4 and a half inches.

5 **CDR Denning:** Have you ever required additional GM above that margin for let's say
6 expected heavy weather or any other reasons?

7 **WIT:** I have not.

8 **CDR Denning:** If you wanted to do that, how would you arrange for additional GM?
9 Who would you make that request to, who would you talk with about making that
10 happen?

11 **WIT:** That would go directly to the people that are loading the cargo telling them that I
12 don't want that cargo on board.

13 **CDR Denning:** So ----

14 **WIT:** Then it would become a larger conversation throughout the company about, you
15 know, the vessel owner, at this time Tote Maritime Puerto Rico. Their officers would
16 become involved and be made aware that I was refusing cargo. I've never been told
17 that there's anything other than my word as the final word. It's never been intimated at
18 all.

19 **CDR Denning:** So there would be a conversation, but ultimately they would ----

20 **WIT:** Correct.

21 **CDR Denning:** Trust your decision as a Master for safe navigation of the vessel?

22 **WIT:** I don't know if they would trust it, they would accept it.

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1 **CDR Denning:** Other than GM margin what other loading limitations do you apply
2 when your vessel is loaded in Jacksonville? And this is where we can get into more of
3 the dead weight discussion. Dead weight draft, minimum freeboard.

4 **WIT:** Well with the trim and stability booklet it's very clearly specified in the original
5 design what the total allowable deep draft is. And that's the summer deep draft.
6 There's not really calculations in the trim and stability booklet for when you've loaded
7 beyond your marks or loaded the most that the ship is rated for. So the trim and
8 stability booklet is working with total displacement. So the thing that is verified is that
9 you're not – don't have so much cargo on ship that it's not going to be above the water
10 any more. Or that it even has its draft marks, or its load line marks submerged.

11 **CDR Denning:** How much does the salinity in the water change in port in Jacksonville?
12 And how does that effect?

13 **WIT:** It changes considerably. Wind and rain in addition having an impact on the tide
14 so, full salt water is 1.025, full fresh water is 1.000, I think I have seen it maybe as fresh
15 as 1.010 is fairly common. I've seen it down around 1.006. The total fresh water
16 allowance, that's the term that's used on the load line certificate for this class of vessel
17 is about 6 inches. Meaning that if we're sitting in totally fresh water we could be six
18 inches deeper than our load line and when we got out into the ocean where we're
19 designed to sail the vessel would rise 6 inches.

20 **CDR Denning:** Are there limitations on the vessel in terms of ship stresses, stresses
21 on the steel bending moment, that type of ----

22 **WIT:** Yes, those are not calculated out of the trim and stability booklet, those are
23 calculated out of the loading manual which is issued by the – is an original publication

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1 coming out of Sun Ship Building from some 40 years ago that works on two basic hull
2 stresses. There are two basic hull displacements. And from there they have calculated
3 the stresses on that and the table is set up to calculate the difference in your actual load
4 condition from the load condition that they had and determine the hull stresses.

5 **CDR Denning:** So besides all of those things that you've just discussed, are there any
6 other loading limitations that you personally have applied?

7 **WIT:** Neither the loading manual nor the trim and stability booklet have any discussion
8 about whether the vessel is upright or not. So we load the vessel to make sure that it
9 has as little list as possible.

10 **CDR Denning:** How is the amount of cargo carried between Jacksonville and San
11 Juan changed over the years?

12 **WIT:** Horizon Shipping Lines dropped out of the trade about a year, year and a half
13 ago, it was a year ago December I think, and in the year prior to that I would describe it
14 as they were in a death spiral. So their reliability with cargo had become less and more
15 of the shippers were shipping – shifting over to Sea Star Lines, Totem Maritime.

16 **CDR Denning:** Did any one particular type of cargo, whether that be the roll-on roll-off
17 cargo or containers, did one change more appreciably than the other?

18 **WIT:** I don't have a recall that one changed more than the other. An overall increase in
19 all cargo, I think probably the biggest spike was in refrigerated containers. And many of
20 the refrigerated containers are done as roll-on roll-off stored on decks below. We
21 actually installed a considerable number of electrical outlets on the 2nd deck. So the
22 increase was in both roll-on roll-off and in containers and the most conspicuous was
23 that there were more refrigerated containers in both of those.

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1 **CDR Denning:** Refrigerated cargo, refrigerated containers are carried below deck on
2 the 2nd deck, they're also carried on the main deck, correct?

3 **WIT:** Yes. It's basically a refrigerated container, either it's on a chassis that's rolled on
4 or it's lifted on by a gantry.

5 **CDR Denning:** Overall increase in dead weight, some 2nd deck, some higher up on the
6 main deck?

7 **WIT:** Yes.

8 **CDR Denning:** To the best of your recollection, and if you don't have an exact number,
9 maybe you can estimate, how much did the total dead weight increase due to this shift?

10 **WIT:** During the first 10 years of the company if we had a 10,000 ton load it was worth
11 celebrating. If we had 100 refers it was considered very good. We went up to almost a
12 third of the time topping out over 12,000 tons and the reefer load went up over 200. We
13 actually installed outlets for 200 and did load splitting so that we would cycle different
14 refers on and off so that, for 3 hours at a time and got up to 286 as our standard below.

15 **CDR Denning:** How closely are the vessels typically loaded now to their load line
16 marks? I said now, let's clarify, just before – let's say in September and just before this
17 particular incident.

18 **WIT:** Right.

19 **CDR Denning:** Captain, did you have something you wanted to say?

20 **CAPT Neubauer:** Commander Denning could you just make sure you talk into the
21 microphone, it's hard to hear the end of the question.

22 **CDR Denning:** Yes, sir, certainly.

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1 **WIT:** We were loading as much cargo as we could. Frequently if we could not get the
2 appropriate GM margin we would actually sail light. That would be the determining
3 factor. Why we just didn't have 12,000 tons on every single time, that's because the
4 configuration of the cargo and the placement of the weights made it so that we weren't
5 able to take that much.

6 **CDR Denning:** Prior to leaving port Tote Maritime Puerto Rico typically, Don Matthews,
7 Ron Rodriguez provides the Chief Mate with the stability information, the stability
8 calculations, is that correct for the vessel?

9 **WIT:** They provide the vessel with the load plan where all the weights are and that's
10 their responsibility, yes.

11 **CDR Denning:** How do they provide the information to the Chief Mate and Master prior
12 to sailing?

13 **WIT:** They do their calculations with the CargoMax loading software. It is a ABS
14 certified that a plan entered into the computer with the accuracy of computer
15 computations will go ahead and come up with the same answers as if it is done long
16 hand on the 25 pages of material that would go into hand calculations on the stability
17 book.

18 **CDR Denning:** And what's the process after they provide that information to the
19 vessel?

20 **WIT:** Before the vessel sails there is an exchange of cargo papers that has hard copies
21 of all of that data. Additionally there is an electronic file. The cargo papers are signed
22 for. There's always a signature that goes with the reefer manifest because reefers are
23 very high priority. There's always a signature that goes with a dangerous cargo

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1 manifest and all of the loading positions for all of the cargo, not just the reefers and the
2 dangerous cargo is presented to the Chief Mate, there's an exchange of those and the
3 Chief Mate verifies the loading, the numbers as are on the paperwork that they
4 correspond to what's been put on the electronic version of CargoMax.

5 **CDR Denning:** And at what point does the Master become involved in the process?

6 **WIT:** The Chief Mate runs the numbers through his computer, prints up the stability, we
7 do a three page form that shows the placement of all the weights and the tank
8 conditions and all of the calculations that include the projected burn off of fuel and its
9 impact on the arrival, the GM at arrival. That's presented to me, I sign that, the Chief
10 Mate makes an entry in the log book saying that he's reviewed trim and stability and
11 found it acceptable for the intended voyage. I initial his entry after he's done.

12 **CDR Denning:** What else – what other duties and responsibilities does the Master of
13 the vessel have while in port and in particular the last hour or so before sailing? Is it
14 busy, is it calm, what's going on typically on board a vessel?

15 **WIT:** The last hour before sailing the gear test are going, are being done. The CFR
16 required gear tests are being done. The pilots are coming out to the vessel. There is a
17 very strong awareness of how much list is on the vessel, as we're coming to the last
18 cargo moving. During the middle of cargo operations we expect to see lists throughout
19 the day. We don't ever let it get to, nobody wants too much list on because it makes it
20 harder to land containers, it makes it – so there's an ongoing awareness of maintaining
21 the vessel upright. But it's permissible that it will easily get to 2 to 4 or 5 degrees, that's
22 when the longshoreman really want to get weight somewhere else as well because it
23 makes their job easier. So there's a lot at stake with that. But within the last hour it gets

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1 down to is there enough cargo going on the hi side to stabilize it. The – another duty
2 that takes place right then is the completion of the electronic notice of arrival that if a
3 voyage is less than 96 hours going to another U.S. port it has to be sent out while the
4 vessel is still at the dock before sailing. That’s an extensive form for getting permission
5 to come into the next port that we go to. Making sure the vessel’s upright and that we’re
6 cleared to get into the next port and that all equipment’s tested. Those are going on in
7 that last hour.

8 **CDR Denning:** How long in advance of sailing does the exchange between shore side
9 and the Chief Mate, the transfer of the stability information, how far in advance of sailing
10 time does that typically occur?

11 **WIT:** Less than 30 minutes. It doesn’t occur until after the cargo has been completed.
12 It wouldn’t be anything more than a projection until after the cargo has finished moving.

13 **CDR Denning:** And how long does it take the Chief Mate to verify the information that
14 he’s provided with?

15 **WIT:** He gets that done while we’re transiting the river going down out of Jacksonville.
16 So it’s about 45 minutes.

17 **CDR Denning:** So the vessel actually departs the dock prior to validating ----

18 **WIT:** That’s correct.

19 **CDR Denning:** Stability information. Are errors ever found by the Chief Mate?

20 **WIT:** Umm, he’s found some errors, they were not significant. They did not have a
21 great impact that there was. I think he’s mentioned that to me maybe twice over the last
22 6 years.

23 **CDR Denning:** And what’s done to address the errors when they are found?

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1 **WIT:** The errors are a function of a weight being recorded in the wrong place and it's
2 just recorded in the correct place. There's not a – it's the recording of it. There's not a
3 change of the weight and they're not significant in terms of its impacted the GM margin
4 or any other calculation in a significant manner. So they're very small clerical errors.
5 They're not errors in terms of overall stability calculation or sea worthiness.

6 **CDR Denning:** My last question on this particular topic area is, how much validation
7 does the Master have an opportunity to do versus trusting the Chief Mate, allowing the
8 Chief Mate to perform that in depth analysis, or you know oversight of the cargo
9 operations? How much does the Master actually get to review?

10 **WIT:** I review the finished product and it's my process that I compare it to finished
11 products that I've seen before. That I'm looking for discrepancies or something that is
12 inconsistent with what I would expect from the various sources that I get. It's also worth
13 noting that prior to sailing from Jacksonville and prior to the last load being moved on, I
14 generally receive a telephone call from Don Matthews in which he tells me what the GM
15 is, what the GM margin is, the total dead weight and what's indicated by the CargoMax
16 program in terms of its calculation of the transfer center of gravity and what we can
17 expect to see from that. So that's a telephone call that I get before things stop swinging
18 and before the paperwork's done. Or actually exchanged, is I get a telephone call from
19 the cargo manager prior to that.

20 **CDR Denning:** Thank you Captain. That concludes my line of questioning on this
21 particular topic. And at this time I'll pass it to Mr. Fawcett.

22 **Mr. Fawcett:** Good morning Captain Lofffield.

23 **WIT:** Good morning.

Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.

1 **Mr. Fawcett:** My principal concern are the human factors that led to the various
2 decisions made related to the accident voyage. So I have some questions related to
3 that topic for the pre-time frame for departure in Jacksonville. And my questions refer to
4 the period of time before the accident voyage in general. So if it's different from that I
5 will explain them to you. So I know that loading is different because of the sheer
6 volume of loads. But is there a difference in the way the shore side operations for
7 loading a vessel, operating in Jacksonville versus how it works in San Juan?

8 **WIT:** Jacksonville the containers are full, in San Juan the containers are empty.

9 **Mr. Fawcett:** How about the process itself? In other words you mentioned that the
10 Chief Mate as you're sailing out the river in Jacksonville is finishing up calculations and
11 verifying the accuracy of the CargoMax program and the load. Is it different as it takes
12 place down in San Juan?

13 **WIT:** He presents the same stability calculations. We do the same entry in the log
14 book that stability has been checked and found it acceptable for the intended voyage.

15 **Mr. Fawcett:** Does the Chief Mate finish up the verifying of the accuracy of CargoMax
16 as you're sailing away from the dock in San Juan?

17 **WIT:** Yes.

18 **Mr. Fawcett:** So how critical is the role of Chief Mates when it comes to loading and
19 stability of the vessel?

20 **WIT:** He is the central person for doing that. Is critical, he is the person.

21 **Mr. Fawcett:** Okay. Then you said in response to some questions that Commander
22 Denning asked, you said that he found mistakes on two occasions. Was that a
23 particular Chief Mate that you had, or was that the Chief Mate?

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1 **WIT:** It was the Chief Mate.

2 **Mr. Fawcett:** Do you have a permanent Chief Mate?

3 **WIT:** There – yes, there’s a permanent Chief Mate. There have been two of them. A
4 year and a half ago one of them retired and so there’s another Chief Mate in the mix.

5 **Mr. Fawcett:** Okay. So you have two Chief Mates leading up to the accident voyage of
6 the El Faro on board the El Yunque. So you just have two Chief Mates rotating in and
7 out on your ship?

8 **WIT:** That’s the standard.

9 **Mr. Fawcett:** Does the Chief Mate use the ships inclinometer to compare the list at the
10 time of sailing with the figures he first sees on the CargoMax printout?

11 **WIT:** I do that. We – before sailing we go ahead and record what the list is and bear in
12 mind that the CargoMax is their calculation of list has nothing to do with the trim and
13 stability booklet.

14 **Mr. Fawcett:** Okay. But I’m saying to look at the actual instrument, do you have an
15 inclinometer on board?

16 **WIT:** Yes we do.

17 **Mr. Fawcett:** And do you observe the inclinometer to compare the computations?

18 **WIT:** Yes I do.

19 **Mr. Fawcett:** So has Tote ever reduced cargo volume on board your ship in
20 anticipation of adverse weather?

21 **WIT:** Anticipation of adverse weather gets the response of additional lashing and
22 securing. Not reducing cargo volume.

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1 **Mr. Fawcett:** Okay. So at one time you had a certain cargo security scheme and then
2 later on the cargo scheme, or securing of cargo was to put heavy weather lashings on
3 at all times, is that correct?

4 **WIT:** I'm not familiar with that.

5 **Mr. Fawcett:** Okay. So for adverse weather do they secure cargo differently?

6 **WIT:** Yes, there's a cargo securing manual that specifies just exactly what lashings are
7 required for different conditions.

8 **Mr. Fawcett:** So where you about the El Yunque in late August?

9 **WIT:** I was not.

10 **Mr. Fawcett:** When did you return to the ship?

11 **WIT:** The day after the El Faro sank.

12 **Mr. Fawcett:** Have you ever seen an instance where the sailing of the El Yunque was
13 delayed due to cargo loading problems?

14 **WIT:** Define problems.

15 **Mr. Fawcett:** Any kind of problems. In other words you have a scheduled departure,
16 correct?

17 **WIT:** If the cargo hasn't gotten into the gate and it's a priority customer, they talk to the
18 highest levels of the company and the company delays our sailing so that the cargo can
19 be brought in. So we've experienced those delays.

20 **Mr. Fawcett:** How does that – does that have any effect on the final trim and stability
21 calculations?

22 **WIT:** Every piece of cargo that goes on board the vessel has an effect on the final
23 calculations of trim and stability calculations.

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1 **Mr. Fawcett:** Have you ever seen where cargo has been removed from the vessel after
2 it's been loaded to adjust and compensate for any issues with trim and stability?

3 **WIT:** I have not. I have heard that others have.

4 **Mr. Fawcett:** So the errors that the Chief Mate talked about with evaluating the
5 computations in CargoMax as the ship was sailing out of Jacksonville, was feedback
6 from that ever given to shore side like a terminal manager or anybody in Tote so that
7 those problems or similar problems could be corrected?

8 **WIT:** It was brought to the attention of the person who made the – loaded the data in.
9 So that's a very low level, that's not a systemic notify the highest levels because
10 somebody wrote in this box instead of that box. You know there's not an error tracking
11 notify the top of the company.

12 **Mr. Fawcett:** Would that be, to your knowledge, would that be like a verbal, like
13 someone talks to Don Matthews or somebody else, stevedores, or is it?

14 **WIT:** That's correct.

15 **Mr. Fawcett:** Verbal, thank you. So as far as loading the ship and preparing the ship to
16 go to sea, looking at the off shore drafts, have you ever used the practice of asking tugs
17 or pilot to observe and report the draft to the ship?

18 **WIT:** I've done that on other ships. We have good visibility on the El Yunque. We're
19 able to see the offshore and mid-ship's draft based on where the openings in the 2nd
20 deck are.

21 **Mr. Fawcett:** Okay, thank you very much Captain.

22 **CAPT Neubauer:** Commander Odom, do you have any questions? Mr. Roth-Roffy, do
23 you have any questions, sir?

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1 **Mr. Roth-Roffy:** I'm going to ask Mr. Kucharski to ask his questions first.

2 **Mr. Kucharski:** Good morning Captain Lofffield.

3 **WIT:** Good morning.

4 **Mr. Kucharski:** Thank you for taking time to come off your ship to answer our
5 questions. I'd like to go first to your background on the vessels, on the PONCE class
6 vessels. You mentioned you were Master on the Westward Venture?

7 **WIT:** That's correct.

8 **Mr. Kucharski:** Was that pre-conversion to, or was she ever converted, let me put it
9 that way, was the vessel ever converted to putting containers on the vessel?

10 **WIT:** No it was not.

11 **Mr. Kucharski:** So that was a standard, that was the ro-ro configuration that it was in?

12 **WIT:** Yes it was.

13 **Mr. Kucharski:** Could you compare the stability margin, the excess stability that that
14 vessel had compared to the post conversion of where the container stacking was put on
15 board?

16 **WIT:** Yes, when the – when the ro-ro capacity on the main deck of the PONCE class is
17 eliminated they put additional supports for the point loads of the containers and in order
18 to compensate for having higher weight up on a container load, heavy loads stacked up
19 they add permanent ballast which is a function of taking some of the double bottom
20 tanks that were previously water ballast and they put a dense product, concrete,
21 something that weighs twice as much as water to get a greater center of gravity lower
22 down.

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1 **Mr. Kucharski:** Okay but the actual stability margins when you sailed as a Master on
2 the Westward Venture where it was ro-ro configuration as opposed to the El Faro, you
3 mentioned you had sailed with the margin excess stability of about a half of foot. Did
4 you ever compare the stability margin when you were the Master on the Westward
5 Venture or the PONCE class prior to conversion to container and then compare that
6 stability margin to the post conversion?

7 **WIT:** My recall of, and it's going back quite some time, is that with the configuration for
8 ro-ro, the light ship also had a substantial spar deck which was built up at the level of
9 the galley. So there was considerable weight up high and with trailers on there it had a
10 fairly similar overall GM rolling period and a GM margin. When that weight was taken
11 off to set up for containers that could be stacked as high as four high, those containers
12 would actually be the fourth tier slightly higher than trailers that had been parked up on
13 the spar deck and quite a bit denser so there would be substantially more weight from
14 the main deck going up. In order to balance that and get the effective center of gravity
15 lowered down they put weight all the way down. The difference in overall GM was
16 always entirely dependent on loading. So if we had a lot of ro-ro cargo and heavy ro-ro
17 cargo up on the spar deck we would still be operating with about the same parameters.
18 We did not get nearly as close to loading down to our marks with all ro-ro because we
19 didn't have the extra weight of the permanent ballast. It was offset by the extra weight
20 of the spar deck. But it's simply is not capable of loading as much cargo on in a two
21 layer thick trailer configuration as opposed to a completely tight box stow of containers.
22 We can get more weight on the ship with it having containers on the main deck. The
23 KM, the keel to the metacentric height doesn't change with the configuration of the

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1 vessel, it is dependent on the hull shape. So essentially they worked, they made the
2 calculations of what would it take in order to be able to stack containers and still have
3 acceptable GM. And wound up that they determined they had to sacrifice by putting
4 heavier ballast all the way down. I don't have a recall of there being three or four feet of
5 extra GM when the ro-ro ship was completely loaded. There's three or four extra feet of
6 GM when we're light on cargo and that's consistent on both vessels. The GM can get
7 much, much stiffer with a container ship in its present configuration because it's got that
8 additional weight all the way down at the bottom. The vessel as it is right now has the
9 capability of having a lower center of gravity in the light ship condition. I think what
10 you're asking is did I sail with a half foot GM on the ro-ro ship as opposed to sailing with
11 a half foot GM on the container ship. I don't think we ever got that much cargo on
12 board. I don't think we ever got it that close to sailing in its entire design parameters for
13 what the vessel is designed for, that it simply couldn't reach that amount of cargo
14 carriage. Did I find your question?

15 **Mr. Kucharski:** No, thank you for the explanation, not quite. I'm just asking on the GM
16 margin, okay, as container ship rode low in that configuration, the GM margin with about
17 a half of foot in excess of what is required. Did you see the same GM margin of about a
18 half of foot when it was in the ro-ro configuration?

19 **WIT:** I did say that we were not capable of putting cargo on in that way to get the GM
20 margin that close. No I did not see a half foot GM margin on, I don't have any recall of
21 ever being concerned about not having enough GM margin.

22 **Mr. Kucharski:** When it was in the ro-ro configuration?

23 **WIT:** Correct.

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1 **Mr. Kucharski:** Thank you. You mentioned also on the Westward Venture, when
2 Master on there was that in the Alaska service?

3 **WIT:** No.

4 **Mr. Kucharski:** Were you ever Master on those vessels on the PONCE class in the
5 Alaska service?

6 **WIT:** The – when I picked up the Westward Venture we made a trip up to Anchorage
7 and then went on over to the Persian Gulf. When I was on the Great Land the last trip
8 that I made on it I came back from the Persian Gulf and stopped in Anchorage on its
9 way back to Tacoma. So I've been in and out of Anchorage in on the Westward
10 Venture and out on the Great Land.

11 **Mr. Kucharski:** About one trip or a couple of trips?

12 **WIT:** One trip only.

13 **Mr. Kucharski:** And that was as Master?

14 **WIT:** Yes.

15 **Mr. Kucharski:** Do you recollect what kind of weather that was in?

16 **WIT:** I've been blessed to have fair weather an often lot of my career. So there was
17 nothing outstanding.

18 **Mr. Kucharski:** Thank you. You mentioned earlier your loading manual for the vessel,
19 is there a loading manual for the vessel?

20 **WIT:** Yes there is.

21 **Mr. Kucharski:** And that was kept on board the vessel?

22 **WIT:** Yes it is.

23 **Mr. Kucharski:** Do you recollect that was Class approved?

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1 **WIT:** Umm, the loading manual is with the original Sun Ship documents and in the
2 certification letter from ABS saying that the CargoMax is approved it states very clearly
3 in there that CargoMax is not – that the – they did not certify the calculation of stress
4 and bending moments with CargoMax that it still needs to be done with the loading
5 manual. So they reference the loading manual.

6 **Mr. Kucharski:** Okay. I guess my question is you've actually put your hands and seen
7 the loading manual on the vessel?

8 **WIT:** I have yes.

9 **Mr. Kucharski:** Thank you. Regarding the cargo a little bit. You were asked about
10 lashings on the vessel, lashings to secure the cargo.

11 **WIT:** There's a cargo securing manual that is Class approved.

12 **Mr. Kucharski:** Is there a profile for lashing cargo, a lashing profile for heavy weather
13 on those vessels, on the PONCE class vessels?

14 **WIT:** Yes there is.

15 **Mr. Kucharski:** Is that asked for or is it standard?

16 **WIT:** It's collectively decided. It can be asked for. My general experience is that is that
17 shore side is already paying attention to it and has already worked that into their
18 calculations. There are people shore side that are actually having to manage the labor
19 call outs and the labor requirements of the stevedores and the longshoreman. So they
20 – my experience is that those things have been anticipated and are already put in place
21 before I'm actually involved in it. I get told that it's going to be done. And my
22 experience is that they – that decision, and it's a decision that effects ordering labor,
23 that decision is done on a very – on a very sensitive basis. That it's very proactive.

1 That they're more likely to go ahead and call for additional lashings before I've
2 considered it than not. I've never been behind the curve on that one. They're always
3 way ahead.

4 **Mr. Kucharski:** Thank you for that answer. Can you tell me though if year round if that
5 Class vessel was in a hurricane profile for lashings, year round? And I'll tell you where
6 I'm going with this. We received other answers that it was year round, it was in
7 hurricane profile. So was it in hurricane profile or not?

8 **WIT:** Umm, I'm not aware of the lashing system being in hurricane profile. I've always
9 been under the assumption that there is more lashing that can be done.

10 **Mr. Kucharski:** Thank you. Thank you for your candor. Could you look please at the
11 ship management system, the operations manual Exhibit 25, section 5.7. It's entitled
12 stability.

13 **WIT:** Section 5, 5.7?

14 **Mr. Kucharski:** Yes, it's Exhibit 25, section 5.7, it shows page 130. Oh I'm sorry, I
15 have an electronic version. And maybe I can save you a little time. The paragraph just
16 below dry cargo ships. It deals with when a vessel encounters heavy weather. Do you
17 see that section?

18 **WIT:** Yes I do.

19 **Mr. Kucharski:** Okay, great. Could you first give us some kind of definition of what
20 heavy weather is? What you would, in reading this manual, I believe instruction for you
21 or guidance for you.

22 **WIT:** Heavy weather would be conditions in which the ship is adversely impacted by
23 the weather conditions.

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1 **Mr. Kucharski:** Would that be, just out of curiosity, there are other sections which I'll
2 come to later, adverse weather would that be the same definition?

3 **WIT:** You could use those words interchangeably.

4 **Mr. Kucharski:** Okay. Earlier on you were asked questions about the change in loads
5 if you will from when a competitor went out business and the ships were sailing, the
6 PONCE class and the overall the loads were heavier, is that correct?

7 **WIT:** That's correct.

8 **Mr. Kucharski:** Did you ever sail that ship where she was – it was at its marks, right at
9 its marks?

10 **WIT:** No.

11 **Mr. Kucharski:** Was it close to the marks?

12 **WIT:** Yes.

13 **Mr. Kucharski:** How close?

14 **WIT:** 3 inches.

15 **Mr. Kucharski:** Okay. So in that section it says when a vessel encounters, not prior to,
16 but when it encounters heavy weather the Master should review the vessel's stability
17 and consider the possibility to take additional ballast and transferring cargo to improve
18 the vessel's stability. Is it possible on that ship to transfer cargo?

19 **WIT:** No.

20 **Mr. Kucharski:** If the vessel is close to its marks where would you take on extra
21 ballast? How would you do that?

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1 **WIT:** If it's close to its marks you could theoretically take on a little bit more ballast. It's
2 approximately 120 tons per inch immersion, so if you were three inches off your marks
3 you could theoretically take on another 300 tons of ballast.

4 **Mr. Kucharski:** And what's the tons per inch immersion on that vessel?

5 **WIT:** About 120 tons.

6 **Mr. Kucharski:** 120 tons so you would add one inch.

7 **WIT:** Right.

8 **Mr. Kucharski:** So that's the maximum?

9 **WIT:** Yeah, there's not a lot, that class of vessel is not designed with a lot of versatility
10 in ballasting. When the ship is carrying all the cargo when its already down to its marks
11 there's no more ballast that can be done.

12 **Mr. Kucharski:** So if you left port at the marks, or close to it, we're looking at weather,
13 when you get out to sea, then the weather got substantially worse, worse than
14 predicted, what would you do?

15 **WIT:** Try to get away from the weather.

16 **Mr. Kucharski:** Thank you again. Before the El Faro sinking, did you know what any
17 wind speed value was used in the calculations of wind criteria calculations in the trim
18 and stability book?

19 **WIT:** I don't have a recall of reading in the trim and stability book wind speed value
20 calculations.

21 **Mr. Kucharski:** Before the El Faro sinking, what was the maximum wind speed you
22 would subject the El Faro or the El Yunque to?

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1 **WIT:** The – there’s not a – I do not have a set speed that says this is wind I’m not going
2 to do, or this is wind I’m going to do. I don’t gage it in speed, in wind speed. I generally
3 will go with what how the weather or how the vessel is handling in the weather, whether
4 or not I can press into it some more. If the – there was an incident where I was going to
5 Philadelphia on the El Yunque and there was a hurricane that was also going to
6 Philadelphia and it wanted to be there at the same time that I was scheduled to be
7 there. And there was some possibility that hurricane might take a different course so I
8 was staying as close to the hurricane as I could. I did not have a mile distance or a
9 wind speed distance that was determining whether I could go further towards
10 Philadelphia or not. There was how the vessel was handling in the seas and that’s the
11 determining factor in ship handling. There’s not a straight forward, this is a wind speed
12 that is going to have an impact on the vessel that the vessel can’t handle. It’s more
13 function of what’s happened with the sea and swell and whether there’s more than one
14 swell, whether there’s a cross swell, whether the vessel can actually be steered in a
15 comfortable non-threatening manner for the vessel. It’s never occurred to me to think
16 that 65 knots is going to be okay and but if it goes to 70 knots I need to take an evasive
17 action based on the fact that it’s changed from 65 to 70. Can you repeat your question?

18 **Mr. Kucharski:** Yes, Captain. I’m not talking about handling the ship, I’m come to
19 questions on ship handling in heavy winds, but the wind speed criteria, which I had
20 asked earlier, is there any type of a wind that which would affect stability, let me say that
21 you would not go into? And you can elaborate too when you talk about handling the
22 ship, or maybe I can ask you to clarify. Is the wind speed criteria, is that for beam wind

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1 or a head wind or what kind of wind is it? These I'm asking about are specifically for
2 stability, not ship handling.

3 **WIT:** The wind speed criteria is calculated for different heights of containers. So in the
4 trim and stability book there's a set of curves that determine the required GM based on
5 how many containers are stacked up on the deck. I don't have a recall of a particular
6 speed of wind speed that says, or direction, I assume that it would be abeam because
7 that would be under the greatest influence of greatest force area that the wind could be
8 applied to, so.

9 **Mr. Kucharski:** Okay. So for stability purposes you didn't have any wind speed that
10 you would stay away from?

11 **WIT:** I did not.

12 **Mr. Kucharski:** How about sea state for stability purposes? Was there any height of
13 sea that you would avoid for stability purposes, just stability purposes?

14 **WIT:** The height of sea and the ship handling characteristics are one I'm most sensitive
15 to. Is how is the ship handling itself, what kind of stress is it under, what kind of impact
16 that has to the cargo that's lashed on that I want to have stay intact. And to the
17 conditions of the crew. Those are the parameters that I'm sensitive to and being on the
18 ship 24 hours a day that I'm uniquely responsible for making judgements about. I do
19 not work with a prescribed technical calculation that says if this present don't – let this
20 override that other portion of I'm there taking care of the condition of the vessel and the
21 crew. So I don't think I'm going to be able to give you a better answer than that.

22 **Mr. Kucharski:** Were you aware of any type of sea state or rolling period or anything
23 else that would affect stability to have a tremendously adverse effect on stability?

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1 **WIT:** The stability is both a real thing what's happening on the ship and it's a technical
2 calculation that involves center of gravities and GM and riding arms. Am I aware of
3 anything that can affect those things? The stability of the vessel is affected by the
4 center of gravity. Its affected by the center of gravity, the virtual center of gravity is
5 affected by free surface, if there's something sloshing around from side to side then that
6 has an impact. And it's calculated as making a virtual change in the center of gravity.
7 Those things are technically effecting trim and stability or the stability portion of the trim
8 and stability book. The impact of wind listing the ship over just like a sail boat leans
9 over. That's going to have an impact on the stability of the vessel, because it's not
10 working around something other than being on the center line. So I am aware that
11 those things affect stability, yes.

12 **Mr. Kucharski:** Are there any particular rolls, types of rolls, dangerous rolls that you
13 would avoid on that type of vessel?

14 **WIT:** Rolling is a natural motion of a vessel. If it's in harmony with a particular swell
15 you can get into what's known as synchronous rolling where it's actually helping to
16 enhance the amount of rolling. A slight change in course will actually change the rate at
17 which the swells are hitting the vessel so that impacts the swells. In terms of is there a
18 particularly dangerous type of swell or a rolling condition, more rolling's bad and you
19 want to avoid it. I want to avoid it and I will. If it's getting to the point where there's a lot
20 of rolling, when the ship's fully loaded and there's reduced GM there's a longer rolling
21 period, that's a straight calculation. And when you've got more GM there's a much
22 shorter rolling period. The sweet spot's in the middle. That if it's too short of a rolling
23 period you can be virtually thrown from side to side of the vessel because it's going

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1 back and forth so sharp. And if there's a real long slow rolling period it takes long
2 enough so that you start to have sensation of wondering if it's going to roll back up. So I
3 don't want the really long one or the really short one. Both of them are hazardous.

4 **Mr. Kucharski:** So on the synchronous rolling that you mentioned, what roll period
5 would you avoid on that ship?

6 **WIT:** On the synchronous roll I would change the direction of the ship so that I was
7 meeting the external conditions. At the time that I'm meeting those conditions there's
8 not something on the ship that I can change. Particularly if already discussed, there's
9 no additional ballast that can be put on to change the effected GM, center of gravity of
10 the vessel.

11 **Mr. Kucharski:** So you don't have a numerical value? That's my question.

12 **WIT:** A numerical value of a roll period that I'm avoiding?

13 **Mr. Kucharski:** Yeah, that you would avoid, the synchronous roll.

14 **WIT:** Well any value can be a synchronous roll depending on what you're
15 synchronizing with in the natural elements. You know that's -- there's not one magic
16 that's the number that synchronous is. Entirely dependent on what the external
17 conditions are as to whether your rolling period happens to synchronize with it or not.

18 **Mr. Kucharski:** Any other type of roll that you would avoid on the ship, on a container
19 ship, or let's talk about the El Faro or El Yunque?

20 **WIT:** There's I think it's called a parametric roll that's particularly -- that car carriers are
21 particularly susceptible to it. Because they're so boxy that they can actually get a
22 pitching component to blend in with the rolling component. Pitching is change of the
23 vessel bow doing down and stern coming up as opposed from going side to side. This

1 class of hull, this shape of hull doesn't really have any susceptibility to that at all. Not in
2 my experience.

3 **Mr. Kucharski:** It's not in your experience to have, I'm sorry to have the parametric roll
4 on that ship?

5 **WIT:** Correct.

6 **Mr. Kucharski:** And you've handled that ship where a parametric roll would occur?

7 **WIT:** Most of the parametric rolls that I've heard of reported are on car carriers in the
8 winter North Atlantic. This ship, this class of vessel spent an awful lot of time in the Gulf
9 of Alaska. If those circumstances could be duplicated I suspect that they've
10 encountered them and they've not responded in that way. The hull form, the
11 underwater hull form is radically different between a 40 year old ship and a modern
12 ship.

13 **Mr. Kucharski:** How would that be so?

14 **WIT:** They made ships long and skinny and aggressive looking sort of like a barracuda,
15 they're very attractive. For instance on the modern ship, this class of vessel is being
16 replaced by vessels in service the Marlin class. They're rated for carrying twice as
17 much cargo and this vessel steel, the basic steel light ship of it is 16 percent heavier so
18 if you consider it for ton of cargo carry this ship has 233 percent more steel devoted to
19 carrying it. So the technology for how much more cargo can be carried and how much
20 less steel has really changed radically. That's where the modern ships are. And this
21 ship is built like a 70's muscles car. It has a lot of steel on it, it's very strong and it has a
22 very pointy front end and a very pointy stern.

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1 **Mr. Kucharski:** Okay. I guess my question goes directly to underwater hull form. How
2 does the underwater hull form of the PONCE class vessel compare to the underwater
3 hull form of a Marlin class vessel?

4 **WIT:** There's what known as a block coefficient, a barge would have 100 percent block
5 coefficient. A racing sloop would have a very small block coefficient. The modern ships
6 have a much larger block coefficient than the PONCE class has a lower one. The –
7 you've probably seen, most people have seen ships that just look like a solid wall of
8 steel. There's hardly any flat spot on the PONCE class. Out of 790 feet long there's
9 maybe, maybe 120 feet that when the ship is tied along side the dock, only 120 feet of
10 the midsection is actually touching the dock as opposed to a greater block coefficient
11 where a barge the entire length of the barge is touching the dock. The underwater form
12 that goes below that waterline is also carrying those curves. So there's – that's what
13 the hull looks like and that's part of what makes it so it's not susceptible to the
14 parametric rolling.

15 **Mr. Kucharski:** What's the block coefficient on the El Yunque or El Faro?

16 **WIT:** I don't know the block coefficient number.

17 **Mr. Kucharski:** What's the block coefficient on the Marlin class vessel?

18 **WIT:** I don't know the block coefficient.

19 **Tote Inc:** Captain, we'd like to – we'd like to reserve on this particular line of
20 questioning.

21 **CAPT Neubauer:** Okay. Understand and at this time we should take a 10 minute
22 recess and reconvene at 1035.

23

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1 *The hearing recessed at 1025, 18 February 2016*

2 *The hearing was called to order at 1044, 18 February 2016*

3 **CAPT Neubauer:** The hearing is now back in session. I have an announcement.

4 Captain Lofffield had to depart to move the El Yunque. He will return this afternoon to
5 provide additional testimony. At this time we will hear testimony from Mr. Charles Baird.
6 Mr. Baird please come forward to the witness table and Lieutenant Commander Yemma
7 will administer your oath and ask you some preliminary questions.

8 **LCDR Yemma:** Sir, please raise your right hand. A false statement given to an agency
9 of the United States is punishable by a fine and or imprisonment under 18 United States
10 Code section 1001, knowing this do you solemnly swear that the testimony you're about
11 to give will be the truth, the whole truth and nothing but the truth, so help you God?

12 **WIT:** I do.

13 **LCDR Yemma:** Thank you, you may be seated. Sir can you please start by stating
14 your full name and spelling your last for the record?

15 **WIT:** Charles Thomas Baird, B-A-I-R-D.

16 **LCDR Yemma:** And counsel can you also state your name for the record.

17 **Counsel:** Robert Birthisel, Hamilton, Miller and Birthisel, last name B-I-R-T-H-I-S-E-L.

18 **LCDR Yemma:** And Mr. Baird could you please state where you're currently employed
19 and what your position is?

20 **WIT:** Currently I'm employed on the El Yunque as a Third Officer.

21 **LCDR Yemma:** And can you please explain of your responsibilities in that position?

22 **WIT:** As Third Officer I'm in charge of a lot of the safety items, the life boats, life
23 preservers, water lights, basically most of the safety items on the ship.

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1 **LCDR Yemma:** Can you also describe some of your prior relevant work experience?

2 **WIT:** I have sailed the last 10 years as Second Mate on the El Morro and also the El
3 Faro. And prior to that I was Chief Mate on tankers, oil tankers.

4 **LCDR Yemma:** And what is the highest level of education that you have completed?

5 **WIT:** I have a BA in business administration and a BS in nautical science and maritime.

6 **LCDR Yemma:** And do you hold any professional licenses or certifications?

7 **WIT:** Chief Officer unlimited.

8 **LCDR Yemma:** Thanks, the board will have questions for you now.

9 **CAPT Neubauer:** Commander Denning.

10 **CDR Denning:** Good morning Mr. Baird.

11 **WIT:** Good morning.

12 **CDR Denning:** Can you please go into a little bit more detail on your experience with
13 the PONCE class vessels in particular with Sea Star Line and Tote?

14 **WIT:** All right. I've got 12 years sailing time with Sea Star. Probably 10 of them on the
15 El Morro and 2 of them on the El Faro. Now about a month and a half on, I should say
16 three weeks on the El Yunque. So all three of the Sea Star vessels.

17 **CDR Denning:** When you were on board the El Faro as Second Mate which bridge
18 navigation watch did you stand?

19 **WIT:** On the El Faro I stood the 12 to 4, midnight to 4 in the morning and noon to 4 in
20 the afternoon.

21 **CDR Denning:** Can you describe for us the typical duties of a Second Mate?

22 **WIT:** Typical duties of the Second Mate would be all nav – navigation and voyage
23 planning. In charge of the bridge basically, all of the equipment, if there was a

1 malfunction we would – I would notify the Captain for repair work to be done. And light
2 bulbs, anything to do with the bridge would be the Second Mates responsibility.

3 **CDR Denning:** How many times had you sailed with Captain Davidson?

4 **WIT:** I want to say I sailed with Captain Davidson probably three times in various
5 lengths. You know our times would overlap each other.

6 **CDR Denning:** What was the most recent time that you sailed with Captain Davidson?

7 **WIT:** Probably 2 to 3 weeks before the El Faro went down. Was that probably in
8 September? I was with him for I don't know maybe a month, month and a half most
9 recently.

10 **CDR Denning:** What I would like for you to do now, sir, is to describe for us the
11 different routes that are available to the crew between Jacksonville and San Juan.
12 Lieutenant Commander Yemma is going to pull up what we've already used as Coast
13 Guard Exhibit 2, which is an overview. I realize it's a little bit far from your eyes,
14 hopefully – can you see that okay, sir?

15 **WIT:** Yeah. Basically three routes that you can take. The one, the lower one I think ----

16 **CDR Denning:** So this, by the way, it's also in your – a hard copy is also in your binder
17 if it's easier to look at that and refer up to the screen. I'm going to have you point to a
18 couple of the routes with the laser pointer if that's possible. If you would like a closer up
19 copy you have one available.

20 **Tote Inc:** Exhibit number Commander?

21 **CDR Denning:** Exhibit number 2.

22 **Tote Inc:** Thank you, sir.

23 **CDR Denning:** Specifically page 5 of Exhibit 2.

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1 **WIT:** Right there. There are three basic routes that we can take. Leaving from
2 Jacksonville now?

3 **CDR Denning:** Yes, sir.

4 **WIT:** Yeah. There's a straight route you can basically take which is a course of 131
5 and that's the one that's I think in red then yellow. Then there's an alternate route that
6 we go through something called the Northwest Providence Channel. I don't ----

7 **CDR Denning:** You have a laser pointer there, sir, if you wouldn't mind grabbing that
8 and the bottom button is actually the laser. If it's possible to show us the route.

9 **WIT:** All right, this is the normal route right here [pointing], course 131 310. 131 -----

10 **CDR Denning:** If you could speak into the mic, sir, I know it's challenging, I'm giving
11 you a lot to do.

12 **WIT:** The normal route leaving Jacksonville is right here [pointing], it's a course of 131
13 going down to Jacksonville, down to San Juan and a 310 coming back. There's also an
14 alternate route that would take us down through Northwest Providence channel. If there
15 was weather up in here we would go down here and come through Northwest
16 Providence channel and then intersect back into the regular course line. And there's
17 also an alternate route going the Old Bahama Channel which brings us down by Cuba.
18 It's a little bit longer but it's an alternate route in case of weather. That's the Old
19 Bahama Channel route, you have the regular route and you have another route that
20 goes through the Northwest Providence Channel.

21 **CDR Denning:** If you began a voyage on the normal route, the most economical and
22 direct route, could you go the opposite direction through the Northwest Providence
23 Channel?

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1 **WIT:** That's affirmative, yes.

2 **CDR Denning:** Does the company Tote ever offer either direction or advice on which
3 route they would prefer the vessels take?

4 **WIT:** No not to my knowledge. That would be made up by the – the Captain would
5 decide which route he wanted to take.

6 **CDR Denning:** Do they offer any direction or advice regarding heavy weather
7 guidance?

8 **WIT:** They would, at times they would notify us of heavy weather that was in our path.
9 But as far as the route to be taken that's normally the Captain's decision.

10 **CDR Denning:** Do you think it would be appropriate or necessary for them to provide
11 additional guidance or advice in that regard?

12 **WIT:** Umm, well ultimately it's the Captain responsibility and we have adequate
13 resources on board ship to make a decision.

14 **CDR Denning:** Describe for us if you would the process of getting a route approved
15 between the Second Mate and the Master.

16 **WIT:** Okay. We have a voyage plan that we would run up – work out. And with that
17 particular line service it's usually the same voyage plan every time. And the Captain
18 would sign it, you know look at it, sign it and that would be the approval. It would either
19 be the normal route or, 9 times out of 10 it's the normal route, 131 down to San Juan
20 and 310 back.

21 **CDR Denning:** Are the routes ever sent to the company? Just in – not for a particular
22 voyage, but are the routes themselves, you know the planning that you do, the typical
23 routes that you have, the way points, are those provided to the company for approval?

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1 **WIT:** Not to my knowledge, no. I just would turn them into the Captain and he would
2 sign the route and that would be our route to the next port.

3 **CDR Denning:** Is there ever any pressure from the company or elsewhere regarding
4 which route and particularly staying on time, staying on target?

5 **WIT:** I have not been aware of any pressure. Of course we want to make our time, our
6 arrival times as close as possible, but I was never under any illusion that they would tell
7 us to be there at a certain time.

8 **CDR Denning:** Do you ever go through heavy – directly through heavy weather?

9 **WIT:** Many times, many times.

10 **CDR Denning:** Many times. Would it be permissible if there was a category 1
11 hurricane, if you wanted to go right through it would that be acceptable as far as the
12 company goes?

13 **WIT:** Well the Captain would be playing the calls and we would not necessarily go
14 through a category 1 storm, we would avoid it as best we could. You don't want to
15 subject your vessel to any undue stresses.

16 **CDR Denning:** How does the Second Mate receive and review safety alerts that might
17 be issued from Tote?

18 **WIT:** They would come in on our – to the Captain and he would send it up to the bridge
19 on the bridge computer. A lot of times the Captain would print out the safety notices
20 from the company and post them on the bridge.

21 **CDR Denning:** So do I understand correctly that they're emailed only to the Captain,
22 they're not emailed directly from the company to the bridge computer for example?
23 They're emailed only to the Master?

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1 **WIT:** To my knowledge it would come from the Master.

2 **CDR Denning:** If you would in your exhibit binder, I want to draw your attention to

3 Exhibit 45. So Exhibit 45 is safety alert 15-008 titled Hurricane Danny.

4 **WIT:** Okay. I remember this one.

5 **CDR Denning:** So that safety alert is dated August 20th, 2015. You were on board the
6 El Faro at that time, correct?

7 **WIT:** That's correct.

8 **CDR Denning:** Did you personally receive that safety alert?

9 **WIT:** I remember it being on the bridge and I read it. I don't remember how it was
10 delivered, I think probably the Captain printed it up from his office and brought it up to
11 the bridge.

12 **CDR Denning:** Do you remember how quickly that occurred after August 20th?

13 **WIT:** No, I don't remember how quickly. I remember seeing it.

14 **CDR Denning:** What was your understanding when you received that safety alert of its
15 intent, or what was expected of the Second Mate and the Master?

16 **WIT:** When we received that safety alert, as I recall it was Captain Axelsson who was
17 the Captain. And we discussed going the alternate route and to my recollection we did
18 go the Old Bahama Channel route for that storm.

19 **CDR Denning:** Bear with me one moment. What I'm doing is referring back to a crew
20 list and I just want to verify something before I continue. So referring back to, you
21 mentioned Captain Axelsson, I'm looking at a crew list and according to what I have in
22 front of me, Captain Davidson was on board from August 11th, 2015 until the accident

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1 voyage. So I just want to clarify, was it – was Captain Davidson in fact on board for the

2 ----

3 **WIT:** Then I stand corrected.

4 **CDR Denning:** Okay. In that safety alert it states that the vessel should review their
5 general and vessel specific heavy weather procedures. What procedures is that
6 referring to?

7 **WIT:** If we were running into heavy weather we would normally go around and check all
8 the lashings on the 2nd deck, 3rd deck and 4th deck to make sure everything was tight.
9 And the main make sure all the containers were locked in. That would be – and make
10 sure there's nothing lose all the extraneous gear was tied down, secured, because you
11 don't want things rolling around. Basically walking around making sure everything was
12 secured.

13 **CDR Denning:** So that's, you described what you would do. And referring back to the
14 safety alert it says general and vessel specific heavy weather procedures. Is there a
15 particular procedure that describes that that you were expected to amend?

16 **WIT:** Well the general procedure we would follow would be to make sure the ship is
17 secured, you know hatches were closed, secured and the doors, recheck the doors and
18 recheck all the cargo chains for the trailers.

19 **CDR Denning:** Where is that particular procedure formalized in writing?

20 **WIT:** That's just our common everyday practice for heavy weather. I don't know off
21 hand if it's formally written down. But that's just what we did.

22 **CDR Denning:** Is there language to that effect in the safety management system, the
23 operations manual for vessels?

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1 **WIT:** Probably to that effect. I would have to refer to it.

2 **CDR Denning:** What about voyage planning, do you believe that particular safety alert
3 is referencing voyage planning as well as cargo securing, or primarily cargo securing?
4 Or is it unclear to you?

5 **WIT:** And the question again was?

6 **CDR Denning:** The question is does that – do you believe that that safety alert that
7 we're looking at right now ----

8 **WIT:** Umm huh.

9 **CDR Denning:** Applies to just cargo securing or does it refer to voyage planning as
10 well?

11 **WIT:** Well I would think both.

12 **CDR Denning:** Because when it says general and vessel specific heavy weather
13 procedures.

14 **WIT:** We would look at both aspects. Whether we wanted to change our normal route,
15 but we would definitely we would check all of our lashings and make sure everything
16 was secured.

17 **CDR Denning:** Is there anything else that that might be referring to?

18 **WIT:** Anything else we would do?

19 **CDR Denning:** Is there any other possible procedures that that safety alert might be
20 referring to besides cargo securing and routes and voyage planning?

21 **WIT:** Not that I'm aware of, no.

22 **CDR Denning:** Have you ever proposed an alternate route from Jacksonville to San
23 Juan?

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1 **WIT:** Yes I have, many times.

2 **CDR Denning:** So just a minute ago we had up Exhibit 2, we don't need to bring it up
3 again unless you feel there would value in that, we can if you would like, but regarding
4 that particular exhibit and it showed in the green line the alternate route taken in August,
5 August 25th to 28th for Tropical Storm Erika, do you recall that particular voyage?

6 **WIT:** Yes I do.

7 **CDR Denning:** In order to take that alternate route through the Florida Straits and Old
8 Bahama Channel, was it your suggestion or was it Captain Davidson's suggest to take
9 that particular route?

10 **WIT:** It was my suggestion, sir.

11 **CDR Denning:** And why did you prefer that particular route under those
12 circumstances?

13 **WIT:** Well under this particular situation we had six Polish laborers and we had two
14 Chief Engineers riding with us who were doing work converting, you know working on
15 the El Faro to convert it to the Alaska trade. If we were going to go through a tropical
16 storm we would rolling and pitching and nobody would be able to do any work. So I
17 suggested to the Captain that we take an alternate route where we could – where the
18 eight people could actually work as opposed to not being able to work on the way to
19 San Juan.

20 **CDR Denning:** What weather information were you utilizing to help you make that
21 suggestion?

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1 **WIT:** I was using a, called BVS, it's our weather, our ready – weather routing service. I
2 also looked at the weather channel while we were in port, we have satellite TV. And we
3 have telexes that come in with the weather for the tropical areas.

4 **CDR Denning:** Do you recall what the forecast were for Erika at that point and time
5 that helped you lead – helped lead you to this decision?

6 **WIT:** I think it was forecasted as a tropical storm, it was hurricane class 1, maybe 1 to
7 2, but it was in our line of position. We would have to go right through it or close to it
8 and it would have been too rough to really to do any work. And the alternate route
9 doesn't add that much time to your trip, maybe 150 miles.

10 **CDR Denning:** How much level of protection do the Islands, the Bahamas provide
11 you? If there was a storm that did proceed along, let's say your normal track such that
12 you would have to go directly through it and you chose to take the Old Bahama
13 Channel, would the Islands provide you a lee?

14 **WIT:** The Islands are our savior, yes. We would still get the winds, but we wouldn't get
15 the high seas. We wouldn't get the roll.

16 **CDR Denning:** Did Tropical Storm Erika acting the way the forecast predicted?

17 **WIT:** For the most part yes. We were able to avoid all the heavy weather. We got
18 some high winds, but the ships made to sustain that.

19 **CDR Denning:** When you made the suggestion for the alternate route to Captain
20 Davidson, how did he – how was that received by him?

21 **WIT:** It was received well. We always discussed our – what route we were going to
22 take, especially if there was weather involved.

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1 **CDR Denning:** Was there any push back from him, any hesitation to take that route
2 versus the most economical route?

3 **WIT:** No. He didn't give me a decision right away. He thought about it, but within an
4 hour or so I had my alternate route planned and entered into our GPS's.

5 **CDR Denning:** Do you happen to know if he consulted with Tote before making the
6 final decision?

7 **WIT:** No I do not know that.

8 **CDR Denning:** Did he mention anything to you about how the company might feel
9 about taking an alternate route?

10 **WIT:** No, not at all.

11 **CDR Denning:** Did you hear anything after the fact from Captain Davidson about any
12 reaction from Tote on taking the alternate route?

13 **WIT:** No, I heard no repercussions.

14 **CDR Denning:** To your knowledge since the El Faro incident, has Tote issued any
15 guidance, whether it's informal or formal, to the Masters and Mates regarding voyage
16 planning? Well let's go back. Since Erika, since this voyage where you deviated for
17 Tropical Storm Erika, let's go back to there. Did Tote issue any guidance to vessels
18 after the deviation voyage?

19 **WIT:** I don't recall anything more or less than what they would normally send us. They
20 would send us tropical storm updates just to keep us informed.

21 **CDR Denning:** So you say they normally sent tropical storm updates, is that in addition
22 to the safety alert that was received in August?

23 **WIT:** That's – that's a yes.

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1 **CDR Denning:** And how are those communications? How did they take place, phone,
2 email?

3 **WIT:** That would be – they would send an email to the Captain and he would print them
4 out and bring them up to the bridge.

5 **CDR Denning:** And who from the Tote organization typically had those
6 communications? Who from shore side had those communications with the Captain?

7 **WIT:** I couldn't – I couldn't tell you that. I don't know their names.

8 **CDR Denning:** During the time frame of the El Faro's final voyage, you were on
9 vacation, correct?

10 **WIT:** That's correct.

11 **CDR Denning:** Did you have any interaction with Captain Davison about that voyage?

12 **WIT:** Yes I did.

13 **CDR Denning:** Could you describe that for us please?

14 **WIT:** I was at home on the couch watching the Today show with my coffee and during
15 a commercial I went to – I switched over to the Weather Channel and I saw a tropical
16 storm that was developing. So I texted Captain Davidson right away and said are you
17 aware of this tropical storm that's developing? And he came back to me and said yes,
18 and thank you. And later on in the day when I saw it developing into, I think it went from
19 a tropical depression to class 1 hurricane. I texted him again to ask him what his plan
20 was going to be. And he replied back to me that he was going to do the normal route
21 and try to go underneath the storm, so go South of the storm.

22 **CDR Denning:** Do you happen to have the phone with you that these texts took place?

23 **WIT:** Yes, it's in the Tote offices.

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1 **CDR Denning:** So you have it in Jacksonville, but it's not present here?

2 **WIT:** Yeah, it's in another room.

3 **CDR Denning:** Are those texts still on the phone?

4 **WIT:** Yes they are.

5 **CDR Denning:** Is there anything more you would like to add about the text
6 conversation?

7 **WIT:** No. It was just I texted him to let him know about the storm and then later on in
8 the day I asked him what his plan was.

9 **CDR Denning:** How did he respond to that?

10 **WIT:** Well he responded that he was going to take the normal route and try and go
11 underneath the storm. Because the storm was projected to go, head North. So he was
12 planning on going underneath the storm, going South of it and continuing on his way.

13 **CDR Denning:** So we're going to ask offline to try to get a copy of those actual texts.
14 We'll discuss that later.

15 **Tote Inc:** Commander, those have been produced to the NTSB.

16 **CDR Denning:** Okay, thank you. I believe they're in the addendum, that transcript, so
17 we can get that. Did Captain Davidson issue standing orders or night orders?

18 **WIT:** Yes he would.

19 **CDR Denning:** Do you recall anything specific from the content of Captain Davidson's
20 standing orders or night orders?

21 **WIT:** No I do not. Could you repeat your question please?

22 **CDR Denning:** So we having received Captain Davidson's standing orders and night
23 orders yet. We received them for some of the other Masters on the El Yunque, but we

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1 haven't received any for Captain Davidson. So I'm trying to get a sense, if you can
2 recall any details whatsoever, even in generalities on the content of Captain Davidson's
3 specific standing orders for the vessel and his night orders for the mates on watch?

4 **WIT:** The night orders will be generic to all Captains, you know keep a sharp look out,
5 avoid traffic and if you have any problems or questions call me at any time. That would
6 be the normal night orders.

7 **CDR Denning:** What about the overall standing orders for the vessel?

8 **WIT:** Okay. Every Captain is going to have their own standing orders, but they
9 basically – basically all say the same thing. One might add a little bit more or a little bit
10 less than another Captain, but they're all basically the same night orders and standing
11 orders.

12 **CDR Denning:** Describe for us the bridge resource management on El Faro. How
13 much does the Captain, I think you already described how much he's involved with the
14 voyage planning, but interaction between – how would you classify your interaction
15 particularly, you personally with Captain Davidson and the relationship?

16 **WIT:** With me personally I had never had a problem or any issues with the Captain. He
17 would listen to what I had to offer and he would make his decisions from there. But I
18 never had any problems or issues whatsoever.

19 **CDR Denning:** What about other mates?

20 **WIT:** I can't speak for them. But I never witnessed any issues between mates and the
21 Captain.

22 **CDR Denning:** Did you have any interaction or overlap with the Second Mate that
23 relieved you?

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1 **WIT:** The Second Mate that relieved me would have been Danielle, yeah I sailed with
2 her for probably 10 years.

3 **CDR Denning:** You've – did you say you've worked with her for 10 years?

4 **WIT:** That's correct.

5 **CDR Denning:** So the two of you would relieve each other most of the time?

6 **WIT:** Yeah, she – before she became a Second Mate she was Third Mate, so we would
7 sometimes sail together and then maybe three years ago, three or four years ago she
8 became Second Mate and then we would relieve each other.

9 **CDR Denning:** Did you have an occasion to, during that time to observe or an
10 occasion where yourself, Captain Davidson and Danielle were all on board at the same
11 time?

12 **WIT:** Yes. That would happen when either she would relieve me or I would relieve her.

13 **CDR Denning:** Do you recall any specifics on how she interacted with Captain
14 Davison?

15 **WIT:** No I did not. Usually when we're relieving each other we just want to get off the
16 ship. We just turn over to our relieving person and I'm gone, I've got an airplane to
17 catch.

18 **CDR Denning:** Was there any contention on board the vessel?

19 **WIT:** Any contention?

20 **CDR Denning:** Any contention. Anything that caused challenges in communication
21 between ship's officers?

22 **WIT:** Not that I'm aware of. I never had any issues or any problems communicating
23 with the Captain, the Chief Mates or Third Mates.

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1 **CDR Denning:** What about with the engine department between the deck officers and
2 the engineering officers? How was that communication, how would you describe that?

3 **WIT:** That communication was good. There's always animosity, a little bit of friction
4 between deck and engine, but it was never an issue.

5 **CDR Denning:** What would be the nature of that friction?

6 **WIT:** Well deckies are deckies and engine guys are engine guys. It's just husband and
7 wives, you know.

8 **CDR Denning:** I think ----

9 **WIT:** You know there was never, it was never a go to fist or anything like that, it was
10 just easy jovial things. Everybody's working together to get the ship to port.

11 **CDR Denning:** Tell us how the vessel receives weather information.

12 **WIT:** We would receive weather through a telex, telex machine and we would also
13 have a Bon Voyage service, it's a weather routing service. And depending on where
14 you are on your voyage you can just turn your TV to the Weather Channel.

15 **CDR Denning:** How long was the Weather Channel, you mentioned satellite television,
16 how much – how long – you said that's obviously available when you're in port, when
17 you proceed to sea how long is that available to the vessel?

18 **WIT:** For a full day.

19 **CDR Denning:** For about a day.

20 **WIT:** Full day once a week.

21 **CDR Denning:** How often is the data received for Boy Voyage system?

22 **WIT:** I don't know the definite time frame, but I would guesstimate every 6 hours.

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1 **CDR Denning:** And can you describe for us the process by which that information is
2 received on the ship and loaded into the ships computer on the bridge?

3 **WIT:** On the El Faro, to my knowledge it was sent to the Captain and the Captain
4 would forward it up to the bridge where we would open it up and update the weather
5 system.

6 **CDR Denning:** The email package, is a data package, correct?

7 **WIT:** Right. We would leave port with the route put in and with the latest weather
8 forecasting, maybe 6 hours later there would be a new forecast that would come up and
9 we would enter that and that would update our weather route from Jacksonville to San
10 Juan.

11 **CDR Denning:** For that data package when it arrives, does it – using the ship's satellite
12 system for receiving emails, is it necessary to your knowledge for the Captain to initiate
13 that or is it automatic?

14 **WIT:** As far as I know it's automatic. It goes right to the Captain and he sends it up to
15 us.

16 **CDR Denning:** Are you aware of the various settings in the Bon Voyage system?

17 **WIT:** By various settings?

18 **CDR Denning:** Settings as far as can you adjust the settings to receive information on
19 a more frequent basis?

20 **WIT:** I'm not aware, I not aware.

21 **CDR Denning:** Is there any training provided on the Bon Voyage system?

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1 **WIT:** Captain Davidson trained me. He was very good on the system and he – when I
2 had problems he would show me what I did wrong and how to get updated from there,
3 but that was the training we got.

4 **CDR Denning:** So the Captain trained you?

5 **WIT:** Captain Davidson trained me.

6 **CDR Denning:** And you're not aware of different settings to receive tropical – what
7 about tropical updates? Are there settings to receive tropical updates on a more
8 frequent basis?

9 **WIT:** That would come in with the regular – with the package that would be sent out
10 once every 6 hours or so. It would update from whenever we opened up that package.

11 **CDR Denning:** Can you describe for us the data package that's received? What kind
12 of information is available to the ship's officers through that data package?

13 **WIT:** It would just be like looking at a weather map. You would see the fronts. You
14 could call up different pressure, pressure bars, you could call up waves, swells, wind.
15 You know if you're in Northern climates you could call up icing, the currents. We would
16 call up the currents a lot if we were going Old Bahama Channel from San Juan to
17 Jacksonville because we want to get into the Gulf Stream as soon as possible to – it
18 would be jump of 3 or 4 knots in our speed.

19 **CDR Denning:** Did the data package provide any guidance regarding a safe route to
20 take?

21 **WIT:** No.

22 **CDR Denning:** We refer to that as weather routing with a couple of other witnesses.

23 **WIT:** We did not have weather routing on the El Faro.

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1 **CDR Denning:** Are you familiar with other vessels that have weather routing guidance
2 available?

3 **WIT:** The new ships that came out, the Isla Bella has weather routing. I don't know
4 about the Perla Del Caribe, but Isla Bella did have weather routing.

5 **CDR Denning:** And you're currently serving on the El Yunque?

6 **WIT:** That's correct.

7 **CDR Denning:** Does the El Yunque have the weather routing service available to it?

8 **WIT:** No. We have the regular weather BVS system.

9 **CDR Denning:** Tell us about the bridge equipment. Was all of the navigation
10 equipment working properly on the El Faro the last time you were discharged?

11 **WIT:** When I left all the navigational equipment was working fine.

12 **CDR Denning:** What about the anemometer specifically? I know that's ----

13 **WIT:** The anemometer was not working.

14 **CDR Denning:** Are there – is there one anemometer on board or two?

15 **WIT:** There's one.

16 **CDR Denning:** Just one. And it was not working at the time?

17 **WIT:** It was not working.

18 **CDR Denning:** Are you aware of any requests to have it replaced or repaired?

19 **WIT:** I told the Captain about it and from there it's his responsibility to, you know order
20 a repair man or a new outfit.

21 **CDR Denning:** What's the purpose of an anemometer on a ship?

22 **WIT:** It tells you wind speed and wind direction.

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1 **CDR Denning:** What do you typically use that information for? What do you do with
2 that information once you receive it?

3 **WIT:** We would log wind force over 5, force 5 which is I think it's 17, if the wind goes
4 over 17 knots we usually log it hourly because that might affect our, it will affect our
5 speed.

6 **CDR Denning:** Would the – would a working anemometer help you in your voyage
7 planning in terms of evading a storm?

8 **WIT:** Umm ---

9 **CDR Denning:** Perhaps validating the information that comes to you through BVS?

10 **WIT:** I normally wouldn't check the anemometer for a voyage plan. I would just – the
11 voyage plan would be the route from San Juan to Jacksonville, or Jacksonville to San
12 Juan.

13 **CDR Denning:** If the information that you receive in BVS is providing you with a certain
14 wind speed and you observed a different wind speed with the anemometer would that
15 catch your attention?

16 **WIT:** Not overly so. Because they never completely will coincide. The BVS service
17 might say you have a certain barometric pressure but the actual one will be a little
18 different at the ship and the seas will be a little bit different. It wouldn't overly concern
19 me if they were a little bit different.

20 **CDR Denning:** Without a working anemometer what method did you use to obtain the
21 wind speed and direction?

22 **WIT:** Well we use, well I would use my past experience, if you see white caps on the
23 water you know you got a force 5. And usually you could tell from, you have the stack

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1 gases to tell you which way the winds blowing. There's any number of ways you can
2 estimate the wind.

3 **CDR Denning:** Is there any guide that can assist you with, you know mentioned white
4 caps, is there any visual guidance or references that you might use?

5 **WIT:** Yeah, if you wanted to you can open Bowditch and it will tell you the sea state for
6 every different force, be it force 1, 2, 3, 4, 5, 6, 7, all the way up to hurricane.

7 **CDR Denning:** When you obtain this – how frequently was it required to obtain wind
8 and wind information?

9 **WIT:** Under normal conditions we would do it every 4 hours. If the wind force was 5,
10 force 5 or over we would log in every hour.

11 **CDR Denning:** You would log it. What else would you do with that information? Did
12 you report that information to anyone? Does it get reported to NOAA or through the
13 AMVER system or anything of that nature?

14 **WIT:** Well when the weather was sent out with the – usually the Third Mate would send
15 the weather out at 8 O'clock in the morning, he would report that to NOAA in his
16 weather observation.

17 **CDR Denning:** How frequently is that done, the report to NOAA?

18 **WIT:** It's supposed to be done every six hours.

19 **CDR Denning:** So at night how do you, without – can you see the white caps at night?

20 **WIT:** Yes.

21 **CDR Denning:** Do you feel like you're able to accurately, without a working
22 anemometer, do you think you're able to accurately estimate the wind speed and
23 direction?

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1 **WIT:** I could probably estimate it within 5 knots.

2 **CAPT Neubauer:** Sir, can you clarify the number you just provided? Within how many
3 knots?

4 **WIT:** 5, within 5 knots.

5 **CAPT Neubauer:** Thank you, sir.

6 **CDR Denning:** How would you describe Captain Davidson's professionalism?

7 **WIT:** Professionally I found him very meticulous. He would always dot his I's and cross
8 his T's.

9 **CDR Denning:** The word you used, did you say meticulous?

10 **WIT:** Yes.

11 **CDR Denning:** Did you have any discussions with Captain Davidson about the
12 selection for the Marlin class ships?

13 **WIT:** Yes I did.

14 **CDR Denning:** Can you describe for us the nature of those conversations?

15 **WIT:** He just voiced to me his displeasure of not being selected for the new ships.

16 **CDR Denning:** Did he go into any detail as far as when he applied or discussions he
17 had with Tote regarding their decision?

18 **WIT:** No, he said he had an interview with them and apparently it didn't go well. But he
19 didn't really get into much at all. Other than to say he was not selected.

20 **CDR Denning:** He didn't offer any kind of reasons, any reasons given by Tote to not
21 select him?

22 **WIT:** No he didn't confide in me with that.

23 **CDR Denning:** When did that conversation take place?

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1 **WIT:** I can't give you an exact date, but it would have been when we were both
2 together on the bridge. On my last, probably my last voyage there.

3 **CDR Denning:** I want to double back to anemometer real quick, on follow on question
4 on that. Did you have any knowledge of the Captain requesting to get the anemometer
5 repaired? You mentioned that you spoke to him about it and that it would be his
6 responsibility to order a new one or ask for it to be repaired. Do you have any
7 knowledge whether that actually took place?

8 **WIT:** No I do not.

9 **CDR Denning:** How long was the anemometer not working on board El Faro?

10 **WIT:** Geez I want to say 2 to 3 months, maybe longer because I was on vacation for a
11 while. But at least 2 to 3 months.

12 **CDR Denning:** Thank you, sir. That concludes my line of questioning. At this time I'll
13 pass to Mr. Fawcett for any follow on.

14 **Mr. Fawcett:** Good morning Mr. Baird.

15 **WIT:** Good morning, sir.

16 **Mr. Fawcett:** I have a couple follow on to Commander Denning's questions. Could you
17 walk us through a typical day at sea for Captain Davidson?

18 **WIT:** To the best of my knowledge.

19 **Mr. Fawcett:** Just in the general terms.

20 **WIT:** He wakes up and he has breakfast, or he wakes up goes to the bridge and
21 checks that everything is copasetic on the bridge and we're on course, speed, what
22 we're doing, then he would have breakfast. And then go back to his office and he would
23 visit the bridge at various times during the day to check on things.

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1 **Mr. Fawcett:** On a typical voyage and the voyages that you experienced, how many
2 times did Captain Davidson go out on deck, walk the deck, check the condition of the
3 vessel, check the lashings, check for the watertight integrity of the ship?

4 **WIT:** I personally did not see him do that.

5 **Mr. Fawcett:** You never saw that?

6 **WIT:** No, I never saw it.

7 **Mr. Fawcett:** Did other Masters that you work for make deck walks?

8 **WIT:** Yes.

9 **Mr. Fawcett:** Did all of the other Masters you worked for make deck walks?

10 **WIT:** Most of them. Now he might have done it when I was off the bridge, but I never
11 witnessed him walking around the decks checking anything.

12 **Mr. Fawcett:** Why would the other Masters make a deck walk?

13 **WIT:** Certain Masters want to check the cargo, they just want to be more involved.

14 **Mr. Fawcett:** Involved?

15 **WIT:** Involved in the workings of the vessel. They're checking up on the Boatswains
16 and make sure that things are lashed down, they're making sure that the Chief Mate
17 checked the chains on the trailers. And some Captains do not get as involved.

18 **Mr. Fawcett:** So Captain Lofffield a few moments ago, he was in here mentioned that
19 he had permanent Chief Mates. Did the El Faro during 2015 have permanent Chief
20 Mates?

21 **WIT:** We had Jamie Torres, he was a permanent Chief Mate for a while then he was
22 transferred over to the El Yunque. But as far as a permanent, after Jamie Torres left
23 kind of, we got a number of Chief Mates.

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1 **Mr. Fawcett:** Does the Captain rely on the performance of the Chief Mates and their
2 familiarity with the vessel to ensure of the safety of the vessel?

3 **WIT:** Yes, the Captains rely on the Chief Mates quite a bit.

4 **Mr. Fawcett:** So for example let's take Chief Mate Stith, how long was he aboard the
5 vessel?

6 **WIT:** Kevin Stith?

7 **Mr. Fawcett:** Correct.

8 **WIT:** He was on the El Faro for I want to say 3 weeks.

9 **Mr. Fawcett:** Okay. Were you familiar with Chief Mate Schultz?

10 **WIT:** I was familiar with him, but I only sailed with him for maybe a week.

11 **Mr. Fawcett:** Was he on the ship for a week and did he get off?

12 **WIT:** I got off.

13 **Mr. Fawcett:** Okay. Were there any other Chief Mates on board towards the, say the
14 July, August time frame?

15 **WIT:** Yes, I'm trying to think of his name. But there was one other who is now on the
16 Isla Bella as Chief Mate.

17 **Mr. Fawcett:** Did they get a training orientation and briefing on the unique
18 characteristics of the El Faro?

19 **WIT:** I do not know that. I would not be involved in that. But there's always a turnover.
20 The Chief Mate that's leaving would always turn over with the relieving Chief Mate, they
21 would go over all the aspects of the job.

22 **Mr. Fawcett:** And how long does that turnover period take?

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1 **WIT:** I can't say. Depending on the Chief Mate, he's going to be more specific than
2 others, I just don't know. Usually it's 3 or 4 hours at least.

3 **Mr. Fawcett:** So we talked about the crewing for the Marlin class ship and the
4 disappointment the Captain had for the fact that he did not or was not going to get a
5 Marlin class ship, that's correct?

6 **WIT:** That's correct.

7 **Mr. Fawcett:** Did that affect any of the working relationships aboard the El Faro?

8 **WIT:** I did not notice it. Captain Davidson was always very professional when he was
9 dealing with me and the other officers that I noticed, that I witnessed.

10 **Mr. Fawcett:** Were there any issues between him and Captain Thompson or Third
11 Mate Berrios?

12 **WIT:** Not that I witnessed, sir.

13 **Mr. Fawcett:** Commander Denning asked you about bridge resource management.
14 What was the last time you attended bridge resource management training?

15 **WIT:** I want to say I went to our school, the AMO school maybe 2 months ago. But
16 other than that the Captains will always have a session on, probably once a month on
17 the bridge, besides bridge resource management is concerned.

18 **Mr. Fawcett:** So prior to the accident voyage, when was the last time you attended
19 training, just approximately in years?

20 **WIT:** Four months, four months ago.

21 **Mr. Fawcett:** Is that before the accident voyage you had attended?

22 **WIT:** Yeah I want to say it was before the accident. I went to an advanced bridge
23 resource management meeting, a class at Dania, Florida.

1 **Mr. Fawcett:** Okay, thank you. So if you could describe for me how it was bridge
2 resource management practice aboard the El Faro? So you're getting ready to get
3 underway, with regards to managing the bridge, did the Captain call together all the
4 ship's officers and discuss the impending voyage?

5 **WIT:** No. Usually that would be up to me and the Chief and the Captain. Because
6 everybody is working. I would enter all the routes, the route had to be done, I've
7 entered the weather, get the weather ready and departure slips. Because you have to
8 remember we go the same route 99 percent of the time, the same route.

9 **Mr. Fawcett:** Okay. So you're getting ready to deviate from your typical practice. Your
10 typical practice is to run from Jacksonville to San Juan, in this particular case in late
11 August you're going to deviate and run a longer route in perhaps adverse weather from
12 Tropical Storm Erika or Hurricane Danny. Did the Captain call the bridge officers and
13 the key principal officers of the ship together and have a meeting and talk about how
14 they're going to handle the impending adverse weather and the conditions the ship was
15 going to encounter?

16 **WIT:** There was no formal meeting. The alternate route was entered and I or the
17 Captain would have talked, I'm sure I talked to the Third Mate who was making the
18 departure, tell them you know we're going an alternate route, you're not going – regular
19 route would be part of my job to let him know that, you know don't go the regular route.

20 **Mr. Fawcett:** So Commander Denning asked you about vessel specific heavy weather
21 plans.

22 **WIT:** Umm huh.

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1 **Mr. Fawcett:** So as you were preparing on the August voyage to head out, you talked
2 about general procedures I think that's how you characterized it, is that correct?

3 **WIT:** You'd have to read – you would have to read what I said, I don't remember that
4 that's exactly what I said.

5 **Mr. Fawcett:** Okay. So could you turn to a document that had a sort of a checklist
6 format that said these are the steps we're going to take on board to prepare for the
7 adverse weather, you mentioned lashings and so forth, is there a place that I could go
8 to find what procedures I would follow, formal procedures to prepare for adverse
9 weather?

10 **WIT:** None that I'm – not that I'm aware of.

11 **Mr. Fawcett:** Okay. So based on these general procedures for that voyage, do you
12 recall if anybody instructed any ship's officers to check the integrity of the life rafts or life
13 boats to prepare for immediate use in adverse weather?

14 **WIT:** No I'm not aware of meeting like that.

15 **Mr. Fawcett:** Did anybody instruct ship's officers to your knowledge to check, for
16 example the EPIRB, the GMDSS system to make sure they're ready to go on
17 procedures should they encounter an emergency on the trip?

18 **WIT:** We always check the GMBSS system before we leave, it's part of our pre-
19 departure check.

20 **Mr. Fawcett:** Did anybody call – did you have the Polish riders aboard?

21 **WIT:** In that – for that particular trip there where we alternated?

22 **Mr. Fawcett:** Yes.

23 **WIT:** Yes, we had 6 Polish riders and 2 Chief Engineers.

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1 **Mr. Fawcett:** Did anybody brief them on emergency procedures in the event of any
2 emergency that would be attributed to adverse weather?

3 **WIT:** Not that I'm aware of.

4 **Mr. Fawcett:** Do you remember if you had a safety drill on that voyage?

5 **WIT:** We would have a drill every week on Wednesday's, we'd leave Tuesday we
6 would have a drill on Wednesday's.

7 **Mr. Fawcett:** Can you take a moment and just, I know I'm asking you a lot of
8 questions, but if you could Mr. Baird just think about that particular Wednesday, can you
9 tell me what drill took place?

10 **WIT:** No. It would have been a fire and boat drill, they would have had a fire scenario, I
11 don't know which scenario it was, and then they would have an abandoned ship drill.

12 **Mr. Fawcett:** Can you walk us through a typical abandoned ship drill that you
13 witnessed in the late August or the August time frame.

14 **WIT:** Yes. In a typical abandoned ship drill we would lower the boats to the deck,
15 embarkation deck which is at feet level, easily can just walk on the boat. We would
16 lower it to the embarkation deck and then restow it.

17 **Mr. Fawcett:** On that time frame for that deviation voyage, do you recall if the Polish
18 group members participated in that drill?

19 **WIT:** They would have been mustered, accounted for, but they have no boat
20 responsibilities out of the riding gang.

21 **Mr. Fawcett:** As part of the abandoned ship drills do you recall if, in the August time
22 frame if the discussion took place at any time about the use of the life rafts as an
23 alternate means to get off the ship in the event of an emergency?

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1 **WIT:** Usually with any lowering of the boats we also discuss how to launch the life rafts.
2 That's just standard operating procedure for any fire and boat drill.

3 **Mr. Fawcett:** So my final question is, at any time while you were aboard the El Faro,
4 did a boat drill for abandoned ship discuss the launching of boats in conditions such as
5 hurricane conditions so that people would understand the unique situation for
6 deployment of life rafts or trying to potentially lower a boat when the ship was listing or
7 heeling from the standpoint of the effects of a hurricane?

8 **WIT:** No.

9 **Mr. Fawcett:** Thank you very much.

10 **CAPT Neubauer:** Commander Odom.

11 **CDR Odom:** Thank you. Good morning.

12 **WIT:** Good morning, sir.

13 **CDR Odom:** You had discussed that you would avoid storms by altering the route of
14 the vessel. Was it ever a tactic to avoid weather delaying departure of the vessel? Or
15 slowing the vessel down? Was a means for avoiding weather?

16 **WIT:** That is a tactic to slow down, let the weather go in front of you.

17 **CDR Odom:** Was it ever a tactic that was used while you were on board? Is it
18 common?

19 **WIT:** I have seen it used, but I don't remember if it was used specifically while I was on
20 board there. That's one of our methods of avoiding a storm is slowing down or
21 changing course.

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1 **CDR Odom:** So you were talking about making rounds of the vessel and to check the
2 lashings and stuff like that whenever you'd be at sea. What hatches did you guys
3 normally use to enter the hold for that round?

4 **WIT:** Normally, well, normally we would call the bridge, sometimes, you know
5 depending on the situation, normally they would require you to call the bridge to let the
6 bridge know that you're going down into the holds and then when you come back out to
7 notify the bridge when you got out. Does it happen every time, no.

8 **CDR Odom:** So was the hatches, or the escape hatches are those the ones on the 2nd
9 deck, are the ones you guys used to go in and out of the hold?

10 **WIT:** Yes.

11 **CDR Odom:** So what type of hatches were they? Were they the dogging type or the
12 hand wheel?

13 **WIT:** They had hand wheels on the El Faro.

14 **CDR Odom:** And was it a routine practice would you say to leave those open when you
15 guys were working during the day so you didn't have to open and close them every time
16 going in and out of the holds?

17 **WIT:** During the day if somebody was down below you would leave the hatch open with
18 a sign on it saying men below don't close.

19 **CDR Odom:** What was the condition of those hatches?

20 **WIT:** The hatches I saw were all in very good condition. They all worked, they all
21 worked very well.

22 **CDR Odom:** On the wheel itself was there anything that indicated when the hatch was
23 opened or closed?

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1 **WIT:** Not that I'm aware of. But we would just close it until it stopped turning and then
2 you would check it to make sure it wasn't – it was closed. And the same thing with
3 opening. You open it until it stopped turning.

4 **CDR Odom:** As a result of the weather, was that round ever, the frequency of the
5 round ever increased? Or did you guys make one a day, how often would you make
6 this round and did the weather result in increased duration of the round?

7 **WIT:** It would depend on what weather you're talking about. A normal day at sea,
8 they're going to go down and work down below probably, and when they're done around
9 4 O'clock the Boatswain is going to walk around and make sure that all the hatches are
10 secured for the night. And then at night I would usually send a guy around at 2 O'clock
11 in the morning to check everything to make sure everything is still secured.

12 **CDR Odom:** Would the weather ever get so bad you guys would discontinue doing the
13 round, or would you do it internally? Was there a way to do it internally without having
14 to go out on deck and enter those hatches?

15 **WIT:** No, there's no way to do it unless you get on deck and check it manually.

16 **CDR Odom:** Are you familiar with the watertight doors in the engine room for entering
17 into the number 3 cargo hold from the engine room?

18 **WIT:** Yes.

19 **CDR Odom:** Did you guys ever use that as a means to enter the number 3, or go down
20 to the engine room forward?

21 **WIT:** Yes it was used extensively, by especially the engineers to go down to – when
22 they go down to watch.

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1 **CDR Odom:** Did you observe it as a common practice for that watertight door to
2 remain open?

3 **WIT:** Yes.

4 **CDR Odom:** Why was that?

5 **WIT:** Well it would incumbent of the weather, it's clam weather it was always quite often
6 left open. Probably just because people were too lazy to close it and open and closing
7 it and opening it.

8 **CDR Odom:** Was that the same situation with the aft entry into the number 5 hold from
9 the engine room, for one forward and one aft would allow them to go into the – back to
10 the steering gear department, would they also leave that one open?

11 **WIT:** No that was always closed.

12 **CDR Odom:** That was always closed.

13 **WIT:** There's an escape trunk, there's an escape trunk back there and there's also that
14 door going out to the steering gear. And those doors were always kept closed.

15 **CDR Odom:** With the survival suits, were they – how was the arrangement with the
16 survival suits on board, where were they normally stowed?

17 **WIT:** When I first got there they were, I think they were all in one room. Now I may be
18 getting it mixed up with the El Morro, but I think they were all in one room. But they had
19 all the lift raft, uh all the survival suits recertified and everybody was issued their own
20 survival suit.

21 **CDR Odom:** When was that?

22 **WIT:** I can't give you an exact date. But I feel within the last year.

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1 **CDR Odom:** And did everybody get one that was properly fitted? Was there any of the
2 extra large ones, or?

3 **WIT:** Yes we had extra large. Everybody had their own. Because it was in preparation
4 for going to Alaska.

5 **CDR Odom:** Was it ever a practice when you guys were going into known heavy
6 weather to bring any of the life saving equipment on deck to the interior of the vessel to
7 protect it from washing overboard or, like life rings or float lights or anything like that?

8 **WIT:** No.

9 **CDR Odom:** Ever bring in anything ----

10 **WIT:** We always left them out.

11 **CDR Odom:** And did you ever personally experience severe weather on board the El
12 Faro?

13 **WIT:** I never personally witnessed anything on the El Faro that was really life
14 threatening or had me nervous.

15 **CDR Odom:** Did you ever experience any issue of down flooding at any point while on
16 board the ship?

17 **WIT:** Any issues of what?

18 **CDR Odom:** Down flooding, the vessel taking on water from any source anywhere?

19 **WIT:** I don't understand.

20 **CDR Odom:** Did you ever, were you ever on board in the weather, whenever like a
21 vent was leaking or something was causing water to enter the vessel from outside, the
22 outside environment?

23 **WIT:** No.

1 **CDR Odom:** You guys needed to pump water out for any reason?

2 **WIT:** No.

3 **CDR Odom:** Are you familiar with the bilge alarm system on there?

4 **WIT:** Yes I am.

5 **CDR Odom:** So is that primary means of detecting whether or not there was water in
6 the vessel or not? Is that used in lieu of making the rounds?

7 **WIT:** In lieu of making the rounds that's how they would tell if there was water in the
8 lower holds.

9 **CDR Odom:** And was that properly functioning?

10 **WIT:** Yes we would ----

11 **CDR Odom:** Did you guys test it before getting underway or anything?

12 **WIT:** We would test it once a month.

13 **CDR Odom:** Once a month?

14 **WIT:** Yeah. Usually we would test it more at sea.

15 **CDR Odom:** Were you ever concerned about a voyage plan as far as the route you
16 guys were taking? I mean did you ever voice those concerns to Captain Davidson?

17 **WIT:** No.

18 **CDR Odom:** Never had a concern?

19 **WIT:** Normally we had, 99 percent of the time we had nice weather.

20 **CDR Odom:** Was there any pre-arrival or pre-departure checklist that was done?

21 **WIT:** Every port we would have a pre-arrival checklist and a pre-departure checklist.

22 **CDR Odom:** All right. Who is responsible for doing that checklist?

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1 **WIT:** Whoever was the watch officer that was going to be making departure.

2 Depending what time we left the port.

3 **CDR Odom:** Can you look at Exhibit 73 for me please.

4 **WIT:** 73.

5 **CDR Odom:** Is that the checklist?

6 **WIT:** Yes I'm familiar with this.

7 **CDR Odom:** Okay. Anywhere on that checklist does it say anything about verifying the
8 watertight integrity of the vessel?

9 **Tote Inc:** Excuse me. I didn't get that exhibit, I don't have a copy of that.

10 **CAPT Neubauer:** Okay, let's pause and get the – make sure all of the parties in
11 interest have the exhibit. Yeah we need to, the parties in interest do not have that
12 exhibit at this time, so let's move on from that question please.

13 **CDR Odom:** Going back to the bilge alarms, we're going to take a pause from the
14 checklist because all of the parties don't have it, so thank you. Going back to the bilge
15 alarm, was the arrangement of the bilge alarm in cargo hold number 3 were they on the
16 port side and the starboard side, or was there just one alarm in that cargo hold? Do you
17 recall?

18 **WIT:** To my knowledge they were on both sides.

19 **CDR Odom:** Thank you.

20 **WIT:** And it's a 3 man job to check those because you have to have the man trip the
21 alarm down in the cargo hold, another man on top of the tank top and then he relays to
22 the bridge or the engine room and they hear the alarm. Because you can't just call from

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1 down on the 4th deck and the radios won't get through all of the steel. So it's a 3 man
2 job to verify each one.

3 **CDR Odom:** So the indicator for the alarm is on the bridge?

4 **WIT:** No, it's in the engine room.

5 **CDR Odom:** It's in the engine room.

6 **WIT:** Right.

7 **CDR Odom:** Okay. So if you're flooding the engineers would be the ones to notice?

8 **WIT:** Yes. They would hear the alarm.

9 **CDR Odom:** Okay, thank you. Getting back to the anemometer, do you think that's a
10 critical piece of an equipment or not for safe navigation of the vessel? Do you think it's
11 necessary?

12 **WIT:** Well it's an added piece of equipment, but I wouldn't hold the ship up because I
13 didn't have a working anemometer.

14 **CDR Odom:** So during a casualty like a grounding or a loss of propulsion, would you
15 think that would be – knowing the wind speed and direction instantly and reporting it to
16 establish drift, would you think that would be an important piece of equipment?
17 During a casualty.

18 **WIT:** During a casualty I could guesstimate the wind, we can guesstimate very
19 accurately, that's what we do.

20 **CDR Odom:** Thank you. Also two other questions then I will be done. On board
21 evaluations who did the evaluations for the performance and competency of the crew?
22 Was that done by the Master?

23 **WIT:** That would be the Captain.

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1 **CDR Odom:** And how often were those done?

2 **WIT:** They would be done, to my knowledge when we get off the ship. We would get
3 our payoff and an evaluation.

4 **CDR Odom:** It was an actual evaluation form that you would receive?

5 **WIT:** That's correct.

6 **CDR Odom:** You would sign that form and return it to him?

7 **WIT:** Right. We would get a copy and sign it and the Captain would keep a copy.

8 **CDR Odom:** Okay. Did the crew ever discuss or have any concerns with the fact that
9 the El Faro had open life boats?

10 **WIT:** No, no I never heard any concerns at all.

11 **CDR Odom:** Thank you.

12 **CAPT Neubauer:** Good afternoon Mr. Baird.

13 **WIT:** Good afternoon.

14 **CAPT Neubauer:** Sir, I have a few follow up questions for you. In starting with I want
15 to explore exactly what was available to you in regards to weather data while underway.
16 Sir, I believe that you said the BVS updates that you received were about every 6 hours
17 and they went to the Master, is that correct, sir?

18 **WIT:** That's correct.

19 **CAPT Neubauer:** How did you obtain, or were you able to obtain those without the
20 Master forwarding them to you?

21 **WIT:** No. They had to forward it to the bridge by the Master.

22 **CAPT Neubauer:** How did you obtain weather updates when the Master was sleeping?

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1 **WIT:** The next morning or when he got up he would send them up to the bridge,
2 transfer them off.

3 **CAPT Neubauer:** In those updates were you able to view the hurricane center's storm
4 track, and I'll use Tropical Storm Erika as an example?

5 **WIT:** Yes we would and we could also, we could view it and we could advance it to a 6
6 hours, 12 hours, 18, we had the capacity to advance the storm, get an idea of where it
7 was going.

8 **CAPT Neubauer:** Moving to another topic. For route changes while underway, were
9 there any formal procedures for making a significant route change while underway?

10 **WIT:** I would make a new voyage plan and I would have to put new way points into the
11 GPS. It would be a new voyage plan that the Captain had to sign.

12 **CAPT Neubauer:** I'm sorry. You would clear the new voyage plan with the Captain?

13 **WIT:** Yes, yes always with the Captain.

14 **CAPT Neubauer:** If it was a significant route change did the Captain report to the
15 company?

16 **WIT:** I do not know. I would assume that he would. I'm not involved in that.

17 **CAPT Neubauer:** And referring to the voyage in late August, were you aware if at that
18 time if any issue related to the El Faro life boat davits?

19 **WIT:** No.

20 **CAPT Neubauer:** Were you aware of any alternate arrangements for life rafts on the El
21 Faro?

22 **WIT:** Alternate arrangements.

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1 **CAPT Neubauer:** Yes, sir. And by that I mean any arrangement for hydrostatic
2 releases or securing of those life rafts for positioning.

3 **WIT:** No. They were all up in proper position when I was there.

4 **CAPT Neubauer:** Sir, can you tell me where the actual emergent suits were stored on
5 board the El Faro?

6 **WIT:** The emergency what?

7 **CAPT Neubauer:** The emergent suits.

8 **WIT:** Each crew member had an emergent suit in their room.

9 **CAPT Neubauer:** Were there any other emergent suits located throughout the vessel?

10 **WIT:** There would be some on the bridge, there would be, I think there was 3 on the
11 bridge, there was 3 in the engine room and probably one on the bow and there was
12 probably some in the equipment room there, storeroom.

13 **CAPT Neubauer:** Thank you. Mr. Roth-Roffy, do you have any questions for the
14 witness?

15 **Mr. Roth-Roffy:** Thank you Captain. I would like Mr. Kucharski to ask his questions
16 first.

17 **Mr. Kucharski:** Good morning Mr. Baird.

18 **WIT:** Good morning Captain.

19 **Mr. Kucharski:** You mentioned that you had proposed voyage changes to Captain
20 Davidson many times.

21 **WIT:** Correct.

22 **Mr. Kucharski:** At any time were those routes not taken with your suggestions?

23 **WIT:** No, no we always agreed.

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1 **Mr. Kucharski:** Were you on the El Yunque when it departed Jacksonville in the days
2 following the disappearance of El Faro?

3 **WIT:** No I was not.

4 **Mr. Kucharski:** On these routes, these alternate routes for weather, once you took the
5 normal route for the vessel, okay the straight shot basically, I think you said 130
6 something was it?

7 **WIT:** 131.

8 **Mr. Kucharski:** I'm sorry? 131?

9 **WIT:** 131.

10 **Mr. Kucharski:** Once you got past a certain point along that route was it easy to
11 choose alternate routes to go down the Old Bahama Channel or go to the Yucatan
12 Channel?

13 **WIT:** Yes, you could change basically anytime you wanted to. It would be a little longer
14 trip or a little shorter trip, if you change earlier it will be a shorter trip, the longer you wait
15 the longer the trip would be.

16 **Mr. Kucharski:** So you would look at the route of the El Faro on the last voyage, have
17 you reviewed that?

18 **WIT:** Yes, I've seen the route.

19 **Mr. Kucharski:** So once it got down to that position, San Salvador there was an
20 alternate route to take instead of going towards the Southeast?

21 **WIT:** Yes, he could have gone through the Crooked Island passage or he could have
22 turned around and gone through the Northwest Providence Channel, coming back the
23 way he came.

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1 **Mr. Kucharski:** Thank you.

2 **CAPT Neubauer:** Sir, we're going to post the slide with those routes just for reference.

3 **CDR Denning:** That was Exhibit number 2 again, the same one we showed, page 5.

4 **CAPT Neubauer:** Mr. Baird are you okay to continue or would you like to take a break,
5 sir?

6 **WIT:** I'm fine, sir. Okay and the question is?

7 **Mr. Kucharski:** I thought my question was answered, but. Do you have a laser pointer
8 there? Could you indicate which way you would go for the route that you would take
9 once you got down to El Salvador, or San Salvador, sorry, just past the Island and
10 instead of going to the Southeast track which way you would head?

11 **WIT:** This is our normal route right here, 131. Now you can turn around, I think it's
12 right, It's hard for me to see, but I think it's right through here is the Northwest
13 Providence Channel. So you could turn around and come back here and then join into
14 the Old Bahama Channel. Ops, I'm sorry.

15 **Mr. Kucharski:** Okay, but those points that you're indicating, but please go down to
16 San Salvador, the Island itself.

17 **WIT:** Well I can't ----

18 **Mr. Kucharski:** It's like towards the tail end of the red track line, that's where the Island
19 is. From there where would you go?

20 **WIT:** From here I might be wrong, and I can't really see it that well, but you could break
21 off the way the end of this red line is and I think, I think umm, the pass, the Crooked
22 Island Pass is right in here somewhere. And from here you can just go through here
23 and then cut back over to regular Old Bahama Channel. Is this the Crooked Island?

1 **Mr. Kucharski:** Here's San Salvador right here.

2 **WIT:** All right.

3 **Mr. Kucharski:** Then here's the pass at Southeast.

4 **WIT:** Okay. Crooked Island Passage would be right through here.

5 **Tote Inc:** I think it would be effective if he can get up and go over there and point to
6 that. He can see that. But this is mighty small.

7 **CAPT Neubauer:** Yes, sir. If you can approach the ----

8 **WIT:** Thank you.

9 **CAPT Neubauer:** Thank you.

10 **WIT:** [Goes to screen]. My eyes aren't what they used to be. Well he's going to come,
11 and I can't really see it, but I think this is the Crooked Island Passageway through here.
12 And it looks like this is the course of the El Faro. It looks like he was heading for that.
13 And could come through the Crooked Island Passage and then join into the Old
14 Bahama Channel from here. I texted this to the Captain, actually if it got bad that he
15 could go from -- my text to the Captain was that he could go, if it got bad that he could
16 go through the Crooked Island Passage and then I mentioned a couple of other
17 passages that he could go through also. But this is the Crooked Island Pass through
18 here.

19 **Mr. Kucharski:** Thank you Mr. Baird, thank you for that demonstration. Would you
20 please look at Exhibit 43, it's the -- help us decipher this, we ----

21 **WIT:** You said 43?

22 **Mr. Kucharski:** Exhibit 43, yes, it's the bridge equipment list for the El Yunque. Since
23 you were on both vessels we've asked for that same bridge equipment for the El Faro

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1 and we were given what's in Exhibit 71. Could you just tell if there was a list similar to
2 what we received for El Faro for the EI, I'm sorry, for the – we received for the EI
3 Yunque, is there one for the El Faro like that?

4 **WIT:** Yes, it wouldn't be exactly like this equipment list. Because each vessel is vessel
5 specific. We had a list of bridge equipment.

6 **Mr. Kucharski:** You did? There was one that existed for that?

7 **WIT:** Yes.

8 **Mr. Kucharski:** Thank you. Would you also look at Exhibit 25, section 10.4.7, it talks
9 about barograph on the vessel and sending in the barograph tracings to the National
10 Weather Service. Was that done on El Faro?

11 **WIT:** No, it wasn't done on El Faro. We had an automated system that sent it in. It
12 was done automatically through NOAA.

13 **Mr. Kucharski:** So from the barograph that you had on El Faro it sent in, the
14 barometer, it sent in the ----

15 **WIT:** I was sent in the report, right. That barograph you're talking about was taken off
16 all the ships and replaced by an automated system by NOAA.

17 **Mr. Kucharski:** So to your knowledge there were no traces that were sent ----

18 **WIT:** No.

19 **Mr. Kucharski:** Thank you, thank you for clarifying that. Did – you sailed with Captain
20 Davidson you said numerous times?

21 **WIT:** That's correct.

22 **Mr. Kucharski:** Was any of that in heavy weather?

23 **WIT:** No. The last two years we've had very nice weather.

1 **Mr. Kucharski:** Was there any kind of a policy or standing orders that said you don't
2 use the second deck or the weather decks in heavy weather?

3 **WIT:** No, not that I'm aware of.

4 **Mr. Kucharski:** So it would be easy, would it be easy for someone to go down on the
5 2nd deck and check cargo in heavy weather?

6 **WIT:** Yes it would be easy to check it. Define heavy weather? Are we taking seas on
7 deck or are we?

8 **Mr. Kucharski:** Have you seen seas come on deck on the 2nd deck on those ships?

9 **WIT:** Yes I have.

10 **Mr. Kucharski:** Yeah, so if it's taking seas on the 2nd deck would you ----

11 **WIT:** Then you're not going down then.

12 **Mr. Kucharski:** You're not going to go down?

13 **WIT:** No.

14 **Mr. Kucharski:** Are you aware of any cargo breaking loose on the El Faro or any of
15 those vessels in heavy weather on the Puerto Rican trade?

16 **WIT:** Yes. Not on the El Faro, no. But on the El Morro we had cargo break lose in the
17 lower cargo holds.

18 **Mr. Kucharski:** And I don't know if we've talked about the El Morro before, but is that
19 what is considered a sister vessel?

20 **WIT:** Yes, sister vessel, since been scrapped.

21 **Mr. Kucharski:** And how about any cargo on the 2nd deck, have you heard of any
22 cargo breaking lose on the 2nd deck?

23 **WIT:** No, I've never seen anything break lose on the 2nd deck. Just the 3rd deck.

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1 **Mr. Kucharski:** How about the lashings themselves, have they – have you heard of
2 any of those or the trailer comes off button, comes off the button on a roloc box?

3 **WIT:** No. In heavy weather or rough weather the chains will loosen and we will check
4 them every day, maybe twice a day at some times. But there was seas on deck there's
5 nobody – nobody's going down there.

6 **Mr. Kucharski:** You mentioned you were on those vessels in heavy weather, was that
7 at night time too? Was it night time conditions?

8 **WIT:** Night and day.

9 **Mr. Kucharski:** Night and day. What wind force were you talking about at night that
10 you encountered?

11 **WIT:** Probably 70, 80, you know 70, 80 knot winds, but it would peg out the
12 anemometer over 100, at 100.

13 **Mr. Kucharski:** Did it peg out the anemometer on the El Faro?

14 **WIT:** Yeah, yes.

15 **Mr. Kucharski:** So at one time you did have a working anemometer?

16 **WIT:** Yes, at one time we did.

17 **Mr. Kucharski:** Without the anemometer in those conditions where it's blowing 70, 80
18 knots, can you describe what it's like? Is the antenna's whipping, and the rigging, and is
19 there spray usually associated with that?

20 **WIT:** Well you're going to hear, you're going to hear a racket, it sounds like a train
21 going by. And depending on the direction of the wind, if it's on your beam you're going
22 to roll, if it's on the bow you usually can go right through it, it's going to slow you right
23 down considerably.

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1 **Mr. Kucharski:** And under those conditions would you be able to tell the direction and
2 the speed, the direction of the wind within, or the speed within 5 knots?

3 **WIT:** When it gets that high I probably wouldn't be able to do it.

4 **Mr. Kucharski:** How about the direction, would you be able to?

5 **WIT:** I could get the direction, but not the speed as accurate.

6 **Mr. Kucharski:** Did the El Faro have a ship's iridium phone on board the vessel?

7 **WIT:** A ship's ringing phone?

8 **Mr. Kucharski:** A meridian, yes, an iridium phone.

9 **WIT:** Satellite phone?

10 **Mr. Kucharski:** A cell phone, it uh, and I think we have it in there in evidence now, but
11 we saw that on a EPIRB report that there's an iridium, but we're trying to decipher what
12 that is.

13 **WIT:** I'm not aware.

14 **Mr. Kucharski:** Commander Odom had asked you about doors, certain watertight
15 doors from the engine room being left open.

16 **WIT:** Right.

17 **Mr. Kucharski:** You mentioned a door from going from, I believe you did, from the
18 engine room to number 3 hold was at times left open.

19 **WIT:** The door from the 2nd deck that's considered door number 2. And there's a little
20 doorway in the watertight door that would be left open sometimes.

21 **Mr. Kucharski:** I guess I'm talking about the, you can enter, can you not enter number
22 3 hold from the engine room from below decks?

23 **WIT:** Yes.

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1 **Mr. Kucharski:** Okay. And there's a door from the engine room on the port side going
2 into number 3 hold?

3 **WIT:** That's correct.

4 **Mr. Kucharski:** Have you observed that being left open?

5 **WIT:** Yeah, yeah, it was left open. A lot of times it would be open during cargo
6 operations.

7 **Mr. Kucharski:** How about at sea?

8 **WIT:** I would have to say, if the order was to keep it closed, then it would be closed.
9 But people come and go all the time. You know if they had a reason to get into the 3rd
10 hold there or the 4th hold they might go through it and leave it open. But it would
11 normally be kept closed.

12 **Mr. Kucharski:** There's also a similar watertight door for a man to go through from the
13 port side of the engine room into number 5 hold?

14 **WIT:** On the El Faro there was one opening on the port side that would get you into, we
15 would call it, you know we had different names, we had A, B, C, and D on some of the
16 ships, then they went to 1, 2, 2A, and 3, by 3 you mean the Delta hold?

17 **Mr. Kucharski:** Just number 5 hold. From the engine room, from the engine room to
18 number 5 hold was there a watertight door?

19 **WIT:** From the engine room to number 5 hold is a door on the port side that was a
20 watertight door. And I think there was on the starboard side also. Yeah, port and
21 starboard you had watertight doors to get into the 5 hold.

22 **Mr. Kucharski:** And when you were at sea did you notice those doors being left open
23 or were they closed?

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1 **WIT:** I would have to say sometimes they were opened, sometimes they were closed.

2 A lot of times it would be open.

3 **Mr. Kucharski:** Thank you. The watertight doors, the opening and the closing them at
4 sea, the scuttles I believe they're called?

5 **WIT:** Correct.

6 **Mr. Kucharski:** You mentioned that people would call the bridge before – they would
7 usually call the bridge and say they were going in.

8 **WIT:** Right. That's the normal procedure.

9 **Mr. Kucharski:** Was that logged?

10 **WIT:** Was it?

11 **Mr. Kucharski:** When they called, was it put in the log book? Was there an entry in
12 the log book?

13 **WIT:** No.

14 **Mr. Kucharski:** And leaving, they would call the bridge also?

15 **WIT:** That's correct.

16 **Mr. Kucharski:** Was there any entry made in the log book for that?

17 **WIT:** No.

18 **Mr. Kucharski:** Mr. Baird, the emails, emails, I know you mentioned about weather, the
19 BVS weather was sent by the Master, it went to the Master of the vessel and then it was
20 sent up to the bridge, is that correct?

21 **WIT:** That's correct.

22 **Mr. Kucharski:** And I believe Captain Neubauer asked if what happened if the Captain
23 was sleeping, it wouldn't get sent up?

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1 **WIT:** That's correct, yeah.

2 **Mr. Kucharski:** How about the emails of the general, other emails, like was there a
3 crew, emails for the crew to send back and forth, other people on the vessel?

4 **WIT:** So the crew had access to a computer that they could write emails to people, their
5 loved ones, and that would have been sent out maybe once or twice a day, depending
6 on what the schedule was of the Captain when he sends out his noon report or
7 whatever, when he sends out his messages he'd send a batch of all the messages.

8 **Mr. Kucharski:** So the Captain had to physically somehow make that link?

9 **WIT:** Right.

10 **Mr. Kucharski:** To send them out?

11 **WIT:** That's correct.

12 **Mr. Kucharski:** And that was the same for incoming emails, the Master needed to
13 make that link if you will to receive incoming emails?

14 **WIT:** I assume so, I never used the system because it's only two days out of port, I just
15 make a phone call when I got to port. I never used that system.

16 **Mr. Kucharski:** Do you know if Captain Davidson ever delegated that duty to anybody
17 else or do it for him?

18 **WIT:** No, he would.

19 **Mr. Kucharski:** As you, maybe you're aware of it, maybe not, I'll say this for the record,
20 there was EPIRB signal we received from the El Faro, one EPIRB signal. Do you have
21 any idea why or how this could have happened just to get that one burst from the
22 EPIRB? I mean it's meant to float free and then continue to give signals.

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1 **WIT:** The only thing I can think of is that it was taken off the bulkhead and tested. If it
2 was tested it sends out one burst. Maybe they took it off the bulkhead, tested it to make
3 sure it was running, working and left – brought it into the bridge.

4 **Mr. Kucharski:** Brought it to the bridge. Was there an assignment for that EPIRB
5 under the station bill, what happens to it? I mean if you had to abandoned ship was
6 there any assignment made to anyone to do anything with the EPIRB?

7 **WIT:** Yes it would be, it would be a delegated responsibility for the life radios, the
8 SARTS, which are a radar transponder and the EPIRB to go with them. I think in the
9 number 1 boat.

10 **Mr. Kucharski:** So it would be taken out of its holder which is external to the
11 wheelhouse?

12 **WIT:** Right.

13 **Mr. Kucharski:** Thank you Mr. Baird, thank you Captain.

14 **CAPT Neubauer:** Mr. Roth-Roffy.

15 **Mr. Roth-Roffy:** Good afternoon, sir, Tom Roth-Roffy, NTSB. I just have a couple of
16 questions. There's quite a bit of discussion about the alternate route that you took
17 around the time Hurricane, or Erika and I believe you mentioned it was about 160
18 nautical mile longer than the normal route. And how much of a time impact would that
19 be on your arrival to Puerto Rico?

20 **WIT:** Umm, maybe 6 hours.

21 **Mr. Roth-Roffy:** And how did that affect the vessel operations? Did you have slack
22 time built into the schedule that you were allowed the ship to maintain schedule even if
23 it was arriving 6 hours later than anticipated?

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1 **WIT:** That would be a, it was never an issue. If we had to go an alternate route, we
2 would send a corrected ETA to San Juan. And we would just arrive at a different time.

3 **Mr. Roth-Roffy:** Would that impact on the departure time from Puerto Rico?

4 **WIT:** Yes, the later we arrived past our arrival time, the later we were going to leave the
5 next day.

6 **Mr. Roth-Roffy:** And regarding that, that alternate route that you took around the time
7 of Erika, you said the Captain did not express any concerns with doing that, is that
8 correct? At the time it was proposed.

9 **WIT:** That's correct.

10 **Mr. Roth-Roffy:** What about afterwards, after arriving in Puerto Rico, did you get any
11 feedback from Captain Davidson about having taking that alternate route, whether it
12 was just by [in audible] or any other comments?

13 **WIT:** No I never heard any feedback negative about taking the alternate route.

14 **Mr. Roth-Roffy:** Your tour of duty on the El Faro, you were Second Mate, is that
15 correct?

16 **WIT:** That's correct.

17 **Mr. Roth-Roffy:** For the previous how many months?

18 **WIT:** Usually we do 70 days on, 70 days off.

19 **Mr. Roth-Roffy:** And your normal duty was to stand watches on the bridge, is that
20 correct?

21 **WIT:** That's correct.

22 **Mr. Roth-Roffy:** Did you also have duties that took you off of the bridge, and could you
23 describe those please?

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1 **WIT:** During, well I would be standing watch from midnight to 4 in the morning, and
2 then from noon to 4 in the afternoon.

3 **Mr. Roth-Roffy:** But outside of those hours, did you have other assigned duties that
4 would routinely require you to work?

5 **WIT:** 8 to 12 in the morning I would, well 8 to 11 in the morning I would turn to, and I
6 was responsible for fire, fire dampers, making sure they were operating correctly. That
7 was my only real outside work to do.

8 **Mr. Roth-Roffy:** And did you work every day on testing fire dampers?

9 **WIT:** Yes. We're only two days on port, you know so one day I would do the inside
10 dampers, the next day I would do the outside dampers.

11 **Mr. Roth-Roffy:** And could you just describe that process, testing the dampers, what
12 you actually did to presumably verify that they operated?

13 **WIT:** Yeah, they have a handle on them, an actual handle, we would close them and
14 open them, make sure everything – make sure they both worked in open and closed
15 positons. And we would normally leave it in the open position.

16 **Mr. Roth-Roffy:** In the last few months before the accident did you have any significant
17 problems with those dampers, the operation of them?

18 **WIT:** No, they all worked well.

19 **Mr. Roth-Roffy:** And there's some questions about your knowledge of whether or not
20 the watertight doors around the engine had been left opened or closed, was it during
21 your work in the cargo holds testing the dampers that you were able to make that
22 observation?

23 **WIT:** No, I might have misinterpreted which doors they were talking about.

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1 **Mr. Roth-Roffy:** I believe the doors were on the 2nd deck, port and starboard, on each
2 side of the engine room.

3 **WIT:** Those would be on the 3rd deck, port and starboard. 2nd deck had one access to
4 it, number 2 door.

5 **Mr. Roth-Roffy:** Okay, so correction, the 3rd deck.

6 **WIT:** On 3rd deck there was a watertight door on the port and starboard side.

7 **Mr. Roth-Roffy:** Again, my question was you made an observation that they were
8 sometimes left open.

9 **WIT:** Yes.

10 **Mr. Roth-Roffy:** And that observation was made during your maintenance activities ----

11 **WIT:** Maintenance or just going down to the engine room to get tools or, you know
12 assistance and different things.

13 **Mr. Roth-Roffy:** That's all I have. Thank you very much.

14 **CAPT Neubauer:** Does Tote have questions for the witness?

15 **Tote Inc:** Just a few, sir. Good afternoon Mr. Baird. How many years have you been
16 serving on the Puerto Rico to Jacksonville run?

17 **WIT:** Twelve years.

18 **Tote Inc:** And during that time approximately how many voyages per year, let's say
19 would you normally participate in or be on the vessel?

20 **WIT:** Well 26 voyages usually, because we work basically around half a year, it was 70
21 days on, 70 days off, so approximately 26 voyages a year.

22 **CAPT Neubauer:** Mr. Reid can you speak a little closer to the microphone please?

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1 **Tote Inc:** Sorry. And when you say 26 voyages, is that 26 transits or is that 26 trips
2 back and forth?

3 **WIT:** It would be 26 back and forth, is one trip.

4 **Tote Inc:** Thank you. And do you know when you – after you left the vessel, do you
5 know if the anemometer was repaired?

6 **WIT:** To my knowledge it was not repaired.

7 **Tote Inc:** Do you have any knowledge, do you have any – do you know if it was
8 repaired or not?

9 **WIT:** My recollection when I left the vessel is that it did not work.

10 **Tote Inc:** Okay. Is it possible that it could have been repaired after you left?

11 **WIT:** Oh yes, yes, after I left.

12 **Tote Inc:** Thank you.

13 **CAPT Neubauer:** Any further questions?

14 **Tote Inc:** No, sir.

15 **CAPT Neubauer:** Does ABS have any questions?

16 **ABS:** No questions.

17 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

18 **Ms. Davidson:** Yes, Captain, we do. Mr. Baird, Captains that you sailed with all had
19 different management styles, correct?

20 **WIT:** That's correct.

21 **Ms. Davidson:** And certain management styles are good for crew morale, correct?

22 **WIT:** Yes.

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1 **Ms. Davidson:** And for Captains who respect their Chief Mates, that's a good thing,
2 correct?

3 **WIT:** Oh yes, definitely.

4 **Ms. Davidson:** And who's in charge of the deck, the Chief Mate, right?

5 **WIT:** Chief Mate.

6 **Ms. Davidson:** So if a Captain does not micromanage his Chief Mate and allows his
7 Chief Mate to handle the deck that's good for morale, isn't it?

8 **WIT:** If the Captain micromanages?

9 **Ms. Davidson:** If he does not micromanage his Chief Mate, allows the Chief Mate to
10 handle the deck, that is good for morale, correct?

11 **WIT:** Correct.

12 **Ms. Davidson:** Sir, have you, I would ask the Coast Guard to take Exhibit 2 and show
13 page 6 of Exhibit, which is Tropical Storm Erika. Sir, as you sit here today do you recall
14 that to be the forecasted track of the Tropical Storm Erika?

15 **WIT:** It looks like it, it looks like it.

16 **Ms. Davidson:** I would ask the Coast Guard to flip back to page 2 of that exhibit. Sir,
17 this is the real track of Hurricane Joaquin. Two different storms, correct?

18 **WIT:** That's correct.

19 **Ms. Davidson:** So when we talk about Hurricane Erika and Hurricane Joaquin, we're
20 talking about apples and oranges aren't we?

21 **WIT:** You're talking about two different storms.

22 **Ms. Davidson:** Two very vastly different storms, correct?

23 **WIT:** That's correct.

1 **Ms. Davidson:** Different forecasting?

2 **WIT:** They were forecasted definitely differently.

3 **Ms. Davidson:** As you sit here today are you aware that when Captain Davidson
4 departed Jacksonville that the forecast issued by the National Weather Hurricane
5 Service was off by 100 miles?

6 **WIT:** No I was not aware. Now remember I was on vacation, I just happened to send
7 him a ----

8 **Ms. Davidson:** I know, sir, I know.

9 **WIT:** It was like a heads up, you know.

10 **Ms. Davidson:** And if we could turn to the page with the tracks. Now, sir, the middle
11 track is the track of the – the actual track of the El Faro.

12 **WIT:** Right.

13 **Ms. Davidson:** So the Captain was taking a more Southerly route based upon the
14 forecasted storm, correct?

15 **WIT:** It appears that way, yes.

16 **Ms. Davidson:** And are you aware as you sit here today that the first time that any
17 forecast came out to advise the Captain that the storm is actually in front of him was 8
18 hours before the El Faro sank?

19 **WIT:** No, sir.

20 **Ms. Davidson:** I want you to assume that the first time the Captain – I want you to
21 assume for a moment that the Captain actually did receive a forecast 8 hours
22 beforehand that the storm was in front of him and not behind him as he thought the
23 entire voyage. I want you to further assume that the forecast 8 hours before the

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1 incident also had the storm, if he had turned around, that storm would have followed
2 him. Given that information the options for the Captain were limited, correct?

3 **WIT:** Yes, are you asking me to speculate on what should be done, should have been
4 done?

5 **Ms. Davidson:** I'm not asking you to speculate. You don't know what the Captain was
6 seeing do you?

7 **WIT:** No.

8 **Ms. Davidson:** You don't know what the wave conditions was, correct?

9 **WIT:** I don't know anything about what was going on.

10 **Ms. Davidson:** You don't know what the wind state was, correct?

11 **WIT:** Correct.

12 **Ms. Davidson:** So we had to trust the Captain that he was making the right decisions
13 based upon the information he was receiving, correct?

14 **WIT:** That's correct.

15 **Ms. Davidson:** And if the weather forecast for the entire voyage was incorrect, that
16 would be a significant factor, correct?

17 **WIT:** That's affirmative, yes.

18 **Ms. Davidson:** Thank you, sir. I have no further questions.

19 **CAPT Neubauer:** Does HEC have any questions?

20 **HEC:** No questions.

21 **CAPT Neubauer:** Mr. Baird, I just have a few more questions about the late August
22 Tropical Storm Erika voyage. If we could put that slide back on the screen please. I'm
23 sorry can you put the Tropical Storm Erika route? The storm path. Mr. Baird, do you

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1 remember when you encountered the heavy weather related to Tropical Storm Erika on
2 that voyage?

3 **WIT:** We got heavy winds, but not anything that we were worried about.

4 **CAPT Neubauer:** Were you within the storm, the Tropical Storm force winds?

5 **WIT:** Yes, but we were on the outskirts of the storm and we had the Islands between
6 us.

7 **CAPT Neubauer:** Did you try to avoid the storm?

8 **WIT:** We went the Old Bahama Channel to avoid it.

9 **CAPT Neubauer:** As you approached the storm, were any modifications made to the
10 speed of the vessel?

11 **WIT:** No, we didn't have to alter our speed at all because there were no seas to bother
12 us, because of the chain of Bahama Islands breaks down the seas.

13 **CAPT Neubauer:** So there was no concern for the wind speeds?

14 **WIT:** No. We were aware of it, but we never encountered anything that would be of
15 significance for the ship.

16 **CAPT Neubauer:** Did you, during that voyage, go faster than your normal speed to
17 make up time?

18 **WIT:** No, no, we went normal, our regular operating speed.

19 **CAPT Neubauer:** Thank you. Sir, now I would like to turn some questions in regards
20 to the vessel's automatic identification system, the AIS.

21 **WIT:** Correct.

22 **CAPT Neubauer:** Was it company policy to have the AIS activated at all times?

23 **WIT:** Yes.

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1 **CAPT Neubauer:** Did you ever have an occasion where the AIS was not working while
2 you were on the vessel?

3 **WIT:** No.

4 **CAPT Neubauer:** Would it be obvious to you if the AIS was not working while
5 underway?

6 **WIT:** I think I would be getting an error message on the machine if it was not working,
7 and I would also be getting calls from passing ships saying hey your AIS is not working.
8 Because I've done that to many people whose AIS was either forgot to turn on or not
9 working.

10 **CAPT Neubauer:** Would you expect to get a call from the company, Tote?

11 **WIT:** If my AIS was not working?

12 **CAPT Neubauer:** Yes, sir.

13 **WIT:** Geez, I don't know. I've never had that happen.

14 **CAPT Neubauer:** Theoretically if you were underway and the AIS was not activated,
15 would you expect to get a call from Tote Services?

16 **WIT:** If the company was monitoring our signal, then you would have to go online to
17 monitor it, or have an AIS receiver. You have to go online, because they wouldn't be
18 able to – we would be too far out for our signal to get to shore, get to the office. So they
19 would have to go online to see where we were.

20 **CAPT Neubauer:** Thank you, sir. Are there any further questions for Mr. Baird?

21 **Tote Inc:** No further questions.

22 **ABS:** No questions.

23 **CAPT Neubauer:** Mr. Fawcett.

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1 **Mr. Fawcett:** I just want to be clear on what you said regarding Tropical Storm Erika.
2 You did say that the chain of the Bahama Island reduced the effect of waves, is that
3 correct?

4 **WIT:** That's correct.

5 **Mr. Fawcett:** And then just during the summer time frame there was an issue with the
6 El Yunque life boat davits, were you familiar with that?

7 **WIT:** No I was not familiar with that.

8 **Mr. Fawcett:** During the summer of 2015, were there any repairs made to the El Faro
9 life boat davits?

10 **WIT:** Not that I was aware of.

11 **Mr. Fawcett:** Thank you very much.

12 **CAPT Neubauer:** Are there any further questions for Mr. Baird?

13 **Ms. Davidson:** Yes, there are. Can we put back up the storm Erika track please.

14 **CAPT Neubauer:** Yes, sir.

15 **Ms. Davidson:** Thank you. Mr. Baird, this is the real track of the storm Erika. Do you
16 know what the actual forecasted path of Erika was? Do you recall?

17 **WIT:** I don't recall, but the normal track of those storms would be it would start heading
18 North.

19 **Ms. Davidson:** Was there a forecast that put the track of the Erika North of Puerto
20 Rico?

21 **WIT:** I don't recall, I'm sorry.

22 **Ms. Davidson:** Thank you, sir.

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1 **CAPT Neubauer:** If we could keep the slide up please. Sir, while you were underway
2 on that Tropical Storm Erika voyage, were you aware that you might encounter the
3 storm?

4 **WIT:** Oh yes, that's why we went the alternate route.

5 **CAPT Neubauer:** Did you go the alternate route to try to avoid the storm?

6 **WIT:** That's correct.

7 **CAPT Neubauer:** But during the voyage, were you aware, once you altered route to
8 the South that you would encounter the storm?

9 **WIT:** We knew that chance was there, but we made a calculated decision to go the Old
10 Bahama Channel route so we could have our laborers working.

11 **CAPT Neubauer:** So the more protective lee of the Island was – reduced the concern
12 for meeting the storm at sea? Are you saying that the route was protected, the seas
13 were going to be lessened because of the lee of the Island?

14 **WIT:** Right.

15 **CAPT Neubauer:** So encountering the storm was not a concern at that point?

16 **WIT:** Well it was always a concern, but we deemed it more prudent to go the Old
17 Bahama Channel so we would be able to keep our speed up and our workers would be
18 able to work.

19 **CAPT Neubauer:** But you did not alter speed to prevent meeting the storm?

20 **WIT:** No.

21 **CAPT Neubauer:** Is that correct?

22 **WIT:** We did not alter speed.

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1 **CAPT Neubauer:** Were you aware that you were going to be encountering the storm
2 while you were underway?

3 **WIT:** We were monitoring the storm, yeah, we were all aware of where the storm was.

4 **CAPT Neubauer:** So my question is you knew at some point underway that you would
5 be sailing through the storm?

6 **WIT:** We knew we would be coming close to it, we knew it was in the – we knew it was
7 in our vicinity, but it was – we were monitoring it.

8 **CAPT Neubauer:** Did you – but you encountered storm force winds, is that correct?

9 **WIT:** Yes.

10 **CAPT Neubauer:** Thank you, sir. Are there any further questions.

11 **Ms. Davidson:** A little more follow up, Captain. Mr. Baird, how many years at sea
12 have you spent?

13 **WIT:** Have I got?

14 **Ms. Davidson:** Yes.

15 **WIT:** 30.

16 **Ms. Davidson:** You're an experienced sailor, and what I'm hearing is that you did a risk
17 assessment, you monitored the storm, and you pick a course and you safely navigated
18 the ship involving Erika and the Captain did that with you together, correct?

19 **WIT:** That's correct.

20 **Ms. Davidson:** He was meticulous, correct?

21 **WIT:** He was very meticulous.

22 **Ms. Davidson:** He was open to communication about what routes to take, correct?

23 **WIT:** With me he was very open.

1 **Ms. Davidson:** And you spent a lot of time on how to avoid Tropical Storm Erika,
2 correct?

3 **WIT:** We deemed that the most prudent way to go.

4 **Ms. Davidson:** And you have no information as you sit here today that he did not do
5 the same analysis with respect to Hurricane Joaquin, correct?

6 **WIT:** Correct. I don't know what his thinking process was as far as that storm is
7 concerned.

8 **Ms. Davidson:** But we do know that the forecasted track of Hurricane Joaquin was at
9 least 100 miles off from its real track for most of his voyage, correct?

10 **WIT:** Correct, that's what you told me. I don't remember the actual track.

11 **Ms. Davidson:** Thank you, sir. Thank you, sir.

12 **CAPT Neubauer:** Are there any further questions for Mr. Baird? Mr. Kucharski.

13 **Mr. Kucharski:** Mr. Baird, just one quick question. Was there ever an instance that
14 you did not sail from port because of adverse or bad weather?

15 **WIT:** No. No, we always sailed.

16 **Mr. Kucharski:** Thank you.

17 **CAPT Neubauer:** Are there any further questions? Mr. Baird, we are now complete
18 with your testimony for today. However I anticipate that you may be recalled to provide
19 additional testimony at a later date. Therefore I am not releasing you from your
20 testimony at this time and you remain under oath. Please do not discuss your testimony
21 or this case with anyone other than your counsel, the National Transportation Safety
22 Board or members of this Coast Guard Marine Board Investigation. If you have any
23 questions about this, you may contact my legal advisor, Commander Jeff Bray. At this

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1 time I would like to ask if there are any party of interest concerns regarding the
2 testimony provided by Mr. Baird?

3 **Tote Inc:** No, sir.

4 **Ms. Davidson:** No, sir.

5 **ABS:** No, sir.

6 **HEC:** No, sir.

7 **CAPT Neubauer:** We'll now take a 1 hour recess for lunch and reconvene at 1:40.

8 *The hearing recessed at 1242, 18 February 2016*

9 *The hearing was called to order at 1345, 18 February 2016*

10 **CAPT Neubauer:** The hearing is now back in session. We will now hear testimony
11 from Mr. Tim Nola, President, Tote Puerto Rico. Mr. Nolan, please come forward to the
12 witness table and Lieutenant Commander Yemma will administer your oath and ask
13 some preliminary questions.

14 **LCDR Yemma:** Please raise your right hand. A false statement given to an agency of
15 the United States is punishable by a fine and or imprisonment under 18 United States
16 Code section 1001, knowing this do you solemnly swear that the testimony you're about
17 to give will be the truth, the whole truth and nothing but the truth, so help you God?

18 **WIT:** I do.

19 **LCDR Yemma:** Thank you, please be seated. Sir, we'll start with please state your
20 name and spell your last for the record.

21 **WIT:** Timothy Nolan, N-O-L-A-N.

22 **LCDR Yemma:** And counsel.

23 **Counsel:** Jack Fornaciari, F-O-R-N-A-C-I-A-R-I.

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1 **LCDR Yemma:** Thank you. Mr. Nolan, can you please tell us about your current
2 employment and what your position is?

3 **WIT:** I am the President of Tote Maritime Puerto Rico.

4 **LCDR Yemma:** And can you describe some of your general responsibilities in that
5 position?

6 **WIT:** I'm responsible for the strategic direction of the company, the capital and financial
7 budgets, goals and objectives for the organization, leadership for the overall
8 organization as well as a communication with customers, vendors and the community.

9 **LCDR Yemma:** And can you also describe some of your relevant past work experience
10 please?

11 **WIT:** I started off with the Maersk organization as a management trainee, spent the bulk
12 of my career with them. Most recently prior to joining Tote I was with Yusen logistics
13 which is part of the NYK group.

14 **LCDR Yemma:** And what is your highest level of education completed?

15 **WIT:** Masters in science.

16 **LCDR Yemma:** And do you hold any licenses or professional certifications?

17 **WIT:** I do not.

18 **LCDR Yemma:** Thank you, sir.

19 **CAPT Neubauer:** Mr. Fawcett.

20 **Mr. Fawcett:** Thank you Captain. Good afternoon Mr. Nolan.

21 **WIT:** Good afternoon Mr. Fawcett.

22 **Mr. Fawcett:** You've been in attendance for part of this hearing, so you know the
23 scheme of how we are going to conduct this questioning, correct?

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1 **WIT:** Yes, sir.

2 **Mr. Fawcett:** And if you would like to take a break at any time please let us know.

3 **WIT:** Yes, sir.

4 **Mr. Fawcett:** So we're going to go through several broad topic areas and give
5 everybody an opportunity to ask questions about that. The first will be an overview of
6 management, the second will be Tote Maritime Puerto Rico's involvement with crewing
7 the vessels. And the final area will be storm voyage. So the first area I would like to
8 talk about is in general overview of management. And to set the stage I would like you
9 to describe where you were, what you were doing on the day that the El Faro sailed
10 from Jacksonville on the accident voyage.

11 **WIT:** I was in Jacksonville during that time. I was involved in various meetings in the
12 office in Jacksonville. One that's typically spent a little bit longer time, which is an IT
13 meeting. Subsequent to that week I was in Florida also meeting with a client. And on
14 the day of October 1st I was, when I received the phone call was at breakfast with a
15 church group.

16 **Mr. Fawcett:** So your offices for Tote Maritime Puerto Rico are in what proximity to the
17 offices of Tote Services Inc.?

18 **WIT:** We're in the same office park, in different buildings, approximately I would say
19 100 to 200 yards away from one another.

20 **Mr. Fawcett:** Where are the offices of Tote Inc.?

21 **WIT:** Tote Inc. is based out of Princeton, New Jersey.

22 **Mr. Fawcett:** How much time does the President of Tote Inc. spend in the Jacksonville
23 area?

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1 **WIT:** Exact amount of time I don't want to say, but I assume on a regular basis. I would
2 say monthly at least in the Jacksonville area.

3 **Mr. Fawcett:** So is there some kind of like a monthly meeting that he attends?

4 **WIT:** No, he does not attend a monthly meeting.

5 **Mr. Fawcett:** So if you could give us, you gave a brief description of, for an overview of
6 your activities as President of Tote Maritime Puerto Rico. Can you go into a little more
7 detail about the various areas where you work?

8 **WIT:** Sure. We have an organization made up of various departments. We have an
9 operations department, a commercial department, a human resource department, a
10 financial department, a pricing and yield department, as well as folks on Island in Puerto
11 Rico. I will spend time with each one of those folks, direct reports or indirect reports.
12 And you know be involved in various meetings, whether it's a customer meeting,
13 whether it is a project meeting, whether it is administrative meetings, whether it's
14 coordinating let's say quarterly management meeting or weekly flash meetings. So
15 involved in the leadership of the organization.

16 **Mr. Fawcett:** So do the weekly flash meetings incorporate members of Tote Services
17 Inc.?

18 **WIT:** They do not.

19 **Mr. Fawcett:** How do you interact with Tote Services Inc.?

20 **WIT:** In what sense, sir, I'm sorry?

21 **Mr. Fawcett:** In any sense.

22 **WIT:** I have regular dialogue, personally you're talking how I interact?

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1 **Mr. Fawcett:** Yeah, in other words I want to know where sort of the lines of business
2 related to operation go back and forth. As I understand it from these discussions you
3 actually owned the El Faro at the time of the accident

4 **WIT:** Yes, sir.

5 **Mr. Fawcett:** So how do you engage with Tote Services about the El Faro?

6 **WIT:** I bring up communication with them. We, as I noted they're based in the same
7 office park as we are. They – the majority of the communication will be between our
8 operations team and the folks at Tote Services. I will engage with Mr. Greene on a
9 regular basis as well.

10 **Mr. Fawcett:** So when did you join Tote?

11 **WIT:** I joined May of 2013.

12 **Mr. Fawcett:** And have you held other positions within the Tote organization?

13 **WIT:** Yes, sir.

14 **Mr. Fawcett:** And what were those?

15 **WIT:** In 2013 when I joined I was the Executive Vice President of, at that time what was
16 Sea Star Line and is now Tote Maritime Puerto Rico.

17 **Mr. Fawcett:** And what were your responsibilities at that time?

18 **WIT:** At that time I was responsible for human resources. I was responsible for the
19 customer service group, cargo services, and also responsible for the pricing yield
20 management department.

21 **Mr. Fawcett:** So you mentioned the Maersk, did you call it the executive management
22 program?

23 **WIT:** Yes, sir.

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1 **Mr. Fawcett:** Could you describe that for us?

2 **WIT:** Yes, it was a three year international management training program. It was a
3 three year program as I said, one year based in your home country, second year based
4 aboard, third based in your home country getting exposure to various departments and
5 aspects of the global organization.

6 **Mr. Fawcett:** And what did that training entail? In a very general sense.

7 **WIT:** It entailed on the job training, classroom training, language training and
8 opportunities for international exposure.

9 **Mr. Fawcett:** And how much of that training dealt with an executive management
10 overview of shipboard operations?

11 **WIT:** A portion, but not the majority.

12 **Mr. Fawcett:** And how much depth did that training go into? Did you ride on a ship?

13 **WIT:** Not great – no, sir, not great detail.

14 **Mr. Fawcett:** So who do you directly report to?

15 **WIT:** I report to Anthony Chiarello, the CEO of Tote Inc.

16 **Mr. Fawcett:** And then within Tote Maritime Puerto Rico, who reports directly to you?

17 **WIT:** The Vice President of Human Resources, the Vice President of Commercial, the
18 Vice President and General Manager Puerto Rico, the Vice President of Operations, the
19 Vice President Cargo Services, Customer Service.

20 **Mr. Fawcett:** So what does the Vice President of Operations do?

21 **WIT:** The Vice President of Operations is responsible for the terminal operations, our
22 inland movement of cargo as well as our equipment and risk management.

1 **Mr. Fawcett:** So when you talk about, just so we can understand that, the inland
2 movement of cargo, how does that – you know ultimately the cargo is going to get
3 placed on one of your vessels.

4 **WIT:** Yes, sir.

5 **Mr. Fawcett:** To what depth are you involved with inland movement of cargo?

6 **WIT:** A portion of our cargo could be a door pick-up at a customer's location and
7 another portion of that cargo will be delivered by the customer to our terminal. So if a
8 customer requires service from their location we will facilitate the inland movement of
9 those goods.

10 **Mr. Fawcett:** Then you have a Vice President of Customer Service, is that what you
11 said?

12 **WIT:** Yes, sir.

13 **Mr. Fawcett:** And could you describe the function of that person?

14 **WIT:** Yes, sir. The individual is responsible for bookings that would take place, a
15 customer's booking. A customer service for customers. Documentation and cargo
16 support.

17 **Mr. Fawcett:** Which division within your organization would deal with delays or
18 damaged cargo being shipped by sea?

19 **WIT:** I can break it down for you. Damage to cargo would be the claims department,
20 which is risk management and then delays, just if you could be a little more specific.

21 **Mr. Fawcett:** Vessel delays meaning the bulk of a cargo on a ship were delayed in
22 reaching port.

23 **WIT:** It could touch multiple areas.

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1 **Mr. Fawcett:** Such as?

2 **WIT:** Such as the operations team, customer service team as well as the commercial
3 organization.

4 **Mr. Fawcett:** So if cargo is damaged on one of your ships, how is the – how is it
5 determined how that damage was caused and you know what was the cause of that
6 damage?

7 **WIT:** Traditionally a surveyor would assist in analyzing if there was cargo damage.

8 **Mr. Fawcett:** And how would they do that?

9 **WIT:** Well a couple of ways. If the cargo got to a customer and they recognized that it
10 was damaged they may file a formal claim and advise us. If it was not we would advise
11 them for some reason that it couldn't be moved. If there was that case we would advise
12 them that the container could not be moved and it may have been damaged.

13 **Mr. Fawcett:** So let's say that a ship reached port and there was containerized damage
14 to cargo and on unloading of the ship it was determined that the cargo had been
15 damaged in shipment based on weather, take us through the steps of what would
16 happen next.

17 **WIT:** Could the cargo be moved, is my question for you?

18 **Mr. Fawcett:** Yeah, we've just identified that the cargo is physically damaged by
19 weather in transit. Whether you can move the cargo or not is not the point, the point is
20 how do you determine how it was damaged?

21 **WIT:** We would advise the customer if in fact there was a damage to a specific
22 container to the customer. And at that time we would coordinate, you know appropriate
23 to come in and survey the container to identify what the damage was and what the

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1 damage was to the cargo on board so the customer would have an opportunity to bring
2 their surveyor in as well.

3 **Mr. Fawcett:** Would you try to ascertain how the damage occurred?

4 **WIT:** Yes.

5 **Mr. Fawcett:** And then what corrective, as a result of that assessment of how the
6 damage occurred, where's the feedback to Tote Services who operates your vessel?

7 **WIT:** Trying to recall an actual incident that we've had and I cannot recall an incident
8 where we've had where the actual cargo is damaged. But to your point here. However,
9 I would – it would come feedback, of course there would be dialogue I'm sure between
10 the folks at the terminal risk management and understanding what took place to
11 potentially cause the damage to this. So there would dialogue with the crew, be it the
12 Captain or Chief.

13 **Mr. Fawcett:** Is there a formalized process prior to the accident voyage for assessing
14 the movements of your cargo on ships and to find out if that's been handled effectively?

15 **WIT:** Can you elaborate on that Mr. Fawcett?

16 **Mr. Fawcett:** Well in other words, if the ship went into adverse weather and there was
17 cargo damage, you know looking at the potential for that, is there a procedure in place
18 where how it got damaged by the operation of the vessel they would conduct an
19 examination of how it is done and then let Tote Services know so that they would modify
20 their procedures or policies to reduce future damage to the cargo.

21 **WIT:** We would communicate with them if we identified a situation. As per the specific
22 process I cannot speak to that detail.

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1 **Mr. Fawcett:** So Tote Maritime owned the El Faro, what other vessel at the time of the
2 accident did they own?

3 **WIT:** The El Yunque.

4 **Mr. Fawcett:** And now if you would take a moment to explain how contracted tug and
5 barges were put into service to carry your cargo to and from Puerto Rico.

6 **WIT:** The barges were brought into service as it was noted earlier from some of the
7 dialogue here when Horizon Lines exited the trade. So we on hired, excuse me, in
8 2015 four barge, tug and barges in 2015.

9 **Mr. Fawcett:** So was there a process to determine the suitability of those tug operators
10 to carry your cargo back and forth between Jacksonville and San Juan?

11 **WIT:** Excuse me, yes. We had surveys done on those. They were supported by Tote
12 Services as a support to Tote Maritime Puerto Rico. So surveys were done on the
13 barge and tugs.

14 **Mr. Fawcett:** So the surveys were done on the barges and on the tug boat operations
15 themselves?

16 **WIT:** If I can recall correctly, yes, Mr. Fawcett.

17 **Mr. Fawcett:** So just to clarify, do you have control of the El Faro at the time of the
18 accident or the El Yunque in any way?

19 **WIT:** Can you elaborate on that? What do you mean by control?

20 **Mr. Fawcett:** Well, control or the ability to effect the movements of those vessels while
21 they were at sea?

22 **WIT:** No. Tote Services, we've hired them as our vessel management organization.

23 **Mr. Fawcett:** What's your assurance that they're being operating properly?

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1 **WIT:** You know they're an organization that's been around for a few decades now.
2 They're a sister company of ours as well. If there was anything of significance that
3 would not allow them to operate we would be advised of it accordingly. That's our
4 assurances.

5 **Mr. Fawcett:** What's your assurance that they're being crewed properly?

6 **WIT:** As part of our agreement they're responsible for the crewing, to have the proper
7 licensed crew on, recognize that they do work with two highly skilled organizations, the
8 SIU and AMO who credential their employees and union members.

9 **Mr. Fawcett:** Do you ever as part of a process of continual improvement reassess the
10 qualification of the crews on board the vessels that you own?

11 **WIT:** I do not.

12 **Mr. Fawcett:** Does the company?

13 **WIT:** We do not, Tote Services does that on our behalf.

14 **Mr. Fawcett:** As the owner of the vessel how do you know that the vessels are being
15 properly navigated?

16 **WIT:** We entrust Tote Services as our vessel manager to ensure this is being done on
17 our behalf.

18 **Mr. Fawcett:** Have you ever had a third party look into that, and I know you're not
19 required by law, but have you ever considered having a third party look into that?

20 **WIT:** I have not had a third party review that.

21 **Mr. Fawcett:** Have you ever sent out emails that talk about cargo utilization on the EI
22 Faro and the EI Yunque?

23 **WIT:** In what sense, sir?

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1 **Mr. Fawcett:** Well I mean have you ever looked at the cargo loads and responded out
2 to the people at Tote Service regarding the utilization of the vessels? In terms of
3 percentages.

4 **WIT:** To communicate it to Tote Services, I'm not 100 percent certain if they were
5 included. But have I commented on that in general? Yes.

6 **Mr. Fawcett:** Have you ever talked about utilization in excess of 100 percent?

7 **WIT:** There's two components of utilization. One is the FEU utilization, but on the other
8 factor which is a true load ability of the ships is based on weight.

9 **Mr. Fawcett:** Okay. Just so everybody can understand, could you elaborate a little bit
10 more, because I know you used an acronym and it may be helpful?

11 **WIT:** Sure. So the two components, one is a FEU which I noted was a 40 foot
12 equivalent unit, which is a size of a standard 40 foot container that goes on the ship.
13 And the other is the weight when they are loading the ship and how the ship load
14 management is governed.

15 **Mr. Fawcett:** So if you said that utilization was factor over 100 percent, what would that
16 mean?

17 **WIT:** That would be in the FEU. So there's a target number for the specific ships from
18 a utilization standpoint that we use for budgetary purposes. That number could be
19 exceeded or come below based on the cargo that's on board or the size and type of
20 containers that are on board.

21 **Mr. Fawcett:** Are you aware at any time that Tote Maritime Puerto Rico has
22 recommended a reduction in the load of vessels based on adverse weather?

23 **WIT:** I cannot recall, sir.

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1 **Mr. Fawcett:** At any ----

2 **WIT:** I just would like to stress, Mr. Fawcett, on the utilization side again, the loading of
3 the ship is focused and managed according to weight, not per se FEU's.

4 **Mr. Fawcett:** And where is that management done?

5 **WIT:** That's done in the loading of the ship.

6 **Mr. Fawcett:** Okay. So that would be done at the terminal level by the terminal
7 managers in the loading of the ship prior to departure, is that correct?

8 **WIT:** That would be done as the loading process in accordance with the stevedores,
9 the operations team as well as the ship.

10 **Mr. Fawcett:** Has Tote Maritime Puerto Rico ever sent any guidance out specifically
11 regarding like loading the ships from a safety angle?

12 **WIT:** Not that I recall, but I would stress that safety is always first.

13 **Mr. Fawcett:** In today there were some testimony and I wasn't sure, Captain Lofffield
14 was asked about storm lashing policies.

15 **WIT:** Yes, sir.

16 **Mr. Fawcett:** Would you be aware if storm lashings were set at hurricane storm lashing
17 strength year round?

18 **WIT:** I would not be aware of that, sir.

19 **Mr. Fawcett:** So this morning we were talking about the August deviation where the
20 ship went through the Old Bahamas route and arrived later than normal in San Juan
21 and that was caused by, also there was the effects of a port closure, am I correct? Was
22 the Port of San Juan in late August?

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1 **WIT:** I cannot recall that it officially closed, but I do recall there being the word of
2 closure. But I cannot recall that it officially closed at that time, sir.

3 **Mr. Fawcett:** So based on the later arrival of the El Faro, the closure, the potential
4 closure of the port whether it closed or not, was there any kind of executive review of
5 that voyage as to the effectiveness of the storm avoidance and impact on schedules?

6 **WIT:** Are you saying from Tote Maritime, sir?

7 **Mr. Fawcett:** Yes, sir.

8 **WIT:** There was not a review done on that.

9 **Mr. Fawcett:** Do you recall in your three years present in with Tote Maritime if you've
10 done any executive reviews on the movement of vessels in relation to weather
11 phenomenon?

12 **WIT:** We have not Mr. Fawcett. Just to note the safe passage as I said is the priority
13 and that's in the hand of the Master on the ship at that time and the crew. The arrival to
14 the ports on time is secondary, just to note. So to the point we're not over preoccupied
15 with the arrival time. If that's the path that needs to be taken we fully support it.

16 **Mr. Fawcett:** Understand, thank you. When a ship leaves Jacksonville on a typical
17 voyage, do you have any idea what route they're going to take?

18 **WIT:** I do not. Personally I don't get involved with the route – what direction the ship
19 will take or what route it will take.

20 **Mr. Fawcett:** During the course of the voyage if they were to alter their course
21 significantly for any reason, are you aware that that's happened, from your position as
22 President of Tote Maritime Puerto Rico?

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1 **WIT:** I could be aware in the afternoons, I will get an update on the estimate of arrivals
2 for the ship. So I could be made aware if there is a delay.

3 **Mr. Fawcett:** Who provides you with those updates?

4 **WIT:** Our operations organization.

5 **Mr. Fawcett:** Do you know how that works so you could, probably elaborate on that a
6 little more?

7 **WIT:** Well it is derived off the noon report that comes from the ship and then it is a
8 simple summary version giving an update on the ETA of each one of the ships.

9 **Mr. Fawcett:** So does the noon report contain an updated ETA?

10 **WIT:** I'm not involved in the noon reports, sir.

11 **Mr. Fawcett:** So Sea Star Line, now Tote Maritime Puerto Rico has a blog, some kind
12 of way of communicating with their customers, information regarding the time gates
13 open at terminals and holidays and different places and whether or not there will be
14 delays of ships, is that correct?

15 **WIT:** We would advise customers, correct, sir.

16 **Mr. Fawcett:** Do you know how that's – how that is transmitted to your customers?

17 **WIT:** We would send out a – a customer notification will be sent out from a marketing
18 group.

19 **Mr. Fawcett:** Do you know how the movement of the tugs and barges that are – well at
20 one time provided service for you, how the movement of those vessels are tracked?

21 **WIT:** They also sent a noon report as well.

22 **Mr. Fawcett:** And so how is that information translate – transmitted to you?

23 **WIT:** It would be in a similar that I've noted. I would get a summary update.

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1 **Mr. Fawcett:** At this time I would like to pass the line of questioning to Commander
2 Denning and we'll come back and revisit another topic. Thank you, sir.

3 **WIT:** Thank you, sir.

4 **CDR Denning:** When Lieutenant Commander Damian Yemma began and spoke about
5 your background you said you have a Master's degree. Can you tell us what that
6 degree is in?

7 **WIT:** It's in international marketing.

8 **CDR Denning:** And what's your bachelor's degree in?

9 **WIT:** Marketing.

10 **CDR Denning:** You mentioned one of your roles was pricing and yield management,
11 correct?

12 **WIT:** My specific role, no, sir. Underneath – within the organization, it's underneath
13 me.

14 **CDR Denning:** So would you say that you've got a good sense of the business aspect
15 of the trade between Jacksonville and Puerto Rico?

16 **WIT:** I think I have a fair understanding of the trade.

17 **CDR Denning:** How many vessels are on that particular trade supplying Puerto Rico?

18 **WIT:** Today's there's two vessels.

19 **CDR Denning:** Not just within the Tote organization, but other companies as well.

20 **WIT:** There's a – there's different types of vessels in the trade, serving the market.

21 **CDR Denning:** Can you maybe describe that for us a little bit?

22 **WIT:** There's a, at this time we are the provider with vessels, with ships, having two
23 ships in the trade. And the other service providers use a tug and barge service today.

1 **CDR Denning:** And how many of those tug and barge services are there, do you
2 know?

3 **WIT:** I don't know off hand. There's multiple for each one of the other providers. And if
4 I can take it back, not take it back but elaborate, there's another provider out of the Gulf
5 that does have a vessel as well.

6 **CDR Denning:** Who's that provider?

7 **WIT:** I'm drawing a blank on it. They have one vessel that's a bi-weekly service. I'm
8 drawing a blank, sir. I can get it for you.

9 **CDR Denning:** Understand, thank you.

10 **CAPT Neubauer:** Commander Odom. Mr. Roth-Roffy.

11 **Mr. Roth-Roffy:** Good afternoon Mr. Nolan.

12 **WIT:** Good afternoon, sir.

13 **Mr. Roth-Roffy:** Can you give us an idea of how many employees in each of the two
14 sister companies, TSI and Tote Maritime? Approximately.

15 **WIT:** Okay, I'm sorry Mr. Roth-Roffy, are you saying Tote Maritime Puerto Rico, Tote
16 Maritime Alaska.

17 **Mr. Roth-Roffy:** Just Tote Maritime, well if you have all three sister companies that
18 would be great, but.

19 **WIT:** We have approximately 130 employees at Tote Maritime Puerto Rico, give or
20 take. I believe Tote Services has approximately 50 direct employees, give or take.

21 That's my estimate. And Tote Maritime Alaska is similar to Tote Maritime Puerto Rico,
22 120 to 130 employees approximately.

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1 **Mr. Roth-Roffy:** And are each of these companies operated as profit centers, if I'm
2 using the correct term where they're independently responsible for their profit and loss?

3 **WIT:** Yes, sir.

4 **Mr. Roth-Roffy:** And if you can, can you generally say whether or not all of these
5 companies are profitable at this time?

6 **WIT:** Yes, sir.

7 **Mr. Roth-Roffy:** And in the past has there been a period where the companies were
8 not profitable?

9 **WIT:** Since I've been with the organization, sir.

10 **Mr. Roth-Roffy:** Yes.

11 **WIT:** They've been profitable.

12 **Mr. Roth-Roffy:** Thank you. As a ship owner, can you provide some information about
13 decisions related to recapitalization of the fleet? For example, replacing older vessels
14 with newer vessels. What sort of factors inform that decision?

15 **WIT:** Are you talking about decisions we've made Mr. Roth-Roffy?

16 **Mr. Roth-Roffy:** Yeah, you're probably not engaged with any such deliberations, but
17 perhaps in recent years. The vessels could be considered to be a little bit elderly, so I
18 think there was a decision to maintain their operation. At some point there was decision
19 to recapitalize, to build new ships. Could you just discuss some of those factors that
20 were involved in that decision?

21 **WIT:** Decisions were made prior to my arrival to the organization, if I can note that.

22 And to note as well I think the El Faro and El Yunque were fine vessels, well

23 maintained, well certified and all proper investments put into them. Quality ships if I

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1 could note that. The reason for the two new ships arrivals is purely because of the ECA
2 requirements that were put in place, which is the emission control areas. And what was
3 driven down to the maritime industry. That was the core reason to recapitalize in the
4 two new vessels.

5 **Mr. Roth-Roffy:** So but for the ECA regulations, is there any limits on how old a vessel
6 can be and continue to operate?

7 **WIT:** I don't have the – not to my knowledge, sir, that I recognize now.

8 **Mr. Roth-Roffy:** In a similar area of inquiry. What about the reliability of those two
9 vessels, El Yunque, El Faro, in recent years? Do you have any statistics? Or do you
10 have a matrix that would help us understand how reliable they were on the trade they
11 were engaged in?

12 **WIT:** Yes, sir. They're very reliable. So from a reliability standpoint they had a weekly
13 sailing, each of them. And they're regularly on time on the days of arrival that they were
14 scheduled to arrive and depart. They consistently met those as a reliable vessel.

15 **Mr. Roth-Roffy:** Do you have any specific statistics?

16 **WIT:** Above 90 percent reliability.

17 **Mr. Roth-Roffy:** 90 percent.

18 **WIT:** Yes, sir.

19 **Mr. Roth-Roffy:** Do you know how that compares with the Tote Inc. vessels engaged
20 in Alaska trade?

21 **WIT:** I don't, sir.

22 **Mr. Roth-Roffy:** Could you just please describe generally the contract that Tote
23 Maritime has with Tote Services to provide vessel management service?

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1 **WIT:** Yes, sir. We have a standard BIMCO contract between the two organizations.
2 The full vessel management on behalf of Tote Maritime, technical management and
3 crewing included in that is the fueling. Required all proper all certifications, proper
4 maintenance is done to the ships as well.

5 **Mr. Roth-Roffy:** And as part of the contract are any provisions for bonuses for on time
6 performance or similar measures that would result in higher compensation to Tote
7 Services?

8 **WIT:** No, sir.

9 **Mr. Roth-Roffy:** Does the contract include provisions for reimbursable expenses
10 outside the normal expenses of the vessel?

11 **WIT:** Can you elaborate Mr. Roth-Roffy?

12 **Mr. Roth-Roffy:** For example if there's a break down, there's a major casualty. Would
13 Tote Maritime have a provision to compensate for those extraordinary expenses?

14 **WIT:** Yes, sir, we would compensate for those.

15 **Mr. Roth-Roffy:** And we've heard in previous testimony some information about
16 Horizon, that their exit from the market procedure, your tenure or not, but could you
17 describe what you know about their service and perhaps why they left the Puerto Rican
18 trade?

19 **WIT:** Exact reasons why they left I don't have the detail on it. I would venture to say
20 they weren't performing as they would have like to and they thought it was time to
21 depart the trade. They departed the trade in, it was December of 2014, is when they
22 departed the trade. They left the trade, well at that time they, I believe they had two

1 calls a week at that time as well. And they moved on from the trade at the end of
2 December in 2014.

3 **Mr. Roth-Roffy:** In their departure from that trade was it anticipated in advance, or was
4 it come unexpectedly?

5 **WIT:** I would say that people had viewed them of having some challenges over the
6 years. So I don't think it was a surprise. They had announced it, you know where it
7 wasn't a surprise and I would say, I don't know if you want to call it a fair amount of
8 time, but a few months if I can recall correctly where it was announced that they were
9 departing trade.

10 **Mr. Roth-Roffy:** And do you have knowledge of the sorts of challenges that they were
11 facing, and how it affected the customers?

12 **WIT:** Whether it was equipment, I think I know a challenge was were they reinvesting
13 into the trade was a concern of customers, I know that.

14 **Mr. Roth-Roffy:** And given that the Horizon exit was known several months in
15 advance, what sort of – what did Tote anticipate in terms of their volume and were there
16 any preparations made to assume that volume?

17 **WIT:** Yes, sir. So there – we did have lead time on that, being the three months. We
18 thought there could be an opportunity that our bookings and volume would increase.
19 This is the core reason that we went out and on hired the barges, tug and barges to be
20 able to support the trade. And that was the core focus on hired equipment as well,
21 being containers to be able to support the trade as well with the increase in volume.

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1 **Mr. Roth-Roffy:** So can you give us some measure of the cargo carriage before the
2 exit of Horizon relative to what was it afterwards, whatever measure you use, tonnage
3 or?

4 **WIT:** Sure, sure. In the past traditionally the ships were still what you consider utilized
5 on Fridays at solid rates in prior years, be it '14 and '13. Tuesday sailing was
6 traditionally strong during season as well, especially holiday seasons. So the point of
7 handling more cargo we did take on some more cargo as well where it was consistently
8 more volumes, you know say consistent volumes on the ships for the utilization. And
9 then we had brought in the barges to support the trade as well. And the barges weeks,
10 some weeks sailed full some weeks did not as well. And traditionally our, the volume
11 mix we did take on more refrigerated cargo that was noted earlier, especially on the
12 perishable side, which would be loaded on the ship. So our volume of refrigerated
13 cargo, from a cargo mix that did increase.

14 **Mr. Roth-Roffy:** Do you have any more specific numbers on tonnage or other
15 measures to, or percentage increase in cargo carried?

16 **WIT:** I would – 30 percent, over 30 percent.

17 **Mr. Roth-Roffy:** And that was after or in the months before Horizon exited the trade, is
18 that correct?

19 **WIT:** That was the months after. And that's the reason it was put out, with the tugs and
20 barges when they came, they supported that increase in volume.

21 **Mr. Roth-Roffy:** With the delivery of the new Marlin class vessels, do you still
22 anticipate needing the use of the tug and barge operation?

23 **WIT:** At this time we do not.

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1 **Mr. Roth-Roffy:** So their service has been terminated?

2 **WIT:** Yes, sir.

3 **Mr. Roth-Roffy:** At this time that's all I have, thank you.

4 **CAPT Neubauer:** Mr. Kucharski.

5 **Mr. Kucharski:** Thank you Captain. Good afternoon Mr. Nolan.

6 **WIT:** Good afternoon, sir.

7 **Mr. Kucharski:** You mentioned earlier that you had meetings with a client, was it, or a
8 customer when, I think you were meeting when the incident happened with the vessel?

9 **WIT:** I was not meeting with a customer at that specific time, on October 1st, but the
10 day prior I was.

11 **Mr. Kucharski:** The day prior. Was that a new customer?

12 **WIT:** No.

13 **Mr. Kucharski:** You mentioned a marketing that your background is in marketing?

14 **WIT:** It's in my background, but my education, yes.

15 **Mr. Kucharski:** Is on time delivery critical in obtaining new customers at Tote?

16 **WIT:** I wouldn't say – can you elaborate in sense what do mean by critical?

17 **Mr. Kucharski:** How important is it, percentage, what do you prioritize ----

18 **WIT:** I wouldn't say, uh, I would say reliability would be a proper term for it. And
19 customers do note that, you know when we sell we have an estimated time of arrival
20 and an estimated time of departure. So from a marketing standpoint we don't sell a
21 guaranteed delivery service time.

22 **Mr. Kucharski:** I'm sorry, what was the last?

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1 **WIT:** We don't market a guaranteed time of delivery. It's an estimated time of delivery,
2 departure and arrival, excuse me.

3 **Mr. Kucharski:** So it's not guaranteed, but reliability is, thank you. Does Tote Maritime
4 Puerto Rico have ISO certification?

5 **WIT:** Yes, sir.

6 **Mr. Kucharski:** Can you tell us what certificates it holds?

7 **WIT:** Sure. It's environment quality, 14001, 9001, we're also compliant on safety per
8 18001. We'll be certified prior to June of this year, we started that certification June of
9 last year.

10 **Mr. Kucharski:** So you said it's ISO 9001 certified?

11 **WIT:** Yes, sir. Quality and environment.

12 **Mr. Kucharski:** Quality and environment.

13 **WIT:** Two certifications.

14 **Mr. Kucharski:** Can you tell me that if there are – there's a policy, a checklist, a
15 manual in procedures and records in place for Tote Maritime Puerto Rico?

16 **WIT:** Yes, sir.

17 **Mr. Kucharski:** Do you know if the other units of Tote Inc. have ISO certification?

18 **WIT:** I'm not – I believe Tote Maritime Alaska does, but I'm not versed on details of
19 any, sir.

20 **Mr. Kucharski:** No further questions.

21 **CAPT Neubauer:** Does Tote have any questions for the witness?

22 **Tote Inc:** No, sir.

23 **CAPT Neubauer:** Does ABS have any questions for the witness?

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1 **ABS:** No questions.

2 **CAPT Neubauer:** Does Mrs. Davidson have any questions for the witness?

3 **Ms. Davidson:** No questions.

4 **CAPT Neubauer:** HEC do you have any questions?

5 **HEC:** No questions.

6 **CAPT Neubauer:** Mr. Nolan I just have a few questions, sir. Can you briefly describe
7 the types of time critical cargo you carry? Which cargos are absolutely time critical
8 types?

9 **WIT:** I would say the priority would be if it's like a perishable goods would be ones that
10 have a, say a limited shelf life.

11 **CAPT Neubauer:** Are there any medical type cargos that are time sensitive? Medical
12 supplies.

13 **WIT:** Predominately on the North bound trade are where the medical supplies that
14 come in. But South bound no, not that we're involved in. That I can recall at this time,
15 Captain Neubauer.

16 **CAPT Neubauer:** Yes, sir. Are the – considering South bound voyages, are the beef
17 cargos able to be carried by the barge traffic?

18 **WIT:** On the barges when refrigerated cargo was carried on the barges it was frozen
19 cargo, which would have a longer shelf life. So yes, it was okay to carry on the barge.

20 **CAPT Neubauer:** Are there any cargos South bound that cannot be carried on the
21 barges?

22 **WIT:** We did not put any of the perishable cargo on the barges.

1 **CAPT Neubauer:** Prior to October 2015, if the El Faro or El Yunque were forced out of
2 service, what was the contingency plan to carry the cargos that had to be carried by
3 vessels, South bound, sir?

4 **WIT:** The – we would have some flexibility in carrying additional, say perishable cargo
5 on the remaining vessel. We could also then go ahead and on hire additional tug
6 barges to support the trade.

7 **CAPT Neubauer:** Okay. So you would shift the perishable cargos to one vessel, and
8 then the other, the barges would carry the non-perishable cargos?

9 **WIT:** Yes, sir.

10 **CAPT Neubauer:** When you were preparing for the extra volume after Horizon lines
11 departed the market, did you consider contracting vessels rather than barges to conduct
12 that trade?

13 **WIT:** We evaluated it, but we went with the tug and barge.

14 **CAPT Neubauer:** What was the result of the evaluation? Why were vessels not
15 considered, do you remember?

16 **WIT:** You know I don't recall the detail of it. We thought the best option for us was the
17 tug and barge option.

18 **CAPT Neubauer:** Are – if the perishable cargo doesn't arrive in San Juan on time, are
19 there any penalties incurred by Tote Maritime?

20 **WIT:** No, sir. We serve – estimate time of arrivals, nothing is guaranteed that we sell.
21 So for the perishable cargo we don't guarantee a sailing.

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1 **CAPT Neubauer:** Are there any incentives paid to Tote Maritime for on time delivery,
2 like any bonuses at the end of the year or any incentive to have the cargo arrive on time
3 every time?

4 **WIT:** No, sir.

5 **CAPT Neubauer:** What is the impact when a cargo is late? Is there any adverse
6 impact to the company?

7 **WIT:** Traditionally there's not an adverse impact to the company.

8 **CAPT Neubauer:** Would you say it would just be reputation, market reputation?

9 **WIT:** You could say it's market reputation. Just a note customers – communicating to a
10 customer is key. Just advising them if there is a delay so they prepare accordingly for it.
11 Allowing them to coordinate their receiving end of goods at their warehouses or
12 distribution centers. Receiving at the stores or scheduling truck, however. So the
13 importance for the customers is just having communication and understanding if cargo
14 is going to be delayed. But there's no penalties if cargo is delayed.

15 **CAPT Neubauer:** Yes, sir. So following up on that question. If – would the citizens of
16 Puerto Rico understand if certain goods weren't delivered it was because Tote Maritime
17 possibly was late with the cargo?

18 **WIT:** Can you elaborate on that Captain?

19 **CAPT Neubauer:** Is the traffic well known that if certain products don't arrive on time at
20 Puerto Rico that it's probably due because Tote Maritime was late with that cargo, or
21 didn't provide it?

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1 **WIT:** I don't know specifically because of Tote Maritime. There's other providers in the
2 market. So I don't know if they would specifically know that it was Tote Maritime that,
3 you know is the reason things aren't on the shelves, per se.

4 **CAPT Neubauer:** Yes, sir. Understand. So they wouldn't make the connection
5 automatically?

6 **WIT:** I wouldn't think so, sir.

7 **CAPT Neubauer:** Those are all the questions I have. Are there any further questions
8 for Mr. Nolan? Mr. Roth-Roffy.

9 **Mr. Roth-Roffy:** Good afternoon, sir. Just a couple quick questions. Do you happen
10 to know the value or the estimated value of cargo that was lost on the El Faro accident
11 voyage?

12 **WIT:** I believe it's in the range of over 30 million. No, I'm sorry, 16.

13 **Mr. Roth-Roffy:** 60 million?

14 **WIT:** 16, 16, I'm sorry.

15 **Mr. Roth-Roffy:** And do you happen to know what percent of the cargo moving to
16 Puerto Rico is carried aboard Tote vessels around the time of the accident, including
17 barges?

18 **WIT:** I don't know exactly how much of our portion was.

19 **Mr. Roth-Roffy:** Approximately, is it half of it or more than half?

20 **WIT:** Less than half.

21 **Mr. Roth-Roffy:** That's all I have. Thank you.

22 **CAPT Neubauer:** Mr. Nolan we're getting ready for another round of questioning,
23 would you like to take a break, sir?

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1 **WIT:** No, sir.

2 **CAPT Neubauer:** Mr. Fawcett can you consolidate the two lines of questioning into
3 one round, one final round please?

4 **Mr. Fawcett:** Yes, sir. I just want to clarify, in your earlier testimony you said that you
5 relied on Tote Services to ensure that vessels were properly crewed, is that correct?

6 **WIT:** Yes, sir.

7 **Mr. Fawcett:** So at one point in 2015 you got personally involved with the selection of
8 officers for the Marlin class ships, is that correct?

9 **WIT:** Now what level, I'm trying to understand your question in personal involvement.

10 **Mr. Fawcett:** In other words you communicated to Tote Services about the selection of
11 a particular officer, is that correct?

12 **WIT:** That is correct, but I was not involved in any interviews for any of the officers for
13 the ships.

14 **Mr. Fawcett:** Did you – you didn't join the interview team?

15 **WIT:** I did not.

16 **Mr. Fawcett:** Was that considered?

17 **WIT:** Was it considered for me to join?

18 **Mr. Fawcett:** Yeah.

19 **WIT:** There was an opportunity, but I did not join.

20 **Mr. Fawcett:** And why not?

21 **WIT:** I entrusted Tote Services because it's their responsibility and they do a fine job at
22 it. And they were in the interviews.

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1 **Mr. Fawcett:** And so what caused you to get involved with Captain Davidson for the
2 Marlin class ships?

3 **WIT:** Captain Davidson was a professional as noted earlier, and you've heard from
4 others. Made a positive impression when I was on the ship and had met him a half of
5 dozen times. Captain Davidson had asked me, you know if I could be a reference, I
6 received an email from him, and he it was shortly after that then I had saw Mr. Greene,
7 and I said, you know, at first I told Captain Davidson yes you can use me as a
8 reference. Then regarding seeing Mr. Greene shortly after I said, you know it would be
9 the right thing to give this guy an opportunity for an interview, give him a fair interview.
10 And Mr. Greene considered it and had him in for an interview at Tote Services.

11 **Mr. Fawcett:** How did that go?

12 **WIT:** The interview?

13 **Mr. Fawcett:** The selection process for Captain Davidson.

14 **WIT:** Of Captain Davidson. He did come in for the interview.

15 **Mr. Fawcett:** And then?

16 **WIT:** And then he wasn't extended an offer.

17 **Mr. Fawcett:** And why was that?

18 **WIT:** From my understanding, the feedback I had received they were, you know at the
19 time they were going to look into an administrative issue. And shortly after that he was
20 advised that he was not going to be – they were going to be going with someone else.

21 **Mr. Fawcett:** So Captain Davidson was in command of a vessel that you owned, did
22 you inquire what the administrative issue was that might affect ----

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1 **WIT:** I did not go into detail on the issue. What I understood was an issue in San Juan,
2 but I didn't go into the details of the issue.

3 **Mr. Fawcett:** And you understood that it was purely administrative?

4 **WIT:** That's what I understood, sir. And again, Tote Services has managed us for
5 years. The trust is in them to fully put the proper crew together and I have full
6 confidence in them to do that.

7 **Mr. Fawcett:** Were there any other officers that you got involved with in any way
8 regarding hiring, promotion for any of the Tote vessels?

9 **WIT:** No, sir.

10 **Mr. Fawcett:** So I want to turn your attention in consolidating these topics to that actual
11 storm.

12 **WIT:** Yes, sir.

13 **Mr. Fawcett:** Voyages.

14 **WIT:** Yes, sir.

15 **Mr. Fawcett:** In the case of Hurricane Danny and Tropical Storm Erika, were you
16 copied on any email messages from the ship about its movements?

17 **WIT:** Trying to recall specifics, sir, I could have been, but I don't recall specifically, an
18 email. But do I – do recall emails on the storms, yes.

19 **Mr. Fawcett:** As the El Faro sailed on her accident voyage, did you have any idea
20 which route she would take?

21 **WIT:** I did not.

22 **Mr. Fawcett:** Were you – did anybody communicate with you that the El Faro had
23 asked that on the return from San Juan she would use an alternate route?

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1 **WIT:** I don't recall that, sir.

2 **Mr. Fawcett:** If there was a hurricane that was going to be in close proximity to one of
3 your ships traveling back and forth to San Juan, would you expect to be – have that
4 communicated directly to you?

5 **WIT:** I would expect if there was a delay with one of the ships, I would be advised on
6 one of the summary of the noon reports, yes.

7 **Mr. Fawcett:** Anything else? Like for example, the noon report from the 30th of
8 September said that precautions were being taken for Joaquin, were you aware of that?

9 **WIT:** Not that I can recall offhand, Mr. Fawcett.

10 **Mr. Fawcett:** So are those kind of notes part of your afternoon reports?

11 **WIT:** They don't always go into that detail, sir. It would be more of a, if the estimated
12 time of arrival or sometime of departure would be impacted.

13 **Mr. Fawcett:** Is there anybody at Tote Maritime Puerto Rico that would get directly
14 involved with a note such as precautions being taken or observed for Hurricane
15 Joaquin?

16 **WIT:** If there is a noon report and that's involved there, yes, we would have folks that
17 are in copy of those emails.

18 **Mr. Fawcett:** And who would those people be? Off hand, could you?

19 **WIT:** Our, traditionally folks from the operations team, whether they're in San Juan or
20 they're here in Jacksonville.

21 **Mr. Fawcett:** What folks were those?

22 **WIT:** Those could be folks like a terminal manager, marine operations on both ports.

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1 **Mr. Fawcett:** Is there any procedure for them to communicate that up the chain of
2 command?

3 **WIT:** If there was a key issue that they need you, by all means they would
4 communicate that up to the chain of command. Any concerns.

5 **Mr. Fawcett:** Within Tote Maritime Puerto Rico, do you in any way other than the noon
6 reports, departure reports, and arrival reports, monitor the position of your ships at sea?

7 **WIT:** I do not. I fully entrust Tote Services as our vessel manager and the crew that's
8 on board to manage those.

9 **Mr. Fawcett:** Are you aware that there are web based applications that allow you to
10 have the instantaneous position of vessels?

11 **WIT:** I am. Yes, sir.

12 **Mr. Fawcett:** Did you know that before the accident?

13 **WIT:** I knew there was some marine traffic app, but not something that I am on, on a
14 regular basis.

15 **Mr. Fawcett:** Have you ever been on it before the hurricane to track the movement of
16 Tote vessels?

17 **WIT:** I may have been, sir, to track the vessels, I can't recall the exact times that I was
18 on there to look at the marine traffic. But I could have very well have been on there,
19 yes.

20 **Mr. Fawcett:** Your hurricane plan is a considerable document, approximately 20 plus
21 pages.

22 **WIT:** Yes, sir.

23 **Mr. Fawcett:** It talks about the protection of assets.

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1 **WIT:** Yes, sir.

2 **Mr. Fawcett:** Is that correct?

3 **WIT:** Yes, sir.

4 **Mr. Fawcett:** And it's been described as protecting terminal operations.

5 **WIT:** Yes, sir.

6 **Mr. Fawcett:** Is the El Faro one of your assets?

7 **WIT:** Yes, sir.

8 **Mr. Fawcett:** How does it ----

9 **WIT:** However, during a – that plan there that you're referring to is landside, for the
10 terminals.

11 **Mr. Fawcett:** Does the plan delineate land side, shore side, and some kind of division
12 between offshore assets at sea versus shore side assets?

13 **WIT:** The offshore assets are managed by Tote Services.

14 **Mr. Fawcett:** So during a hurricane season, tropical event, or any other adverse
15 weather, how is the predicted weather and the implications from that weather
16 communicated to you as the President of Tote?

17 **WIT:** I can note specifically to the ones that you were referring to earlier on the – when
18 the hurricane alert was put out, plan was put in San Juan and that was for the fact that,
19 you know there was potential impact to land there. And that is when the plan was put
20 into action at that time. So from a terminal, terminal management standpoint
21 responsibility to make sure those are secure if a storm is in the area.

22 **Mr. Fawcett:** As the owner of the El Faro, did you ever turn your attention to weather
23 plotting and prediction activities at sea to determine if the El Faro might be in danger?

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1 **WIT:** I did not.

2 **Mr. Fawcett:** Thank you.

3 **CAPT Neubauer:** Commander Denning.

4 **CDR Denning:** Based on your testimony so far, we understand that Tote Maritime
5 Puerto Rico owned the El Faro. Tote Services crewed the El Faro and operated the El
6 Faro. Tell us about the shore side cargo process that as I understand is a function of
7 Tote Maritime Puerto Rico, the owner, not the operator of the vessel?

8 **WIT:** In what context Commander?

9 **CDR Denning:** The process. What's the process that your folks do in order to load the
10 vessel, not in great detail, we'll get into more detail with those individuals later, but in
11 general from a management perspective? What's your understanding of the role of
12 Tote Maritime Puerto Rico in the loading of the ship and the stability calculations?

13 **WIT:** So the prior to the ship arrival, pre-stow plan would be developed based on what
14 the anticipated bookings are and movement of cargo would be. We work with a third
15 party stevedore called PORTUS. They do the physical movement of the containers and
16 anything on terminal cranes and the physical loading of the ship. Our operations group
17 will be involved with them as they do the stow plan on the day of and arrival of cargo.
18 They will then receive that information, put it into a system called CargoMax which is a
19 load and stability software. They then also work with the ship's crew, Chief Mate to run
20 through the calculations on the weights of the cargo that's being loaded onto the ship.
21 And from an operational standpoint, you know the focus is on a safe operations is our
22 number one priority. Any operations that start always starts with our safety meeting,

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1 every day of operations. And we will plan the cargo to support a fair and safe load on
2 the ships accordingly.

3 **CDR Denning:** The pre-stow plan that you referred to, does that include stability
4 calculations preliminary or is it primarily based on volume and the cargo and placing the
5 volumes of cargo on the ship rather than calculating stability just yet?

6 **WIT:** I don't have the detail to that. I apologize.

7 **CDR Denning:** The individuals that are responsible for the loading of the ship within
8 Tote Maritime Puerto Rico and the stability calculations, tell us about the hiring process,
9 maybe the individuals that were hired? Were you involved in the hiring process for
10 them?

11 **WIT:** I have not, sir. They were here prior to my arrival.

12 **CDR Denning:** Are there policies in Tote Maritime Puerto Rico regarding when an
13 individual goes on vacation who fills in for them?

14 **WIT:** Policies, but I can't answer if we have the formal policy in place. But in a sense of
15 who will support an individual's role when they're out, yes, there's protocol for that within
16 each department.

17 **CDR Denning:** And what is that protocol?

18 **WIT:** In a sense to ensure that the responsibilities for the individual to be out will be
19 covered.

20 **CDR Denning:** The individuals that perform those functions for Tote Maritime Puerto
21 Rico, tell us about their qualification levels. You weren't involved in the hiring, but can
22 you tell us about their qualifications?

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1 **WIT:** For the individuals involved, I note individuals involved have been with the
2 organization for a number of years. Folks that have been in terminal operations at
3 different locations for us. Folks that have had, you know what I would note as a minimal
4 half dozen to a half dozen years of experience from my understanding. And individuals
5 that have a background in the operational side of the business. That would be hired
6 ultimately by our Head of Operations.

7 **CDR Denning:** How much training do they have in, or prior to this incident, how much
8 training did they have in trim and stability of vessels?

9 **WIT:** I don't have the detail to exact what training they have, for the fact that they had
10 both involved for some time in conducting their current roles that they're in well before
11 my arrival.

12 **CDR Denning:** To me that describes on the job training.

13 **WIT:** Yes, sir.

14 **CDR Denning:** Has there been any formalized training? Had there been any
15 formalized training prior to the incident?

16 **WIT:** From a sense of in what area, I'm sorry Captain.

17 **CDR Denning:** In trim and stability of vessels?

18 **WIT:** I can't speak to what training they had. You know, I believe our Head of
19 Operations could speak in more detail to that. But training from the system use, you
20 know that would be on the job training as well. I personally can't recall if there was
21 training from the software provider on that. I personally don't know that.

22 **CDR Denning:** And since the incident has there been any changes to the training?
23 Have you provided any additional training to those individuals?

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1 **WIT:** We have not provided additional training.

2 **CDR Denning:** Thank you.

3 **WIT:** That I'm aware of.

4 **CAPT Neubauer:** Sir, did you say you have provided or haven't provided training?

5 **WIT:** Since we haven't, that I'm aware of we have not.

6 **CAPT Neubauer:** Sir. Commander Odom. Mr. Roth-Roffy.

7 **Mr. Roth-Roffy:** Good afternoon, sir, again. As the owner of the El Yunque and El
8 Faro, you mentioned previously that you had great confidence in TSI to operate the
9 vessels, I forget the words you used, but you know confidently or proficiently. And I
10 think there was also a question about whether or not you had used outside third party
11 organizations to kind of review their operation. And I believe you said that, was that
12 correct?

13 **WIT:** Yes, sir.

14 **Mr. Roth-Roffy:** And the second part of the question is if ever considered using those
15 sorts of services? So you said you did not, but had you ever considered using it?

16 **WIT:** In my two years as the President I have not considered it.

17 **Mr. Roth-Roffy:** Okay. What about the review of the, other than documents that
18 related to the safety management system of TSI, have you seen the need or have you
19 ever reviewed these audit reports to kind of validate the quality of the operation?

20 **WIT:** I personally have not.

21 **Mr. Roth-Roffy:** What about those other subordinate Vice Presidents, anybody in your
22 organization?

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1 **WIT:** We have confidence in the folks at TSI to meeting the requirements what they
2 have done on their manuals and requirements from the safety prospective.

3 **Mr. Roth-Roffy:** What about if your giving Coast Guard inspection records or ABS
4 survey records to perhaps get an insight on how the vessel's are being operated or
5 maintained, have you done that?

6 **WIT:** We are made aware if there's anything of significance per se. That would be
7 communicated to the organization.

8 **Mr. Roth-Roffy:** So Tote Services has, if they communicate something to you then you
9 would be made aware of the action?

10 **WIT:** Yes, sir.

11 **Mr. Roth-Roffy:** You would not know through a periodic review of the documents
12 yourself?

13 **WIT:** No, sir. And we're not certified to do those audits and checks as well. I would
14 just like to confirm that Mr. Roth-Roffy.

15 **Mr. Roth-Roffy:** But uh ----

16 **WIT:** And they are certified to do this, so we know the documents are certified so
17 there's nothing that causes us of a concern to have to do the audits.

18 **Mr. Roth-Roffy:** But you own the vessel?

19 **WIT:** Yes, sir.

20 **Mr. Roth-Roffy:** Protection of the asset, just wondering if you had done that or had
21 considered doing that sort of follow on check of how well their operation is of your
22 vessels are going.

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1 **WIT:** To note again, they met all certifications, so we have the confidence that it was
2 being done to meet requirements.

3 **Mr. Roth-Roffy:** Commercially there are, and worldwide there are companies that own
4 vessels, and other companies that operate them and they have contractual
5 arrangements similar to what you have with TSI. Do you think that the sister
6 relationship between the two companies affects your oversight of the operator, that had
7 you been a non-sister company, for example hiring another global ship operator, would
8 you have the same level of confidence in how quality their operation is?

9 **WIT:** Our expectations, you know, let's note we are two separate companies. Our
10 expectations are they will fulfill their responsibilities as a vessel manager on our behalf.
11 They will meet all proper certifications so the ships are safe. They will be crewed
12 properly with the proper mariners on board for the safe management of the ships. They
13 will be well maintained. There's been nothing that has caused concern for us in an
14 organization with them, that's been around for over 30 years. So to the point there,
15 we've had nothing to lead us to think any differently, be it a sister company or third party
16 company, they've met the expectations.

17 **Mr. Roth-Roffy:** And in your contractual arrangement with Tote Services, are there any
18 penalty clauses for failure to perform?

19 **WIT:** Not that I can recall, sir.

20 **Mr. Roth-Roffy:** Thank you very much. That's all I have.

21 **Mr. Kucharski:** Mr. Nolan just a couple quick questions.

22 **WIT:** Yes, sir.

23 **Mr. Kucharski:** Does Tote Maritime have any interest in PORTUS?

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1 **WIT:** No, sir.

2 **Mr. Kucharski:** And do you know if you're the largest customer with PORTUS?

3 **WIT:** I don't know if we're the largest customer, I would say we are a, you know I
4 believe there presence may be beyond their organization beyond Jacksonville, so I
5 don't know their full portfolio. Here in Jacksonville we are probably a fair size customer
6 for them that I would be aware of.

7 **Mr. Kucharski:** Okay, thank you.

8 **CAPT Neubauer:** Does Tote have any questions?

9 **Tote Inc:** Just a couple, sir. Mr. Nolan, how many times per year if the vessel's loaded
10 in Jacksonville that go to Puerto Rico?

11 **WIT:** Two calls a week per each ship.

12 **Tote Inc:** Okay. And you mentioned that the loss of the cargo was somewhere around
13 16 million dollars?

14 **WIT:** Yes, sir.

15 **Tote Inc:** But in fact you don't know the exact number, is that correct?

16 **WIT:** I don't know the exact number.

17 **Tote Inc:** Okay. And is it fair to say that you probably should check your records, or
18 you could check your records to get a more accurate figure?

19 **WIT:** Yes, sir.

20 **Tote Inc:** Great, thank you.

21 **CAPT Neubauer:** Does ABS have any questions?

22 **ABS:** No questions.

23 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

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1 **Ms. Davidson:** Just a few Captain, thank you. Thank you Mr. Nolan. Mr. Nolan how
2 many years did you spend at MAERSK?

3 **WIT:** 13 years.

4 **Ms. Davidson:** How many years at NYK?

5 **WIT:** 4 years.

6 **Ms. Davidson:** Is it fair to say that your entire professional career has been in the
7 shipping industry?

8 **WIT:** I did have 2 years with a real estate investment trust.

9 **Ms. Davidson:** With respect to MAESK, is it fair to say one of the largest shipping
10 companies in the world?

11 **WIT:** Yes, sir.

12 **Ms. Davidson:** With NYK another significant company, shipping company in the world?

13 **WIT:** Yes, sir.

14 **Ms. Davidson:** And you had met Captain Davidson 6 times on the vessel?

15 **WIT:** Yes, sir, give or take, yes.

16 **Ms. Davidson:** And he impressed you enough as a Captain that you were willing to, to
17 um recommend him as Captain of the LNG ships, correct?

18 **WIT:** He was professional and somebody that I recommended for an opportunity for an
19 interview, yes.

20 **Ms. Davidson:** Because he made an impact on you?

21 **WIT:** He was a professional, yes, sir.

22 **Ms. Davidson:** Thank you.

23 **CAPT Neubauer:** Does HEC have any questions?

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1 **HEC:** No questions.

2 **CAPT Neubauer:** Are there any additional questions around from the board? Mr.
3 Nolan, you're now released as a witness at this Marine Board of Investigation. Thank
4 you for your testimony and cooperation. If I later determine that this board needs
5 additional information from you, I will contact you through your counsel. If you have any
6 questions about this investigation, you may contact the Marine Board Recorder,
7 Lieutenant Commander Damian Yemma. Thank you again for your testimony, sir.

8 **WIT:** Thank you, sir.

9 **CAPT Neubauer:** We'll now take a 15 minute recess and reconvene at 3:15.

10 *The hearing recessed at 1458, 18 February 2016*

11 *The hearing was called to order at 1516, 18 February 2016*

12 **CAPT Neubauer:** The hearing is now back in session. And we will continue our
13 testimony for Captain Lofffield. Captain Lofffield you're reminded that you remain under
14 oath from this morning.

15 **WIT:** Understood.

16 **CAPT Neubauer:** We'll continue with our line of questioning and Mr. Kucharski can you
17 continue the line you had when we took a recess.

18 **Mr. Kucharski:** Yes, thank you Captain. Good afternoon Captain Lofffield.

19 **WIT:** Good afternoon.

20 **Mr. Kucharski:** Captain Lofffield, were you, did Tote have – offer you any training for
21 additional training for stability or for determining how handle a ship in different rolling
22 type of situations, severe rolling type of situations?

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1 **WIT:** The training and qualification that I have from Maritime Academy and my
2 accreditation by the U.S. Coast Guard is regarded as sufficient. Tote did not try to build
3 or improve on that base.

4 **Mr. Kucharski:** So there was no additional training besides what you received?

5 **WIT:** That's correct.

6 **Mr. Kucharski:** When the vessel was loaded evenly from a transverse standpoint as
7 far as it showed on the CargoMax, was there a permanent list of the ship?

8 **WIT:** The CargoMax indicated the transverse center of gravity of the cargo that was
9 loaded on it and it assumed a zero transverse center of gravity on light ship. The – that
10 was never demonstrated and the intuitively clear examination of the vessel is that it is
11 built with more steel on the port side than on the starboard side. So there is a
12 discrepancy when CargoMax assumes that there's zero transverse center of gravity on
13 a light ship, and that's incorrect. Then all of their calculations of the overall list of the
14 vessel wind up being in error, however their calculation of the transverse center of
15 gravity of all of the weights that they've calculated other than light ship is not in error.

16 **Mr. Kucharski:** So under normal circumstances after the ship was loaded in
17 Jacksonville and it was according to what it looked on CargoMax that it was evenly
18 loaded, there was a port list?

19 **WIT:** That's correct. The amount of that port list would change with the overall
20 displacement of the vessel. So when we were coming back with all empties from
21 Puerto Rico and the total weight displacement of the vessel was less than the – there
22 would be a difference between what was indicated loaded, the 12,000 tons of cargo
23 versus what was indicated 7,000 and 5,000 tons.

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1 **Mr. Kucharski:** So was this list, the port list greater at the load out in ----

2 **WIT:** Yes it was.

3 **Mr. Kucharski:** Jacksonville?

4 **WIT:** Yes it was.

5 **Mr. Kucharski:** It was. Do you have an idea of the magnitude of that list?

6 **WIT:** Between 2 and 3 degrees.

7 **Mr. Kucharski:** Between 2 and 3 degrees?

8 **WIT:** Yes. That knowledge of the transverse center of gravity of the cargo of all the
9 weights measured in there was utilized as a tool by making comparisons to the
10 observed list above the inclinometer that's installed on the bridge that reads in
11 gradations of $\frac{1}{4}$ of a degree. We made a long practice of making a correlation between
12 actual and what CargoMax anticipates and we utilize that information in designing our
13 load.

14 **Mr. Kucharski:** And was that confirmed to actual drafts of the vessel, besides the
15 inclinometer on the bridge?

16 **WIT:** The – what's witnessed on the inclinometer on the bridge agrees with the mid-
17 ship's drafts port and starboard, which will indicate, and all of those things are
18 crosschecked. Anytime a set of observations come in and something doesn't look right,
19 the reason we look at more than one thing is to find out where is – what are we missing
20 if there's something actually missing. For instance reading the drafts incorrectly. So
21 yes, it is. The list on the vessel that's observed on the bridge always agrees with what
22 we record and what we observe is the draft marks, mid-ships port and starboard.

1 **Mr. Kucharski:** And was that discrepancy brought to the attention of any Tote
2 personnel shore side, or developers of the software or anything like that?

3 **WIT:** There's no requirement for the trim and stability book to calculate the list of the
4 vessel. The trim and stability book is the core document that makes it so that it is, we
5 are within sailing parameters and legal to sail. It was not brought up to the
6 manufacturers of CargoMax that their – their inherent assumption that the light ship was
7 with a zero center of gravity. That was not brought up in any way that made it an action
8 item. It was not significant to have the transverse center of gravity calculated in order to
9 have established so we have a safe stability condition.

10 **Mr. Kucharski:** Were you aware of any down flooding points along the hull of the
11 vessel that could possibly denigrate stability if water entered those points?

12 **WIT:** The vessel's designed to have watertight integrity. So an awareness of a down
13 flooding point would be something that would compromise that watertight integrity.
14 There are ventilation, um cargo holds ventilate, they're not all watertight. So where they
15 ventilate has to be well above the possibilities of down flooding and that's in the realm of
16 Naval architects and designing of the vessel with approvals and studies and
17 examinations by our fathers and grandfathers generations. That you know maybe we'll
18 catch something today that they just missed completely, but it's worth taking a look at it
19 and seeing that this class of vessel has 366 years of sailing time. And probably they got
20 something right. The fact that the El Faro was decapitated um is probably not a function
21 of a couple inches of GM. It was a category 4 hurricane.

22 **Mr. Kucharski:** Would you happen, was there anywhere in the literature where the
23 angle of heel, what angle of heel that down flooding would occur?

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1 **WIT:** I have not seen any.

2 **Mr. Kucharski:** Would you please take a look at Exhibit 41, pages 7, 8, and 9? And
3 exhibit 41 is the – should ship depict cargo lashings, mainly the container lashings.

4 **WIT:** 41?

5 **Mr. Kucharski:** Yes, Exhibit 41, pages 7, 8, and 9. Captain I think page 7 will be fine
6 to just concentrate on, the very – the top page of your page shows 40 or 45 foot
7 container typical homogenous stack weights in pounds. And then below it, it say double
8 lash, GM equals 4 feet.

9 **WIT:** I'm looking at, right, double lash, 4 feet.

10 **Mr. Kucharski:** Okay. And it says double lash and it shows pictorially below that
11 double lashings on the container stacks. Do you see that?

12 **WIT:** I do.

13 **Mr. Kucharski:** Have you ever seen that done on any of the Tote ships?

14 **WIT:** I have.

15 **Mr. Kucharski:** You have?

16 **WIT:** Yes.

17 **Mr. Kucharski:** And when is that typically done?

18 **WIT:** That's done when there's a prospect of heavy weather of storm conditions.

19 **Mr. Kucharski:** So if you're on the vessel, the vessel is port, can you ask them to put
20 the double lashings on like that?

21 **WIT:** Yes, as I stated earlier this morning. I can ask them to do that. But they
22 generally do that before anyone asks. Because it's a function of knowing that they're
23 going to have labor costs for it, so they anticipate based on weather, that they'll need to

1 have the labor order out there a head of time. That's a part of the efficiency of their
2 planning, and the effectiveness.

3 **Mr. Kucharski:** So when you say the labor, I'm sorry, did you say the labor order out
4 there ahead of time?

5 **WIT:** That's the Portus people that we refer to the stevedore and longshoreman that
6 because it takes labor to do that they need to know that's going to be done every step
7 along the way. And so the practice is to have it take place, not to go back retroactively
8 and you know at the end of the cargo loading say oh my goodness, we've discovered
9 that there's weather out there, let's come back in and bring the labor in and do it all over
10 again. So it is very proactively done right from the beginning.

11 **Mr. Kucharski:** So if that were the decision were made to do that while the vessel was
12 in port would they be able to order another lashing gang to do that?

13 **WIT:** Of course they can order more lashing gangs.

14 **Mr. Kucharski:** Would that delay the departure of the ship?

15 **WIT:** It would delay the departure of the ship. And that's why they're so proactive and
16 make sure that it's done ahead of time. That's why they look at that in advance.

17 **Mr. Kucharski:** And do you know there – are there sufficient lashings to secure
18 containers in that fashion on hand if you should need it?

19 **WIT:** Yes there are. I'll go ahead and interject that, that probably happens at least 10
20 or 12 times a years. So it's a very familiar process, the lashings are on hand, it's not
21 new learning curve, it's okay this is what we're doing this time.

22 **Mr. Kucharski:** And you say 10 or 12 times a year, but that needs to be, or it should be
23 ordered in advance?

1 **WIT:** That's attended to by the cargo planners in advance.

2 **Mr. Kucharski:** If there were heavy weather and seas on the second deck, is there a
3 safe way to, someone from the deck department to go down and ensure that the lashing
4 on the second deck have not parted?

5 **WIT:** There are rounds done to check the lashings on all of the cargo on a daily basis.
6 If the weather is so severe that it's unsafe to make a round down there, then a round is
7 not made. If it hasn't gotten that severe yet, the round is absolutely made knowing that
8 there's a possibility that there could be lashings that are becoming slack and need to be
9 checked on. And in those circumstances it would not be the Chief Mate going around
10 by himself, but he would have a work gang with him to assist in making sure that all of
11 the lashings were in the best condition possible. That's done before there's dangerous
12 condition of water flooding across the deck.

13 **Mr. Kucharski:** So if then after the – if the ship got into very bad weather and there
14 was seas on there, it would be almost impossible to go down there on the deck and
15 actually check?

16 **WIT:** It would be impossible if the seas were – if there's enough water to sweep a car
17 off of a street, if there's enough water to – that much water going through there, you
18 don't walk through that water. In the event that cargo starts shifting what can be done is
19 altering the course of the vessel to ease the amount of rolling. And basically give up, or
20 you back off from trying to push in the direction towards the next port to minimize and
21 enhancing the smooth rolling capacity of the vessel.

22 **Mr. Kucharski:** Is it your experience that heading into a head sea on that particular
23 vessel, on the roll-on, roll-off cargo, tends to loosen up the lashings?

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1 **WIT:** Depends on what kind of lashings. There's the sort of lashings that are used in
2 this service are known as barrel binders, so it's a screwed based. That's the same
3 that's used in the Alaska trade and as the load rolls back and forth, bear in mind that the
4 lashings are going to the chassis or the container that's on top of rubber tires that are
5 inflated so it can actually have some working back and forth. Those lashing can back
6 off slightly. There's other lashings that I had used on this class of vessel that are chain
7 binders that don't have that give on them. So some lashings have to be – each lashing
8 has its own strength and its own weakness and they have to be attended to. You don't
9 set it and forget it.

10 **Mr. Kucharski:** Were you aware of any program to test or to check the fixed lashing
11 points, the fixed meaning the buttons, the D rings and the padeyes and the clover leaves
12 down on the – below the watertight deck?

13 **WIT:** There's no regular testing, stress testing or national cargo bureau of testing
14 criteria for it. It does happen occasionally that D rings will fail and they get replaced.

15 **Mr. Kucharski:** Do the, when those do fail, did any of the buttons fail?

16 **WIT:** There has been some button failure. The button has a slot in the top of it that a T
17 shape piece drops down in and then the T is rotated and I've seen some of those
18 buttons fail with the top of it basically no longer – turn it into a complete donut instead of
19 a straight slot.

20 **Mr. Kucharski:** You mentioned that you were Master on roll-on roll-off ships when they
21 were in the Alaska trade?

22 **WIT:** I said that the first time I got on the Westward Venture we sailed from Tacoma,
23 made a trip to Alaska and then, not with the standard domestic route cargo, but with the

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1 military cargo, and went to the Persian Gulf. Later on I was on the Great Land and I
2 loaded cargo in the Persian Gulf and I came back and I unloaded some it in Anchorage.
3 I have not been on the regular weekly service from Tacoma to Alaska.

4 **Mr. Kucharski:** So would you have any knowledge of any testing program that those
5 vessels had when you went Westward Venture, did you see any evidence of any testing
6 of the fixed gear or the buttons?

7 **WIT:** I did not.

8 **Mr. Kucharski:** Thank you. No further questions at this time.

9 **CAPT Neubauer:** Mr. Roth-Roffy.

10 **Mr. Roth-Roffy:** Good afternoon, sir. Tom Roth-Roffy, NTSB. Just a couple of
11 questions. Could you describe your workload in port and at sea, typical sorts of things
12 that a Master does? Let's begin with in port, while the vessel's in port, loading and
13 unloading.

14 **WIT:** The – my workload in port is dependent on the number of crew that are getting on
15 and off the vessel. I have a significant administrative load tracking the sign ons and
16 sign offs which involves a fair amount of verification of data and entering of data. I have
17 the overall point of contact for being aware of the rhythms of the vessel that bunkering is
18 scheduled when it's supposed to be there. That it's taking place at a certain time. I do
19 not have an oversight role with the actual bunkering. I do have an oversight role with
20 seeing to it that all of the elements of the checklist prior to do bunkering operations are
21 done. Which on the deck side is the bunkering flag and the scuppers are done. I have
22 a role in reviewing the STCW work hours and how that's going to be set out. For the
23 purpose of this hearing that's the standard for training certification of watch keeping.

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1 There's limitations of a maximum of 14 hours per day of working and the rest period, the
2 10 hours of rest period cannot be broken up into more than 2 periods, one of which has
3 to be at least 6 hours. So that's fairly mindful consideration that all of the work
4 requirements and rest requirement are being met. I certainly am involved on the bridge
5 as we're docking the vessel, arrival and departure. There's the electronic notice of
6 arrival that I mentioned earlier today that must be done. In addition to that there's any
7 amount of interaction with Port Engineers and port side support for the items going on.
8 In the – since the sinking of the El Faro, there's been a huge burden from regulatory
9 bodies coming down and investigating the vessel at almost every opportunity. Certainly
10 that's a major portion of my hours and something that I have to work very hard to make
11 sure does not impede on the rest hours of the commercial operations. I usually try to
12 make a trip ashore and get snack food for the crew. I feel that's a pretty important thing
13 as well. In general I run pretty close to my 13 hour a day average and 14 hours a day
14 peak on my workload. Does that adequately describe what I do?

15 **Mr. Roth-Roffy:** Yes, sir. That was in port, is that correct?

16 **WIT:** That's in port.

17 **Mr. Roth-Roffy:** Now could you please describe what your at sea routine?

18 **WIT:** My personal at sea routine is, as Captain I like to have a little bit of time on the
19 bridge, so I will get up on the bridge at 6 O'clock in the morning and knock the Chief
20 Mate off so that he can go down and work on other activities, supervise deck activities
21 as frequently, overtime being worked there. And he can get his administrative duties
22 done as well. It makes it so that's he's only on the bridge for 6 hours a day instead of 8
23 hours which gives him 7 hours a day to be on deck and involved with deck maintenance

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1 operations as opposed to only 5 hours maximum. From there it's just like most people
2 in an office. I have to check all the emails and respond to correspondence and
3 communications. Tracking the current status of certificates, what inspections are due to
4 come up. How the maintenance program is going, the shipboard maintenance program.
5 There's payroll, there's always payroll. And that, I frequently will get through a day not
6 sure of what I have done, but really sure that I didn't have time to take a nap. And so
7 that often surprises me. It's just constant. The other thing is I have a personal practice
8 of walking 10,000 steps every day. So any time that I spend walking around on deck, I
9 make a big point of, after coffee breaks when people are not using their tools, going
10 around and seeing what work they've done. This is particularly true with steel
11 preservation from the deck department. Checking to see if the technique is getting all
12 the way. If I want some more work done on it and most important of all, by witnessing
13 when it's happening it gives me a keener appreciation for what they're actually
14 accomplishing. Because one of the truths that I've understood about a ship is that 3
15 months after it was done, if you weren't paying attention right when it was done, it just
16 looks like old ship. And so simply paying attention to what the crew is doing and how
17 they're doing it, I find is validating for them and it has them feeling like they're
18 appreciated in work. And it's worthwhile. So I make a point of doing that.

19 **Mr. Roth-Roffy:** Sir, would you estimate your length of your typical day at sea, you
20 mentioned your day in port, is it about the same?

21 **WIT:** It's about the same. Umm, we've got, in a week we've got 2 to 5 days at sea. It
22 breaks down to about 4 days at sea and 3 days in port. The – when we're on a regular
23 schedule the arrival time will have me up on the bridge by 4 O'clock in the morning for

1 San Juan. It's been quite frequent that we would come into Jacksonville, pick up a pilot
2 at 0145, so that day actually starts around midnight. Then I'm really – so there's not
3 that much of a break, but I do see a couple of days a week where I'm only working
4 about 8 hours.

5 **Mr. Roth-Roffy:** Sir, would you have any knowledge of the practices of other Masters
6 at sea with regard to checking on crew and walking about the deck, checking on work?
7 Is there some variation among the Masters in the Tote fleet, how actively they are
8 engaged?

9 **WIT:** I have no idea.

10 **Mr. Roth-Roffy:** Sir, do you believe that your practice of engaging with the crew and
11 walking the deck is detrimental to crew morale?

12 **WIT:** There was – there have been circumstances where the crew did not like it. And
13 when those crew go away the – I think the overall conditions, the overall management,
14 or quality of maintenance improves. And so I don't see it as a detriment. Although
15 during the initial phase of people have been getting away with nobody looking at them
16 ever, it will seem detrimental because it does become a fight. It's – but I can't expect
17 them to their job if I'm not doing my job.

18 **Mr. Roth-Roffy:** Thank you. That's all I have for this round.

19 **CAPT Neubauer:** Tote, do you have any questions?

20 **Tote Inc:** Captain Lofffield, how many years have you been on the Puerto Rico –
21 Captain Lofffield how many years have you been doing these Jacksonville, Puerto Rico
22 runs?

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1 **WIT:** I did it in 1999 and 2000 on the El Yunque as Second Mate, and came back onto
2 the, first the El Faro ----

3 **Tote Inc:** Just rough, how many years have you been doing that run? Approximately.

4 **WIT:** I was looking at my work records there. It's probably about 7 or 8 years all
5 together.

6 **Tote Inc:** And how many trips per year would you make on the ship?

7 **WIT:** As I'm on 50 percent of the time, it would be 26 trips per year.

8 **Tote Inc:** Thank you.

9 **CAPT Neubauer:** ABS do you have any questions?

10 **ABS:** No questions.

11 **CAPT Neubauer:** Mrs. Davidson, do you have any questions?

12 **Ms. Davidson:** Captain, do you know a James Walker, Boatswain?

13 **WIT:** I do not.

14 **Ms. Davidson:** What does a Boatswain do?

15 **WIT:** The Boatswain is the senior unlicensed personnel. He is – works directly for the
16 Chief Mate and is in charge of implementing the Chief Mates directions on maintenance
17 plans.

18 **Ms. Davidson:** So he's in charge of the deck for the unlicensed crew?

19 **WIT:** Yes.

20 **Ms. Davidson:** And he handles maintenance on the deck, correct?

21 **WIT:** That's correct.

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1 **Ms. Davidson:** And if Mr. Walker were to tell us that Captain Davidson routinely thank
2 him for his work and that he did a good job, would that be indicative that Captain
3 Davidson was in fact checking up on the Boatswain and work being done on deck?

4 **WIT:** It would indicate that to me.

5 **Ms. Davidson:** Thank you, sir.

6 **CAPT Neubauer:** HEC do you have any questions?

7 **HEC:** No questions.

8 **CAPT Neubauer:** Captain Lofffield I have a question, sir. Sir, prior to October 1st,
9 2015, did you have full confidence that all El Yunque draft marks were accurate?

10 **WIT:** In the shipyard in March of 2014 I took pictures of the starboard side mid-ships
11 draft marks and it looked a little bit like Walt Disney.

12 **CAPT Neubauer:** Sir, just to clarify, what did it look like?

13 **WIT:** The lines were not drawn crisply and cleanly. On about the, I think from about the
14 28th foot draft mark up to 32.

15 **CAPT Neubauer:** Sir, do you remember which draft marks were inaccurate in your
16 opinion?

17 **WIT:** I didn't log a specific memory on it. The mid-ships draft marks are actually not a
18 required item anyway. The plimsoll marks, the load line marks are what's required on
19 the mid-ships of a vessel.

20 **CAPT Neubauer:** So was it the mid-ships draft marks?

21 **WIT:** Yes, the starboard, starboard mid-ship.

22 **CAPT Neubauer:** Why do you think the draft marks were inaccurate?

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1 **WIT:** I did not make an assessment that they were inaccurate. I made an assessment
2 that they were painted very poorly.

3 **CAPT Neubauer:** Did your assessment conclude that they may not be accurate?

4 **WIT:** I did not make that assessment.

5 **CAPT Neubauer:** When you say that the draft marks were painted poorly, can you
6 describe that more, sir?

7 **WIT:** The lines were not crisp and clean. The – it looked almost like cartoonish. I took
8 pictures of it for the shipyard at the time and brought it to the Port Engineer's attention.
9 The shipyard was supposed to attend to it, but they had already painted a high, or a low
10 coefficient of friction silicone paint on it and they had a very difficult time trying to touch
11 up the draft marks again.

12 **CAPT Neubauer:** To you knowledge was the issue corrected before the vessel was
13 brought back into service?

14 **WIT:** The issue is still not corrected. Attempts have been made and it would require a
15 sand blasting and recoating to change those draft marks.

16 **CAPT Neubauer:** Did you notify anybody in the Tote organization of your observation?

17 **WIT:** At the time of the shipyard I brought it to the attention of the Port Engineers during
18 the shipyard period.

19 **CAPT Neubauer:** Do you remember who the Port Engineer was, sir?

20 **WIT:** The Port Engineers working the vessel were Jim Fisker-Anderson and Turp
21 Christianson.

22 **CAPT Neubauer:** Sir, a new line of questioning. Do you know if the El Faro had the
23 same transverse center of gravity CargoMax issue as the El Yunque?

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1 **WIT:** I know it was constructed in a similar manner. I know that it had the additional
2 steel built to the port side of the center line of the vessel. I also know from discussions
3 with Don Matthews that there was a slight difference between the two vessels and so he
4 was aware of that difference and would work his cargo into things differently.

5 **CAPT Neubauer:** And Captain, what is the maximum list that you would get underway
6 with, with the El Yunque?

7 **WIT:** The – there is a part of our ISM manuals that predicates to sail with no less than 2
8 degrees of, or no more than 2 degrees of list. I personally am comfortable with a
9 degree and if it's uncorrectable I could said with as much as 1 ½ degree, but I really
10 haven't needed to do that. Since the loading is so well designed and so well thought
11 out and so well executed.

12 **CAPT Neubauer:** Sir, did you ever have to shift cargo at sea to correct the list?

13 **WIT:** On a tanker. Not on a, well, I have not had to do it on a tanker. It's – on a tanker
14 would be the only place that it would be possible to do it. It's not a viable possibility to
15 shift cargo on a dry cargo ship.

16 **CAPT Neubauer:** Sir, did you say that you were a Captain aboard the El Yunque when
17 any – with any extra like Polish workers on board, sir?

18 **WIT:** I have not had not had a Polish riding gang. I have had workers on board, in fact
19 on board the El Faro. We did complete tank survey while we were underway and with
20 steel gaugers and class riding and, yes, so I have had workers on board the vessel.

21 **CAPT Neubauer:** Did you ensure those workers received a safety orientation, sir?

22 **WIT:** Absolutely.

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1 **CAPT Neubauer:** Have you ever reduced your scheduled fuel load for the El Yunque
2 to adjust for more cargo?

3 **WIT:** No.

4 **CAPT Neubauer:** Thank you. That's all the questions I have. And sir, would you like
5 to take a break before we proceed with the next line of questioning?

6 **WIT:** Yes, please.

7 **CAPT Neubauer:** We'll recess for 10 minutes and reconvene at 4:5 – 3:58. Correction,
8 we will reconvene at 4:03.

9 *The hearing recessed at 1553, 18 February 2016*

10 *The hearing was called to order at 1606, 18 February 2016*

11 **CAPT Neubauer:** The hearing is now back in session. Sir. We're going to one last
12 round of questioning and Commander Denning will start off.

13 **CDR Denning:** Captain my first question, you can refer to the safety management
14 system if you would like to. I can give you some of the cites. You don't have to. You'll
15 probably be able to answer the questions off the top your head. If you would like to
16 refer to the safety management system feel free. But just for the record and for anyone
17 else who wants to refer to it, Exhibit 25 is the operations manual for vessels, page 229
18 there's a section entitle vessels safe for sea. My direct question, you know I'll just get
19 into the direct question, watertight doors, hatches, are they required to be secured prior
20 to getting underway?

21 **WIT:** Watertight doors and hatches is not a function of Tote policy other than the fact
22 that Tote policy is to adhere to the law. And it is a legal requirement that watertight

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1 doors and watertight cargo hatches are secured. That's why I was having a hard time
2 assessing what you were looking for. Because that's simply the law, that's.

3 **CDR Denning:** It's in the law, it's also in the SMS, page 299 speaks of, I don't want to
4 belabor ----

5 **WIT:** Right.

6 **CDR Denning:** I'm not trying to ask trick questions ----

7 **WIT:** Right. When they repeat the law I, you know say yeah they're doing the law and
8 this is what I do, this is what I'm licensed to do, this is my responsibility to the Coast
9 Guard. That makes it so that I continue to have a license. And it is my responsibility to
10 the Coast Guard that is the standard that I operate with.

11 **CDR Denning:** In the safety manage system it speaks in terms of watertight doors and
12 hatches. Would the scuttles be included in that definition?

13 **WIT:** Yes, they're a part of the watertight integrity.

14 **CDR Denning:** And are they always secured for sea, secured prior to getting
15 underway?

16 **WIT:** Yes they are.

17 **CDR Denning:** Do the crew members access the holds through the scuttles while at
18 sea?

19 **WIT:** When there is a maintenance assigned to the area, department heads assign the
20 personnel and they go in there. They're also entered by the Chief Mate when he's
21 making the cargo rounds, inspecting the cargo holds, the lashings and checking the
22 bilge wells to make sure that there's no water. There's nothing unexpected there.

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1 **CDR Denning:** And while it's required to close them behind crew, is it common practice
2 for crew members to close them and dog them behind themselves?

3 **WIT:** Yes it is.

4 **CDR Denning:** Are there rounds that are conducted to double check that they're all
5 secured typically?

6 **WIT:** No there is not a round scheduled on a daily basis or an hourly basis to verify that
7 all scuttles are still closed.

8 **CDR Denning:** Are there any changes to that process when you're expecting heavy
9 weather?

10 **WIT:** Absolutely.

11 **CDR Denning:** What would those changes be?

12 **WIT:** The Chief Mate would make another round inspecting the condition of everything
13 that could be inspected and making certain that everything was secured for sea. As
14 secured as can possibly be made.

15 **CDR Denning:** You spoke earlier about the exhaust ventilation for the cargo holds and
16 those fire dampers. Are those commonly left open or closed at sea, those dampers?

17 **WIT:** They're left open.

18 **CDR Denning:** Are they ever closed when heavy weather is expected?

19 **WIT:** I've never ordered them closed in preparation for heavy weather.

20 **CDR Denning:** Under what circumstances would they be closed? Maybe explain that
21 for everyone?

22 **WIT:** I've ordered them closed ----

23 **CDR Denning:** The purpose of the dampers.

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1 **WIT:** When there was a fire inside the cargo hold and I needed to release CO2 to
2 extinguish the fire. They're also closed on a monthly basis to exercise and prove their
3 viability.

4 **CDR Denning:** If a vessel is delayed due to weather, mechanical problems, or any
5 other reasons, are there – what are the ramifications of such a delay? In terms of costs
6 or?

7 **WIT:** The cost never come into my consideration or never expressed to me. The
8 ramifications from my perspective are that to fall out of schedule on a vessel makes it –
9 is a disruption to the work hours. And as I stated before I monitor the work hours and
10 the rest hours to see to it that we're staying legal and allowed that the – the fact that
11 there are strict legal requirements for work and rest period is – at first it was not
12 welcomed, but we all like the fact that we get rest and we're finding that it's actually a
13 very good thing. So we do adhere to it and we have a very good record of them.

14 **CDR Denning:** Have you ever utilized an alternate route from Jacksonville to San
15 Juan?

16 **WIT:** There's three principal routes that we have already charted out that we know all
17 the lines. There's the route of passing through Providence Channel which goes through
18 the middle of, or the upper portion of the Bahamas cutting across from just about, just
19 North of Port Everglades. Then there's also Old Bahama Channel which goes all the
20 way down around all of the Bahamas and along the coast of Cuba.

21 **CDR Denning:** If you want to take a route other than the most direct route, are you
22 required to notify the Tote organization?

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1 **WIT:** I do notify the Tote organization. It's in my departure messages. I don't ask
2 permission in advance. I don't determine my routing on what someone has said, has
3 interacted with an acknowledgement, but I notify them.

4 **CDR Denning:** What references would you utilize to aid you in avoiding a storm?

5 **WIT:** The – the weather that is communicated globally is from – is based on the data
6 from the National Oceanic and Atmospheric Administration. The ships at sea are
7 reporting that weather four times a day. That compiles the base data of weather
8 information. Then there's numerous software applications that go ahead and utilize that
9 information and turn it into a graphic form. The weather charts are also available on
10 email prompt, or and have such things as the current sea conditions, the 24 hour
11 forecast, the 48 hour forecast, 500 millibars which gives a good, some prediction for
12 those who are familiar with it. So there's a number of weather map products. All of
13 those are utilized in assessing the – what kind of weather can be anticipated.

14 **CDR Denning:** And then once you have that information, how do you determine how
15 close to allow your vessel to come to a storm system? And is there specific guidance
16 on that?

17 **WIT:** Umm, a storm system is a pretty vague or pretty ambiguous size and shape and
18 intensity. What I generally aim for is to have as smooth of a ride – a smooth enough
19 ride to not risk damaging cargo and to not risk exhausting crew. So I don't think in
20 terms of the center of a storm system. I think on the BVS system it – the feature that I
21 most frequently utilize is the wave height and it goes from white of virtually nothing to
22 light blue, dark blue, it goes into the yellows and gets into the reds and it looks really
23 angry. It does a very good job of graphically presenting that. And also it gives me the

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1 indication of the direction that it's coming from. If I'm looking at a beam sea and swell
2 when we're in a light condition, when the rolling period is shorter and it's potentially
3 really going to be very exhausting to the crew, I'll take an alternate route just to avoid
4 having the crew exhaustion. Because when we come into Jacksonville, it's a very long
5 day starting, as I said 0145 and having the crew rested from the day before is
6 worthwhile.

7 **CDR Denning:** Next I would like to refer you to Exhibit 45, if you wouldn't mind taking a
8 look at that. Exhibit 45 is the safety alert issued by Tote for their vessels entitled
9 Hurricane Danny.

10 **WIT:** Yes I see it.

11 **CDR Denning:** Do you recall receiving that alert?

12 **WIT:** I was on the vessel at that time.

13 **CDR Denning:** You've seen it since on board the El Yunque?

14 **WIT:** When I reviewed the safety alerts, yes.

15 **CDR Denning:** When you read this particular alert and it says vessels should review
16 their general and specific – general and vessel specific heavy weather procedure, what
17 procedures do you believe this safety alert is referring to?

18 **WIT:** There's a large number of vessels that are managed by Tote services that are at
19 the dock, they're in reduced operational status. Which involves having at times only
20 one person on the ship. They have a considerable amount of procedures that they
21 need to have implemented. If the weather's going to come in they have to have
22 procedures for having more people on board, possibly being able to get the plant online.
23 If it's a severe enough storm that's going to be approaching they may have, as stated in

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1 here, severe weather plans, evacuation plans, the need to actually mobilize the vessel.
2 So there's, in a reduced operational status, there's very little actual operation going on
3 in terms of taking care of the vessel in a seaway. With a commercial vessel that's
4 running all the time we run into weather conditions on a very regular basis. The
5 reference, what I would look at, what I would review when I was doing this is making
6 sure that my weather maps were being looked at. That uh, reviewing the cargo lashing
7 manual and discussions with shore terminal. Not that they haven't already thought
8 about it, but just to have the conversation fresh in everybody's mind to be talking about
9 it.

10 **CDR Denning:** So am I understanding you right Captain that you feel like this, as far as
11 the specific heavy weather procedures it's mostly referring to the vessels that are in a
12 reduced operating status and not necessarily the commercial vessels that are actively
13 sailing the route?

14 **WIT:** My sense is we don't need a Hurricane Danny or the start of a hurricane season
15 for us to be operating with heavy weather conditions at any time anywhere. And
16 certainly those vessels in the Gulf of Alaska don't need to be told that you might get
17 weather up there. So they're operating on the seas and going in places, we're always
18 dealing with weather and the potential for it. Not as much in the Caribbean as the Gulf
19 of Alaska. But yes, the rolling that I just spoke about the crew getting very exhausted
20 that happens throughout this time of year when in the middle of the Atlantic Ocean you
21 will have very large storms generated. So we are dealing with heavy weather all the
22 time.

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1 **CDR Denning:** Understand. In August the El Faro took an alternate route through the
2 Old Bahama Channel. Were you on board the El Yunque at that time? Or when did
3 you come back to the El Yunque if you were on vacation at that time?

4 **WIT:** I got on the El Yunque the day after the El Faro sank. October 2nd.

5 **CDR Denning:** And when was the last time you were on board El Yunque prior to that?

6 **WIT:** It would have been 10 weeks before that.

7 **CDR Denning:** So with the understanding that you were on vacation that whole time
8 until the El Faro sank, do you know of implications on the August deviation voyage to
9 the operations as far as guidance from Tote?

10 **WIT:** No.

11 **CDR Denning:** On weather route.

12 **WIT:** I have no insight into any of that.

13 **CDR Denning:** Tell us about standing orders that are issued by the Masters on board
14 the ships.

15 **WIT:** There's – there are standing orders, most, each Captain has their own set of what
16 they utilize as standing orders. There are Tote procedures at this time to formalize with
17 a log sheet saying that people have read the standing orders. I've written standing
18 orders and have always had watch, the mates, the deck officers review and sign them
19 each time they come on board. My standing orders have been fairly well refined and I
20 haven't felt the need to modify my standing orders on a regular basis. I've got them the
21 way I want them.

22 **CDR Denning:** Does the – is the company required to approve your standing orders, or
23 is that up to the Master?

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1 **WIT:** I have never heard of a company vetting process for standing orders.

2 **CDR Denning:** Do they review them or maintain a copy of them ashore?

3 **WIT:** They do have a copy of them ashore.

4 **CDR Denning:** In your experience are they generally similar from one Master to
5 another or do they change appreciably?

6 **WIT:** They're similar in that they stress safety and awareness. They're different in that
7 they have very different editing. But some people construct their thoughts and
8 emphasize, you know try to include a tremendous amount of detail. The – what I
9 consider to be the some of the most relevant portions of the standing orders that I use
10 are drawn right out of a night order book that has texts that is probably maybe 70 or 80
11 years old. Some of it is incredibly archaic, but the sort of the core of my standing orders
12 is over confidence is a form of negligence manifested by inattention to duty and failure
13 to follow the rules of good seamanship at all times which are relatively simple.

14 **CDR Denning:** Could you explain the difference between standing orders and night
15 orders for everyone?

16 **WIT:** I use night orders if we're going to be approaching a pilot station with orders with
17 specifics to when I'm to be called, when the Boatswain and his assistant are to be called
18 to rig the pilot ladder and when each additional wave of personnel need to be called out.
19 I've also used night orders while at anchor in regards to weather approaching the
20 anchorage area, and very specific orders for finer trip wire of exactly when I'm supposed
21 to be called.

22 **CDR Denning:** You spoke a little while ago about the, we're going to double back to
23 the weather information again. You spoke about the Bon Voyage system that provides

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1 the ships with their weather information. Can you explain for us how that data package
2 is received and what has to happen in order for that information to get to the watch
3 standers on the bridge please?

4 **WIT:** We have satellite communications, it's the Inmarsat satellite system, they're geo
5 stationary. The current generation is known as fleet broadband and it's depending on
6 what size you have it can actually support internet access. We utilize one that handles
7 email packets only. So the Bon Voyage file is an attachment on an email that sent in
8 the normal email wave that we live with to the vessel. It – my server on the vessel is
9 timed to go ahead and replicate ashore on a regular basis, every couple of hours. And,
10 or it can manually prompted. So for instance when we're sending the weather ashore
11 we don't want to wait for two hours because we want it to be part of the databases.
12 There is a way from the bridge that they can go ahead and prompt their email package
13 going to the weather service out immediately. From the time we have a file attached to
14 an email it goes to a computer that has the software loaded by Bon Voyage system on
15 that computer and that file is opened up. One of the computers that has that software is
16 on the bridge, so it's immediately available on the bridge.

17 **CDR Denning:** So it's immediate. Does it have to come – does the email data
18 package come only to the Captain or does it go directly to the bridge computer as well?

19 **WIT:** We have two accounts, two computers, one on the bridge, one in the Captain's
20 office. They both receive the email packet.

21 **CDR Denning:** What type of training do the bridge watch standers receive on the Bon
22 Voyage system?

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1 **WIT:** As with most modern computer applications you dive in and you find what you
2 can and then you share knowledge with other people. And going through every menu
3 you can find and find out what's there. And so on the job training or however you care
4 to describe, it's done the modern way.

5 **CDR Denning:** Do you know if it's possible to adjust the schedule of the data package?

6 **WIT:** The data packages are only available coming out of Bon Voyage every six hours.
7 Basically their compiling new data from the NOAA data that got sent in compiled on the
8 synoptic hour. So their data package comes out approximately 1 hour after the 0006,
9 12 and 18 Zulu time. Bon Voyage sends out a data update about 1 hour after that.

10 **CDR Denning:** Can you ask for, is there availability of tropical weather updates
11 through that system?

12 **WIT:** The tropical weather updates don't come out any more often than that. That's the
13 – they do have a specific function for asking for tropical weather updates, but that's –
14 we get that.

15 **CDR Denning:** Did I hear you earlier describe that you believe that the information
16 included in the Bon Voyage system is easy to interpret?

17 **WIT:** Yes.

18 **CDR Denning:** What other weather information besides Bon Voyage is available to the
19 crew underway?

20 **WIT:** There's the GMDSS, Global Maritime Distress Signaling System that involves, it
21 has several pieces of equipment, one of which is the Inmarsat C. That sends out storm
22 data that comes out at a level that cannot be screened out of printing them, so that's

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1 generated and that comes out on a regular basis. And they do update their data more
2 than once every 6 hours. They resend it. And that's not a – that's a text format.

3 **CDR Denning:** Bon Voyage provides weather information, does not provide you with
4 routing advice, correct?

5 **WIT:** It can be called upon to provide routing information.

6 **CDR Denning:** How ----

7 **WIT:** It's not a service that I have any interest in, so I've never investigated it.

8 **CDR Denning:** How would – so would you know how that would work if you did want to
9 utilize it?

10 **WIT:** Umm, I would have to look into it, but as I said since it's not something I am
11 drawn to having somebody far away that's generating computer programs giving advice
12 or recommendations to a person who's thinking about nothing but 24 hours a day being
13 in the place where the weather is being experienced, I'm not devoting any my
14 intellectual resources or my time allocation to the development of that.

15 **CDR Denning:** So we understand that on the Marlin class ships they now have the
16 Jeppesen weather routing advice service. Do you have that on the El Yunque
17 currently?

18 **WIT:** It's in the process of taking place. I was contacted by Vice President Phil Morrell
19 maybe two or three weeks ago and there have been some email correspondences
20 between myself and Jeppesen. Presently they're asking for a very large set of data
21 from the vessel that I am compiling to get ready to send to them. And today at lunch
22 checking my emails I heard from Phil Morrell that Jeppesen had told them that, told him
23 that they were trying to send large data packets to me that have been kicked back from

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1 our email system. So we're looking at an alternate route of how to get that data to the
2 vessel.

3 **CDR Denning:** And that would be vessel specific information that Jeppesen needs to --
4 --

5 **WIT:** That's what I need to send them. I think Jeppesen is trying to send basically, I'm
6 guessing it's the actual application to install. And it will be a large file, larger file than
7 can be handled through a store – forward email system.

8 **CDR Denning:** Understanding that you're on the El Yunque, not the El Faro, did you
9 have any conversation with anyone on the El Faro regarding their anemometer and
10 whether it might be working?

11 **WIT:** I can't think of a less relevant thing to talk about, so no I never had a conversation
12 about an anemometer.

13 **CDR Denning:** Can you describe for us the, in your experience the reliability of the
14 propulsion plant on the PONCE class vessels?

15 **WIT:** Very reliable.

16 **CDR Denning:** Where are the survival suits stored on board the El Yunque?

17 **WIT:** The survival suits have been issued to the crew members on board the El
18 Yunque. So each crew member has them stored in their stateroom.

19 **CDR Denning:** On the El Yunque or the El Faro or any other vessels, have you ever
20 heard of any instances where they've been stolen or otherwise disappear?

21 **WIT:** I have not. There's always talk and perhaps the fear of it, but to actually have the
22 inventory count dwindle I haven't heard of that. And there's regular inspections by the
23 safety officer, the Third Mate. And I haven't ever encountered, oh this suit got radically

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1 damaged, the brand new suit got damaged and somebody had done something. I have
2 not heard of anything like that, no.

3 **CDR Denning:** How does it work when a crew member change out occurs, let's say
4 the, you know let's say an oiler transfers and a new oiler comes on board, do they – is
5 that when that when such an inspection would occur?

6 **WIT:** No. No, the inspection of the survival suits on done on, as part of the regular
7 inspection routine by the Third Mate. So just to see, inspects the life boat equipment on
8 a monthly basis and overhauls all the lifeboat provisions on an annual basis. There is
9 an inspection period for the survival suits. And at that time such things as waxing the
10 zippers to make sure that everything's running smoothly. It's a spot maintenance on it.
11 It's not done at the time of a crew turnover.

12 **CDR Denning:** If a new crew member came on board and there wasn't a survival suit
13 in their stateroom would they typically notify?

14 **WIT:** Yes.

15 **CDR Denning:** Who would they notify, the Third Mate, the Master?

16 **WIT:** Umm, it would either be directly to the Third Mate or if it was someone in the
17 engine department they might mention it to the Chief Engineer, you know it might cross
18 departments, but it would eventually get to the person who has the survival suits and
19 make sure that they're issued. As an example of the Third Mate's duties on a regular
20 basis during fire and boat drill, the Third Mate will go and check everybody's life jackets
21 for whistles and condition and the lights. And it's his responsibility to take care of
22 discrepancies found there.

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1 **CDR Denning:** In your experience is there – is it common for a company shore side to
2 actively manage the position of a vessel besides the noon reports that are sent every
3 day?

4 **WIT:** Not in my sea going career. Never heard of that. In terms of actual routing and
5 vessel speed, I can tell you that when I was going through pirate waters in the Gulf of
6 Aden, even if I had a long time ahead of me, I would go at maximum speed and there
7 was never – if anything I would hear from the insurance folks and the company saying
8 thank you for doing that. I've never had anything the likes of being told to run a trolling
9 speed for pirates because I was supposed to conserve fuel or anything else.

10 **CDR Denning:** Are you aware of any other companies that do maintain more, I don't
11 want to say positive control, or situational awareness of where their vessels are at any
12 given moment?

13 **WIT:** Well I believe the MARESK ship that was taken was told to conserve fuel and go
14 at slow enough speed for pirates to pick it up, so that's more situational awareness of
15 the vessel.

16 **CDR Denning:** How would you describe in general the safety culture at Tote?

17 **WIT:** Obsessive.

18 **CDR Denning:** What do you mean by that?

19 **WIT:** We have below industry rates of injuries for several years now. We have a lot of
20 safety awards. Personal protective equipment is absolutely mandatory where we did
21 post a couple years back best, best years ever in the company's safety records.

22 They're very, very proactive on safety.

1 **CDR Denning:** How does the Tote organization provide support for nautical
2 operations?

3 **WIT:** Umm, that question seems very vague to me. I'm not sure, nautical operations, if
4 I need a crew member I tell them I need a crew member and they get me a crew
5 member. I don't think that's what you're asking, but can you clarify the – what you
6 mean by nautical operations?

7 **CDR Denning:** Besides what's in the safety management system and is there any
8 other – safety management system, equipment and crewing, making sure everything is
9 available to you that you've asked for. Is there any other support that's directly
10 provided?

11 **WIT:** Well I can say that I feel very supported when we say that we need something
12 and we get the support to have it done. I don't compile a list of all the times I say I need
13 something and all the times it gets done. But they support us by keeping us going.
14 Can't do much better than that I'm afraid.

15 **CDR Denning:** Understand. Has Tote made any changes to the guidance provided to
16 Masters whether it be for navigation or anything else since the loss of the El Faro?

17 **WIT:** I'm not aware of clear set policy that changes the guidance, no.

18 **CDR Denning:** As far as the hiring process for the Marlin class vessels, are you aware
19 of any contention regarding who was selected or not selected?

20 **WIT:** There was a lack of understanding of how the process took place. The four
21 Captain's that were working on the PONCE classes, none of them were chosen to go
22 on the Marlin class. I can't really say much more than that. That's the data that's out
23 there.

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1 **CDR Denning:** Did you apply for any of the positions yourself?

2 **WIT:** I submitted a resume.

3 **CDR Denning:** Have you received any feedback from Tote on – were you given an
4 interview?

5 **WIT:** I was not.

6 **CDR Denning:** Did they provide you with any feedback on why you weren't granted an
7 interview?

8 **WIT:** I did not ask for any.

9 **CDR Denning:** Did Captain Davidson ever express anything to you about his feelings
10 on his application process?

11 **WIT:** He did.

12 **CDR Denning:** Could you elaborate on those please?

13 **WIT:** He was unhappy with the results.

14 **CDR Denning:** Can you provide any more detail on that conversation?

15 **WIT:** He did have an interview. I learned of the interview and spoke with him right after
16 it took place. He was not optimistic that the interview was going to have beneficial
17 impact. And I spoke with him numerous times about my sense of peace with the
18 decision to not go work on the new ships.

19 **CDR Denning:** Did he indicate anything to you, as far as feedback he had received
20 from Tote on why he wasn't selected? Was he told specifically?

21 **WIT:** He used a phrase that said, and this was from the crewing manager, that it was not
22 the direction Tote was going. And he said that to me enough times so that I wouldn't be
23 surprised if you hear it from someone else as well'

1 **CDR Denning:** What does that phrase mean to you, not the direction they're going?

2 **WIT:** It means nothing to me.

3 **CDR Denning:** Captain Davidson was the Master of the El Faro when they deviated
4 their route in August. Did he – has he ever informed you of any feedback he had
5 received from Tote on the deviation voyage?

6 **WIT:** It never came up in conversation.

7 **CDR Denning:** He never expressed to you that he had been second guessed?

8 **WIT:** No.

9 **CDR Denning:** For that decision. How well did you know Captain Davidson?

10 **WIT:** I spoke with him on the telephone perhaps two dozen times.

11 **CDR Denning:** Did you ever – you meet him in person?

12 **WIT:** I never met him in person.

13 **CDR Denning:** So you wouldn't be able to offer any kind of assessment of his
14 leadership style or attention to safety?

15 **WIT:** Umm, no. Nothing more than I can glean from a telephone call. He seemed to
16 be keenly aware of the environment of the challenges of being on a ship. There was
17 the resonance of speaking with another experienced Captain. But can't really clarify it
18 more than that than to say that I've done this and he's done that. You know we both
19 had similar experiences and there's a recognition of how somebody is and he seemed
20 very solid.

21 **CDR Denning:** Thank you Captain. That concludes all of my questions.

22 **CAPT Neubauer:** Mr. Fawcett.

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1 **Mr. Fawcett:** Good afternoon Captain Lofffield, and thank you very much for your
2 patience this afternoon. When you started your testimony earlier today you mentioned
3 an incident on the El Yunque that brought you to command of that vessel. Could you
4 elaborate about that?

5 **WIT:** The Captain that was on there was discharged. The incident as I understand it
6 was that he an allision with the Grand Bahama Banks and it was notified, Sea Star as it
7 was then, there was a very different structure, was notified. The Port Engineers working
8 for Sea Star investigated it, they sent a diver down and it was seen as acceptable that
9 there was no damage. And it wasn't until Inter Ocean which I'll use these names
10 because Inter Ocean is the precursor of Tote Services and Sea Star is the precursor of
11 Tote Maritime Puerto Rico. The ISM system was managed by Inter Ocean at the time,
12 they did not get notified by that Captain of the allision. The Captain did not realize that
13 an allision constituted a marine casualty that was a reportable item. He understood it to
14 not be a serious marine incident because there was no, the loss did not meet that
15 criteria and there were no medical casualties. So he – if that's the reason he chose not
16 to report it to the company to Inter Ocean. And when it was report, when it was found
17 out his, apparently his conduct was unsatisfactory. So it was not something that could
18 be forgiven, but something that he needed to be removed.

19 **Mr. Fawcett:** And so the location of this, where did this take place?

20 **WIT:** Old Bahama Channel.

21 **Mr. Fawcett:** Okay. And you can keep your answers brief if it serves you. You said an
22 allision? Could you explain what that means?

23 **WIT:** That's when a moving object hits a stationary object.

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1 **Mr. Fawcett:** Did it hit the bottom?

2 **WIT:** Yes.

3 **Mr. Fawcett:** Isn't that a grounding or stranding?

4 **WIT:** If it stays there.

5 **Mr. Fawcett:** Thank you. So you mentioned in real time that since the accident you've
6 had a number of regulatory authorities aboard while you're in port and you've been
7 dealing with a large number of those type of issues, is that correct?

8 **WIT:** That's correct.

9 **Mr. Fawcett:** What type of support has Tote given you to alleviate that workload so that
10 you can function more satisfactory as Master?

11 **WIT:** I do not function unsatisfactorily as Master even with that workload.

12 **Mr. Fawcett:** Does that take away from your focus on other duties having to deal with
13 the regulatory authorities on board at the present time?

14 **WIT:** I structure my workload in order to have a cushion available in case something
15 comes up like regulatory agencies involvement. So I go from 8 hours of work to being
16 able to stretch on 12 or 15 hours, or 13 hours, excuse me. And it's been – it's been
17 running pretty strong. There's been a lot of hours, there's been a lot of investigation
18 and it's important stuff to happen. It is proving the worth of the vessel to have it looked
19 that closely at. And there's not – there's not a way that I can imagine that they can
20 substitute another Captain to pick up some of the Captain's load. I'm the Captain.

21 **Mr. Fawcett:** But can they pick up the sort of the managing the extra activities
22 associated with the scrutiny of the vessel or vessel operations to assist you?

23 **WIT:** The actual interface with ----

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1 **Mr. Fawcett:** Yeah.

2 **WIT:** Current investigators? Yes, that's done.

3 **Mr. Fawcett:** That is done?

4 **WIT:** Yes that is done.

5 **Mr. Fawcett:** Okay. So who's your boss?

6 **WIT:** My boss is the Vice President in charge of commercial operations, Phil Morrell. I
7 have direct communication with him. There is a Director of Ship Management, Jim
8 Fisker-Anderson who is immediately beneath him. In terms of hiring and firing, that
9 would be done through Human Resources. So there are different people that have
10 specific relationships with me. And I am equally accountable to both the U.S. Coast
11 Guard since they issued my license. So I am working for them. And I'm a union man, I
12 have a union that also needs to be addressed respectfully and they also take care of
13 me. So who's my boss is not a real clear easy thing for me to answer. I'm the Chief
14 Mate's boss. I can tell you that. And to a specific extent by OMV, or by any ship's
15 structure the Captain is the boss of everybody on a ship. But in terms of my boss that's
16 a set of relationships with the company.

17 **Mr. Fawcett:** Okay. So you mentioned Mr. Morrell is your boss. How does he
18 evaluate the effectiveness of your performance of duties?

19 **WIT:** That would be his evaluation process, not mine.

20 **Mr. Fawcett:** Yeah, but how does he do that?

21 **WIT:** I don't – I'm not him, I don't know.

22 **Mr. Fawcett:** How many times have you been evaluated in the last several years?

23 **WIT:** Uh, I had one written evaluation I think in the last 4 or 5 years.

1 **Mr. Fawcett:** And who conducted that?

2 **WIT:** Somebody that's no longer with the company, Jim Coleman.

3 **Mr. Fawcett:** What's – do you recall what his position was?

4 **WIT:** He was Vice President of Sea Star when Sea Star was handling all the operations
5 and engineering for the vessels.

6 **Mr. Fawcett:** That one evaluation that you had, and I don't know how long ago it was,
7 was there a discussion about how you perform, for example, voyage planning?

8 **WIT:** No.

9 **Mr. Fawcett:** Weather monitoring?

10 **WIT:** No.

11 **Mr. Fawcett:** Maneuvering the vessel underway?

12 **WIT:** How would somebody evaluate that if they were not there?

13 **Mr. Fawcett:** That's a good point.

14 **WIT:** Right. So you're asking for evaluations of what happens hundreds or thousands
15 of miles away from the person that you're asking if they evaluate me, so, this seems a
16 bit awkward.

17 **Mr. Fawcett:** Well from the point of view that Tote operates two vessels, they provide,
18 you know Tote Maritime Puerto Rico owns the vessel. Tote Services crews the vessel.
19 How can they be assured that both vessels are being operated properly?

20 **WIT:** If the vessels are achieving what they want them to achieve I would have to say
21 that they're – that's kind of the proof that they're being operated properly.

22 **Mr. Fawcett:** Is there some kind of standard they would use or criteria to determine if
23 the vessels were being used properly?

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1 **WIT:** You would have to ask them what their standards of criteria are.

2 **Mr. Fawcett:** Did you get a copy of that evaluation?

3 **WIT:** I did.

4 **Mr. Fawcett:** I just want to ask you to restate something. You were asked a question
5 about the ship's anemometer and you made a comment. Can you take a moment to
6 reflect on that comment and talk about the importance of the anemometer for shipboard
7 operations?

8 **WIT:** The comment that I made was that I couldn't think of anything less relevant than
9 the anemometer to talk to Mike Davidson about.

10 **CAPT Neubauer:** Sir, can you just clarify if the anemometer is important to you as a
11 Master on board the El Yunque.

12 **WIT:** No the anemometer is not important to me, it's not a piece of required equipment.
13 In fact, the assessment of weather and sea state and wind direction is done very well by
14 looking out the window. You can also assess wind direction by looking at radar in terms
15 of the direction that has the most sea clutter. And I would prefer ship's officers to gain
16 their information from there and then see if the anemometer is corresponding to that.
17 That the reliance on a piece of digital data from a little wind propeller on top of the
18 weathervane on top of a mast that has air currents blowing all around it is not a gold
19 standard on reliability of what's happening with the wind. So I would prefer that to be
20 used as a tool to verify. We do have an anemometer, it does work. I do not look to the
21 anemometer to base a decision on what I'm going to do with the ship and the ship
22 handling because that piece of equipment has a digital read out that says this. I do not
23 think that the anemometer plays into my decisions on what's going on with the vessel.

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1 **Mr. Fawcett:** In his final message from the ship, the El Faro to shore, Captain
2 Davidson made the statement that he's experiencing, not quote the word experience,
3 but he reported heavy winds. What are the velocity of heavy winds?

4 **WIT:** Heavy winds is not a technical term. I can't give a definition for what he described
5 as heavy winds.

6 **Mr. Fawcett:** If you took me out on a bridge wing at night, how would I know the
7 difference based on how you're talking about observing the actual wind and radar clutter
8 and so forth if the wind was blowing 70 knots or 105 knots?

9 **WIT:** I've not stood in 70 knot winds or 105 knot winds. I am not, I don't have anything
10 in my experience to tell you whether you're standing in a 70 knot wind or 105 knot wind.
11 I personally doubt that I would be standing in 105 knot wind.

12 **Mr. Fawcett:** Talking about the air currents around the mast where the anemometer is
13 placed, using Bowditch, Knights Modern Seamanship or other tomes available to
14 mariners, can you take the ship's speed, the compared wind and convert it to true wind
15 and true speed using the tools available on the bridge of a ship?

16 **WIT:** Yes.

17 **Mr. Fawcett:** And that would then give you an accurate wind speed?

18 **WIT:** Yes.

19 **Mr. Fawcett:** Is the input from digital anemometer that has wind speed and wind
20 direction interfaced into a voyage data recorder?

21 **WIT:** It doesn't need to be.

22 **Mr. Fawcett:** But is it?

23 **WIT:** Ours is not.

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1 **Mr. Fawcett:** On the El Yunque your anemometer is not interfaced into the S-VDR?

2 **WIT:** No it's not. Not to the best of my knowledge.

3 **Mr. Fawcett:** What's the purpose of a VDR?

4 **WIT:** It's the voyage data recorder.

5 **Mr. Fawcett:** And the purpose?

6 **WIT:** Is to record data.

7 **Mr. Fawcett:** So that after an accident, what happens with the VDR?

8 **WIT:** If it's recovered it's listened to.

9 **Mr. Fawcett:** What if there's a collision, grounding, or stranding, say the Old Bahama
10 Channel, what's the purpose of the VDR then?

11 **WIT:** It retains whatever data streams are going into that VDR, they can be recovered
12 and see what was leading up to it.

13 **Mr. Fawcett:** So there would be voice communications?

14 **WIT:** There's a microphone on the bridge.

15 **Mr. Fawcett:** Number of microphones.

16 **WIT:** Depends on which bridge.

17 **Mr. Fawcett:** There would be the engine commands, RPM, speed, position and also
18 there would be the wind speed and direction, correct?

19 **WIT:** On a very old ship there's a different number of data inputs that go into a VDR,
20 they're not uniform across all ships.

21 **Mr. Fawcett:** Talking about the ship you served on as Captain. Are there any barriers
22 to direct communication with the Designated Person Ashore?

23 **WIT:** What barriers did you have in mind? What are you referring to?

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1 **Mr. Fawcett:** Any.

2 **WIT:** Geographical distance, satellite communications, those could break down. If
3 there's any structural or personnel barriers, the answer is no.

4 **Mr. Fawcett:** Are there any issues with using the ethics line if the ship's within, say
5 telephone range of shore?

6 **WIT:** No.

7 **Mr. Fawcett:** Is there a climate aboard the El Yunque at the time of the accident where
8 people could report problems to shore side personnel without fear of repercussion?

9 **WIT:** I wasn't on the El Yunque at the time of the accident.

10 **Mr. Fawcett:** Leading up to the time of the accident, the times you were aboard earlier
11 in the summer, earlier in 2015, were there any barriers where people couldn't report
12 problems ashore without fear of repercussion?

13 **WIT:** None that I was aware of.

14 **Mr. Fawcett:** Thank you very much.

15 **CAPT Neubauer:** Mr. Roth-Roffy, do you have any questions? Oh I'm sorry. Mr., or
16 Commander Odom, do you have any questions before we transition to the NTSB?

17 **CDR Odom:** Could you please open up to Exhibit 52? Could you please read the title
18 of that form out loud?

19 **WIT:** Tote Service Incorporated senior officer evaluation program.

20 **CDR Odom:** And would you read instruction number 1 please?

21 **WIT:** This form will be completed annually during the month of June or as directed by
22 the TSI VP of Human Resources. The process will start with TSI operations and/or
23 engineering manager completing the first column as applicable to the customer. TSI

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1 OPS will then forward the evaluation to the technical manager responsible for the day to
2 day operation who will complete the second column.

3 **CDR Odom:** So have you ever seen this form before?

4 **WIT:** Umm, not this form. It may be the same form that was used with me, but would
5 have had a different letterhead because it was not Tote Services then.

6 **CDR Odom:** Thank you. Shifting gears a little bit to the safety management system.
7 How do you perceive your role within the realm of the safety management system?

8 **WIT:** My role is to see to it that it's implemented on board the vessel.

9 **CDR Odom:** All right. And through the implantation of the safety management system
10 with Tote's safety management system, would you characterize their system as being
11 fully integrated in to operations as operations and safety management system are one
12 in the same? Or do you see it as two separate systems, operations being one and the
13 safety management system being different?

14 **WIT:** Safety management is the way we operate.

15 **CDR Odom:** Would you consider with your testimony today, would you consider
16 weather a risk to the vessel?

17 **WIT:** Of course it's a risk.

18 **CDR Odom:** Thank you.

19 **CAPT Neubauer:** Mr. Roth-Roffy.

20 **Mr. Roth-Roffy:** Good afternoon Captain. Tom Roth-Roffy, NTSB. I think you
21 mentioned that you had served aboard the El Faro during a layup period, is that
22 correct?

1 **WIT:** Yes, I also worked on it while it was the Northern Lights while it still had its
2 original ro-ro capability and before they modified it to become the container ro-ro ship
3 that it is today.

4 **Mr. Roth-Roffy:** And during the layup period did you recall the dates of your service
5 aboard the vessel and the dates of layup?

6 **WIT:** Uh, I have that written down here if you would like for me to – it was in layup in,
7 uh I was on in layup from November of 2009 through April of 2010.

8 **Mr. Roth-Roffy:** Sir, you mentioned who you felt were your supervisors or who you
9 answer to. Would you say that you also answer to the Port Engineer?

10 **WIT:** Yes.

11 **Mr. Roth-Roffy:** As your supervisor or your boss?

12 **WIT:** No.

13 **Mr. Roth-Roffy:** And how would you describe generally the relationship between
14 Captain's and the Port Engineer's within the Tote organization, Tote organization, if you
15 could characterize that?

16 **WIT:** The Port Engineer is the first person ashore that actually spends the most time on
17 the vessel. And therefore has the most knowledge of what's going on and is the
18 primary point of contact for communicating the actual condition of the vessel and his
19 verification that these things are – this is the condition. So it's a working relationship. I
20 do understand that it could be that if he's unhappy about something that I did, he will let
21 me know. If I fail to notify him about an upcoming inspection that was due, although I
22 do have some sense of he can figure out when the inspections are due as well. So
23 there's a bit of a parity working back and forth there. And he is the first point of contact

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1 from shore side. So if the shore side has something that they want to communicate to
2 me, dissatisfaction with a performance that he's the one who's going get – deliver the
3 message. Does that answer your question?

4 **Mr. Roth-Roffy:** Yes, sir. It's a good start. Would you say it's fair – is it fair to say that
5 you can also give feedback to the Port Engineer regarding the level of quality of support
6 that he is providing to the ship?

7 **WIT:** Yes.

8 **Mr. Roth-Roffy:** Have you had an occasion to perhaps give some sort of feedback to a
9 Port Engineer for less than to the level of support that you expected?

10 **WIT:** It's a working relationship. And the interaction is designed to achieve the best
11 results. And shaming, reprimand and yelling at people is rarely effective. So if I can
12 communicate my perspective in a way that it's understood what the validity of it is, then
13 that's the approach that I make.

14 **Mr. Roth-Roffy:** And in your previous employment to the other companies, have you
15 ever had the occasion to have a Port Engineer assigned to the vessel? I'm sorry,
16 correction, Port Captain.

17 **WIT:** There have been several times when there are people in the organization that are
18 assigned Port Captain titles. And I've seen some of those Port Captain titles morph into
19 a – the person's still doing the same thing they've always done and they no longer have
20 that title. There – quite some time ago there was a company that I worked for that had
21 a Port Captain that was quite proactive as a Port Captain. It's been a long since I've
22 had that, that service.

1 **Mr. Roth-Roffy:** What sorts of functions would a proactive Port Captain do for the
2 vessel and for you?

3 **WIT:** It was a long time ago. Umm, I have a memory of the Port Engineer speaking
4 very highly of the Port Captain because he helped with some logistical details that
5 involved working with an agent in a foreign port and having done that sort of thing. So
6 that's my recollection of it was a good Port Captain.

7 **Mr. Roth-Roffy:** Do you miss having a Port Captain in your current employment
8 aboard these vessels? Or is it a function that's really not necessary?

9 **WIT:** I haven't worked with a Port Captain in a very long time. I don't have a sense that
10 I've missed it. The – so I can't really answer that one any more clearly.

11 **Mr. Roth-Roffy:** What is your general approach in dealing with the Chief Engineer, and
12 the engineers in the engine department? And would you describe that relationship as
13 good or less than desirable?

14 **WIT:** I would call it excellent.

15 **Mr. Roth-Roffy:** Did you say excellent?

16 **WIT:** Excellent.

17 **Mr. Roth-Roffy:** And do you have any sense of the relative reliability and condition of
18 the machinery aboard the El Faro and El Yunque?

19 **WIT:** I would say that a key portion of having an excellent relationship with the
20 engineers is because they do an excellent job. The machinery is in very good shape.

21 **Mr. Roth-Roffy:** Are there any noticeable differences between the two vessels in terms
22 of their mechanical condition?

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1 **WIT:** I have some knowledge of the history of these ships and there was a reputation
2 that the El Faro's machinery was actually in superior condition. But that goes from a
3 long way back and I don't have anything current or contemporary that either – that even
4 speaks to that from when I was on there 5 years ago.

5 **Mr. Roth-Roffy:** And you don't have information that would suggest that the El Faro,
6 mechanical condition was subpar or poor?

7 **WIT:** Absolutely not. The Chief Engineer's involved that went down with the ship, I
8 knew both of them, they would not have been there if there were – the ship would not
9 have been in a subpar engineering condition with those two men having anything to do
10 with it. It's not congruent that that would be the case.

11 **Mr. Roth-Roffy:** That's all I have. Thank you Captain.

12 **CAPT Neubauer:** Does Tote have any questions? Pardon me, I skipped over Mr.
13 Kucharski.

14 **Mr. Kucharski:** Captain would you give us a brief description how you actually
15 received and sent emails off the ship, how the ship, the complete system, how it
16 worked?

17 **WIT:** Emails are composed in Outlook. They're sent from Outlook, they go into,
18 presently into a system Globe Wireless that has interface with the Inmarsat satellites
19 through the hardware that is the FleetBroadband 250. That email goes out, so from
20 Outlook it goes into there and either waits for a scheduled replication or can be
21 prompted automatically if the email in Outlook is tagged as a high priority when it
22 reaches the Globe Wireless system, it will automatically trigger a replication. Or I can
23 manually trigger a replication when I'm working in my office.

1 **Mr. Kucharski:** So the Chief Engineer, the Chief Mate's, they have their own email
2 addresses?

3 **WIT:** Yes they do.

4 **Mr. Kucharski:** If they put a high priority it would go out automatically?

5 **WIT:** That's correct.

6 **Mr. Kucharski:** And the other emails that you mentioned, about you can manually trip
7 it, they or manually connect?

8 **WIT:** I can – the Globe Wireless software package is installed on the ship's server. I
9 have a virtual laptop, or a virtual desktop in my office that makes it so that I can look at
10 the, essentially be sitting down in front of the computer on the ship's server and open up
11 the Globe Wireless and trip it or trigger it to send a transmission ashore.

12 **Mr. Kucharski:** How many times a day was the system set to replicate?

13 **WIT:** I believe it was set to replicate 6 times a day.

14 **Mr. Kucharski:** So at that time when it did replication was it just for AMOS or other
15 systems, or would it replicate – allow crew email to go out and other emails to go out?

16 **WIT:** All of the crew email would have been composed, any crew email would be
17 composed in Outlook and when sent from Outlook it would go to the Globe Wireless
18 and it would be in the outbox of Globe Wireless so that when Globe Wireless replicated
19 it would go ashore.

20 **Mr. Kucharski:** Do you have any knowledge of a system called the rapid response
21 damage assessment?

22 **WIT:** I've seen a binder on board the vessel, and I believe that's an ABS associated
23 system. And that's new to the vessel, it's on there right now.

1 **Mr. Kucharski:** When did that come aboard?

2 **WIT:** It's been less than a year.

3 **Mr. Kucharski:** And were any – is there any coverage of that in the safety
4 management system?

5 **WIT:** I'm not aware of that being integrated into the safety management system yet.

6 **Mr. Kucharski:** Does the vessel have direct access to that system?

7 **WIT:** Umm, I have been told by ABS that I have direct access to it. I've not exercised
8 that, I'm not trained in it.

9 **Mr. Kucharski:** I'm sorry?

10 **WIT:** I have not exercised that, I have not trained in it.

11 **Mr. Kucharski:** Have you read – looked at the manual at all to assess the capabilities?

12 **WIT:** I have not.

13 **Mr. Kucharski:** Who would you go to with the company shore side if you had to
14 discuss nautical type issues such as route planning, storm avoidance, stability,
15 navigation issues in the vessel, ship handling, who would you go to shore side?

16 **WIT:** How is this question different from whether I'm – whether I need to ask anybody
17 shore side what's I'm doing, versus I notify shore side of what I'm doing.

18 **Mr. Kucharski:** It's not a notification, I'm sorry. It's just if you had any other questions
19 or any issues with any of those things, not asking permission you're going to someone
20 on shore side, if you had any questions, particular questions?

21 **WIT:** Umm, I'm trying to imagine what those questions would be and what's coming up
22 for me is the ship's pounding, what do you think I should do? And clearly that's not the

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1 question you're asking about. So if I had the question that's in your mind, say the
2 question in your mind and then I'll say who I would talk to, if anyone.

3 **Mr. Kucharski:** Is stability a deck or engine issue on board a vessel?

4 **WIT:** It's a deck issue.

5 **Mr. Kucharski:** So is there someone shore side that you could go to that issue with?

6 **WIT:** If the vessel was loaded in such a way that I did not have adequate stability, we
7 wouldn't go. Is that going to somebody shore side, that's going to everybody shore side
8 if the Captain says the vessel's not sailing. What else can I give you.

9 **Mr. Kucharski:** I'm not talking about not sailing, I'm just talking about if you want to
10 discuss stability issues or margins or anything like that. Is there someone you could go
11 to?

12 **WIT:** If I wanted to sail the vessel with a greater margin than .5 foot, who would I go to
13 talk about that with? Is that what you're asking?

14 **Mr. Kucharski:** Yes.

15 **WIT:** That would probably start with John Lawrence, the Designated Person.

16 **Mr. Kucharski:** You mentioned earlier about the storm lashings, having extra storm
17 lashings put on. Would the company do that on its own or would that have to be asked
18 for by the ship? Double lashings, or extra lashings.

19 **WIT:** I'm also thinking that the discussion about the lashings and the fact that it would
20 take manpower to do it, that it's already looked at when the shore side cargo handlers
21 and terminal operators are planning their labor needs and the scope of what they're
22 doing because they're trying to set a schedule for how long it's going to take for them to
23 do it. If I wanted more than they were already offering, I would tell them that I wanted

1 more. But my experience is that they're ahead of the curve on that because they're
2 trying to manage their timeline. That they automatically assume that if there's a chance
3 that more is going to be wanted they want to get it done earlier in the game instead of
4 later because it is better for their work schedule. So if I wanted more lashings I would
5 go first to the terminal operators, that's Sea Star, Tote Maritime, that is not an issue that
6 I would take up with Tote Services or the Designated person unless Tote Maritime said
7 that they were unwilling to meet my request, then I would go to the Designated Person.

8 **Mr. Kucharski:** I'm just – was just trying to understand if, you know the lashing as a
9 matter of course, I think I had asked you earlier if there were extra lashings put on as a
10 matter of course or, I think you said 10, 12 times roughly that that was done. Did they
11 notify you in advance they were putting on extra lashings?

12 **WIT:** Oh yes, yes.

13 **Mr. Kucharski:** Okay.

14 **WIT:** Yeah. I mean that's – that's why it becomes an awareness for me. Is I get told
15 you know we're going to do this now.

16 **Mr. Kucharski:** And is that when the vessel gets in?

17 **WIT:** Umm, that's when we're starting cargo, the first part of cargo operations is
18 stripping off the cargo that's on board, so there's plenty of time for that discussion to
19 take place and I'm notified early on. The cargo personnel, Don Matthews generally
20 comes up to my office, he makes a stop with the Chief Engineer and a stop at my office,
21 brings any ship's mail from Tote Services if there is. And has a discussion about what's
22 going on with cargo.

1 **Mr. Kucharski:** Okay. Thank you for that explanation. Trying to understand. Were
2 there any heavy weather checklist?

3 **WIT:** I do not have a heavy weather checklist.

4 **Mr. Kucharski:** Prior to the accident, to the sinking of the El Faro were you aware of
5 any sea condition which could cause the vessel to lose propulsion?

6 **WIT:** Umm, I understand from an engineering point of view that loss of propulsion can
7 occur if there's loss of lube oil. I remember from my cadet days that there's a little port
8 hole that they can always visually see dropping down through the pipe that there is flow
9 of lube oil because it's critical. That would be absolutely essential for the reduction
10 gear. And were there to be a loss of lube oil the reduction gear has to be stopped
11 before it destroys itself. So whether that can happen from a sea condition, I wouldn't
12 think it would happen from a sea condition unless there was so much list that, or so
13 much roll that the lube oil pump got a shot of air in it or something like that. But I
14 haven't really thought in terms of a sea condition causing the plant to be lost. But
15 understanding retrospectively that's what I can come up with.

16 **Mr. Kucharski:** After the sinking was there any discussion about the possible
17 propulsion loss and what can cause that?

18 **WIT:** That's what I just said.

19 **Mr. Kucharski:** I thought you were talking about your cadet days where ----

20 **WIT:** No, that the – that's where I understand the critical importance of it and after the
21 sinking it was – since the description that I heard from – about the last call, talked about
22 loss of propulsion and that they were working on dewatering. That informs me that they
23 still had electricity, that the boiler were still operating in fine shape. And that the specific

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1 use of the word loss of propulsion must have meant that the propeller had stopped
2 turning. So those two things in conjunction had me make the conclusion that he would
3 have, I certainly would have been very much more explicit about if I had no power, if the
4 ship was blacked out, that's a different thing from using the – the use of the word loss of
5 propulsion. I mean blackout only takes two syllables. It's a lot faster and easier to say.
6 Loss of propulsion must mean something very specifically.

7 **Mr. Kucharski:** Have you ever had to change course on a PONCE class ship going in
8 from a head sea to running a port, turning around?

9 **WIT:** I have not had to completely turn around and go the opposite way. I have
10 changed course numerous times. The – on the El Faro chasing Hurricane Earl up to
11 Philadelphia I had to change course repeatedly. We were going back and forth off the,
12 off of Cape Hatteras and each time I got close to Cape Hatteras there was no way to
13 adjust the course or to adjust the speed but to go further offshore because there were
14 multiple swells and it was more difficult. I've also had to change course on the
15 Westward Venture I was going from Jacksonville to Charleston and cell, a storm cell
16 kicked up that nobody ever saw anywhere other than those of us that were in it. It
17 actually had a developed eye, 90 knot winds on the anemometer with getting into the
18 eye and having heaped up confused swells going in all directions. So on the way in I
19 had to keep changing course to keep the vessel from pounding. And once I was inside
20 of it there was no course I could go on, I had to slow down – no, I had to slow down
21 before I go into the eye, then when I was in the eye I had a slower speed, it was
22 pounding because it was on all sides and I tried adjusting speed and that eased the
23 pounding. A few moments later the wind kicked up 90 degree, or 90 knots going from

1 the exact opposite direction. I was a bit shaken by it and astonished when I was calling
2 the Charleston pilots that they were meeting ships out in what I thought I had just gone
3 through. And their response of oh no, you know we deal with this all – you know this is
4 fine weather. And by the time I got there it was down to 25 knots. And they have no
5 indication that anything like that had been out there. That never showed up on any
6 weather routing services, it's not going to show up on a NOAA weather map, that's
7 something that a Captain had to deal with in the moment by being there. So yes, I have
8 had to change course. I've also had to change speed.

9 **Mr. Kucharski:** Were all those conditions with the seas, essentially come from the
10 head?

11 **WIT:** As we were getting closer to the cell there were seas coming from many different
12 directions. So there was a function of how to not have them coming straight from the
13 head so that we were pounding. And it became quite challenging and essentially we
14 held position somewhat, made time somewhat and had the system pass away from us.

15 **Mr. Kucharski:** I think you mentioned that you used the Old Bahama Channel and the
16 Northwest Providence Channel before?

17 **WIT:** I have.

18 **Mr. Kucharski:** How many times on this run have you used them?

19 **WIT:** I went the Old Bahama Channel with Hurricane Floyd, I was Second Mate at the
20 time, that was probably '99, might have been 2000. I used the Old Bahama Channel at
21 Thanksgiving this year, the weather was going to be rough enough off the coast so that
22 we would have been violently rolling. And it just seemed like the right thing to do. That
23 was in anticipation of rolling conditions. I used the Old Bahama coming back just this

1 week. But that's two times in the last four months and other than that I had not used it
2 since 2000.

3 **Mr. Kucharski:** And the Northwest Providence?

4 **WIT:** Again I used the Northwest Providence primarily because the storms that sit out
5 in the North Atlantic will put a beam swell that gives synchronous rolling with the light
6 ship condition when we're coming out of San Juan. It's not a problem when we're going
7 South bound because we have a different rolling period. And I've used Providence
8 Channel probably 4 or 5 times. I also used Providence October 2nd when Joaquin was
9 out there. And my strategy at the time was to head south and continue to check the
10 weather reports. And by the time I got down to Providence Channel I determined that
11 the weather was going to be acceptable out that route. And there was a pull and a
12 desire to see if we could do anything, have any rescue impact with the El Faro. But had
13 the weather still been looking bad I would not have gone ahead and put another ship
14 into harms way. And it was actually the Second Mate, Jamie Torres as we were – I had
15 come down from the bridge we had taken departure. And – or actually it was before we
16 undocked, he had made a point of expressing that he really thought that I should take
17 Old Bahama Channel that he was very shaken at the intensity of the storm and the
18 news of the disappearance of the El Faro at that time, it was not confirmed. And I
19 thanked him very much for his willingness to speak up. And informed him that we were
20 heading South and we would make the decision when more weather data came in that
21 we were 9 hours out from the deciding point and we were not going to make the
22 decision until we were at that point.

23 **Mr. Kucharski:** How about the Yucatan Channel, is that an option?

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1 **WIT:** Uh, I've never considered the Yucatan Channel. If there's a need to go that far
2 away from a storm, storms are slow, we can run away from it and still stay away from
3 the Yucatan Channel and be able to conserve fuel and conserve range and still get out
4 of the way of the storm and still get to our destination. So I cannot imagine a
5 circumstance where I would consider taking the Yucatan Channel.

6 **Mr. Kucharski:** We've seen email correspondence and that was verified yesterday of
7 8500 barrels of bunkers leaving Jacksonville, approximately 8500. Are you familiar with
8 that?

9 **WIT:** Yes.

10 **Mr. Kucharski:** Would you be able to leave with 8500 barrels of bunkers and take an
11 alternate route and still have enough fuel on board, or enough stability counting for burn
12 to meet stability criteria all the way South?

13 **WIT:** At our highest burn rate we're slightly more than 2 barrels per mile. It's an 1100
14 mile trip direct. So that allows for, 1100 times 2 is 2200 barrels off of 8500 barrels,
15 there's still a lot of fuel left. In the event that we needed to keep on running, and
16 running, running, and burn more tons enough to eat into the .5 feet of GM margin, we
17 would have ballast available to refill that.

18 **Mr. Kucharski:** So you would be able to take ballast to compensate for that?

19 **WIT:** Yes.

20 **Mr. Kucharski:** So why do you need 8500 to meet stability criteria if you could take
21 ballast with less, or would you be able to go with 8000 barrels and then take more
22 ballast?

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1 **WIT:** Umm, we could. 8500 is a safety margin to be able to get down there. We can
2 certainly burn a lot more than the 2000, 2200 whatever going down there by going a
3 much greater distance. But it would be nice to have enough to get back to Jacksonville.
4 It's a preferred bunkering port.

5 **Mr. Kucharski:** Would you please take a look at, and this will only be one exhibit, 72
6 and the very first page. The exhibit is entitled El Faro SARSAT EPIRB. And just page 1
7 towards the bottom. Which says radio EQP.

8 **Tote Inc:** Excuse me Captain.

9 **Mr. Kucharski:** Sorry?

10 **Tote Inc:** I don't have that exhibit.

11 **CAPT Neubauer:** We'll pause for that question until we can get the exhibits distributed.
12 Let's take a 5 minute recess please.

13 *The hearing recessed at 1735, 18 February 2016*

14 *The hearing was called to order at 1743, 18 February 2016*

15 **CAPT Neubauer:** The hearing is back in session. Mr. Kucharski.

16 **Mr. Kucharski:** Thank you Captain. Captain Loftfield have you looked at that
17 document?

18 **WIT:** You were bringing my attention to one particular line on it, I did complete that.

19 **Mr. Kucharski:** Page 1, yes, page 1 towards the bottom of Exhibit 72.

20 **WIT:** Yes.

21 **Mr. Kucharski:** And it says just below the call sign, WFJK which is the call sign of the
22 El Faro, correct?

23 **WIT:** Yes it is.

1 **Mr. Kucharski:** And Radio EQP, radio equipment, it says VHF, HF, SSB, and Iridium
2 can you tell us what that means? Have you seen that before?

3 **WIT:** Iridium was a satellite telephone system that was created and marketed some 15
4 years ago with a hope that it would catch on, it's the new new thing and that everybody
5 would be using satellite phones and not relying on cell phones. That system did not
6 work, or it didn't catch on, it went bankrupt. It was packaged up, resold to somebody
7 else and they tried to make a little bit of use out of it. The Iridium is as used on the El
8 Faro was with a, can't remember the manufacturer, but they called it, uh, I think I4, there
9 was a central box that would detect whether the vessel was in cell phone range and
10 switch to using GSM as the primary communication means. If it was not able to detect
11 GSM it would switch to Iridium. Iridium had a slower transmission rate. So when we
12 were using the I4 integrator I think is what's coming in to my head on this, when we
13 were using that, when we were in proximity to shore and we were using GSM we could
14 actually transmit larger data packages and using GSM was a lower rate. So it was a
15 money saving thing. So the Iridium is a satellite system that I don't know if there's
16 anything left going on it still or not. But that's what the Iridium was.

17 **Mr. Kucharski:** So at one time it had an Iridium cell phone?

18 **WIT:** It did not have an Iridium cell phone it had the I4 integrator that had Iridium
19 service. There was not a phone, a designated Iridium telephone with it. You spoke on
20 the phone through the ship's interchange system that hooked into the I4 integrator and it
21 would notify you when you picked up the phone what services were available and what
22 services were going to be used.

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1 **Mr. Kucharski:** Thank you for that clarification. Did you or did you direct any of your
2 ship's officers to run any stability calculations with the ship in a damaged condition, did
3 you ever try that function on CargoMax?

4 **WIT:** I have not.

5 **Mr. Kucharski:** Did any of your officers express concern about keeping up with the
6 requirements of the safety management system while performing their additional
7 duties?

8 **WIT:** While performing their primary duties. That was a refrain that came out with the
9 introduction of the total quality management systems and the ISM systems some 15
10 years ago. It was pretty well reviled by the class of people that were working with it at
11 the time. Seen as cumbersome and inaccurate. That's really past the generation that
12 grew up without living inside the system is no longer around and nothing else other than
13 this is known. So nobody cries out that this is bad, they accept it as this is what tells me
14 exactly what I have to do and articulates it.

15 **Mr. Kucharski:** Did the company have any input into your decision to depart
16 Jacksonville on October 2nd giving the circumstances with the El Faro, what happened
17 to the El Faro?

18 **WIT:** The company can have input about sailing anytime they want. They did not
19 intervene in a way that countermanded the schedule that was already set. So what was
20 going on in the minds of people in the company of whether they wanted to intervene in
21 my actions or not is unknown to me.

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1 **Mr. Kucharski:** Did you have any discussion with any shore side personnel about the
2 October 2nd sailing in light of what happened on the El Faro? Did they talk to you or
3 communicate to you or discuss this at all with your sailing?

4 **WIT:** It was certainly on everybody's mind. And – but in terms of my sailing it's what I
5 do. It's what the ship does. And there's – it may seem cold and inhuman or something,
6 I don't know, it's the job, it's why we're here. It's what we do. So yes there's a casualty
7 or there's a mystery, there's an unknown, but it's not business as usual, but it is we've
8 got to go on with business, it's as show business, the show must go on. And yes
9 there's certainly an awareness that don't want to, you know one of the things they say in
10 rescue is you know whatever you do don't become a part of the casualty by jumping into
11 it. When I notified the company of my sail plan that I was going to go south and I did
12 notify them, that I was going to go South towards Fort Lauderdale and that I was going
13 to make an assessment when I got down there, the same thing that I discussed with
14 Jamie Torres as I just described. That that's what I was going to do and I did get
15 telephone calls when I announced that on the satellite phone discussing what it was and
16 with an admonition that do not go into harms way. Absolutely do not go into harms way.
17 And I could have gone ahead and gone a longer route. I could have just stopped and
18 waited, but with the weather data forecasting available to me I was able to make the
19 assessment that the weather was going to clear and we had the rather amazing
20 experience of crossing right through the debris field with all hands on lookout and
21 finding where the oil was bubbling up from the El Faro and passing directly over it. And
22 with just an eerie calm throughout the entire place. So I was making the assessment
23 based on the data available to me of what was the right thing to do in terms of getting

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1 cargo to the destination. Bear in mind that the shelves in Costco and WalMart emptied
2 out after the sinking of the El Faro and we were the link, the El Yunque was the link of
3 supplying an entire population. So there was a job to do, I made the assessments, we
4 had that phenomenal experience. We were going a slow speed when we went across it
5 because we were looking out. It was after we had finally passed the oil slick and no
6 more debris field that we came back up to speed and got the Puerto Rico and quickly as
7 possible. And there were rather distressed telephone calls when I said I had made the
8 choice to go through Providence Channel and possibly closer to the site of we don't
9 want you becoming a casualty, don't do anything that's going to become a casualty. At
10 which point I was the person who was saying this is what I'm looking at, this is where I
11 am. And it's the right thing to do and it was.

12 **Mr. Kucharski:** Who did you have the discussions with shore side, the telephone
13 calls?

14 **WIT:** John Lawrence was the first person that I spoke with. He called because I
15 announced what I was doing. And I had made the request of if we see any sightings
16 who's the first person to notify to make sure the company was fully aware of what I was
17 going with. He responded that it should be the Coast Guard and him simultaneously.
18 And then Jim Fisker-Anderson called and he's the one who really expressed the
19 apprehension about going into harms ways.

20 **Mr. Kucharski:** Thank you for the answer. Would you say the work load, the vessel
21 personnel, is at its highest, the workload is at its highest in the hour before departure?

22 **WIT:** Yes.

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1 **Mr. Kucharski:** Would you also say that this is one of the more segments of your
2 tasking as a Master?

3 **WIT:** Yes.

4 **Mr. Kucharski:** Within the CargoMax program, did you look at the lash margins and
5 the stack weights for the container load?

6 **WIT:** I have not.

7 **Mr. Kucharski:** Do you know if your mates did?

8 **WIT:** Yes they did.

9 **Mr. Kucharski:** No further questions. Thank you.

10 **CAPT Neubauer:** Does Tote have any questions?

11 **Tote Inc:** Yes, sir. Good afternoon Captain Lofffield. You had made some comments
12 about the two engineers, two Chief Engineers who were serving on the El Faro. Did
13 you know Steven Schultz who served as the Chief Mate of the El Faro?

14 **WIT:** I did.

15 **Tote Inc:** And what was your experience with him?

16 **WIT:** He was extremely conscientious, he was passionate about education. It was a
17 tremendous benefit to have him on the vessel particularly when we had cadets because
18 he loved to educate them so much. When we were maneuvering with under pilotage
19 the duty of the watch officer is to have absolute awareness of the engine order
20 telegraph, the RPM indicators, and the rudder orders and the rudder angle indicators.
21 In addition to fixing the position of the vessel. He was so conspicuously aware of those
22 things as to make it possible for me not to pay attention. And actually I chose to
23 compete with being as aware of those details as he was because he was so good at it.

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1 **Tote Inc:** Did he have any particular practice or pattern of dealing with the weather,
2 weather observations?

3 **WIT:** The general watch standing, watch standing schedule is – involves doing
4 compass checks and doing weather reports. The weather reports get done on a – on
5 the synoptic hours as I had mentioned. There is publication, the mariner's weather log
6 published by NOAA and they report in there what ships have sent in weather reports,
7 and so it's almost a, it's a friendly competition to see how many – how high the numbers
8 can be for your vessel. Steve loved doing that. He loved, he would stand out on the
9 bridge wing in his quiet moments and just watch the waves, the swell, calculate exactly
10 what it was, have a really clear idea of just how he was going to be reporting it when it
11 came time to report. He was extremely conscientious about getting the weather reports
12 sent in.

13 **Tote Inc:** Thank you.

14 **CAPT Neubauer:** Does ABS have any questions?

15 **ABS:** No questions.

16 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

17 **Ms. Davidson:** Yes. Good afternoon Captain. You had talked about making
18 assessments during voyages, that's an ongoing thing, correct?

19 **WIT:** Yes it is.

20 **Ms. Davidson:** And you always wait for the next weather forecast, correct?

21 **WIT:** I always use the most recent available data to make an assessment.

22 **Ms. Davidson:** And that would be what the mates have recorded in the deck log,
23 weather data you received up on the bridge, correct?

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1 **WIT:** I would not look at the deck log to determine the weather. I would look out the
2 window and when the latest BVS came in the next download I would also look at that.

3 **Ms. Davidson:** And you would make your decisions based upon the forecast you were
4 getting, correct?

5 **WIT:** I would.

6 **Ms. Davidson:** And you told us about this one particular time where you were
7 surprised by a cell that had not been forecasted.

8 **WIT:** That's correct.

9 **Ms. Davidson:** And that happens at time, correct?

10 **WIT:** Yes it does.

11 **Ms. Davidson:** And Masters have to make decisions at those time, correct?

12 **WIT:** They do.

13 **Ms. Davidson:** So there are times when forecasts are wrong, correct?

14 **WIT:** Yes. Another time would be uh, historically mariners have reported monster
15 waves that scientists could not figure out how they could possibly be and it wasn't until
16 satellite imagery came in that scientist realized they didn't understand, but they did
17 exist. So all forecasting methods they're good from whatever base they have, but they
18 do not reflect necessarily exactly what's being seen out there.

19 **Ms. Davidson:** Thank you.

20 **CAPT Neubauer:** HEC do you have any questions?

21 **HEC:** No questions.

22 **CAPT Neubauer:** Captain Lofffield I just have a couple follow up questions. I know
23 your timeline is short. Sir, I believe you mentioned that you have, that you have

1 departed the dock on the El Yunque before getting the final CargoMax report, is that
2 true?

3 **WIT:** We get the – we get the final cargo papers aboard before sailing. There have
4 been times in San Juan when we did not have the electronic file loaded in yet. There
5 have not been times with a full load of cargo when, anytime there was any possibility of
6 being close to our margins, we do not go without having everything.

7 **CAPT Neubauer:** Talking about the Bon Voyage weather system, you said you
8 automatically receive an update every six hours.

9 **WIT:** That's correct.

10 **CAPT Neubauer:** Was there ever a time that that system could adjust to receive the
11 three hour cycles that are released during a hurricane period?

12 **WIT:** There is a, you can put in for getting additional inputs from it, yes.

13 **CAPT Neubauer:** But you would have to request those inputs, sir?

14 **WIT:** I would have to go into the data ordering profile and specify that I wanted those.

15 **CAPT Neubauer:** Sir, when you operated the vessels in a ro-ro capacity, what was the
16 estimated average GM margin that you sailed with? Can you remember, sir?

17 **WIT:** Umm, I don't have a good recall of that. I'm guessing that it would probably be
18 around 3, an extra 3 feet of GM, but I don't know why that number comes to me, so.

19 **CAPT Neubauer:** Yes, sir. That would be a rough estimate?

20 **WIT:** It's strictly a guess. And sometimes my guesses are good and I don't know what
21 the basis is, but they hit.

22 **CAPT Neubauer:** That's all the questions I have. At this time. Captain Lofffield, we
23 are now complete with your testimony for today. However I anticipate that you may be

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1 recalled to provide additional testimony at a later date. Therefore I am not releasing you
2 from your testimony at this time and you remain under oath. Please do not discuss your
3 testimony or this case with anyone other than your counsel, the National Transportation
4 Safety Board or members of this Coast Guard Marine Board Investigation. If you have
5 any questions about this, you may contact my legal advisor, Commander Jeff Bray.
6 And I would like to thank you for your testimony today.

7 **WIT:** You're welcome.

8 **CAPT Neubauer:** Do any parties in interest have any concerns with the testimony
9 provided Captain Lofffield in addition to the reservation that was voiced during this
10 morning's session?

11 **Tote Inc:** No, sir.

12 **ABS:** No concerns.

13 **Ms. Davidson:** No concerns.

14 **CAPT Neubauer:** At this time the hearing is adjourned until 0900 tomorrow morning.
15 As an announcement, we are moving Mr. Neeson until Friday the 26th of February. He
16 was originally scheduled to testified this afternoon.

17 *The hearing adjourned at 1803, 18 February 2016.*

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19

20