

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 26 May 2016

4 Volume 19

5 **CAPT Neubauer:** Good morning. This hearing will come to order. Today is May 26th,
6 2016 and the time is 9 a.m. We are continuing at the Prime F. Osborn Convention
7 Center in Jacksonville, Florida. I am Captain Jason Neubauer, of the United States
8 Coast Guard, Chief of the Coast Guard Office of 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 person contributed to the casualty, and whether there is evidence that any
20 Coast Guard personnel or any representative or employee of any other Government
21 agency or any other person caused or contributed to the casualty. I have previously
22 determined that the following organizations or individuals are parties in interest to the
23 investigation. Tote Incorporated, ABS, Herbert Engineering Corporation and Mrs.

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1 Teresa Davidson as next of kin for Captain Michael Davidson, Master of the SS El Faro.

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

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

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

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

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

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

18 **CAPT Neubauer:** Thank you. We will now call our first witnesses of the day, Mr. Bruce
19 Wagner with Harding.

20 **LCDR Yemma:** Sir, could you please stand and raise your right hand. A false
21 statement given to an agency of the United States is punishable by a fine and or
22 imprisonment under 18 United State Code Section 1001, knowing this do you solemnly

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1 swear that the testimony you're about to give will be the truth, the whole truth and
2 nothing but the truth, so help you God?

3 **WIT:** I do.

4 **LCDR Yemma:** Thank you, sir. Be seated please. Sir, could you please state your full
5 name and spell your last name for the record?

6 **WIT:** It's Bruce Wagner.

7 **LCDR Yemma:** Press the button, when its red it's live.

8 **Counsel:** Okay. I'm sorry. I thought it was on the other way.

9 **WIT:** It's Bruce Wagner, spelling of the last name W-A-G-N-E-R.

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

11 **Counsel:** Yes, Edward P. Landry, L-A-N-D-R-Y, counsel for Harding.

12 **LCDR Yemma:** Thank you, sir. Mr. Wagner can you please tell the board where you're
13 currently employed and what your position is?

14 **WIT:** I'm currently employed for Harding Safety Incorporated, Headquarters out of New
15 Iberia, Louisiana. I work in the office out of Miami region, South Florida. I'm a field
16 service engineer level 2.

17 **LCDR Yemma:** And can you tell the board what are some of your general
18 responsibilities in that position please?

19 **WIT:** We install new systems, inspections of old systems, new systems. Just anything
20 that pertains to the life boats.

21 **LCDR Yemma:** And can you also tell the board about your prior relevant work
22 experience please?

1 **WIT:** I've been with the company, we've changed names a few times approximately 28
2 years. I started at the fabrication facility in Edgewater, Florida and moved into the field
3 service area in 1992 out of New Iberia, Louisiana. So from that point on I've been doing
4 field service

5 **LCDR Yemma:** And what is your highest level of education completed?

6 **WIT:** Graduated high school and Vo Tech courses.

7 **LCDR Yemma:** Thank you, sir. Commander Denning is going to have questions for
8 you now.

9 **WIT:** Alright.

10 **CDR Denning:** Good morning Mr. Wagner. So I would like to start by having you
11 provide a little bit more detail for us about Harding safety. You mentioned it's gone
12 through a couple name changes, a couple mergers perhaps. So if you could go into a
13 little bit more about the company history and what the various products and services
14 that they provide the maritime industry.

15 **WIT:** We supply a whole range of life boats for off shore platforms, drilling, life boats for
16 cruise ships, commercial vessels, tankers, container ships. State the question again.

17 **CDR Denning:** So is your work limited to life boats or do you also do work on other
18 safety systems?

19 **WIT:** Pretty much life boats, davits, winches and life raft crates.

20 **CDR Denning:** And how many employees are in the – your Florida location
21 approximately?

22 **WIT:** I believe probably 14, 15.

23 **CDR Denning:** You said you're a service engineer level 2, correct?

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1 **WIT:** Yes, sir.

2 **CDR Denning:** Can you tell us what the various levels are?

3 **WIT:** Entry level would be a level 4. Then you would graduate to a 3. And then a 2.

4 Then after that you would be a principle engineer which means you have college
5 background or what have you to sustain that title.

6 **CDR Denning:** And what type of certifications and training are required to switch
7 among the various levels that got you to where you are today?

8 **WIT:** We have internal training every 3 years on our products. Every 3 years on
9 aftermarket products, say Japanese, Chinese stuff of that nature. A lot of it is just time
10 and your abilities to do certain amount of tasks. You get reviewed every once in a while
11 so the corporate would bump you up as they find needed.

12 **CDR Denning:** Do you do work on not only U.S. flag vessels but foreign flagged
13 vessels?

14 **WIT:** Yes, sir.

15 **CDR Denning:** About how many services or inspections do you typically perform in a
16 given year?

17 **WIT:** I would say probably maybe 40 vessels which would probably be maybe 2 or 3
18 hundred life boat systems per year.

19 **CDR Denning:** And your work would include servicing, repairs?

20 **WIT:** Yes, sir. It's anywhere from fiberglass to structural steel, motor, transmission,
21 every component to do with the LSA equipment.

22 **CDR Denning:** Thank you. So during the course of your testimony today there are two
23 exhibits that are available for our use. They're both – they're in the binders in front of

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1 you. The first is Exhibit 74 which is your service report from the 29th of September 2015
2 on the El Faro. The other exhibit is Exhibit 169 which is in one of the other, it's open
3 there, it's the life boat and davit plans, it's very small on that particular screen. We can
4 also bring it up on the screen that you have in front of you. And if there's anything you
5 need to illustrate to us we can also put it up on this large screen and you can point to
6 certain areas to make things clear. So those are available to you as we go through the
7 questioning. I'm going to ask some specific questions about Exhibit 74, your particular
8 report. But know that those plans are also available if it helps to illustrate.

9 **WIT:** Okay.

10 **CDR Denning:** So I would like to start with a discussion about the El Yunque, the sister
11 vessel to the El Faro. In June of 2015 Coast Guard marine inspectors found corrosion
12 on the davits for the El Yunque and required some repairs to be completed. And our
13 records indicate that Harding had involvement with those repairs and surveys. Did you
14 personally perform any of that work on the El Yunque?

15 **WIT:** I'm not sure. If I had a report or something stating I did I could say yes.

16 **CDR Denning:** We've looked at the report from that particular servicing and your name
17 does not appear on it. Were you aware of the issues on the El Yunque when you went
18 to perform your work on the El Faro?

19 **WIT:** No, sir. I can't say that I was.

20 **CDR Denning:** So if you could use Exhibit 74, which is your service report and
21 describe for us first how you were notified of the work that needed to be done on El
22 Faro.

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1 **WIT:** We have a service coordinator in South Florida. He assigns all the jobs for the
2 service techs. And they'll shoot you an electronic report or what have you and we'll
3 keep it in the computer or print it out. And then just meet the schedule which is dictated
4 and meet up with the vessel, perform the work as needed.

5 **CDR Denning:** And what work was requested of you that day?

6 **WIT:** I could quote you from the title of that report. Let me see. Service aboard vessel
7 El Faro to install quantity to each free wheel clutches and Maseco life boat winches.
8 Test for proper function after installation as per Sun Colley [sic].

9 **CDR Denning:** So which page of the report are you reading from?

10 **Counsel:** That's Exhibit 74, sir.

11 **CDR Denning:** Exhibit ----

12 **WIT:** Page 1.

13 **CDR Denning:** Exhibit 74, page 1. So you were called to install the free wheel
14 clutches and test for proper functioning. So that's listed on page 1 there. If you could
15 walk us through, that say work scope, that's in the work scope category. The next
16 section down is simply travel time. The next page bears someone else's signature. Did
17 you have someone helping you that particular day from Harding?

18 **WIT:** I had a new guy with me, Lazaro Santana.

19 **CDR Denning:** So he was new. Were you training him?

20 **WIT:** Yes, sir.

21 **CDR Denning:** And then I believe the bulk of the work that you conducted is described
22 on page 4. Is that your handwriting on that particular page?

23 **WIT:** Yes, sir.

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1 **CDR Denning:** Could you just start by reading that section for us into the record?

2 There's some abbreviations used in there and I would like you to explain those to us so
3 that we have a full scope of your work.

4 **WIT:** Okay. It's umm, this report would be a service report. Under comments I have
5 follow up items, station.

6 **CDR Denning:** What does that mean, follow up?

7 **WIT:** As per an annual inspection this job was dictated as per the annual inspection
8 that had happened previously.

9 **CDR Denning:** Annual inspection, is that performed by Harding?

10 **WIT:** Yes, sir.

11 **CDR Denning:** Okay. Can you – let's back up and we'll just start with that. If you can
12 describe that process for us please?

13 **WIT:** We have a checklist which we go over so it has items for the boat, the davit, the
14 winches, so the technician can use that as a guideline, go over all the systems with a
15 visual, functional inspection. And I believe they have launching, the provisions and
16 things of that nature in there as well. So at the end of the day he'll sign off on it, or he
17 will not sign off on it. The customer will get a report which they can share with the flag
18 state. We turn in the report, it gets reviewed by our office. And then they determine if
19 there's follow up or if they're going to issue a certificate of service ability. So that's the
20 process what we follow on an annual inspection.

21 **CDR Denning:** And are those annual inspections performed by service engineers such
22 as yourself?

23 **WIT:** Yes, sir.

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1 **CDR Denning:** And I've seen on the records that we have in our system regarding the
2 El Yunque, I see a different title for that particular individual. Or actually he references a
3 safety engineer. Is that another type of position within Harding? It's different from
4 service engineer?

5 **WIT:** Well I guess we have a different array of titles, field service representative, field
6 service engineer, service technician, but I believe it's company policy field service
7 representative 4, 3, 2. So that should be basis of the titles of the service reps.

8 **CDR Denning:** Have you performed these annual inspection on vessels?

9 **WIT:** Yes, sir.

10 **CDR Denning:** That's a common function of yours?

11 **WIT:** Yes, sir.

12 **CDR Denning:** So back to your individual report when the comment said follow up you
13 were following up from an annual report is what that indicates for us?

14 **WIT:** Yes, sir.

15 **CDR Denning:** And then if you could continue through the rest of the report?

16 **WIT:** Okay. The report states had removed the anti-reverse units from port and
17 starboard life boat winches. This also included removal of the payout wheel, brake arm
18 and brake weight, band tight brake and brake drum. Had cleaned up all shafts and
19 bores. Installed two each anti-reverse units and two each brake drums. Had filled units
20 with HEF automatic transmission fluid, just to be clear to desired level. Installed
21 remaining brake components. Had tested starboard boat running down 30 foot applying
22 brakes 5 five times. All worked good. At port side tested by loading of winch and

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1 releasing tension 3 times. Ship to lower boat down once convenient. All items
2 completed as per annual inspection.

3 **CDR Denning:** So was this work, back to the annual inspection, was something found
4 during the annual inspection that required this work to be completed, or was it a specific
5 request from the Port Engineer or the vessel?

6 **WIT:** I believe the anti-reverse units had been leaking oil.

7 **CDR Denning:** And do you recall the date or is there any indication on this report of the
8 date of the annual inspection?

9 **WIT:** I don't have the report. But usually we have a 90 day window on any follow up
10 work or things that attributed the annual. So I would say the report would have been
11 within a 90 day window.

12 **CDR Denning:** And when you say in your report that you lowered the boat down once
13 convenient. What's once convenient indicate for us?

14 **WIT:** A lot of times the ship has the life boat over the dock so it's a risk to the boat or
15 facility to do a lowering. So a lot of times that's foregone until the ship can bring in the
16 other side or if they're at anchorage they can lower the boat. Or if they kick off the sea
17 wall and they have a little time before they head out they can lower the boat down.

18 Something of that nature just to be safe about it.

19 **CDR Denning:** So you lowered the port boat, is that correct?

20 **WIT:** Starboard boat. That was the one that was run down. The port boat was over the
21 sea wall.

1 **CDR Denning:** So when I read here it says at port side boat tested by loading up winch
2 and releasing tension. Doesn't that indicate to you lower the port boat? I think the
3 vessel is typically moored starboard side to in Jacksonville.

4 **WIT:** Well I can be clear on that. The – let me see right here. At port side tested by
5 loading up winch. Loading up winch the cables that actually hold the boat up I
6 tensioned against the boat that was already in a stowed position. So I put extra weight
7 by loading with the hand crank manually loading up the system. So I used the energy
8 built up to open the break and it would lower itself due to the tension. So everything
9 was still in place, but it loads the winch up to show the brakes will hold and once
10 releasing the brake it shows the brakes will disengage and lower the boat. But this is all
11 while it's still in the stowed position.

12 **CDR Denning:** So did you lower either of the boats during your inspection?

13 **WIT:** Just the starboard side. Or, yes starboard.

14 **CDR Denning:** So besides your work that you did on the winches did you do any other
15 full inspection of the davits and the life boats as far as structure and foundation, roller
16 tracks, lubrication, anything else?

17 **WIT:** I was following up behind the annual inspection. I did like a brief just a walk
18 around just to make sure everything was cool. But I didn't get into it with any depth as I
19 would an annual inspection because I was just there for the follow up work.

20 **CDR Denning:** So you didn't do that because the annual inspection had just been
21 completed?

22 **WIT:** Correct.

23 **CDR Denning:** How long did your work on board the El Faro in September take?

1 **WIT:** They came in at I believe noontime on Monday. So I had everything
2 disassembled and Tuesday everything went back together. So a day and a half.

3 **CDR Denning:** And during that day and a half did you have any interaction with the
4 vessel's crew?

5 **WIT:** I worked quite a bit with the Chief Engineer. He was helping us out with the –
6 some tools and things of that nature.

7 **CDR Denning:** And I'll double back on the crew a little bit later and we'll talk in a little
8 bit more detail. But specific to your work did you take any photos during the course of
9 your work?

10 **WIT:** No I don't believe so.

11 **CDR Denning:** How is your work after you completed it approved or inspected? Is
12 your report the final or does your work need to be inspected or approved by the
13 company in any way?

14 **WIT:** If it's like a major repair or something of that nature we would usually have the
15 regulatory body there to check it over. If it's just like part swap or something of that
16 nature, parts renewal I usually just get with the ship's staff, the officers to be more
17 specific and just make sure they're happy, run through and answer any questions. Run
18 through the mechanics of it, operations what have you to where the customer's happy.
19 And that would be it.

20 **CDR Denning:** Now when you said the regulatory body is sometimes present what do
21 you mean by that?

22 **WIT:** Say ABS or Coast Guard or somebody of that nature is there. During other
23 inspections they may want to see what's going on. But to detail if it's a major repair or

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1 major overhaul it's actually required that they be there. This wasn't considered a major
2 overhaul or anything of that nature. So usually it's just Harding and the customer at that
3 point.

4 **CDR Denning:** Did you have any interaction with either the Coast Guard or ABS during
5 these repairs?

6 **WIT:** No, sir.

7 **CDR Denning:** And who did you submit your final report to?

8 **WIT:** With the Chief Engineer.

9 **CDR Denning:** To the Chief Engineer. What about the Port Engineer, did you have
10 interaction with any of the Port Engineers during this project?

11 **WIT:** It seems like maybe I have met him but I can't say for sure.

12 **CDR Denning:** So most of your interaction was with the Chief Engineer on board the
13 vessel?

14 **WIT:** Yes, sir.

15 **CDR Denning:** Okay. And when you departed the vessel and prior to the vessel
16 getting underway were the life boats and davits on both sides in good working order?

17 **WIT:** Yes, sir.

18 **CDR Denning:** So during your discussion with the Chief Engineer or any of the rest of
19 the crew was there any discussion about their upcoming voyage?

20 **WIT:** Well it was pointed out to me if I didn't finish my work could I go with them which I
21 agreed to do so. Other than that I believe they was doing a lot of preps for getting ready
22 for dry dock. And I can't recall but it seemed like something was mentioned, a storm.
23 And that's about it.

1 **CDR Denning:** Can you recall any of the specifics of that conversation? Was that
2 conversation with the Chief Engineer?

3 **WIT:** I believe it was sitting down for lunch just a casual conversation between the
4 ship's staff.

5 **CDR Denning:** So when you – you had lunch in the galley?

6 **WIT:** Yes, sir.

7 **CDR Denning:** With some of the crew? Who did you sit with during that lunch?

8 **WIT:** I believe the Chief, I had met the Captain, was in and out, a few of the deck
9 hands, an older gentleman, I can't recall his name.

10 **CDR Denning:** So did they discuss their plans for the voyage as far as anything about
11 route or how they were going to avoid the storm? Anything of that nature?

12 **WIT:** I didn't really pick up on the specifics. I mean I think mentioned in casual
13 conversation like it was nothing major at that point, you know.

14 **CDR Denning:** Did anyone seem concerned about Joaquin?

15 **WIT:** No it was just a conversation. It kind of passed quickly. Wasn't no specific on it.

16 **CDR Denning:** Besides general discussions that there was a tropical storm out there?

17 **WIT:** Yeah.

18 **CDR Denning:** We know from prior testimony in evidence that Captain Davidson had
19 reported a 15 degree list on the vessel shortly before they lost contact. What angle of
20 list can a life boat effectively be launched?

21 **WIT:** I believe it's 20 degrees.

22 **CDR Denning:** And that's – does that change the downward facing side versus the
23 upward side? Can either one, in other words if a vessel has a port list, port boat is

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1 down is that 20 degrees or the port boat or can the starboard that's facing up still be
2 released at that angle?

3 **WIT:** Yeah to be specific I would probably have to get into the manual to see what it
4 would actually recommend under such conditions.

5 **CDR Denning:** In your experience, you've done a lot of work on life boats. Does that
6 include both open top life boats and fully enclosed life boats?

7 **WIT:** Yes, sir.

8 **CDR Denning:** Does it include both davit launch and stern launch life boats?

9 **WIT:** Yes, sir.

10 **CDR Denning:** And in your experience on U.S. flag and foreign flagged vessels, you
11 mentioned you do many vessels per year, do you typically see a lot of open top life
12 boats these days?

13 **WIT:** Not so much anymore. They're disappearing. Maybe 7 to 10 percent is still out
14 there.

15 **CDR Denning:** And the rest are fully enclosed?

16 **WIT:** Yes, sir.

17 **CDR Denning:** And what about launching systems, could you give a percentage of
18 launching systems that are still davit launched versus stern launched that you typically
19 see?

20 **WIT:** The davit launch I would, if I had to put a number on it I would say would be 90
21 percent of the system still in place. The free fall boats, I mean they're I believe it's more
22 economical for the customers to have the one boat than the others. But there's not as
23 many of those units.

1 **CDR Denning:** So more economical for the davit launch, is that what you said?

2 **WIT:** The free fall.

3 **CDR Denning:** More economical for the free fall.

4 **WIT:** Yeah.

5 **CDR Denning:** What do you mean by that?

6 **WIT:** Usually we just have one system and they have the free fall. So the majority is
7 the davit launch.

8 **CDR Denning:** Is it safe to say that you see those free fall stern launch life boats more
9 on the newer vessels than older vessels?

10 **WIT:** Yes, sir.

11 **CDR Denning:** Thank you, sir. That concludes my questions. I'm going to pass it to
12 the Captain and my colleagues. Thank you.

13 **WIT:** Thank you, sir.

14 **CAPT Neubauer:** Mr. Fawcett.

15 **Mr. Fawcett:** Morning Mr. Harding.

16 **WIT:** Good morning. Wagner.

17 **Mr. Fawcett:** So I'm concerned with the decisions that people make and you
18 mentioned in your work report the word convenience. So you also mentioned that they
19 asked you if you could go with them if you didn't finish the work, is that correct?

20 **WIT:** Yes, sir.

21 **Mr. Fawcett:** So would you normally in performing the service to these two boats on
22 this vessel, would you normally have lowered both vessels down a substantial distance
23 to check the working action of the brakes as part of your process?

1 **WIT:** Yes, sir.

2 **Mr. Fawcett:** So the fact that the vessel was getting ready to sail did that influence
3 someone saying to you, hey let's wrap it up it's time to go, or was it your decision just to
4 operate the one boat down the side of the ship?

5 **WIT:** The boat which I did lower was the Monday. So it was the day before. I had
6 wrapped up the job, they were still over the dock so I guess it would be a matter of
7 convenience of them sailing and me getting off the ship to where the process did not
8 happen.

9 **Mr. Fawcett:** And then returning again to the conversation of you having lunch. Did
10 you have lunch on the day of sailing?

11 **WIT:** Yes, sir.

12 **Mr. Fawcett:** And Mr. Neeson is the Port Engineer, Mr. Tim Neeson. Do you recall if
13 he was with you when you had lunch with the Chief Engineer and the Captain?

14 **WIT:** I can't really say. It's a busy place at lunch time. A lot of people in and out.

15 **Mr. Fawcett:** Okay. And did Captain – did you sit with Captain Davidson during lunch?

16 **WIT:** We just had an introduction basically.

17 **Mr. Fawcett:** Thank you very much, sir.

18 **WIT:** You're welcome.

19 **CAPT Neubauer:** Mr. Wagner I just have a couple follow up questions. In your
20 experience does the Coast Guard or ABS attend the annual servicing exams that we
21 talked about earlier?

22 **WIT:** I wasn't on the annual so I can't really say. I have no idea.

1 **CAPT Neubauer:** When you conduct an annual though do you see the Coast Guard or
2 ABS present for types of servicing?

3 **WIT:** Sometimes I do. Maybe they're not there for me, maybe some other operation.
4 But usually they're quite courteous and pass by and see what's going on.

5 **CAPT Neubauer:** Do they normally witness the operational lowering of the life boat?

6 **WIT:** Yes if they're there on site. They usually like to see everything function as they
7 should. If they have any questions they will ask us.

8 **CAPT Neubauer:** During the servicing on the September 28th and 29th of 2015 was
9 there ever any conversation between you and any of the officers of the El Faro in
10 regards to ABS or the Coast Guard?

11 **WIT:** Not that I recall.

12 **CAPT Neubauer:** When you were asked to potentially get underway with the El Faro
13 was that a serious conversation or did you take that request seriously?

14 **WIT:** Yes, sir. I mean I would have had to check with my company and make sure it
15 was okay. And then if I was to sail with the vessel obviously one problem, equipment
16 wasn't put together so it may would involve to get life rafts and all that stuff. It would
17 have been probably a bigger ordeal. But regardless we try to make the customer happy
18 at the end of the day and keep everybody moving, you know.

19 **CAPT Neubauer:** Have you ever done that before?

20 **WIT:** Yes, sir.

21 **CAPT Neubauer:** And what would be required? Would you have to bring a life raft to
22 substitute for the life boat that would still be under service, is that correct?

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1 **WIT:** That would be pretty much redirected toward the Captain and the regulatory body
2 to decide.

3 **CAPT Neubauer:** Did the vessel officers mention why they were trying to get underway
4 in that manner? Was there some sense of urgency to get underway?

5 **WIT:** I'm not following the question.

6 **CAPT Neubauer:** When they asked you to potentially get underway with the vessel did
7 they give a reason why they need to get underway?

8 **WIT:** Well the work was progressing kind of slow just due to the age and it was hard to
9 get a part. So that was where the conversation evolved from.

10 **CAPT Neubauer:** Thank you. I'm going to pass the questioning to the NTSB at this
11 time. Mr. Young.

12 **Mr. Young:** Thank you Captain. Morning Mr. Wagner. While you were aboard doing
13 the work on the life boat I understand you were working with the Chief Engineer. Was
14 any – anything you noticed while you were working just outside the engine room in
15 terms of maybe noises or visual from the stack if that could indicate any operations of
16 the boilers where they were starting, venting, securing or anything you heard about the
17 boiler work?

18 **WIT:** They had a lot of other contractors on board. So the Chief was kind of
19 intermittently here with me and gone checking on a bunch of other systems. So what
20 he had working and not working I can't really say. I can tell you he's a very busy man.
21 When they were about to get underway, I think it was about 3 O'clock or something on
22 Thursday because it was already hot out and the stack was radiating that much more

1 heat making us more hot, so I take it they had everything in ship shape and was ready
2 to go.

3 **Mr. Young:** And when you say there were other contractors aboard did you happen to
4 notice who they may have been or what they were working on?

5 **WIT:** I know they had Intec doing some steel work, because I've worked with this outfit
6 before. And I just assumed they're doing a lot of prep work maybe before dry dock
7 because it's mentioned they were going to go to dry dock. I believe in Freeport or they
8 were debating on the West Coast or something of that nature.

9 **Mr. Young:** When you say they were doing steel work, were they the Polish workers,
10 Intec?

11 **WIT:** Yes, sir.

12 **Mr. Young:** And do you know where they may have been working within the ship?

13 **WIT:** They were kind of working around my area a little bit. Maybe some handrails and
14 things of that nature.

15 **Mr. Young:** Was there any indication that the contractors doing the steel working down
16 in the engine room?

17 **WIT:** I can't say for sure. I can tell you, I believe on the main deck because they had
18 like a welding area kind of set up, the back side of the wheel house to the starboard
19 side. The reason I know this I had to borrow their torch to get some heat on my stuff to
20 pull it apart.

21 **Mr. Young:** Okay. And when you were working with the Chief did he ever mention
22 anything about the condition of the boilers or the main engine just in passing and casual
23 discussions?

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1 **WIT:** I know he was running back and forth checking on some equipment. I'm not sure
2 if it's the emergency generators or boilers what have you. Seemed like something was
3 said about venting off boilers or something to that nature. I can't really be sure. I mean
4 that's kind of out of my realm. So he's pretty much the boss so he would have had a lot
5 more working knowledge what's going than I would ever have of what he had going on.

6 **Mr. Young:** Okay. And did you notice the emergency generator run at all while you
7 were on board?

8 **WIT:** We had went to grab some parts or tools at one point. We had stepped out of a
9 doorway on I believe the main level, port side I believe it was, so he ran in was checking
10 something, I believe it's the emergency generator.

11 **Mr. Young:** That's all I have. Thank you very much.

12 **WIT:** Yes, sir.

13 **CAPT Neubauer:** Mr. Furukawa.

14 **Mr. Furukawa:** Thank you Captain. Good morning Mr. Wagner.

15 **WIT:** Morning.

16 **Mr. Furukawa:** I'm John Furukawa I'm the group chairman for the NTSB side of the
17 investigation for survival factors. On this day the vessel was starboard side to or port
18 side to?

19 **WIT:** Port side against the sea wall.

20 **Mr. Furukawa:** And so the side to boat you didn't put that in the water, it was the off
21 shore side, correct?

22 **WIT:** Yes, sir.

23 **Mr. Furukawa:** The off shore side boat was it to the water, released and operated?

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1 **WIT:** No, sir. It was just ran down using the centrifugal brakes on the winch and the
2 main holding brakes on the winch. So the purpose was just to prove the winch.

3 **Mr. Furukawa:** So there was no operational test of the engines?

4 **WIT:** Not for me. Maybe on the previous inspection.

5 **Mr. Furukawa:** Okay. So that day not at all?

6 **WIT:** No, sir.

7 **Mr. Furukawa:** Okay. You mentioned that the open – you see about 7 to 10 percent of
8 open life boats. Are these open, the 7 to 10 percent are they also launched – launched
9 from an embarkation deck? You know not being able to be boarded from a stow
10 position?

11 **WIT:** Well depending on the ship setup sometimes they'll have embarkation at the
12 stowed position. Other times they'll have bowsing gear to where they'll bring it down to
13 the ship's side and get into the boat. So it just depends on their arrangement to where
14 you would embark it at.

15 **Mr. Furukawa:** Okay. So the older style of launching where you're not able to get into
16 the boat in a stowed position, okay, it has to go to an embarkation deck, about how
17 many of those launching systems do you still see?

18 **WIT:** I would say hundreds if not maybe thousands. A lot of the track way systems still
19 use the bowsing gear among the cruise ships. And a cruise ship can have as many as
20 30 systems on one ship you know.

21 **Mr. Furukawa:** In '86 when these open life boats that were – were boarded from an
22 embarkation deck when new construction said you had to embark them from a stowed

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1 position, the old life boat systems like the El Faro, how many of those do you still see
2 around? Because the cruise ships wouldn't be like that, correct?

3 **WIT:** There's various types and ways to get in. I'm not real sure what the El Faro had,
4 if the embarkation was at the platform or if it was at the ship's side.

5 **Mr. Furukawa:** Side.

6 **WIT:** So if it's bowsing gear that's part of the equipment needed to board at the ship's
7 side. So if you have bowsing gear that dictates you would pretty much launch the boat
8 to a position to embark it.

9 **Mr. Furukawa:** The system of the El Faro, the open life boat the plans say the design
10 was from the 1960's. And that the gravity davit, would you consider that old fashion
11 compared to what else you see today?

12 **WIT:** There's still quite a bit of that product out there. A lot of times we have rework or
13 put new parts in it. I guess you could consider it a bit old fashion. But still plenty
14 functional.

15 **Mr. Furukawa:** There's still a lot of those systems around even when the new
16 construction since '86 they haven't been allowed, there's still a lot out there?

17 **WIT:** Yes, sir. I deal with it quite a bit on the cruise industry as well.

18 **Mr. Furukawa:** But cruise ships were built pretty much all after '86, those ships, right?
19 That's 30 years.

20 **WIT:** I can't really give you specific dates on the builds.

21 **Mr. Furukawa:** How about cargo ships?

22 **WIT:** But the track way system there's quite a bit of it still.

23 **Mr. Furukawa:** Have you ever been underway on the El Faro or the El Yunque?

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

2 **Mr. Furukawa:** You mentioned the work was slow, it was hard to get – hard to get
3 some of the pieces apart. Was that indication of maintenance, regular maintenance on
4 the system?

5 **WIT:** Umm not so much. These type of older winches a lot of the components are out
6 in an atmosphere so sea salt, water, all that kind of penetrates some of the shaft areas
7 and things of that nature and any time that happens it just makes stuff very difficult to
8 come apart.

9 **Mr. Furukawa:** Was there much corrosion?

10 **WIT:** On the parts I handled the brake drums had some pretty good corrosion where
11 the band brake rides. Other than that I didn't notice anything that alarming.

12 **Mr. Furukawa:** Okay. You can still proper maintenance but still have corrosion or is
13 that an indication of lack of maintenance?

14 **WIT:** They have standards, I believe it's like 10 percent corrosion with LSA equipment
15 and then thereafter it should get addressed.

16 **Mr. Furukawa:** So was it within standards or out of standards?

17 **WIT:** I didn't actually review it so much on the brake drum because I was putting a new
18 one on. Pretty much just trashed it. But as per the annual inspection that would have
19 been addressed there.

20 **Mr. Furukawa:** So you trashed the brake drum?

21 **WIT:** Yes, sir.

22 **Mr. Furukawa:** And that should have been addressed during the annual inspection.
23 And when was the annual inspection?

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1 **WIT:** It would have been within a 90 day window of my visit. Maybe some before,
2 some after. I'm not sure where my visit was that ----

3 **Mr. Furukawa:** It was before your visit?

4 **WIT:** Yes, sir.

5 **Mr. Furukawa:** I want to dig a little deeper with, you know the survivability topics of
6 this. So when Commander Denning was questioning you earlier you say that you do
7 about 200 to 300 vessel inspections per year?

8 **WIT:** Yes, sir. Or not vessel inspections, actual pieces of equipment. Maybe 40 or 50
9 actual ships or platforms to that nature. Because some have one system, some will
10 have 30 systems, so.

11 **Mr. Furukawa:** 40 or 50 vessels a year. It's about once a week?

12 **WIT:** Two, three times. It just depends.

13 **Mr. Furukawa:** And you said there is still quite a bit of these old style systems today,
14 the pre 1986?

15 **WIT:** Yes, sir. Even some older than that.

16 **Mr. Furukawa:** Are they mostly American or foreign or?

17 **WIT:** I couldn't really say. We get customers from all over the world. So the ratio of
18 how much is U.S. built or foreign flag I ----

19 **Mr. Furukawa:** Okay. So not passenger ships, not oil platforms, but cargo ships, I
20 guess tankers, container ships, RO-RO's, you know large ocean going cargo ships, how
21 many of them would have open life boats with gravity davits that are embarked on a
22 different deck, an embarkation deck?

1 **WIT:** Foreign flagged stuff I guess it would probably be about the same ratio as the –
2 maybe the U.S. stuff. It's a small percentage.

3 **Mr. Furukawa:** Okay. So for U.S., El Yunque, El Faro, anything else that you service
4 down in your area that's a U.S. flag?

5 **WIT:** I would have to review all the reports and see who the customer was and the ship
6 and all that stuff. We touch so much product it's hard to keep up with. I usually get a
7 reminder from my office to refresh my memory when I follow up on a job we do so
8 much.

9 **Mr. Furukawa:** So you're not that sure how many, but you still do – it's not unusual to
10 see the older style?

11 **WIT:** Correct.

12 **Mr. Furukawa:** As a technician in your opinion are there advantages and
13 disadvantages between the open life boats and the enclosed life boats?

14 **WIT:** In my opinion they rewrote the rules to where life boats are now enclosed. The
15 simple fact of being out in the weather and being enclosed is a much better environment
16 than being out in the open. But I don't make the rules. So I'll leave it up to the
17 professionals to make them kind of decisions.

18 **Mr. Furukawa:** And in your opinion the launching were there – from the embarkation
19 deck or in a still position or a free fall advantages, disadvantages?

20 **WIT:** My opinion to be more simple with any of this equipment would be to your
21 advantage. If you get in a free fall boat and pull one lever and you're away that's a lot
22 less complicated than pulling a bunch of rigging and all this other stuff to get away from
23 the ship's side.

1 **Mr. Furukawa:** As a technician how do you inspect a free fall life boat for an annual
2 inspection operational?

3 **WIT:** Depends on the manufacturer. We get manuals on usually all the product we go
4 see. And a free fall system they usually have some way to recover it after it's launched.
5 We would use that system to secure the boat plus any safeties they have in place. We
6 can move the boat around at that point a little bit and open the release gear system,
7 check everything. Go through the boat as normal over the winch, the davit, make sure
8 everything's sound, hydraulic systems. If we're able to we will go ahead and do a
9 launch which usually predicts the ship would be at sea. A lot of times they're tied up to
10 the dock with mooring lines and things in the way. So a lot – at that point we have
11 another instruction with our report. The ships are required to do like a quarterly
12 inspection so they can video tape it and document it, send us pictures, sign off on it.
13 And I believe the free fall systems their dates are a little bit different, but the same
14 applies – would apply for those guys.

15 **Mr. Furukawa:** Thank you. So for the annual inspection of a free fall boat with the
16 recovery system, all that, it's normal to put it into the water and operation test it?

17 **WIT:** Yes, sir.

18 **Mr. Furukawa:** Just not drop it, but?

19 **WIT:** Yeah we can lift it up with the crane or their boom or what have you.

20 **Mr. Furukawa:** Okay. How many times have you serviced the El Faro? Was this the
21 first time you were on board?

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1 **WIT:** Umm I've been doing this for a lot of years so I can't really say I mean for sure.

2 This visit I know the name so I feel for sure I've been there before. But like I said I
3 would have to get into the company's archives and actually tell you a definite number.

4 **Mr. Furukawa:** Okay. And this time you said that the Chief Engineer was helping you,
5 but he was going back and forth. Was there anybody else that was with you helping
6 out?

7 **WIT:** I had a new guy in training working with me.

8 **Mr. Furukawa:** Okay. So one of your guys.

9 **WIT:** Yes, sir.

10 **Mr. Furukawa:** What will cause a life boat to, you know fail inspection?

11 **WIT:** It could be any number of things. The fiberglass integrity would be compromised,
12 winch falling off its foundation, davit arms. I mean it's just a whole array.

13 **Mr. Furukawa:** Okay. Earlier Commander Denning mentioned that the El Yunque had
14 corrosion on its davits.

15 **WIT:** Yes, sir.

16 **Mr. Furukawa:** You didn't know about that, but when you inspecting the El Faro's
17 davits do you look for corrosion?

18 **WIT:** Yes, sir. That's typical of any inspection. Like I said it's 10 percent as legal.
19 Anything beyond that we would consult with the owners and we usually get a third party
20 to come in and UT the system and see exactly where they're at.

21 **Mr. Furukawa:** Okay.

22 **WIT:** And at that point it would get addressed further.

23 **Mr. Furukawa:** Can you tell me about the condition of the El Faro's davits?

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1 **WIT:** I just did a brief walk around. I didn't see anything alarming. But as I previously
2 said I didn't do the annual inspection. So it kind of would have been up to the previous
3 guy to make note of them, the items if it was anything to be dealt with.

4 **Mr. Furukawa:** But if there was a lot of corrosion you would have noticed it?

5 **WIT:** Oh yes, sir. Usually any system I go on I at least do a brief walk around to make
6 sure I'm safe. I mean not that we don't trust each other, but just to be cautious.

7 **Mr. Furukawa:** Do you see a lot of corrosion on davits for ships in general?

8 **WIT:** Yes I do.

9 **Mr. Furukawa:** Okay. What was your general impression of the El Faro?

10 **WIT:** It was an older ship. It had some wear you know. But I was just there for my
11 equipment so the overall condition I couldn't really say.

12 **Mr. Furukawa:** And when you're asked to maybe get underway if you weren't finished
13 with your work, any problems getting underway?

14 **WIT:** You mean as far as I would go with them? No, I mean I felt, I would have felt
15 plenty safe with the guys and the ship and my equipment.

16 **Mr. Furukawa:** And you've been underway on quite a few ships as part as your job?

17 **WIT:** Yes, sir.

18 **Mr. Furukawa:** About how many times per year?

19 **WIT:** I would probably put it in days. Maybe 3 months a year.

20 **Mr. Furukawa:** Three months a year that you're underway?

21 **WIT:** Yes, sir.

22 **Mr. Furukawa:** Okay. For the El Faro do you review it's records before you go on
23 board service, correct?

1 **WIT:** Sometimes the company will pass the previous reports, not always. If I don't
2 know the ship or if it appears that we haven't been there or they're in really bad
3 condition we try to get into their files to see what we're dealing with.

4 **Mr. Furukawa:** I don't know if you're going to know this one but I'm going to ask you
5 anyways. Are the El Faro's life boats the gravity davits, the winches, are they original?
6 Were they original parts or have they been replaced over the time of 39 year history?

7 **WIT:** They looked original. But I can't say if they haven't been worked on, repaired,
8 what have you. It's kind of standard practice to put in new sections of the track way and
9 stuff just to the nature of how it's used. You have wheels rolling down the track way so
10 a lot of times if there's paint it always gets knocked off which sets up corrosion and
11 things of that nature on these type of systems.

12 **Mr. Furukawa:** Okay. The whole system, like the boats have serial numbers, the
13 winch and the davit each have serial numbers. So it would be like the whole winch or
14 the whole davit was replaced or original?

15 **WIT:** I can't say for sure. We would have to get with the company. I believe it's a
16 Maseco product which is part of the Harding group. They would have to go all the way
17 back to I guess the original manufacture files and see if all the numbers corresponds
18 with the new versus replaced, something of that nature.

19 **Mr. Furukawa:** Okay. And you have those records?

20 **WIT:** I wouldn't have them personally. The company could possibly have something
21 like that.

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1 **Mr. Furukawa:** And what's the relationship between Maseco, because Maseco is
2 marine safety equipment corporation, that's the builders plate on the life boats? What's
3 the relationship between them and Harding?

4 **WIT:** I have, I'll give you a little background. I had started with Watercraft America,
5 which was a spinoff of Watercraft UK. I believe they got into a financial problems or
6 what have you. I believe the owner was John Hartcrater [sic], which owned Maseco
7 Corporation out of Farmingdale, New Jersey or something like that. He bought into us
8 so he was actually the owner of us at that point. And since then it's changed hands a
9 couple more times, a few more times.

10 **Mr. Furukawa:** So Maseco bought out Watercraft of America and did Harding buy out
11 Maseco?

12 **WIT:** Either bought out or merged. It's got a big story. So I mean to sit here I couldn't
13 really be very specific on all the transactions, but over the years it has changed names
14 and hands a few times.

15 **Mr. Furukawa:** Mr. Landry?

16 **Counsel:** I can give you a little information, I don't know if that's appropriate or not.

17 **CAPT Neubauer:** Yes, sir. If you know the specifics of the change over?

18 **Counsel:** Well I asked the question I think as a result of an inquiry from you John. And
19 they sent me – Maseco was located in Farmingdale, New Jersey in 1987. I think the
20 owner of Harding at that time purchased the assets of Maseco. And the company Shat
21 Marine Safety was formed. In 1991 Shat Marine Safety was merged into Shat
22 Watercraft Incorporated. That's pretty much all the information I have.

23 **CAPT Neubauer:** Sir, is that an email that you're reading from?

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1 **Counsel:** Yeah, yeah that's an email from one of the gentlemen who runs the New
2 Iberia, Louisiana office.

3 **CAPT Neubauer:** Thank you. Can we get that submitted afterwards?

4 **WIT:** Yeah, if you give me a specific list of what you're looking for I can give you that. I
5 can give you a long list of the name changes as well over the years. I could probably
6 provide you with an affidavit attesting to that.

7 **CAPT Neubauer:** Yes, sir. I don't need the affidavit, but if you can me just the list.

8 **Counsel:** Absolutely, absolutely, be happy to.

9 **Mr. Furukawa:** Mr. Landry the records for the serial numbers of the original life boats,
10 the davit and the winch from 1976.

11 **Counsel:** Okay. I've not discussed that with them, but you want that as well?

12 **Mr. Furukawa:** Yes please. Mr. Wagner, did you, on a COI it talks about a full weight
13 test, light weight test, falls renewed and falls end to end, do you do that or does?

14 **WIT:** Yes, sir, I can do it if it's requested.

15 **Mr. Furukawa:** Okay. And you do it with the surveying company or the Coast Guard?

16 **WIT:** We usually have our own manpower or use crew to get it done.

17 **Mr. Furukawa:** Okay. While you're doing it is the surveyor and the port inspector, are
18 they witnessing this, or?

19 **WIT:** Sometimes they'll be on site. I kind of check in at the beginning of the project. At
20 the end once everything wraps up they'll want to see certificates the one I wrote, see
21 the actual load testing, certified meters and weights and all these things at the end to
22 make sure everything's compliant.

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1 **Mr. Furukawa:** So the technician would be doing this, the surveyor wouldn't do it on
2 their own? It would be through the equipment technician?

3 **WIT:** That would be part of our duties as a field service representative as well. Not
4 saying we haven't hired it out and used other contractors to help us or do it and we
5 oversee them. But in the end of the day the owner and the regulatory body is going to
6 have the final say so.

7 **Mr. Furukawa:** Okay. And during this week we've been told that there was a newer
8 release gear on the market and there were accidents where crew members were falling
9 out of life boats for the annual proving the competence of the crew, lowering the boat to
10 the water, releasing it, exercising the engines forward and astern. And that port state
11 control wasn't, through the IMO stopped doing this. In your opinion the El Faro's
12 equipment, you know the life boat, the davit, the winches and all that, would that have
13 been too dangerous to lower to the water, release, operate?

14 **WIT:** I didn't do the initial inspection. But it would be [in audible] to say that the guy that
15 did if those problems existed it would have been addressed immediately.

16 **Mr. Furukawa:** Okay. And for you as a service technician have you noticed that ship's
17 aren't releasing their life boats into the water and demonstrating operation?

18 **WIT:** I can kind of see their equipment and tell how good they've been taking care of it,
19 and plus they should have records of these things which we also look at. But however,
20 as a Shat employee or a Harding employee we're actually not supposed to go down in
21 the boats, however we do. With that said we're not going to go down or let nobody else
22 go down without it being safe. And if we do run into problems it's addressed
23 immediately.

1 **Mr. Furukawa:** Okay. So over the last year do vessels that you – or boats that you
2 service do they normally go down to the water, get released and operated?

3 **WIT:** Yes, sir. If the means are available to do. Such when over dock side for some
4 with the vessel we can change sides or kick off the dock, have a tug hold us off the dock
5 or things of that nature. I mean we go out of our way to try to make sure that everything
6 is finished at the end of the day or period to where the customer is 100 percent and they
7 get their certificate.

8 **Mr. Furukawa:** So have you noticed a change with the number of boats that get
9 released and are operated from I guess before 10 years ago?

10 **WIT:** I know they had changed up some rules a while back to where you're supposed
11 to have competent manufactures trained technician to do the jobs, which personally I
12 feel is an advantage compared to what I've seen before. That's just my opinion.
13 Because to me they had like mom and pop shops and people just wanted a piece of
14 paper to say their good. We don't operate like that. And I believe it's kind of going
15 through the industry now that, you know you can't do this anymore.

16 **Mr. Furukawa:** Okay. So what you're saying for you what you've seen is you pretty
17 much do the same, the boats that are off shore side are getting launched and operated.
18 They're not in forbidden, you know go down to the water and not launched?

19 **WIT:** We need to hold a customer to it because at the end of the day we need to issue
20 a certificate of serviceability. They're required quarterly usually on ships. If we're not
21 able to do it we can come back and do it or they can document it and prove to us that
22 they have did it. And then that would go to our principle engineer for the certificate.

23 **Mr. Furukawa:** Okay. Thank you very much Mr. Wagner.

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1 **WIT:** Yes, sir.

2 **CAPT Neubauer:** Mr. Roth-Roffy.

3 **Mr. Roth-Roffy:** Tom Roth-Roffy, NTSB. Good morning, sir.

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

5 **Mr. Roth-Roffy:** Just a couple questions for you. The required periodicity of weight
6 testing the life boats, are you familiar with how often that has to be done to be
7 demonstrated to the regulatory body?

8 **WIT:** Yes, sir.

9 **Mr. Roth-Roffy:** Could you describe that please?

10 **WIT:** Usually a load test release gear or a winch would be required after a major rebuild
11 or overhaul. As far as the fall cables are concerned they've changed the rules to where
12 it's 5 years now instead of, I believe it's 4 years or deterioration is determined
13 beforehand to where you need a fall cable change. The boats and davit systems have
14 safe working modes. Usually take the B condition of the boat, which is a fully loaded
15 boat and have 10 percent of that weight extra and that would be our load test weight
16 and we would use concrete beams, water bags, bags inside the boats to get those
17 weights to test. And that would be lowering the boat down using the boat winch davit to
18 prove all the system.

19 **Mr. Roth-Roffy:** And is that done on a regular basis or is it only after major repairs?

20 **WIT:** Umm both actually. I mean if it's major repairs it's mandatory. If it's coming up on
21 the due dates it's mandatory as well.

22 **Mr. Roth-Roffy:** So what are the due dates? How often does that have to be done, the
23 weight testing?

1 **WIT:** Usually it's a 5 year item.

2 **Mr. Roth-Roffy:** And I would like to get a little more information about the details of the
3 work that you did. You mentioned that you there is a leak somewhere that you believe
4 was the reason you were there. Is that correct, do I have that correct?

5 **WIT:** Umm I believe that came off the initial report and that's the reason I was there.

6 **Mr. Roth-Roffy:** Okay. And yet your service report notes or comments don't say
7 anything about a leak. But it talks more about the changing the drums and the clutches.
8 Is that part of the leak repair work?

9 **WIT:** The free wheel unit is actually part with the brake drum. So it's two pieces you
10 would replace together be it that they work together. I'm thinking I just picked up the
11 leak as per my supervisor, you need to put these on due to this – they're leaking, we
12 have two new parts. Because we talked verbally on the phone as we set up jobs and
13 stuff and then everything's followed up with the actual paperwork and job scope, things
14 to that nature.

15 **Mr. Roth-Roffy:** So as you recall where was the leak? And what was the cause of the
16 leak?

17 **WIT:** There's a seal in the free wheel unit so you have an inner bore, a seal, inner
18 mechanics and then outer body. Seal front and back so that's basically the only place
19 you could leak as per a seal would be involved.

20 **Mr. Roth-Roffy:** So why did you change the drums and the clutches to fix the leak? Is
21 that normal to have to do that?

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1 **WIT:** Yes, sir. It's on the main shaft which drives all the gears set within the winch. So
2 this allows you to run the electric motor to lift and if you open the brake it kind of lets the
3 whole assembly rotate backwards to let the boat descend.

4 **Mr. Roth-Roffy:** And in your opinion weight testing of that repair, changing the brakes
5 and the clutches was not necessary, is that correct?

6 **WIT:** Correct.

7 **Mr. Roth-Roffy:** Did you consider just letting the regulatory bodies know of the work
8 that you were doing and let them make that call? Or what is your guidance from your
9 company? Let me put it that way on when regulatory authorities have to be notified.

10 **WIT:** It's kind of standard procedure when we kind of bolt parts on and off it's just
11 considered like a repair. Major damage or something to that nature usually the
12 regulatory bodies would be involved at that point. So a lot of times that's – the ship's
13 already aware of that, my supervision is aware of that and all of that would be plugged
14 in before we get on site because these guys are hard to find sometimes and they've got
15 a busy schedule like myself.

16 **Mr. Roth-Roffy:** Okay. Thank you, sir. That's all I have.

17 **WIT:** You're welcome.

18 **CAPT Neubauer:** At this time the hearing will recess and reconvene at 1030.

19 *The hearing recessed at 1019, 26 May 2016*

20 *The hearing was called to order at 1036, 26 May 2016*

21 **CAPT Neubauer:** The hearing is now back in session. I apologize for the delay Mr.
22 Wagner. We're going to continue with a few additional questions on the first line and
23 Commander Denning is going to start off.

1 **CDR Denning:** Sir, so thanks for your discussion this morning about the annual
2 inspection. We've had a chance to obtain that. It was actually submitted during the
3 preliminary investigation. So we have that. We're going to enter it as an exhibit. But
4 I'm not going to ask you too specific of questions on it right now, but we'll review it later.
5 I do want to ask you though just to reiterate did you actually review the annual
6 inspection report prior to going on and conducting your work? Or was all of your tasking
7 conducted verbally?

8 **WIT:** I can't say for sure. I see so many ships and reports and stuff. I couldn't say for
9 sure.

10 **CDR Denning:** Is it typical, is it company procedure to have a copy of the annual report
11 with you when you're going to perform follow up work?

12 **WIT:** The majority of the time, yes, sir.

13 **CDR Denning:** So you may have had it with you, you're just not – you just don't recall
14 at this time, is that correct?

15 **WIT:** That would be safe to assume, yes, sir.

16 **CDR Denning:** Okay. When in the annual – in annual reports, you know there's
17 comments and then an action column. Some of that work is to be performed by the
18 vessel's crew, some of the more minor work as far as, you know cleaning and repainting
19 certain items. How is that work tracked by Harding between one annual inspection to
20 the next if it's work to be performed by the vessel's crew?

21 **WIT:** Usually a review of the previous year's report if we have it. If somebody else did
22 the annuals we would need to get with the owners, Captain or who have you and go

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1 through their reports and try to find information to see what's been done and what hasn't
2 been done.

3 **CDR Denning:** And when is that conducted? And the reason I ask is the annual
4 inspection was conducted on August 4th, 2015 and there's one item it's relatively minor
5 work to be performed by the vessel's crew. And it has a deadline, it says action for the
6 crew to complete by November 4th. And so how would that work have been tracked or
7 would it wait – would you wait until the next annual inspection to verify that that work
8 was completed?

9 **WIT:** Us as a vendor, we would put 90 days as the maximum we can put for the
10 customer. Now that's not to say if the customer chooses not to do it we're not really
11 able to make them do it. That would be where the flag state or whoever their regulatory
12 body is would come behind us and see if they've been following up. If not we're kind of
13 pushed out till the following year to see if it has been done.

14 **CDR Denning:** Okay. Did you during your work on board in September did you look at
15 the life boat areas as far as any fiberglass or lamination of the fiberglass during part of
16 your work?

17 **WIT:** No, sir.

18 **CDR Denning:** What about clutches? I'm looking back at your report again and you
19 speak to all the different elements that you worked on. Did you replace the clutches?

20 **WIT:** Yes, sir.

21 **CDR Denning:** Thank you, sir. That's all my questions on the annual report. Again for
22 the parties in interest that will be added as an exhibit and available. Thank you.

23 **WIT:** Thank you.

1 **CAPT Neubauer:** Mr. Fawcett.

2 **Mr. Fawcett:** Yes, sir. Thank you Captain. Just a couple questions. The bowsing
3 gear that's critical to bring the boat alongside the embarkation area if the vessel is listing
4 or heeling, is that correct?

5 **WIT:** Well that's kind of a question to where I can say yes and no. That's part of the
6 actual launching of the boats. It's critical. However, if you're listing one boat is going to
7 be outboard more and one would be in board more. So that point you could say one
8 would needed and one would not be. So you could go either way with that question I
9 guess.

10 **Mr. Fawcett:** Right. So the boat that would be on the downside which would have a
11 tendency without bowsing gear to swing away from the embarkation point. In that case
12 the bowsing gear is critical, is that correct?

13 **WIT:** Yes, sir. It would have to be pulled up really tight to contact the ship's hull for
14 people to embark.

15 **Mr. Fawcett:** The line that's attached to the system is that nylon or manila or what's it
16 made of?

17 **WIT:** They have various types. I've seen older systems with like regular wooden blocks
18 and manila rope. We have some with straps with disc brakes on them, pressure
19 brakes. Just depends on the system what it was prototyped for.

20 **Mr. Fawcett:** So on the El Faro do you recall what the bowsing gear configuration
21 was?

22 **WIT:** No, sir. The drawing you have here may go to more detail what exactly it is.

1 **Mr. Fawcett:** Did you see it casually? In other words could you just have a casual
2 observation of it during the course of your work?

3 **WIT:** The majority of the time they keep it kind of lower in the boat because they keep it
4 loose. Once you launch the boat and sometimes they'll keep it in the position where it's
5 actually going to start bringing the boat into the ship's hull. That way they're not out
6 there fiddling with it as they're going to launch. It's going to automatically start bringing
7 the boat in. So once the boat is up its relaxed. As you go to launch the boat it's going
8 to tighten up and bring the boat in.

9 **Mr. Fawcett:** Do you recall seeing any protection from the elements? In other words
10 do you recall if there was any kind of like tarp over it to stop sun exposure or?

11 **WIT:** I didn't really get up into the boats and check. I was mainly concentrating on the
12 winches.

13 **Mr. Fawcett:** Are you trained for inspection, repair and maintenance of life rafts and
14 hydrostatic releases?

15 **WIT:** Life rafts no. We have a hydrostatic release on some of our release gear systems
16 but they differ than the type that would be on a life raft.

17 **Mr. Fawcett:** Did you – while you were working around the davits did you have a
18 chance to see the life rafts and could you make a comment on if they seemed to be
19 properly stowed and ready to deploy?

20 **WIT:** I don't even recall seeing them or their positions or anything. Not saying I didn't
21 see them. I wouldn't want to comment on that because I am just not aware.

22 **Mr. Fawcett:** So the starboard boat was powered and propelled by a manual operation
23 of Fleming gear, do you recall that?

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1 **WIT:** No, sir.

2 **Mr. Fawcett:** How many times, like say in the last 10 years, how many times have you
3 seen new life boats that use Fleming gear for propulsion?

4 **WIT:** That might be like once a year. That's not that common.

5 **Mr. Fawcett:** Okay. And that would include, pardon me, new construction boats that
6 have been built in the last 10 years, have you seen it ever on new construction vessels?

7 **WIT:** No, sir.

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

9 **WIT:** You're welcome.

10 **CAPT Neubauer:** Lieutenant Commander Venturella.

11 **LCDR Venturella:** Good morning, sir. Sir, SOLAS was revised recently to require all
12 ships subject to SOLAS regardless of build date to identify existing on load release
13 mechanisms or releasing hooks that don't comply with the lifesaving appliances code.
14 Do you know if the El Faro had on load release mechanisms or hooks? And did it, did
15 the El Faro's life boats did it have those hooks? And did it require replacement?

16 **WIT:** I could probably go through the report and see which type it is. I know some of
17 the hooks are like grandfathered in to where they can still maintain that type of hook.
18 But like I said I'm not sure, I really wasn't into the boats I was mainly just on the winches
19 and davits.

20 **LCDR Venturella:** Is that something that you could easily access or take a look at to let
21 us know?

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1 **WIT:** Yes, I mean there's so many systems that's still in place which is the older stuff
2 that's grandfathered in. Most of the stuff that's non-compliant now is getting replaced
3 with the new generations which is compliant.

4 **LCDR Venturella:** In your experience you probably dealt with mostly alternate
5 compliance program vessels, is that correct?

6 **WIT:** Yes, sir.

7 **LCDR Venturella:** When you re-hooked other life boats have you generally seen that
8 the type approval of the boat is extended to the new hooks because of retrofitting? In
9 other words what I mean by that the Coast Guard looks at a re-hooking to be the hooks
10 are separate – are included in the boats approval. So a change in hooks would require
11 a new type approval. And do you know if there would have been a new type approval
12 every time you re-hooked a life boat?

13 **WIT:** I believe that varies from job to job. But I have had the complete packet from like
14 ABS or something that did a new survey to approve new hook installation. So
15 approvals have been presented to the customer and to the regulatory bodies that, you
16 know it now complies.

17 **LCDR Venturella:** But at this time you're not sure for El Faro's life boats if the re-
18 hooking was either conducted or if it was retyped approved at that time?

19 **WIT:** I'm not really sure what type of hook was in there. If it's a grandfathered hook
20 that was original or if had been re-hooked with something different. So I can't really
21 comment one way or the other on that.

22 **LCDR Venturella:** No further questions.

1 **CAPT Neubauer:** Is there somebody at the company that can provide us that
2 information at a later date?

3 **Counsel:** About the hook?

4 **CAPT Neubauer:** Yes, sir.

5 **Counsel:** I will certainly ask.

6 **CAPT Neubauer:** Thank you Mr. Landry. Mr. Wagner I just have a couple of follow up
7 questions before we go to the parties in interest. Is it Harding policy or procedures to
8 conduct a lowering of the life boat after the scope of work that you completed on the
9 28th and 29th of September?

10 **WIT:** Yes, sir.

11 **CAPT Neubauer:** Did you issue a full certificate to the vessel on the 29th of September
12 2015?

13 **WIT:** That would not be my job. My report would go to supervision technical
14 department and they would decide to issue a certificate or not.

15 **CAPT Neubauer:** Would that department require a follow up report or some evidence
16 from the El Faro that the life boat that had not been lowered was lowered before they
17 would issue the certificate?

18 **WIT:** I would say yes.

19 **CAPT Neubauer:** Do you know if – was a certificate ever issued or was it still in
20 process?

21 **WIT:** I'm not real sure of what state it was in.

1 **CAPT Neubauer:** And the last question, sir. When you were on board on the
2 afternoon of the 29th of September did you notice a list developing on the vessel while
3 you were doing your work?

4 **WIT:** A lot of times when they're handling containers with their cranes we move about
5 quite a bit. So if it did happen I probably wouldn't have noticed because I think
6 something like that is normal.

7 **CAPT Neubauer:** Thank you, sir. I would like to go to the parties in interest at this
8 time. Tote?

9 **Tote Inc:** Thank you. Good morning Mr. Wagner.

10 **WIT:** Good morning.

11 **Tote Inc:** Sir, with respect to the work that you performed on the life boat do you have
12 full confidence that that work was performed properly?

13 **WIT:** Yes, sir.

14 **Tote Inc:** And based on your observations over those 1 ½ days you were on the vessel
15 did you see anything that gave you cause or concern that the life boat would not
16 function as designed?

17 **WIT:** No, sir.

18 **Tote Inc:** Thank you.

19 **CAPT Neubauer:** ABS?

20 **ABS:** No questions.

21 **CAPT Neubauer:** Mrs. Davidson?

22 **Ms. Davidson:** No questions.

23 **CAPT Neubauer:** Do any of the board members have any final questions at this time?

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1 Mr. Wagner you are now released as a witness at this Marine Board of Investigation.

2 Thank you for your testimony and cooperation. If I later determine that this board needs
3 additional information from you I will contact you through your counsel. If you have any
4 questions about this investigation you may contact the Marine Board Recorder,
5 Lieutenant Commander Damian Yemma. Do any of the PII's have any issues with the
6 testimony that we just received?

7 **Tote Inc:** No, sir.

8 **Ms. Davidson:** No, sir.

9 **ABS:** No, sir.

10 **CAPT Neubauer:** The hearing will now recess and reconvene at 11 O'clock.

11 *The hearing recessed at 1052, 26 May 2016*

12 *The hearing was called to order at 1104, 26 May 2016*

13 **CAPT Neubauer:** The hearing is now back in session. At this time we will hear
14 testimony from Mr. Peter Keller, Tote Incorporated.

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

20 **WIT:** I do.

21 **LCDR Yemma:** Thank you, sir. Sir, could you please state your full name and spell
22 your last?

23 **WIT:** My name is Peter I. Keller, K-E-L-L-E-R.

1 **LCDR Yemma:** Counsel can you please state your name and spell your last?

2 **Counsel:** Jack Fornaciari, F-O-R-N-A-C-I-A-R-I.

3 **LCDR Yemma:** Mr. Keller can you please tell the board where you're currently
4 employed and what your position is?

5 **WIT:** I'm the Executive Vice President of Tote Inc.

6 **LCDR Yemma:** And can please describe some of your general responsibilities in that
7 position?

8 **WIT:** Other than working with our present Chief Executive Officer I am the Principle
9 Executive in charge of all of our LNG programs. That included the construction of the
10 Marlin's. It will include the re-engine of the Orca Class that operate to Alaska. It
11 includes the new LNG barge that we're building in Orange, Texas. It also includes the
12 procurement of LNG as a fuel as well as the logistics of providing that fuel to the
13 vessels.

14 **LCDR Yemma:** Thank you. Can you please also tell the board about your prior
15 relevant work experience please?

16 **WIT:** I've been in the business 51 years. I went to college a Lehigh University in
17 Bethlehem, Pennsylvania and immediately upon graduation I also received the
18 commission as 2nd Lieutenant in the United States Army and spent 3 years in Army
19 Transportation in Europe. Upon being released in 1968 I was fortunate enough to get a
20 job with Sea Land Service. Sea Land was as I think we all know the innovator of the
21 container concept. And I worked initially for the general manager of Port Elizabeth as
22 his assistant and spent my first year or so working on the piers with the Longshoremen
23 loading ships, looking – playing at the terminal, the gates, working with the

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1 Longshoremen. I then progressed through the Sea Land organization to where I was
2 the number 2 and number 3 person in terms of leadership at Port Elizabeth. In 1973 I
3 was sequestered out to work with a management team that was putting together the
4 Navieras de Puerto Rico. That was a venture from the Puerto Rican Government where
5 the assets of Sea Land, Sea Train and a company called the Eric Holzer company
6 were put together and ultimately managed by the Government of Puerto Rico to service
7 the island. That's where I first came to know the Sun Ship RO-RO's because the Eric
8 Holzer company had three of the original Sun Ship RO-RO's and we purchased those
9 and put those into the Puerto Rican service. So I have had a long standing relationship
10 with those vessels. Then I went back to Sea Land as opposed to staying with the
11 Navieras. I had a number of jobs at the corporate level, managed equipment
12 worldwide. I then went to Europe as general manager of Western Europe. I was
13 accountable for all operations in what we call Western Europe which was Germany,
14 through the UK and Ireland, Spain and Portugal. I came back to the United States and
15 managed all the sales and operations on the East Coast and the Midwest for Sea Land.
16 And then those were the days when we were taking professional managers and putting
17 them into data processing. Because I had had a lot of background in process
18 improvement and things like that and my management structures I became Vice
19 President of data processing. I was Vice President of information resources at Sea
20 Land for about 3 years. I left the company in – on December 7th, 1982 to go to take a
21 position as President of Casts North America out of Montreal, Canada. Casts was a
22 CON-bulk operator as opposed to a RO-CON operator. We handled both bulk and
23 containers in a service between Montreal, Canada and the continent of Europe. I took

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1 that company through a bankruptcy in 1983 and then stayed for a number of years
2 eventually moving into the position of Chairman and CEO of the entire group with a
3 mandate from our shareholder who was the Royal Bank of Canada to turn – to sell the
4 group which we eventually did to Canadian Pacific Ships. After that I entered a
5 consulting practice and I spent about 7 years consulting in various aspects of our
6 industry and the intermodal industry. I was principle advisor to the TTX company which
7 is the intermodal rail car organization owned by the railroads by Class I railroads. I
8 counted many port's authorities including State port authorities as my clients including
9 Rhode Island, Alabama, Mississippi. I worked a lot for Georgia port authority, Port of
10 Savannah. I also spent a fair amount of time in Panama and did a number of studies
11 both for the Panama Canal as well as other entities in Panama. And kept that up until
12 1999 when I was recruited by NYK Line. And on or about January 1 of 2000 I took the
13 position of Chief Operating Officer of NYK North America. Initially with the liner group. I
14 then expanded my authority into their terminal business doing acquisitions for them as
15 well as oversight of the logistics company as well as other activities that they had. I
16 spent 10 years with NYK. During that period of time I again spent a lot of time in
17 Panama as the principle negotiator with the canal as we changed the PCUMS formulas
18 that are used to toll ships down there. And I was also honored to be elected to the
19 board of NYK Tokyo, parent company around 2007, 2008. I was only the second non-
20 Japanese in the 125 history of NYK. So that was a very interesting period in my career.
21 I aged out of NYK around 2010. And tried to retire again, didn't make it. And reentered
22 my consulting practice. In the middle of 2011, around June or July I think it was then
23 the American Shipping Group asked me to come take a look at one of their companies,

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1 what was then Sea Star Line now Tote Maritime Puerto Rico. And I worked with the
2 management of that group for a number of months on developing plans to reorganize
3 and redevelop that company. And in January of 2012 I was invited to take the position
4 of President of Sea Star Line which I did. And I held that for 2 years as we went
5 through reorganization or restructuring made the plans to build the Marlins and then I
6 turned the company over to younger management, if you will, and I moved to the
7 position of EVP and doing what I'm doing now. In terms of my – other elements of my
8 career I've held a number of positions, mainly labor relations. I've been on the boards
9 of both the West Coast Pacific Maritime Association, East Coast USMX, United States
10 Maritime Exchange New York Shipping Association. And I've also got a background in
11 labor in Canada as a member of the board of the Maritime Employers Association of
12 Canada. I was the past chairman, I was chairman for 7 or 8 years of the Ocean
13 Carrier's Equipment Management Association. And the founding chair of the Container
14 Carrier's Chassis Business. I'm also the founding chairman of the Collation for
15 Responsible Transportation which in the mid 2000's took the initiative on clean trucks
16 throughout our industry in the intermodal motor of our business. And I'm also a member
17 of the International – International Maritime Hall of Fame at the United Nations and I
18 was inducted in 2006.

19 **LCDR Yemma:** Thank you, sir. And what is your highest level of education
20 completed?

21 **WIT:** I have a bachelors in finance from Lehigh University in Bethlehem, Pennsylvania.

22 **LCDR Yemma:** Thank you Mr. Keller. Mr. Fawcett is going to have questions for you.

23 **Mr. Fawcett:** Good morning Mr. Keller.

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1 **WIT:** Good morning.

2 **Mr. Fawcett:** My name's Keith Fawcett I'm a marine casualty investigator with the U.S.
3 Coast Guard. I appreciate your very detailed recitation of your background and career,
4 that was very helpful, sir. We'll talk about two broad areas. The first one will be the
5 general role of Tote Inc. and how it relates to the accident voyage. The second will be a
6 smaller section of questioning relating to the post-accident examination of the events
7 that occurred with the loss of the El Faro. So you've seen how we conduct ourselves
8 here in terms of the questioning cycle over the course of the hearing. So I won't explain
9 that. But if you would like to take a break, you know we're kind of getting towards lunch
10 time, but if you would like to take a break just let us know, the Captain will entertain that
11 request. So turning to the sort of the general role of your work with Tote or Sea Star
12 Lines, could you take the week before the accident voyage, the accident occurred on
13 the 1st of October 2015 and in general terms talk about where you were and what you
14 were doing?

15 **WIT:** I do know that a couple of days before the accident I was actually in New Jersey
16 attending a reception for an ex-president of Sea Land as part of our old timers team. I
17 would have also been working with the shipyard on the final delivery aspects for the Isla
18 Bella, especially since she had had some issues prior to the delivery with her stern tube
19 and was somewhat delayed. And I would have been just generally working on all of the
20 other issues that we had going on at the time on our LNG programs getting ready for
21 the logistics aspects of delivering the LNG to the Marlins making sure that the new
22 tanks that we were building were there. That the skid and the transfer mechanisms that
23 we were using which were very innovative, very new, no one ever done before were in

1 play and were properly set up. And that the training and other aspects were done so
2 that we were sure that when we did start working with LNG as a product that we were –
3 we had all the safety and all the regulatory compliance issues taken care of with Sector
4 Jacksonville.

5 **Mr. Fawcett:** So if you just take a moment to think about it, I would like to ask you if
6 you could share your thoughts on the reputation on Sea Star Line when you were
7 President of the company.

8 **WIT:** One of the things that I believe very strongly in, in all the companies that I've run
9 or worked with is the issue of integrity. And the issue of providing a safe and reliable
10 product for your customer. When you do that you will ultimately be successful. And
11 one of the things we spend a lot of time on over the years that I was President and
12 beforehand while I was consulting was doing what we had to do to make the company
13 more efficient and make the company safer, to make the company more customer
14 centric and more responsive to the people of Puerto Rico and the products that we were
15 providing for them. At the end of the day, and I've been in the Puerto Rican business
16 off and on since about 1968 when I first started at Sea Land. And it's always been an
17 interesting business to me. And it's always been the lifeline of the people of Puerto
18 Rico. And that is something that frankly we take very seriously in terms of how we run
19 the business and how we do that because that is part of the United States. It is 3 ½
20 million people or whatever it is, that need to eat and need to be part of the supply chain
21 business that we really are today.

22 **Mr. Fawcett:** So you provide consulting services and you come in to the Sea Star and
23 they ask you to complete a task and ask to examine the potential restructuring or

1 reorganization of the company. So could you take a little time to explain what the
2 company was like in the Puerto Rican trade when you stepped into that role to examine
3 where the company components were and what they were doing and what was the
4 name for the various entities within the company?

5 **WIT:** I don't know what you mean by the name of the entities, but basically from my
6 experience the company was not functioning effectively. There were major issues with
7 senior management in my view. The company was not properly organized. It had far
8 too many people. It was overburdened. It had services that were inappropriate, namely
9 a service that they operated to Philadelphia. It also had created a less than optimal
10 relationships with many of the larger customers in the trade. And these were customers
11 that I knew from my previous experience and years in the industry. And if you're going
12 to operate a successful company the first thing you need to do is you need to be
13 customer centric. And you need, in the supply chain business which what we're really
14 in today reliability and customer centricity is extremely important. And that just means
15 you have to organize yourself around making sure that you're doing what you have to
16 do again while maintaining a viable operation while maintaining a safe operation in
17 order to properly serve the people you're serving.

18 **Mr. Fawcett:** So I know that a certain component of Tote resides in Princeton, New
19 Jersey, there's another component that resides down here in Jacksonville and there are
20 different elements of Tote. In other words Tote Resources, Tote Ship Holding, Tote
21 Maritime, Tote Services and that's where I was getting to with the name. During your
22 time where you're providing these consulting services where you were reviewing the
23 operation with the goal of restructuring, was it all Sea Star Line?

1 **WIT:** Initially yes. Initially I was just looking at Sea Star Line and what they could do
2 better. Once I became a part of the management team I worked with our leadership on
3 some of these other concepts. And a lot of that was just making better use of what we
4 had. And taking redundancies that we had in the organization out between the various
5 elements. Does that help?

6 **Mr. Fawcett:** Yes, sir, it does. Thanks. So Sea Star Line at the time that you were
7 doing this examination was headquartered in the New Jersey area, is that correct?

8 **WIT:** No. Sea Star Line has, to my knowledge has always been in Jacksonville,
9 Florida. The Tote office is in Princeton, New Jersey. And that's basically an
10 administrative office. In those days our crewing company, which is today Tote Service
11 was located in I think in Cherry Hill, somewhere around the Philadelphia area, but on
12 the New Jersey side. And of course Totem was and still is in, Totem is now Tote
13 Maritime Alaska. That's still in Federal Way, the State of Washington right outside of
14 Tacoma.

15 **Mr. Fawcett:** Okay. So if you would take us briefly through the transformation under
16 your direction. How did Sea Star Lines change? We discussed terminology such as
17 Tote Resources and so forth. Could you elaborate on how that all was laid out?

18 **WIT:** In terms of the changes when I got there we changed most of the senior
19 management. We recruited some from outside, we promoted some from inside. I
20 brought in a what I thought was a very customer centric Vice President of Sales which
21 was very, very important in terms of our overall activities. I personally took on certain
22 roles in the sales and marketing area with people that I knew and we built relationships
23 with major clients. We reorganized the operating side of the house as well. We also

1 reorganized the administrative side of the house and the customer service and the
2 systems and programs that we used to process our paperwork. And just sort of
3 generally tried to change the entire customer experience. Part of that included working
4 with our other companies, our sister companies in terms of consolidating certain areas
5 where we could operate together. For example in the finance area, we all had large
6 finance departments and over time that was consolidated as Tote Resources. And we
7 now share a lot of common tasks between all three of the current Tote Maritime
8 companies. We did the same early on with the maritime side where we had expertise,
9 mechanical and technical expertise for the vessels in Tacoma, we had it in Jacksonville
10 and we also had it as well as the crewing activities in New Jersey. So over time we
11 consolidated all that in order to, one increase the knowledge base, two increase the
12 service to the vessels as well as the safety aspects of having a centralized company
13 that organized and controlled all that. And then we eventually moved that company to
14 Jacksonville after having recruited Admiral Greene to run that organization. And we did
15 that with a number of other functions. We also took our basic documentation system,
16 which is extremely important in terms of customer relations because at the end of the
17 day it's not just moving the cargo, you've also got to move the paper. I think we all
18 know that. And the program that we used in Jacksonville we then put into Tacoma into
19 Tote Maritime Alaska. So we're building this group of companies if you will that can all
20 work together that have common morays, have common discipline, have a common
21 commitment to what we think is important in terms of safety, in terms of customer
22 relations, in terms of providing a quality product for our client base.

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1 **Mr. Fawcett:** So what is Tote Ship Holding? And when did Tote Ship Holding – when
2 was that formed as an entity?

3 **WIT:** Tote Ship Holding was formed once we went to contract, or so that we could go to
4 contract with NASCO for the purchase of the two Marlin Class. Tote Ship Holdings is
5 the titular owner of the two Marlin Class and charters them to Tote Maritime Puerto
6 Rico.

7 **Mr. Fawcett:** So if you could, could you talk about the ownership of the El Faro and the
8 El Yunque? Who owns the vessels and has that ownership changed over the course of
9 time that you've been involved with Sea Star or Tote?

10 **WIT:** To be honest with you I don't actually remember where those ships were within
11 the structure. Because of the name changes and other things I'm not 100 percent sure
12 where they were held financially on the books. I would like to say it was Sea Star Line
13 and then Tote Maritime Puerto Rico, but I would have to check with the CFO for the
14 nuances of that to be honest with you.

15 **Mr. Fawcett:** So describe if you will the relationship between Tote when you were
16 President of Sea Star Lines and its relationship with Saltchuk.

17 **WIT:** Tote is owned by Saltchuk. Saltchuk is the parent company.

18 **Mr. Fawcett:** Okay. So in that sense what would be the routine interchange between
19 Saltchuk? In other words is Saltchuk involved in the operations in some way? Do they
20 provide oversight?

21 **WIT:** Saltchuk is primarily a holding company. They have some operating people.
22 They're primarily in the financial side from what I see. The basic relationships are
23 handled through our CEO to the Saltchuk leadership. Obviously Saltchuk is very much

1 involved in their businesses on a personal basis. We all know who they are, they're
2 very open and communitive. But I see it more as a financial holding company as
3 opposed to dictating any of the day to day operating activities.

4 **Mr. Fawcett:** So Saltchuk owns several maritime entities I believe. How do they –
5 have you seen any evidence that they have evaluated the operation of Sea Star Line or
6 Tote to make sure that that operation is consistent with their expectations or the other
7 maritime operations so they can provide consistency in their marine transportation
8 operations?

9 **WIT:** I know we have consistent views on some of the more important aspects like
10 safety programs. In terms of the other operating aspects most of those companies are
11 very different. Young Brothers is a barge company. Foss is a tug and barge operator.
12 Tropical Shipping is in the off shore business in the Caribbean while we are in the Jones
13 Act Trade. So I don't know how much commonality there really would be between all of
14 those companies.

15 **Mr. Fawcett:** So the tug and barge trade, just to make sure we're correct on that, the
16 tug and barge trade for Foss operates the towage of large cargo barges back and forth
17 probably from the Pacific Northwest to Alaska and other destinations. And at the
18 accident time Tote was moving cargo back and forth to Puerto Rico and chartered and
19 contracted tug and barges, is that correct?

20 **WIT:** I don't believe that Foss operates to Alaska on any kind of a liner service. That's
21 what Tote Maritime Alaska does. What was the rest of – what was the rest of your
22 question?

1 **Mr. Fawcett:** Well I was saying that Tote contracts tug and barges to move their cargo
2 between San Juan and Jacksonville, that's correct?

3 **WIT:** No. We – Tote only did that for a very, very short period of time because our
4 principle competitor in the trade Horizon Lines went out of business with almost no
5 notice. As such there was a need to move additional cargo to the Island of Puerto Rico
6 to support the people of Puerto Rico. In order to provide that support the only Jones Act
7 equipment that was available were the tugs and barges that we chartered in. We did
8 that as a stop gap until such time as we could get delivery of our new ships and
9 increase our own capacity. And as soon as we were able to do that we got rid of the
10 tugs. The tug and barge operation that we undertook was only a stop gap to service the
11 people of Puerto Rico. There was really no other option at that time. It was a short
12 term venture and as soon as the Isla Bella came in and then with the Perla behind her
13 those barges went back to the owners. It was never – it was never our real business.
14 We were always a deep sea carrier.

15 **Mr. Fawcett:** So if you would elaborate for what the role and function of Tote Services
16 is as it relates to Tote Inc.

17 **WIT:** Tote Services is our – is our contracted or is the company that we use to crew the
18 vessels and to provide the technical management and the safety systems and the
19 support for our vessels. And they are contracted to Tote Maritime Puerto Rico and Tote
20 Maritime Alaska. They also have their own book of business where they handle a
21 whole range of vessels, military and others.

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1 **Mr. Fawcett:** So we've asked this question many times and I would like to get your
2 understanding of this. The Master of the El Faro, who is directly responsible for the
3 oversight of his activities while he is command of a Tote vessel?

4 **WIT:** Tote Services.

5 **Mr. Fawcett:** So Tote Services provides direct oversight of the Master?

6 **WIT:** And the vessels, yes.

7 **Mr. Fawcett:** So in what way does Sea Star Line when you were President of the
8 company, how do you evaluate the effectiveness of Tote Services safety management
9 system?

10 **WIT:** I look at the reliability of the vessel. I look at whether or not the vessel is in Class.
11 Whether there are any issues with ABS. Were there any issues with Coast Guard or
12 any other regulatory authorities? I look at how the vessel is operating. Is there
13 reliability in what she's doing? If there are issues what are they and how are they
14 resolved? In the case of the vessels that we were operating the reliability was very
15 good. They operated very effectively for the years that I was there and subsequent to
16 my departure and turning the company over. So there was really no particular reason to
17 think there were any major issues with the vessels or how they were operated.

18 **Mr. Fawcett:** So when did Tote Service come in to operation? Was it during your
19 tenure?

20 **WIT:** Well it was a whole process. Initially we had a company called Inter Ocean
21 America Group and that was a group that was in Cherry Hill, New Jersey or somewhere
22 near there. And as we went through our various transitions a plan was developed to
23 take the resources that we had, the expert resources that we had in Tacoma, the expert

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1 resources that we had in Jacksonville, and the expert resources we had in New Jersey,
2 combined them all into one central group. So that we had one central understanding of
3 what was going on. And eventually that group was moved to Jacksonville. It's a lot
4 more efficient having it closer to at least one set of our ships than being in the middle of
5 New Jersey where there's not a whole lot of water and not a whole lot of ships to remind
6 you what business you're in. And that's now Tote Services Inc. It was renamed Tote
7 Services Inc. somewhere in that process. I couldn't tell you when.

8 **Mr. Fawcett:** During that process before Tote Services began how did you assure
9 yourself that the Masters of your vessels that were operating for you were competent?
10 You mentioned reliability. What was the measure of competence?

11 **WIT:** I was not and never have been directly involved with the vessels. I'm not a
12 qualified mariner. I'm a manager. I look to the managing people that we hire to do that.
13 I've done that my whole career in any of the companies I've operated in. And the proof
14 with anything we do is, as they say is in the pudding. At the end of the day if the
15 vessels are operating reliably we know that there's an awful lot of oversight both from
16 the companies that we manage and employ as well as our regulators and Class. And
17 as long as all of those things are working properly for myself then as the leader of the
18 organization I'm comfortable.

19 **Mr. Fawcett:** So as a leader of the organization were you aware that there was a policy
20 for officers to be evaluated on an annual basis aboard the vessels?

21 **WIT:** Yes I generally knew that.

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1 **Mr. Fawcett:** Did anybody report to you that a number of officers that we've seen over
2 a period of time, for example the Second Mate on the accident voyage had not received
3 an evaluation since at least some time in 2011?

4 **WIT:** No I was not aware of that. And I would not typically get into the weeds on
5 issues. I would not typically get that deeply into the weeds.

6 **Mr. Fawcett:** Who would be responsible for that particular, the evaluation function of
7 personnel?

8 **WIT:** The organization that we hired to crew and manage the vessels which would have
9 been ISG. At that time, later Tote Services Inc. Now Tote Services Inc.

10 **Mr. Fawcett:** Do you recall if there were any audits on the evaluation system?

11 **WIT:** No. No I don't know if there are any audits.

12 **Mr. Fawcett:** Thank you, sir. Turning to the Designated Person ashore, do you know
13 what that term means?

14 **WIT:** I know what it means in general terms through the safety systems. That's the
15 individual that if the ship has issues it goes to.

16 **Mr. Fawcett:** So at any point, because you've mentioned that there hasn't been a
17 transformation in place as result of restructuring. So at any time did the Designated
18 Person ashore report directly to you?

19 **WIT:** No. The Designated Person ashore was always in the crewing company.

20 **Mr. Fawcett:** Okay. So that would have been ----

21 **WIT:** To my knowledge.

22 **Mr. Fawcett:** Okay. So that would either be, in your view Tote Services or its
23 predecessor, is that correct?

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1 **WIT:** Yes, sir.

2 **Mr. Fawcett:** And who is – do you know who would have been the President of the
3 predecessor of Tote Service Inc.?

4 **WIT:** I know, but I can't pull it back.

5 **Mr. Fawcett:** I understand.

6 **WIT:** I'm sorry. I'll get it eventually and I'll – but it will take a little time.

7 **Mr. Fawcett:** So you just had a general knowledge of the function of the Designated
8 Person, no specifics?

9 **WIT:** No, sir. Again I'm not a qualified mariner. The only ships I've – I've been on very
10 few ships at sea other than cruise ships. And it's just not my side of the business.

11 **Mr. Fawcett:** So did you participate in any way in the hiring of Captain Davidson for
12 employment on board one of the Tote vessels?

13 **WIT:** No, sir.

14 **Mr. Fawcett:** So let's turn our attention to Jacksonville. And there was a person or a
15 group of people that bridged the gap between shore side operations and the vessels.
16 They were marine operation managers. Can you talk about how you arrived, as a
17 consultant, how you evaluated that position and what decisions were made regarding
18 that position?

19 **WIT:** First of all it was pretty obvious that Jacksonville had a group of about I think it
20 was 10 people in total to oversee, what at that time was 3 vessels. At the same time
21 there was a complementary group in Tacoma many of whom had the same if not better
22 background technically in the Ponce Class vessels as well as the Marlins that they were
23 operating at the time as well. And there was also the central group in New Jersey. So

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1 at the end of the day we knew we had too many people, we had too many people and
2 some people were in the wrong roles. And at the end of the day we needed to properly
3 differentiate between those people that had shore side responsibilities in terms of
4 loading the ships and handling the terminal and managing the terminal and those
5 people that had the technical responsibility to work with the ship. Those people that had
6 the technical responsibility to work the ship eventually were all transferred into Tote
7 Services as part of the reorganization. At no time however, did we ever not have
8 competent people in both Tacoma and Jacksonville to work with the ships. At no time
9 did – was there ever a time when the ship or the Captain or anybody else on the ship
10 could not pick up the phone and call somebody at either IAS or at Sea Star or any of the
11 subsequent companies. There just was – it's a small company. They're relatively small
12 companies. Everybody knows everybody else. So there was never any issues as I
13 heard in testimony from one individual, it just didn't make sense to be perfectly frank
14 with you.

15 **Mr. Fawcett:** I don't want to mischaracterize this, but in all the testimony that I've heard
16 I've never heard anybody saying that within Tote Services or Tote Maritime Puerto Rico
17 that maritime expertise could be gotten in the term of nautical operations from the
18 compatriots they had out in the Pacific Northwest. It's part of a formalized process or
19 even in a casual comment. So was there a – when the reorganization took place was
20 there a formalized document that said that the maritime expertise of the company, since
21 you were taking away the marine managers was able to be drawn on the offices of the
22 Pacific Northwest Totem Ocean Express or anybody else similar to that?

23 **WIT:** First of all I never said anything about nautical activities. I didn't say that.

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1 **Mr. Fawcett:** Okay.

2 **CAPT Neubauer:** Sir, I agree for the record that you ----

3 **WIT:** In terms of documentation there was nothing formal. However, we always had
4 competent people in Jacksonville, Port Engineers. In terms of what you call people in
5 terms of the toxology, the titles I've heard a lot and read about terminal people and Port
6 Captains and Port Engineers and so on and so forth. And in many ways what you refer
7 to as a marine manager is probably what we call the Port Engineer. And we've always
8 had qualified Port Engineers there and that has been mentioned many times, the Port
9 Engineers that's who the Captain reports to as the first point of entry other than the
10 Designated Person and other people that are available within the company. But the
11 people in Tacoma, the Phil Morrell's and others were always available to the team in
12 Jacksonville just as the Jacksonville team was available to the Tacoma team all through
13 together with the crewing team in terms of how the vessels were operated and if there
14 were any issues and so on and so forth. And at the end of the day what we did is we
15 put all that together into a more cohesive better managed organization.

16 **Mr. Fawcett:** Captain, did you want me clarify something, sir?

17 **CAPT Neubauer:** I just wanted to clarify for the record he never agreed that they had a
18 reduction in marine managers. In the question assumed that there was a reduction.

19 **Mr. Fawcett:** Understand, sir.

20 **WIT:** And frankly we didn't have marine managers in that title. There were analysts,
21 there were a couple of administrative assistants, there was one or two Port Engineers.
22 And then there was someone who had a title of Vice President of something or other, I
23 don't even recall. I certainly have the records, but I don't recall what it was. And then

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1 they all reported to a Vice President of Operations who, in our view was not properly
2 filling his role and was no longer with the company after, sometime after 2011.

3 **Mr. Fawcett:** Also just to clarify the transition of the company to what it is – prior to the
4 accident voyage, was there a predecessor to Admiral Greene when he started at Tote
5 Services?

6 **WIT:** Yeah that was the individual that I told you I can't quite get his name.

7 **Mr. Fawcett:** Would it be Jorge Aguire [sic].

8 **WIT:** Absolutely.

9 **Mr. Fawcett:** Thank you, sir.

10 **WIT:** Thank you. I knew I would remember. Just a little help, thank you.

11 **Mr. Fawcett:** Certainly, sir. So you know you mention Port Engineers as being the
12 people that the Master reported to. Would they be knowledgeable in such functions as
13 calculating the stability or the safe loading? I'm not talking about what goes on within
14 the terminal, I'm talking about the cargo coming aboard the ship, aboard ramps by a
15 gantry cranes and making sure that the loading of the vessel is harmonized with the
16 terminal operations

17 **WIT:** In my experience and I started loading ships and being accountable for those kind
18 of processes very early in my career. That has always been between the terminal shore
19 side staff, in our case people like Mr. Matthews and a Chief Engineer. And anytime I've
20 ever been directly involved with loading vessels the relationship between the
21 Stevedores, the Stevedore managers, the people that are actually doing the loading and
22 whatever systems you're using and the relationships between the Chief Engineer is
23 always very, very close. When I was at Sea Land doing this kind of work as soon as the

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1 ship came in you immediately sat with the Chief and figured what his consumables
2 were, what you thought you were going to load on board, what you were taking off. At
3 Sea Land we used to leave a lot of empties on ships so there would be a lot of residual
4 weight that had to stay on the ship. But it was always that close relationship between –
5 between the Chief and the shore side staff. Should the Port Engineer be familiar with all
6 that? I would think so. But the primary point of contact and the primary point of action
7 here has always been between the Chief, Chief Mate and the shore side personnel. I'm
8 sorry, counsel said I used the Chief Engineer, I meant Chief Mate obviously. Sorry for
9 that.

10 **Mr. Fawcett:** So when the restructuring and reorganization took place was part of your
11 – if you would describe the efforts that were undertaken to evaluate if the restructuring
12 and reorganization and then reduction in the number of personnel, if that did occur,
13 would or would not compromise safety of operations?

14 **WIT:** Everything we do we do with safety in mind. It makes no sense to have good
15 customer relations, it makes no sense to have an efficient terminal, it makes no sense
16 to handle a lot of cargo if you can't do it safely. And the proof of that always comes
17 through in our – in our claims ratios which are the lowest that I've ever seen in any part
18 of this industry. The last time I looked at it, it was less than 2 tenths of one percent,
19 which is very, very low. We also look at it and gauge it on the basis of efficiency. And
20 one of the things that happens in organizations if they become too bloated, and I think
21 we all know this, after you do have some reduction in staff the organization will work
22 better. And that was exactly the case with Sea Star Lines. After we made all these
23 changes we properly reorganized, we wound up with much more efficiency, we wound

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1 up with better handling of paper, we wound up with better knowledge of what was going
2 on. And we wound up with a much happier customer base which is ultimately what you
3 really want in a long term sustainable business. And to sustain a business you've got to
4 do it safely, you've got to do it with integrity, and you've got to have professional people
5 that know what they're doing and that operate it in that safe and efficient environment.

6 **Mr. Fawcett:** So looking at the pre-accident date time frame. Could you tell me why
7 there are so many marine engineering people within the Tote Services as opposed with
8 people with nautical operations expertise?

9 **WIT:** I leave that to Admiral Greene. He runs that company. I don't. We have people
10 that have both deck and engine room experience from what I know of the team.
11 Certainly the engineering aspects of what we look at are very important. Especially with
12 the new LNG and all the new initiatives that we have. But certainly I think there's a
13 number of people there that have significant deck experience including the leadership.

14 **Mr. Fawcett:** So how are you assured that Tote Services, you mentioned Admiral
15 Greene makes the decisions within the organization, how are you assured that they are
16 performing their duties competently?

17 **WIT:** Again we have regulatory oversight, we have Class oversight, we have a lot of
18 other things that are going on. We have the reliability of the vessels. We have the
19 efficiency of the whole operation. If the vessels are not properly maintained, if they're
20 not in Class, if they have deficiencies, obviously that's going to come to the fore. They
21 also will not operate with a right level of reliability that we require in the supply chain
22 business that we undertake. So it's really as I said earlier the proof is in the pudding. If,
23 and I've had situations in the past and in other businesses or places where I've

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1 consulted and when you see a breakdown and you then dive into it, if you have a – if
2 the vessels aren't operating reliably there's probably some reason for it. And if they're
3 operating reliably that also means there's a reason for it. And that reason is probably
4 that they're properly maintained, properly managed and properly – and the activities are
5 properly done within a safe and efficient manner.

6 **Mr. Fawcett:** So are you, in your capacity as Executive Vice President or someone
7 who participates in management meetings, are you routinely apprised of the mechanical
8 condition or any issues related to the – factors that may affect the reliability of the
9 vessels in terms of propulsion, steering, break downs, anything like that?

10 **WIT:** If there's a major issue, yes. If it's a minor more routine issue, no. I do however
11 on a monthly basis review in detail the safety management report that Tote Services
12 issues. And that gives you a lot of insights into what may or may not be going on, on
13 some of the ships in their expanded fleet as well as the Tote Maritime fleet.

14 **Mr. Fawcett:** So within your executive position and within Tote Inc. are there any
15 issues or performance related to Tote Services that you have brought up or have been
16 examined by Tote Inc.?

17 **WIT:** No I don't think so. Right now of course we've got a lot of interesting and exciting
18 challenges with the LNG and a lot of us are spending a significant amount of time on
19 that. But that's going extremely well. The Marlins are performing very well. The Orcas
20 continue to perform well. So no there are no major issues that I'm aware of.

21 **Mr. Fawcett:** So within Tote Inc. who would be the individual specifically tasked with
22 overseeing the safety of operations for the company's – under that umbrella at Tote
23 Inc.?

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1 **WIT:** I think everyone in leadership is accountable for that. Certainly we always talk
2 about safety as the number one issue every meeting we have, that's what we start with.
3 And as I said our business is based upon handling freight expeditiously, safely and
4 getting the cargo to its destination. The only way you can do that is to operate safely
5 and have that as your number one – as your number one priority. And that emanates
6 right from Saltchuk. There's no, there's just no issues about that. And any time you're in
7 this business, if you're in the maritime business, if you're in a transportation business
8 there's a lot of stuff moving. There's a lot of things happening every minute of every
9 day. And you absolutely have to concentrate on safety otherwise you will not be in
10 business very long.

11 **Mr. Fawcett:** So is there any specific individual or is it a shared responsibility with Tote
12 Inc. management?

13 **WIT:** Well our Chief Executive Officer certainly takes that responsibility as does – as do
14 the leader of all of our companies.

15 **Mr. Fawcett:** And then ----

16 **WIT:** As does the leadership of the parent company.

17 **Mr. Fawcett:** Okay. Speaking directly to Tote Maritime Puerto Rico they move cargo
18 around the yard, they cause cargo to be directly loaded aboard the El Faro or the El
19 Yunque, who would then Tote Maritime Puerto Rico would be responsible for the –
20 those type of operations from a safety point of view?

21 **WIT:** As the President, Tim Nolan.

22 **Mr. Fawcett:** And how about Tote Services for the safety of their vessels?

23 **WIT:** As the President, Phil Greene.

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1 **Mr. Fawcett:** But ----

2 **WIT:** And for Tote Maritime Alaska is the President, Michael Noone.

3 **Mr. Fawcett:** Okay. And speaking directly to Tote Services I'm talking about the
4 individual that's directly responsible for the safety of operations. Not who has the
5 ultimate authority, but who would ensure the safety of operations on a day to day basis?

6 **WIT:** I – with respect I think you need to ask Phil Greene that. I mean that's his
7 organization and how he structures that is really his business.

8 **Mr. Fawcett:** So in general terms, and you mentioned it a little bit earlier, has the
9 volume of cargo through the Port of Jacksonville to Puerto Rico, San Juan, has it
10 increased over the last few years? Can you categorize the volume?

11 **WIT:** The volume through the Port of Jacksonville has only increased slightly as some
12 cargo has come from the Philadelphia vessels that used to operate and the business is
13 becoming more intermodal. That is its coming more and more to Jacksonville. The
14 overall volume out of Jacksonville I don't think has increased substantially. Our
15 volumes have increased because one of the competitors, Horizon Line went out of
16 business. And those ships are no longer in the service. So it's now Tote Maritime
17 Puerto Rico, the Crowley Corporation and Trailer Bridge that currently operate.

18 **Mr. Fawcett:** Can you give an approximation in the last couple of years how much
19 volume has increased for Tote Maritime Puerto Rico? Just an estimate.

20 **WIT:** Probably about 30, 35 percent maybe more. Again a major competitor went out
21 of the business and we were in the – right after they went out, some 6 or 9 months after
22 they went out of business we were starting to take delivery of first the Isla Bella and
23 then the Perla del Caribe. So those had significantly more capacity than the Ponce so

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1 we were able to absorb that, and get rid of the barges that we talked about earlier which
2 were only a stop gap until the new ships with the greater capacity came in.

3 **Mr. Fawcett:** So the El Faro and the El Yunque could not handle that surge alone and
4 you brought in barges, correct?

5 **WIT:** Yes, sir.

6 **Mr. Fawcett:** And with all of those parts functioning, the synergy and the linkage
7 between the barges that were contracted and the ships, could you meet the volume that
8 had been increased by the Horizon Line going out of business?

9 **WIT:** Yeah I think at the end of the day plus with what Crowley did, I think Crowley
10 added a little bit of capacity as well, the market was served. And that was important
11 because we are the lifeline for the people of Puerto Rico. And they like to have their
12 fresh meat and vegetables like we all do and that's what we do. At the end of the day
13 with the extra barges and the extra capacity that Crowley put in, we were able to meet
14 the demands. And then of course the Isla Bella came in and that increased capacity
15 significantly which then allowed us to move the barges back out. The Perla came in
16 and now there's more than sufficient capacity in the trade.

17 **Mr. Fawcett:** But prior to the accident voyage is the time frame I'm looking at. So prior
18 to the accident voyage were the barges and the ships heavily loaded, and I'm not
19 talking about your assessment of stability or anything like that, but they were – were
20 they full loads for barges and ships going South to San Juan?

21 **WIT:** Not always. The ships were pretty much full loads. The barges were not always.
22 You also have a lot of cyclical in virtually every trade. So before holidays you'll have
23 a lull. A longer period of time before a holiday you'll have a peak. And then you'll have

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1 lull. So that, let's say the week after Thanksgiving you may have less than full loads.
2 And then certainly you'll build up for Christmas and then right after Christmas you'll
3 have a lull. In the Puerto Rican trades you'll build up for Mother's Day and Easter.
4 Those are big days down there. And then you'll have a lull. You'll certainly have a lull
5 in the summer. So were they generally full, yes. Were they 100 percent always full, not
6 always. But again that's just the cyclical nature of the trade.

7 **Mr. Fawcett:** So the ships could carry what's been described as P1 cargo and P2
8 cargo which would be based on the demands that the customers placed in contracts,
9 would that be a correct characterization?

10 **WIT:** Well I read some of the discussion around P1 and P2 cargo and I think we got a
11 little bit off track. P1 and P2 is only how we say this is cargo for a client that's got to be
12 on the ship if at all possible. P2 cargo is everything else. So when we're loading cargo
13 especially if we have more cargo than the vessel can handle and you've got to push
14 some to the barge you're obviously going to push the P2 cargo. And you're going to try
15 to accommodate the P1 cargo if you can do it, if it works within the stowage process
16 and if there's room on the ship with the stability and all of the other characteristics. So it
17 – there's really nothing unique about P1 and P2, it's just we could – if you really wanted
18 to complicate it we could have P1 through 10. And I've seen organizations that have up
19 to P5 and 6. It's just a way of determining what really has to move for what reason. So
20 that if you have very perishable cargo, if you have lettuce for example, going down to
21 the Wal-Mart grocery store, that's going to be a P1 because you don't want that stuff
22 sitting around for more than a couple of days because it's got a shelf life. If you have a
23 client that says hey this stuff is really important I'm out of Cheerios on my store shelves

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1 and you've got a load of Cheerios, well you'll make that a P1. So again there's nothing
2 magical about it. It's just an internal methodology of identifying cargos that you really
3 want to get on the ship.

4 **Mr. Fawcett:** So from your position would you know if, the only way that I can
5 characterize it is P1 and P2, but can barges carry either of those cargos?

6 **WIT:** Absolutely.

7 **Mr. Fawcett:** So in early August on the 7th of August there was a major loading issue
8 where the ship was delayed, the El Yunque for 13 hours because of a loading issue.
9 Would that be reported up to you to your level?

10 **WIT:** When I was President, yes. I would have been involved in that. Because I would
11 have wanted to get to the root cause of what the issue was. And I'm sure Tim Nolan did
12 that. Again I read about the issue. You have to remember that the terminal handles
13 thousands of containers every week. They all have their own identity. They all have
14 their own clients. They all have their own requirements. Some have to move next
15 week, not this week. Some have to go immediately because they're a P1. Some want
16 to sit there for another week or two for inventory purposes. There's just a whole bunch
17 of variables. And every now and again as in any other transportation environment
18 you're going to have a mistake or two. The fact that over the course of all these
19 discussions we've identified maybe one or two elements of error, I think speaks very,
20 very well. And that's one of the things that we always have managed and that I
21 instituted when we got to – when I got to Sea Star was a one page document that
22 identified all of the important elements of our business, both starting with safety and
23 going through how we document cargo, how we identify cargo, how we bill cargo, how

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1 we get collected for what we do, how we get paid for what we do and that's all part of
2 that process. And as any other business is something going to happen, sometimes.
3 The trick is and the real answer is did you deal with effectively, did you take whatever
4 delay you had to do, did you fix it so that the vessel and the barge and the terminal were
5 safe and at the end of the day you figured out what was really going and then how do
6 you fix it for the next time. And I think from what I've read of those incidents that was
7 very well done. And our VP of support services I think was there through the middle of
8 the night, and certainly everybody did the after action reports on all of those and talked
9 about it. And it didn't happen again. But you also have to put in context is the fact that
10 as the barges were coming in this was a whole new process for the Sea Star
11 management team. They had never worked barges before. At least not since Sea Star
12 was Sea Barge many, many, many, many years ago. So it was a whole new process.
13 And there was an awful lot of pressure on the company because we were the only ones
14 that were putting in additional capacity at the time. And customers were really looking
15 to move their freight to support, again Puerto Rico. So you've got to – I think with
16 respect you have to try to keep that in some context as to all of the other things that
17 were going on around at the time. So I did not see it as a major event. Was it an event
18 if I were President at the time I would have gotten into and torn around about,
19 absolutely. But was it really a major deal, no. It was part of the learning curve and part
20 of the progression of the terminal.

21 **Mr. Fawcett:** So as the, you talked about the mistakes, as the El Faro set sail on the
22 late August voyage, we talked to Captain Stith about the fact that the terminal advised
23 them that there were four reefers not on the manifest, changed the dead weight tonnage

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1 of the ship on the outbound voyage, a subsequent container was located by Chief Mate
2 Stith and reported to shore side management. I only saw a departure record with, and
3 this is going out into a tropical system where the Captain elected to take a deviation
4 route. I only saw one message, departure message with the tonnage on it. Do you
5 know if there was an after action examination of those events to ensure that type of
6 mistake was not repeated?

7 **WIT:** I do not know for certain. But I would be amazed if Jim Wagstaff and the
8 operating staff at the terminal did not get into that with the Stevedore PORTUS and
9 determine how and why that happened and what actions needed to be taken with what
10 people to preclude a recurrence. That would certainly be the normal course. But I do
11 not know for certain. But again I would be very surprised if that did not happen.

12 **Mr. Fawcett:** So you know we've been talking about the cargo and the increase cargo
13 volume going down to San Juan. So what's the impact on weather delays and
14 mechanical issues related to vessels as it affects the operations that follow after those
15 weather delays or mechanical issues for your vessels?

16 **WIT:** You do what you can to recoup your reliability. And that means perhaps putting
17 more Stevedore gangs on, increasing the turn on the ship both in Puerto Rico and
18 Jacksonville. It can – you'll increase your speed where you can, where the vessel can
19 safely do that. You'll do what you can to get your reliability back. Because we sail a
20 Tuesday and Friday sailing. If you can't what you do typically then is you'll skip a sailing
21 and you'll rotate back through and work your reliability back that way. But at the end of
22 the day if the ship is going to be late, the ship's going to be late. There's not much
23 we're going to do about that. That's part of the business. And our customers know that.

1 And one of the reasons that we're so successful these days is because we do have this
2 customer centricity. And if a ship is going to be late, if the cargo is going to be late we
3 call the customer and we tell them and they understand. Because they're in the
4 transportation industry as well. They're in a transportation business as well. They know
5 that there's snow storms that slow up trucks, they know that there's weather and
6 mechanical issues that are going to slow up a train or a ship or an airplane. So it's not
7 an unusual exercise. It's not an unusual occurrence.

8 **Mr. Fawcett:** So on that same voyage in late August the Captain of the ship, the El
9 Faro was running at reduced RPM because he had some leaking economizer tubes in
10 the boiler. At the time that voyage commenced, did Tote Services know that? I mean, I
11 had correction on that, I'm sorry. I'll retract that. Did Tote Inc. know that, the senior
12 management of your company?

13 **WIT:** I would not have – I would not have known that. Whether Anthony was involved
14 was involved, I don't know. Whether our CEO was advised I don't know. But you know
15 those occurrences are fairly normal that there's going to be some delays. In fact in
16 terms of our proformas and our schedules we build slack into those. And we have
17 slack, we have extra time in those schedules. We have extra time in our Stevedore
18 operations. We try to set the schedules as efficiently as we can. If there's issues we
19 make allowances and we do what we can to put the ships back on the normal schedule.

20 **Mr. Fawcett:** So we've heard there's slack on the North bound run built in, an extra
21 day. Do you know how much time is built in to the South bound run as you described it
22 as slack time?

1 **WIT:** It doesn't matter what direction it's in. The ships make a round turn in a week.
2 Each ship makes a round turn in a week. If she winds up being off schedule you'll do
3 whatever you can to pick that up, whether it's on the North bound leg or the South
4 bound leg, whether it Stevedoring in Jacksonville, whether it's Stevedoring in Puerto
5 Rico. It's all the same week. So frankly it doesn't matter how you make it up. But
6 there's time in the schedules. You never schedule – a prudent operator never
7 schedules a ship so tight that you don't have some flexibility. Because we know that
8 there are going to be delays. We know there's going to be delays sometimes getting a
9 pilot in San Juan. We know there's going to be delays getting the tug for sailing. We
10 know there's going to be delays with longshoreman. It rains. In Puerto Rico they don't
11 like to work in the rain. We know all those things and we build it in to our overall
12 process and when we, actually go to design the ships. We did that process with the
13 Marlins when we designed the speed that we would need for the ships. We build out to
14 proforma, we build out the productivity at the docks and we have additional time in there
15 so that – so that we have forgiveness.

16 **Mr. Fawcett:** So if you would talk about the senior management flash meetings, the
17 frequency, the content and so forth please?

18 **WIT:** Sure. I instituted that when I first took over at what was then Sea Star. I've
19 always believed that – that you could put most of the real important elements of any
20 business on one piece of paper. I did it at NYK, which was a multi-billion dollar
21 company. And I did it at Sea Star. And what you do is you design a number KPI's, key
22 performance indicators and on a weekly basis, I think the meetings used to be
23 Wednesday afternoon at 3 O'clock, we would sit down and go through each and every

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1 item. And then also talk about other issues that were current and pertinent. And as I
2 said earlier every meeting started with safety and then we would go down through all of
3 the other – all of the other elements. And those were all the things that you look at.
4 Reliability of the ships, reliability of the systems that are creating the documents. How
5 you're collecting the money that you've worked so hard to earn. All of those kinds of
6 things. And how many boxes are sitting in places like Puerto Rico that haven't moved
7 because the freight's sitting. How many – how much equipment do you have in
8 maintenance status. All the things that go into working your business. What the
9 productivity is on the Stevedores. Just all those key performance indicators.

10 **CAPT Neubauer:** Mr. Keller we've been going well over an hour. This might be a good
11 chance to break for lunch. Are you available to come back at about 1:15?

12 **WIT:** I'm at your discretion, sir.

13 **CAPT Neubauer:** Yes, sir. At this time the hearing will recess and reconvene at 1:15.

14 *The hearing recessed at 1218, 26 May 2016*

15 *The hearing was called to order at 1318, 26 May 2016*

16 **CAPT Neubauer:** The hearing is now back in session. Mr. Keller we're going to
17 continue with the line of questioning with Mr. Fawcett.

18 **WIT:** Thank you.

19 **Mr. Fawcett:** Good afternoon, sir. To improve the efficiency of the remainder of
20 today's hearing and our discussions with you we're going to combine the two topics into
21 a single topic. So when we finished our last portion of the testimony we were
22 discussing the Tote senior leadership flash meetings. Who participated in those
23 meetings?

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1 **WIT:** When I was President I presided and all the VP's participated. That would have
2 been VP of HR, VP of Operations, VP of Sale, VP of Pricing, VP of Administrative
3 Support, and our Chief Accounting Officer.

4 **Mr. Fawcett:** How would you facilitate the reports from Tote Services or Tote
5 Resources, Tote Ship Holdings, those other entities now? Let me rephrase that. At the
6 time of the accident, leading up to the accident.

7 **WIT:** The Tote Resources was our financial arm and they would provide the numbers
8 and a lot of the metrics that we used in the report. And Tote Services would provide the
9 safety data and other data, the sailing and arrival information was all the information we
10 got from the terminal. We didn't need to get that from TSI. We would get that internally
11 ourselves. But we would get the safety information from them if there were any issues.

12 **Mr. Fawcett:** And how did that, the safety issues, could you characterize the type of
13 safety issues that might be brought to your attention during the weekly senior staff
14 meetings?

15 **WIT:** Yes. Anything that was reportable. Anything that was lost time. And if there
16 were any significant near misses we would discuss those as well.

17 **Mr. Fawcett:** So would you recall if in mid-March of 2015 as part of the weekly – the
18 weekly senior staff meetings you received notification that the El Faro had a propulsion
19 loss as she left San Juan?

20 **WIT:** In 2015 I was not – I was no longer President of Tote Maritime Puerto Rico and I
21 did not attend all of the flash meetings. I would only attend certain ones when time
22 allowed. I left that to the leadership of Tote Maritime Puerto Rico. So I presided over

1 the flash meetings during my tenure as President of then Sea Star from January or
2 February 1st, 2012 till the end of 2013.

3 **Mr. Fawcett:** Prior to the accident voyage did you have any knowledge of that
4 propulsion loss that occurred?

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

6 **Mr. Fawcett:** Did the Designated Person make a report at weekly flash meetings?

7 **WIT:** No. Not to my knowledge.

8 **Mr. Fawcett:** So I want to talk about a particular weekly flash meeting and if you could,
9 could you tell me who Mr. Ben Taylor and Mr. William Taylor are?

10 **WIT:** Yeah. Bill Taylor is our Vice President of Sales. And Ben Taylor is our Chief
11 Accounting Officer, works through Tote Resources, but also reports on a matrix to the
12 President of Tote Maritime Puerto Rico.

13 **Mr. Fawcett:** Okay. So in early August there was a significant delay in sailing as a
14 result of, for the El Yunque, and then in late August there was some weather induced
15 delays that occurred as a result of Tropical Storm Erika and Hurricane Danny that I will
16 say, just characterize it as kind of upset the balance of the typical routines and
17 schedules. Were you aware of that?

18 **WIT:** Generally yes.

19 **Mr. Fawcett:** If you would draw your attention to Coast Guard Exhibit 178, that's the
20 one I asked to be provided this morning. And I'm not really looking into the specific, that
21 would be page 112, 113 and 114 and 115. We will put the relevant portion up on the
22 screen, but if you would draw your attention to page 112, Exhibit 178. So what I
23 described are some – Commander Yemma is going to get it for you. But what is in

1 there are some of the attachments to the senior staff meetings, flash meetings. One
2 page is an example of business dealings, revenue and so forth and I don't want to
3 discuss those facts. And then there's some other information in there. But there's
4 some comments in there in particular on page 114, if you would take a look at that, sir.
5 Now this is not addressed to you directly, but the discussion is about how much did we
6 lose based on missed sailings. And it was an email from Tim Nolan on September 2nd
7 at 3:45 p.m. to Ben Taylor. And the subject was forward senior staff flash meeting 9/2
8 at 3 O'clock p.m. Eastern Standard Time. The other, and it has some phone numbers
9 and so forth to call to facilitate the meeting. These meetings, sir, are they
10 teleconferences?

11 **WIT:** Typically the staff in Jacksonville will be in the conference room. People who are
12 traveling will conference in. If occasionally I would join the meeting I would conference
13 in. Our CFO would typically conference in out of Tacoma.

14 **Mr. Fawcett:** So if you would turn your attention please to page 112. And this is an
15 email from Mr. William Taylor on Thursday, September 3rd to Mr. Nolan, Alyse Lisk and
16 another gentleman. But the content is, I'll read it. Please note we have two barges next
17 week, TB, which I don't know what that means, has lost a sailing this week and barges
18 for our competition are off schedule due to the storms. We're starting to see an uptick
19 as the season approaches and have some obstacles with Labor Day and missing one
20 day of production. Please speak to your customers on next week's sailing schedule.
21 We need some traction on next Saturday's barge. And then it says, the following week
22 will only have one barge on that Thursday, thank you. Would these be the typical kinds

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1 of conversations that would take place revolving around the senior staff meetings? In
2 other words movement of cargos, delays and the impact of weather?

3 **WIT:** Yes. Let me start by saying TB is Trailer Bridge, which is a major competitor. In
4 term – and again I was not directly involved in the management process at this time, Mr.
5 Nolan was in charge. But yes this is fairly typical. Because as we have delays, as
6 competitors have delays, as competitors have issues and as cargo requirements
7 change, that is customers are looking for more space we dialogue and we discuss it and
8 we plan around it and we look to see what we can do to accommodate the cargos. And
9 again as Bill mentioned, as I mentioned earlier, we also speak to our customers which is
10 one of the things that we put into the company some years ago so that we get their
11 inputs so they understand what's going on so they can do their planning so that over
12 time we can accommodate the requirements of Puerto Rico.

13 **Mr. Fawcett:** So what we see here are some emails specifically related to the impact
14 on barges and it talks about missed sailings and you know the Port of San Juan was
15 closed, there were some earlier delays in the month. So starting on September 2nd or
16 3rd which would be week 35 of 2015 it seems that the carriage of cargo was like you
17 were behind your optimum cargo delivery schedule. So how would you ensure the
18 safety was maintained as you tried to pick up the slack that these delays would cause?
19 Was there a discussion of safety of operations?

20 **WIT:** Safety of operations is discussed at every meeting. It's the number one factor, it's
21 the number one thing you will see in the flash report. When it comes to catching up
22 because of weather or Stevedore delays or other delays, again we put a plan together,
23 we look at what we can do, we look at what the vessels can do, we look at what the

1 barges can do and then we plan around that. And I think that's all that this is talking
2 about in terms of the document I see here. Again nothing – nothing unusual in terms of
3 how you run a company on a day to day basis. There are always contingencies, there
4 are always plans that you have to work through.

5 **Mr. Fawcett:** Was there ever a discussion at a flash meeting leading up to the accident
6 voyage about the boiler survey on the El Faro and the intentions that there were plans
7 to get that repaired either in the Grand Bahama shipyard or ultimately perhaps
8 Tacoma? Was that discussed in a flash meeting?

9 **WIT:** Again I was not in those flash meetings during this period of time. I would
10 sometimes be in them, but I was not during this period of time because I was pretty
11 much absorbed with trying to get the Isla Bella out of San Francisco and sea trials and
12 everything else getting her delivered.

13 **Mr. Fawcett:** So what would be, from Tote's point of view, in previous testimony we
14 heard that with Sea Star Line and I'm not sure whether it's the period of your leadership
15 or prior to your leadership, but there was a dialogue between a ship at sea and shore to
16 support voyage operations. For example weather discussions with the vessel, support
17 for the shipboard operations while a ship was out at sea. Would that properly
18 characterize the way it was as you understood it?

19 **WIT:** I don't, I'm sorry I don't really understand the question.

20 **Mr. Fawcett:** Okay. So on the accident voyage -----

21 **WIT:** Right.

22 **Mr. Fawcett:** There was basically two messages, perhaps three messages between
23 ship and shore about the movement of the vessel with the exception of the routine

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1 departure message and noon report. Earlier for Hurricane Danny we found a number of
2 emails back and forth between various corporate personnel and the ship. So when you
3 were President of Sea Star Line did you understand what your expectations were for
4 how the ship was communicated with if there was a storm at sea and what your
5 expectations were for the type of communications that would take place?

6 **WIT:** The Captain, the Master of the vessel in every company I've ever worked in or in
7 any company that I've ever led is just that, he is the Master of the vessel. He has sole
8 responsibility. Now the company has routine messages that he needs to send to let the
9 company know where he is and what his ETA's are and those sorts of things. But in
10 terms in any other dialogue once he's at sea it's up to him to manage his vessel. That's
11 the way I've always seen it.

12 **Mr. Fawcett:** So in terms of consistency of operations through your lines of business
13 are the Totem Ocean vessels operated in the same manner with regard to the – how
14 shore side operates with the vessels as it was during the accident time frame where
15 Sea Star, or Tote personnel on shore communicate with the vessel? Do they do it the
16 same way?

17 **WIT:** I don't know. I'm not directly involved in management of Tote Maritime Alaska.
18 I've never been involved in their day to day activities with the vessels.

19 **Mr. Fawcett:** And that was even with your Sea Star Line Presidency?

20 **WIT:** I don't go into that level of detail.

21 **Mr. Fawcett:** Was there someone that made sure that both of those shipping
22 operations, the one in Alaska and the ones in San Juan, Jacksonville trade were
23 operated in a consistent fashion?

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1 **WIT:** Well they're both operated by Tote Services. So again as our vessel operator I
2 would assume that the Tote Services requirements based upon the difference in the
3 trades would be very much the same.

4 **Mr. Fawcett:** Specifically to cargo have – do you know if you've every employed a
5 marine warranty surveyor to evaluate the cargo carrying operations on board Tote
6 vessels?

7 **WIT:** Not to my knowledge. And I don't know what, after all the years that the Ponce
8 Class ships have been operating and with the exception of this incident, operating
9 safely and effectively. I don't really know what's to be gained to be honest with you.

10 **Mr. Fawcett:** Other than regulatory agencies do you know if there's ever been a third
11 party engaged to conduct an audit of your operations regarding loading of the vessels,
12 terminal operations or vessel operations?

13 **WIT:** We have a safety consultant who comes in on a fairly regular basis who works
14 with all of our companies. He's a highly qualified individual that in fact wrote many of
15 the current rules, the rules on terminal operations. But that's probably the only person
16 that I could think of. In terms of safe and effective terminal operations. Many of us are
17 qualified to do that because we've done terminal operations for 20, 30, 40 years if not
18 more.

19 **Mr. Fawcett:** So I would like, counsel if you could to provide who that is?

20 **Counsel:** Sure.

21 **Mr. Fawcett:** At some point. And could you, you know you have extensive experience
22 in terminal operations. With the – during the recent time frame, we're talking about the
23 barge operation and the ship operation in the Port of Jacksonville where you have your

1 cargo going on board those vessels. How would you characterize the pace the
2 operations on a loading day?

3 **WIT:** A little more intense if we – if you were loading a barge at the same as you were
4 loading one of the ships it'll be a little more intense. But again the terminal in both
5 Jacksonville and Puerto Rico was of sufficient size. It needed new gates and some of
6 those kind of things, but there was more than sufficient room and there was more than
7 sufficient area to accommodate the cargos we were handling. Just as right now there's
8 more than sufficient room to handle the cargos that we're now handling at the higher
9 volume level with the new ships. So there was no real issues with the terminals.

10 **Mr. Fawcett:** So we've seen documentary evidence that there were two issues where
11 the ships were being loaded and they achieved in one way or the other in what's been
12 described as an excessive list during loading operations, or unloading operations. Is
13 there some kind of criteria in your ship to shore terminal operations that triggers some
14 type of investigation or incident review or something that would be categorized that I
15 could look at that would say this is a near miss?

16 **WIT:** Not to my knowledge. But again the Stevedores and the Terminal Managers
17 work very, very closely with the Chief Mate and the vessel. As you're loading cargo
18 depending on how the loading sequence is going you will almost always get some
19 change in the vessel, especially a smaller vessel like those ships. But again that's
20 worked out between the ship and the loading and the Stevedores.

21 **Mr. Fawcett:** So shifting gears a little bit. Your specific expertise at the present time is
22 your oversight of the conversion process for the ships, and also the new construction
23 ships, would that be correct?

1 **WIT:** That's what I'm currently doing, yes, sir.

2 **Mr. Fawcett:** Alright. So prior to the accident date what were the plans for the El Faro
3 and the El Yunque and the consideration for both of those vessels?

4 **WIT:** We had made a decision some months earlier to relocate the El Faro to the
5 Pacific Northwest to act as a relief vessel when the Orca's went to the dry dock for their
6 re-engining. This was necessitated because of commercial changes in the Alaska
7 trade. And we had a choice between the El Faro and the El Yunque. The El Faro had
8 served in that trade for many, many years, was somewhat ice strengthened so we
9 choose the El Faro over the El Yunque because of the ice strengthening. And we then
10 had plans in place as the Isla Bella was delivered and came through and entered
11 service that we would relieve the El Faro, she would then proceed through the Panama
12 Canal after dry docking in the Bahamas and then move into a position where she could
13 be the relief vessel.

14 **Mr. Fawcett:** So looking at the El Faro and the El Yunque from your perspective were
15 there any – what was the difference in condition between the two vessels?

16 **WIT:** None to my knowledge.

17 **Mr. Fawcett:** Was there anything that would have prevented the El Yunque from,
18 before the accident, from being the ship that was the temporary relief vessel so that the
19 conversion could take place?

20 **WIT:** She was, she had not been iced strengthened and she had not operated in the
21 Alaska trade. So it just made sense to send a vessel that had been in that trade and that
22 was iced strengthened as opposed to having to ice strengthen the El Yunque.

1 **Mr. Fawcett:** Was there anything that prohibited you based on the financing of those
2 ships?

3 **WIT:** No, sir.

4 **Mr. Fawcett:** So in September, and if you would like to draw your attention to Exhibit
5 178 page 64 there's an email discussing the potential for delaying the Orca
6 conversions. And if you will take a moment just to look at that to familiarize yourself
7 with the correspondence. And that's page 64. So I'm not going to ask you to speak
8 directly to the contents of that, but in general as we approach the accident date was
9 there a discussion about the potential for delaying the conversions?

10 **WIT:** Yes. The – all of our LNG programs are interlinked in some way. In as it relates
11 to the Orca for her to go we needed a relief vessel. That relief vessel being the El Faro
12 needed to be relieved by the Isla Bella. Because we wiped the stern tubes on a bearing
13 on the Isla Bella during sea trials she had to go to dry dock in San Francisco for an
14 additional period of time. At this point and time we were not sure if NASCO would be
15 able to fix that problem in 2 weeks, 4 weeks, 6 weeks, so this was really a message
16 highlighting the potential contingencies that we had to think about as we looked at our
17 over LNG program. And one of the contingencies was we would not get the Isla Bella in
18 time to relieve the El Faro which would then cascade to not being able to relieve an
19 Orca effectively which means we would have to put the program off a year because we
20 can only do that program – we can only take that ship out of the Alaska service during
21 the height of the Alaska winter when business is down significantly. Otherwise we run a
22 huge commercial risk and we can't take that risk. So this just a – this is just a planning
23 what if document.

1 **Mr. Fawcett:** Okay. Wiping the bearing as you described it caused the new ship to
2 proceed from her sea trials ultimately to San Francisco for dry docking, is that correct?

3 **WIT:** She first went back to San Diego, NASSCO did not have a dry dock available for
4 her. She was launched on the ways and we weren't able to pull her back up. So the
5 only available dry dock was in San Francisco. So she proceeded to San Francisco and
6 the repairs were affected there.

7 **Mr. Fawcett:** Was there an additional problem with the fuel cryogenic valves that
8 caused the vessel to need to be transited over this way to the Gulf and ultimately to
9 Florida on diesel fuel?

10 **WIT:** The vessel came – the vessel came across on her delivery voyage on diesel fuel.
11 We were still working through issues with the cryogenic system with the LNG. I don't
12 remember exactly how long she ran on LNG. I think she did run on LNG for a time. I
13 know her auxiliaries were running on LNG. But we also did not have a full load of LNG
14 on board. So we had to be careful about how much LNG we might use because we had
15 to keep the tanks cold. One thing you cannot do in a vessel of that type is allow the
16 tanks to warm up. So exactly how much time she ran on LNG and or diesel I don't
17 recall. But certainly those ships, the Isla Bella and Perla had engine number 1 and
18 engine number 2 of the MEGI dual fuel series. So there was a certain amount of
19 working in and breaking in that it's still going on. Not so much on the Isla Bella, but on
20 the Perla.

21 **Mr. Fawcett:** So when did the – when was the first ship, the sea trials that occurred
22 and the problem that developed with the strut bearing, when was that? What was the
23 date of that?

1 **WIT:** It wasn't a strut bearing it was the stern tube bearing. What was the date of it?

2 **Mr. Fawcett:** Well approximately.

3 **WIT:** I would have to – I would have to get my calendar out. But certainly it was – what
4 the problem did is it delayed us a period of 2 or 3 weeks in terms of the ultimate delivery
5 site.

6 **Mr. Fawcett:** And the launching of the vessel out of the dry dock occurred shortly
7 before the El Faro began her final voyage. Would you say that's correct?

8 **WIT:** Yes, sir. Yes, sir. I think it was a week or two beforehand and then the Isla Bella
9 was going back to San Diego to finish out her delivery process to finish out her sea
10 trials, go through the delivery process and then relocate to – relocate to Jacksonville. At
11 that time we still had enough flexibility in the schedule I believe for her, for the El Faro to
12 make her dry dock and for the plan to work. Although as with any good company we
13 did look at all of our contingencies, all of our planning, options and make sure that
14 everyone understood what some of the options may be. What we may be caused to do.

15 **Mr. Fawcett:** So was one of the contingencies in the delay plan that you would skip the
16 dry docking in Grand Bahama and proceed directly after one of the El Faro's job is
17 complete to Tacoma where work could be done in the shipyards up there that had been
18 originally planned for the Grand Bahama shipyard?

19 **WIT:** I think we discussed the option of sending her to Tacoma and doing the work
20 there. But I know I was more in favor of Grand Bahama because I think we had better
21 quality control and better results there.

22 **Mr. Fawcett:** Do you know if Grand Bahama -----

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1 **WIT:** That decision, to the best – but that decision never had to be made because we
2 never got to that point.

3 **Mr. Fawcett:** I understand that. But I'm saying prior to the accident had there been an
4 executive decision made by a Tote entity that in fact the vessel would not go to Grand
5 Bahama Island, uh shipyard and in fact would go to Tacoma Vigor Shipyards for that
6 yard work?

7 **WIT:** No, sir. Not to my knowledge.

8 **Mr. Fawcett:** Do you know if there would be any impact on the vessel from the
9 propulsion system of the El Faro such as the boilers or associated equipment?

10 **WIT:** No, sir. Not to my knowledge.

11 **Mr. Fawcett:** So we have shortly before the – there's a host of activities going on at
12 Tote Services and Tote Maritime and Tote Inc. leading up to the accident voyage. And
13 we've discussed about routine and typical run back and forth on a liner service between
14 Jacksonville and San Juan. And one of the questions we've asked is how you combat
15 complacency of operations. So at the time as the – towards the end of September
16 comes up we have Mr. Fisker-Andersen who is the Director of Ship Management in San
17 Francisco for the relaunch. We have various officials at Tote Service, Tote Maritime
18 turning their attention to the issues with the Isla Bella, Isla Bella, how were you assured
19 that people were paying attention to the accident voyage time frame in particular with a
20 tropical storm building out in the Caribbean?

21 **WIT:** Again we had more than sufficient qualified people in Jacksonville. In today's
22 world with email and everyone walking around with at least one cell phone, the ability to
23 communicate is fairly straight forward. Yes there was work to be done. But we also

1 had a lot of extra people around at the time as part of Tote Shipbuilding working at the
2 shipyard, at both shipyards by that time, both at NASSCO and up in San Francisco. So
3 I don't think there was any issues of lack of attention or lack of detail at any of the other
4 activities and operations.

5 **Mr. Fawcett:** So if you'll take a moment to turn to page 7 in Exhibit 5. Correction on
6 that, page 7 please. This is an email on 5/25/15 at 3:09 p.m. And it's a discussion with
7 Admiral Greene and it's about the crewing of the Marlins. Can you tell me why you got
8 involved with the crewing decisions related to the new construction vessels?

9 **WIT:** I was very interested in the crewing of the, especially of the engine room staff.
10 We had a number of what I thought were highly competent engineers that were working
11 at the ship holdings through the building process. I wanted to make sure they were
12 effectively considered as well as other people that had worked with us down there in the
13 process. And I also just wanted to make sure that all of us at the management level,
14 especially the management of Tote Maritime Puerto Rico and TSI use this as an
15 opportunity to really select the best. We have a rare opportunity here with new ships
16 with our labor agreements to get the best that we could find. And I think that's one of
17 things that I was just trying to assume that was going on.

18 **Mr. Fawcett:** So up until this point since you were involved with – would you say you
19 instigated from your position as the Executive Vice President the review of the Marlin
20 crewing for the various people that were involved in the process?

21 **WIT:** I think the process was ongoing. And yes I think instigating is a good word. I
22 think I was trying to instigate another review just to make sure that we were all assured

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1 at the senior management level that we were choosing the best and most appropriate
2 people at the time.

3 **Mr. Fawcett:** So the best and most appropriate people at the time. If you would take
4 moment to think about Captain Davidson, outside of the time frame of the accident
5 voyage could you explain the process that you know now about Captain Davidson in
6 terms of his employment prospects on the Marlins and what the subsequent issues
7 were involved leading him to either be employed as, you know skipper of the Marlin or
8 where he was on the day of the accident voyage?

9 **WIT:** I was not involved in the direct discussions on any of the deck officers. So it's
10 really hard for me to respond to that question. I know there were a number of meetings
11 and I know there was a lot of discussion. So I can only assume that he and others
12 received a fair hearing from the management. And again the only people I was most
13 involved in was with the engineering officers.

14 **Mr. Fawcett:** So you were involved with the engineering officers in some manner such
15 as interviews and so forth? Is that the way you characterize it?

16 **WIT:** They worked for Mr. Christian and I at the shipyard. And we had brought them in
17 because we wanted the Chief Engineer's on the ships once deployed to have extensive
18 shipyard and experience on how the ship was put together so they had a really good
19 sense of it. And I just wanted to make sure that those people were in fact chosen and
20 they were.

21 **Mr. Fawcett:** Did Mr. Christian ----

22 **WIT:** And I was more involved in a recommendation element than anything else.

1 **Mr. Fawcett:** Did Mr. Christian provide a spreadsheet to you that had the candidates
2 for the Master, Senior Officers, Chief Engineers for the various vessels with their
3 reporting dates?

4 **WIT:** I saw that spreadsheet, yes. Yes. But again I was focused – I was focused on
5 the Chief Engineers and just wanted to make sure that the leadership at both Tote
6 Services and Tote Maritime Puerto Rico were looking at the deck and other officers. I
7 did not go below the level of Chief Engineer.

8 **Mr. Fawcett:** Then you did not examine the, in any way the candidates for a Master's
9 position of those vessels since they would be ultimately responsible for the safety and
10 efficiency of those ships?

11 **WIT:** I did not because I left that to Tote Services and Tote Maritime Puerto Rico. It
12 was outside of – it was outside of what I thought was my direct responsibility.

13 **Mr. Fawcett:** So there's one point we're not sure of. And that's why I asked up to this
14 point. Because Captain Davidson was reported to be on the short list for Marlins and
15 then later on there was an event where it was decided that he would not get a new ship.
16 So nobody has reported that reason to you? Because we have a reason, there was an
17 incident that wasn't handled effectively. But would you have any more insight that you
18 could share?

19 **Ms. Davidson:** I object to that characterization. I think Admiral Greene discussed that
20 and the use of the word that it was handled inappropriately is incorrect. I think the
21 record speaks for itself. And I think you're including in your question something that's
22 inaccurate.

23 **CAPT Neubauer:** Mr. Fawcett can you just rephrase the question in a basic manner?

1 **Mr. Fawcett:** Yes, sir, thank you.

2 **CAPT Neubauer:** I would like to know if Captain Davidson was actually being
3 considered for a position for the Marlin Class, whether he was or not at the time of
4 incident. Do you know that, sir?

5 **WIT:** I believe he was. And I believe as a result of interviews and discussions he was
6 not granted a position. But I was not a part of any of those discussions. Because again
7 I was only working on the engineering side in terms of the people that we had at the
8 shipyard.

9 **CAPT Neubauer:** Yes, sir. When the final decision was made not to consider him do
10 you remember any primary factor of why that decision was made? Were you informed?

11 **WIT:** No, sir.

12 **Mr. Fawcett:** Thank you Captain for the clarification. So I want to just go to the end of
13 my line of questioning. And basically that relates to how you were drawn in to the
14 events following the uncertainty as to the fate of the El Faro. In other words, at one
15 point you were notified that your services were needed. Could you talk about how that
16 notification came to you and then what role you began to fulfill for Tote?

17 **WIT:** I was notified of the contact between Mr. Lawrence, Captain Lawrence and
18 Captain Davidson probably around 8, 8:30 on that morning. Everybody was mobilizing.
19 I was still at my residence in Southwest Florida. There was nothing I could do at that
20 time other than get in the way in Jacksonville so I stayed at my home office. And the
21 next day I proceeded to Jacksonville and was asked to go down to Miami to implant with
22 the Coast Guard together with Lee Peterson and Phil Morrell. And I then immediately
23 proceeded to Miami and spent the next few days with the District Command providing

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1 what assistance we could and providing what information to feedback to our leadership
2 as was appropriate.

3 **Mr. Fawcett:** So at the time, pardon me, at the time you received this notification the
4 steps you followed was it part of some type of incidents response plan that the company
5 had established for a marine related emergency?

6 **WIT:** I was not – in my position looking after the LNG and other activities I was not part
7 of the basic decision tree. I talked to many of our people, made suggestions, made
8 suggestions on a number of things. But I was not part of the direct decision tree. That
9 would have gone between TSI and Tote Maritime Puerto Rico and of course our CEO.

10 **Mr. Fawcett:** Did the Vice Presidents across the span of officers at Tote Inc., did each
11 of them fulfill a role according to some kind of incident response plan for a marine
12 emergency?

13 **WIT:** Not as part of a quote plan, but as we developed requirements and needs certain
14 people were deployed to certain areas to support the manager.

15 **Mr. Fawcett:** Do you know if Tote Inc. or any entity of Tote including Saltchuk
16 commissioned some type of review or investigation independently of what we're doing
17 here into the event leading to the loss of the El Faro?

18 **WIT:** I know counsel looked at certain activities. I don't know that – I don't know if I
19 would characterize that as an investigation. I really can't respond to that. But obviously
20 we've looked at as much as we can and cooperation with this board and the NTSB.

21 **Mr. Fawcett:** So if you would take just a moment turn to Exhibit 178 and that would be
22 page 93. And it's an email from Phil Morrell on Friday, October 2nd, 2015 at 5:01 p.m.
23 and you are copied on this. And it says subject, RE: other facts. And then it says the

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1 assessment was conducted by the American Bureau of Shipping who have all the
2 vessel stability criteria. Now that assessment may relate to an analysis of the stability
3 situation during the accident voyage. Do you know if that would be a fair
4 characterization?

5 **WIT:** I think this is referring to FAQ's and these were FAQ's and information I think that
6 we were using for public dissemination as well as internal dissemination to our staffs. I
7 don't think this refers to any investigative process at all at this point. This is where we
8 had our external communication consultants and others working with the organization. I
9 think this is in response to that. Because our communications people are part of this
10 email chain.

11 **Mr. Fawcett:** On October 8th Mr. Greene, Admiral Greene sent an email to Mark
12 Tabbutt, T-A-B-B-U-T-T, do you know who that gentleman is?

13 **WIT:** Yes.

14 **Mr. Fawcett:** And there's a list of other people including members of Tote Inc. and Tote
15 Maritime Puerto Rico corporate officials and it basically – the subject is a DNV safety
16 assessment.

17 **Tote Inc:** Excuse me, Mr. Fawcett could you point where you're ----

18 **Mr. Fawcett:** Yes that would be, stand by for just a minute please. It should be on the
19 bottom of page 93.

20 **Tote Inc:** Exhibit 178?

21 **Mr. Fawcett:** That's correct.

22 **Tote Inc:** Thank you.

23 **CAPT Neubauer:** Mr. Fawcett was Mr. Keller on these email chains?

1 **Mr. Fawcett:** No, sir. I was – well he was on the initial one as copy and my only
2 question to him would be if he knows anything about what a DNV safety assessment is
3 form his position as the Executive Vice President of Tote.

4 **Tote Inc:** Mr. Fawcett we're not seeing where you're – we're looking at ----

5 **WIT:** Yeah do you have the exhibit?

6 **Tote Inc:** Exhibit 178 page 93.

7 **Mr. Fawcett:** I'll have that for you in a moment. Sir, I suggest a brief recess. Page 98
8 please.

9 **CAPT Neubauer:** The hearing will recess and reconvene at 2:10.

10 *The hearing recessed at 1404, 26 May 2016*

11 *The hearing was called to order at 1411, 26 May 2016*

12 **CAPT Neubauer:** The hearing is now back in session. Mr. Fawcett can you rephrase
13 your last question before we begin?

14 **Mr. Fawcett:** Yes, sir. Thank you. Did you have any knowledge of a safety
15 assessment from your position that DNV was going to be asked to conduct from your
16 position as the Executive Vice President?

17 **WIT:** I knew from discussions that we had at our own weekly meetings that this was
18 something that was contemplated, but at the end of the day it's my assumption that it's
19 – to my knowledge we never went through with it. It was just something that was
20 checked, we never proceeded with it to my knowledge.

21 **Mr. Fawcett:** Thank you very much, sir. I'll turn it over to the board. I appreciate your
22 patience.

23 **WIT:** No problem, thank you.

1 **CAPT Neubauer:** Good afternoon Mr. Keller. Sir, I just have a couple follow up
2 questions from the initial -----

3 **WIT:** Sure.

4 **CAPT Neubauer:** Thread. In regards to the conversion work that was going on, on the
5 El Faro to prepare for the Alaskan trade did the delays for the Isla Bella force the El
6 Faro to conduct more of the conversion work underway?

7 **WIT:** Not to my understanding. To my understanding the only conversion work that
8 was needed and was done was some putting winches back on that the vessel needed
9 and putting some heating devices in, that kind of thing. And that had been planned well
10 before and it was just work that I understood could be fairly efficiently done underway as
11 opposed to taking more time in the yard.

12 **CAPT Neubauer:** Was it Tote's understanding that work would be conducted in the
13 engine room?

14 **WIT:** The work that I understood that was being done was only on the winches and
15 having to do with the ramping systems and things like that. So no, it was not my
16 understanding that there was any work being done in the engine room other than
17 perhaps an electrical conduit or something. But again I'm not technically qualified to get
18 into that.

19 **CAPT Neubauer:** Did the delays for the Isla Bella compress the anticipated yard
20 schedule for the El Faro?

21 **WIT:** No. No there was never any thought of changing any of the work requirements to
22 the El Faro. We knew there was a certain amount of work that had to be done. That
23 had all been put together by the TSI engineering team. And what we were trying to do

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1 was get the Isla Bella there soon enough so that we could make the yard dates so we
2 could make the schedule. And as you can see in all of the documents we were fully
3 prepared if we had to, to push off the conversion work a year if for some reason we
4 could not properly liberate the El Faro. So there was no concerns about any of that.

5 **CAPT Neubauer:** Mr. Keller part of the purpose of the marine board is to also look at
6 the Coast Guard aspects of the incident. I'm curious about on October 1st, the day the
7 incident occurred and when you learned of it, your opinion on the Coast Guard
8 communications and response initially to the missing vessel.

9 **WIT:** Well I think you're speaking of a message that I sent. And I was troubled initially
10 by the fact that it appeared that the Coast Guard was going after another vessel as
11 opposed to ours. Subsequently spending time at District and learning about what was
12 really going on obviously I was – I would be apologetic for the message that I sent
13 because I was very impressed with the commitment from the District, from the SAR
14 center especially people like Captain Coggeshall and the leadership. And I'm certainly
15 convinced that they did everything they possibly could and used as many resources as
16 they could possibly muster, probably more than one would expect when you consider
17 some of the Navy resources that they were also able to pull in in terms of the incident.

18 **CAPT Neubauer:** In your opinion were the communications on the first day sufficient
19 between the Coast Guard and Tote?

20 **WIT:** You know I was still in my home office. I was not at the incident center up in
21 Jacksonville. So I really can't talk to that because I didn't really get into it until the next
22 day.

1 **CAPT Neubauer:** Thank you, sir. I would like to pass the questioning to Mr. Roth-
2 Roffy.

3 **Mr. Roth-Roffy:** Tom Roth-Roffy, NTSB. Good afternoon Mr. Keller.

4 **WIT:** Good afternoon, sir.

5 **Mr. Roth-Roffy:** Just recalling what you said earlier about the work that you initially
6 started when you started working with Sea Star I believe you were in kind of a
7 consultant role to evaluate the performance of the company and to make
8 recommendations on restructuring.

9 **WIT:** Yes, sir.

10 **Mr. Roth-Roffy:** And sir, do you recall if there were any formal reports that you had
11 written or others had written that had documented the analysis and the
12 recommendations that led to the eventual restructuring of the companies?

13 **WIT:** Most of it was – most of it was verbal. There was one note that I remember
14 sending that outlined 8 or 10 or 11 points that needed to be done from my view.
15 Including things like the Philadelphia service and changing systems and process and
16 people, things of that nature. But it was more verbal.

17 **Mr. Roth-Roffy:** So there was no actual consultant formal report that would kind of lay
18 out the issues, the rationale and analysis behind the recommendations?

19 **WIT:** No, sir.

20 **Mr. Roth-Roffy:** And then recalling further what you stated earlier this morning, and I'm
21 paraphrasing, the evidence of a well run operation are the results. Further you stated
22 that to have good results you must operate safely among other things. And as you said

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1 the proof is in the pudding. To me that means that the end result is the mark and the
2 success of the company's leadership and management. Would you agree?

3 **WIT:** Yes.

4 **Mr. Roth-Roffy:** In addition you stated that if you have a breakdown in an operation
5 there's probably some reason for it. And that the leadership of the company takes
6 responsibility. Would you agree with that summary?

7 **WIT:** Yes. I said that, yes.

8 **Mr. Roth-Roffy:** Now, sir, many would argue and few would dispute the loss of the
9 ship, El Faro and its cargo and most importantly loss of 33 souls aboard the El Faro
10 represents a colossal failure in the management of the company's responsible for the
11 safe operation of the El Faro. As you stated the proof is in the pudding. And, sir, you
12 have no doubt, thought long and hard about the nature of the management failures that
13 led to the loss of the El Faro's crew. Could you please share with this board your
14 thoughts about the nature of the management failures that led to the loss of the El
15 Faro?

16 **WIT:** I think this tragic loss is all about an accident and I look to this board as well as
17 the NTSB to try to define what those elements may or may not have been. I for one
18 with 51 years of experience in transportation cannot come up with a rational answer. I
19 do not see anything that has come out of this hearing or anything else that I've ever
20 seen that would talk about a cause. Certainly as management we look for that. We
21 look for what NTSB and this board may come up with. Because we think it will be
22 important. At this point in time I for one cannot identify any failure that would have led
23 to that tragic event.

1 **Mr. Roth-Roffy:** Thank you, sir. That's all I have.

2 **CAPT Neubauer:** At this time I would like to go to the parties in interest. Tote?

3 **Tote Inc:** Captain we just have one question. And this relates to something the board
4 brought up I think a day or so ago. But this is the right witness to ask. Can you tell us
5 Mr. Keller whether the 48 foot and 53 foot containers used in the Puerto Rican trade
6 were certified?

7 **WIT:** Yes. All of our containers are certified under the convention for safe containers.
8 And that I believe is looked after by ABS as well. Every container has a certification
9 plate on the back of it. And it's just part of the CSC. CSC has been in place for a long
10 time. As long as I can remember.

11 **Tote Inc:** No further questions. Thanks.

12 **CAPT Neubauer:** ABS?

13 **ABS:** No questions.

14 **CAPT Neubauer:** Mrs. Davidson?

15 **Ms. Davidson:** No questions Captain.

16 **CAPT Neubauer:** Sir, I only have one question that I forgot to ask previously. I believe
17 you mentioned that the El Faro had an ice strengthened hull. Is that officially a
18 designation the vessel obtained?

19 **WIT:** That I don't know. I don't know what the classification of that is. We were just
20 told and advised by the technical folks that she had operated in the Alaska service, we
21 all know that and that as such she was strengthened to the point where it would be
22 acceptable to operate her in the Alaska service again. And the El Yunque had not had
23 that kind of work done on her.

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1 **CAPT Neubauer:** Sir, do you remember who at the technical department gave you that
2 information?

3 **WIT:** It would have come through Phil Morrell who had looked after that ship when she
4 was in the Alaska service.

5 **CAPT Neubauer:** Yes, sir. Are there any final questions for Mr. Keller at this time?
6 Mr. Keller you are now released as a witness at this Marine Board of Investigation.
7 Thank you for your testimony and cooperation. If I later determine that this board needs
8 additional information from you I will contact you through your counsel. If you have any
9 questions about this investigation you may contact the Marine Board Recorder,
10 Lieutenant Commander Damian Yemma. At this time do any of the PII's have any
11 issues with the testimony that we just received?

12 **Ms. Davidson:** No, sir.

13 **Tote Inc:** No, sir.

14 **ABS:** No, sir.

15 **CAPT Neubauer:** The hearing will now recess and reconvene at 2:40.

16 *The hearing recessed at 1423, 26 May 2016*

17 *The hearing was called to order at 1440, 26 May 2016*

18 **CAPT Neubauer:** The hearing is now back in session. We will now hear testimony
19 from Mr. William Weinbecker, Tote Maritime Puerto Rico.

20 **LCDR Yemma:** Sir, could you please raise your right hand. A false statement given to
21 an agency of the United States is punishable by a fine and or imprisonment under 18
22 United State Code Section 1001, knowing this do you solemnly swear that the testimony

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1 you're about to give will be the truth, the whole truth and nothing but the truth, so help
2 you God?

3 **WIT:** Yes.

4 **LCDR Yemma:** Please be seated, thank you. Sir, could you please state your full
5 name and spell your last

6 **WIT:** William – William Francis Weinbecker, W-E-I-N-B-E-C-K-E-R.

7 **LCDR Yemma:** And counsel?

8 **Counsel:** Luke Reid, K&L Gates, LLP.

9 **LCDR Yemma:** Mr. Weinbecker can you please tell the board where you're currently
10 employed and what your position is?

11 **WIT:** I'm currently employed with Tote Services Incorporated. I'm a Port Engineer.

12 **LCDR Yemma:** And can you describe some of your general responsibilities in that
13 position please?

14 **WIT:** Shore support for vessel round to route between Blount Island, Jacksonville and
15 San Juan, Puerto Rico. So I meet needs for the vessel from ashore where they need
16 maintenance, parts, shore support. Anything like that I'm kind of their eyes on land.

17 **LCDR Yemma:** And can you also tell the board about your prior relevant work
18 experience please?

19 **WIT:** For the maritime I was in the Navy. I was a reactor operator, ran a steam plant on
20 an aircraft carrier. Six years I did that. After that I worked commercial nuclear, steam
21 plants, did that 5 years. Following that joined the Coast Guard, I was a marine
22 inspector. I was a Naval Architect with the Marine Safety Center doing plan review.
23 That's pertinent for what I do now.

1 **LCDR Yemma:** And what is your highest level of education completed?

2 **WIT:** Master's degree

3 **LCDR Yemma:** Thank you, sir. Doctor Stettler is going to have some questions for you
4 now.

5 **CAPT Neubauer:** Doctor Stettler before you begin. Mr. Weinbecker I just wanted to
6 clarify when you said you provided shore support for vessels. Did that include the EI
7 Faro?

8 **WIT:** It did not.

9 **CAPT Neubauer:** Can you clarify which vessels you were a support for?

10 **WIT:** Currently it's the Perla Del Caribe, prior to that it was the EI Yunque.

11 **CAPT Neubauer:** Thank you.

12 **Mr. Stettler:** Good afternoon Mr. Weinbecker.

13 **WIT:** Good afternoon.

14 **Mr. Stettler:** I'll be asking you a number of questions primarily regarding your activities
15 in responding to the casualty aboard the EI Faro on or about the 1st of October and the
16 few days subsequent to that. After that Lieutenant Commander Venturella will ask you
17 some additional questions regarding your role as a Port Engineer. We'll only have one
18 line of questioning. So when we are complete we'll turn it over to the board, NTSB and
19 PII's for any final questions that they may have. If you feel you would like a break at
20 any point please let us know. So I would like to start by referring to Exhibit 178 page
21 88. I'll give you a moment to get that out. This an email from Jim Wagstaff, Vice
22 President of Operations for Tote Maritime Puerto Rico to Mr. Ron Rodriguez, Terminal
23 Manager. Sent at 10:27 a.m. on October 1st. And you were not copied on this email,

1 but I wanted to read it just because some of the questions I have your name is
2 mentioned in the email and I have some relevant questions. Mr. Wagstaff writes,
3 thanks for the information on the El Faro load condition review with Bill. Even though
4 the calculations appear to be still within tolerance you must ensure the information
5 passed to the vessel is correct. We cannot have these types of mistakes. There are
6 lives at stake not to mention assets and cargo. Please continue to validate the
7 information and I will need to a more – see a corrective action plan to ensure this type of
8 mistake does not happen again and that our current communication is correct. Mr.
9 Wagstaff testified last week that the name Bill in the first sentence refers to you. Does
10 that sound correct?

11 **WIT:** I believe that is me.

12 **Mr. Stettler:** So I would like to ask you to describe this review that you conducted with
13 Mr. Rodriguez presumably beginning on the 1st of October, but if you could describe that
14 for us with as much detail as you can.

15 **WIT:** There was no review done by me on that day on the load calculations.

16 **Mr. Stettler:** Okay. Did you do a review previous to October 1st on the load
17 calculations?

18 **WIT:** I don't do any load calculation reviews at all. It's not part of my job. I don't have
19 access to any programs that do this. Mr. Wagstaff may have thought I did. Don't do it.

20 **Mr. Stettler:** Okay. Thank you. I think with that I would like to refer to Exhibits 58 and
21 59.

22 **CAPT Neubauer:** Doctor Stettler before we go to that exhibit I just have one follow up.
23 But Mr. Weinbecker did you talk to Mr. Rodriguez at all on the morning of October 1st?

1 **WIT:** I did.

2 **CAPT Neubauer:** Can you give the description of those discussions that you had?

3 **WIT:** Okay. This was the day I believe the El Faro was declared missing, or in trouble.

4 I was called by Jim Fisker-Andersen at the command center that we stood up. They

5 requested I come down there. Kind of talked what they were doing at the time. And I

6 said we should get ABS involved to run some stability and strength calculations. I went

7 to Ronald Rodriguez and got loading conditions, he printed them out I carried them,

8 hand carried them down to the command center and I forwarded them to the ABS rapid

9 response damage assessment team.

10 **CAPT Neubauer:** Did you have a conversation with Mr. Rodriguez during the hand off?

11 **WIT:** Just -----

12 **CAPT Neubauer:** When he handed you the load calculations did you talk to him at all?

13 **WIT:** He said here they are. Didn't really discuss it.

14 **CAPT Neubauer:** Was it your understanding that those load calculations were different
15 than when the El Faro departed port?

16 **WIT:** Had no idea. All I was getting was the load case, because I used to do this kind
17 of work in the Marine Safety Center with the SERT Team, Salvage Engineering

18 Response Team, I knew the first thing ABS would ask for would be the load conditions.

19 So that's what I got from Ron Rodriguez.

20 **CAPT Neubauer:** At any time after the incident until today are you aware of the fact
21 that the load conditions changed from the departure stability report?

22 **WIT:** Well during the first day ABS saw some inconsistency in the data and I got a

23 PDF.2 I think it was from Ronald Rodriguez and I forwarded that on. At the time I didn't

1 even know what was different. There were a lot of things happening. I just knew he
2 needed to correct the data.

3 **CAPT Neubauer:** About what time did ABS request the revised report?

4 **WIT:** I don't know. It was that first day.

5 **CAPT Neubauer:** Can you give an approximation, number of hours or minutes?

6 **WIT:** Maybe noonish. And that's just a rough guess.

7 **CAPT Neubauer:** Do you remember how long it was until you were able to provide the
8 corrected report back to ABS?

9 **WIT:** I don't remember exactly. An hour or two. I mean it's just a matter of a phone call
10 and I don't even know how he got the new numbers. Probably emailed.

11 **CAPT Neubauer:** Do you know exactly or have an idea of what the ABS corrections
12 were related to?

13 **WIT:** I think it was fuel tank loading.

14 **CAPT Neubauer:** Thank you. Doctor Stettler.

15 **Mr. Stettler:** Thank you Captain. I think I would like to, with that Mr. Weinbecker since
16 you introduced your interaction with the ABS RRDA I would like to ask you a little bit
17 about that sequence, those sequence of events. First of all ABS RRDA could you give
18 a little more discussion. You called them rapid response damage assessment. Could
19 you talk a little bit about what they do and how they assist? Assisted Tote on that day?

20 **WIT:** I can only speculate what they do. I kind of know. I haven't worked with them.
21 I'm sure they do the same kind of stuff that I used to do on a salvage team with the
22 Coast Guard. They take data, ships conditions, if they're in damaged condition they can
23 make a mathematical model and put the load into that model and see what kind of

1 stability condition they're in and see what kind of strength they have left for that
2 damage, gets them close to any limits, any stress limits.

3 **Mr. Stettler:** Are you designated or assigned in some way to an emergency response
4 team at Tote? Or what was your involvement and why was it that you were involved on
5 that day?

6 **WIT:** I'm not assigned to a team. Like I said before Jim Fisker-Andersen gave me a
7 call that morning, described what was going on. I said I was familiar with the area. I
8 spent some time down in the Bahamas with that area and he said oh that's great, I had
9 some geographical knowledge. With my background with salvage recovery, that kind of
10 stuff he said why don't you come on down. And I did.

11 **Mr. Stettler:** Could you go into a little more detail about the time line of that day when
12 you went down and you – did someone ask you to contact ABS RRDA or did you do
13 that on your own?

14 **WIT:** I did that on my own.

15 **Mr. Stettler:** Okay. Could you talk a little bit more please about the time line and what
16 transpired? What communications existed?

17 **WIT:** As I said I spoke with Jim Fisker-Andersen in the morning, approximately 0800.
18 Got off the phone with him went to get the load condition from Ronald Rodriguez.
19 That's probably a half hour, loading that handed it to me. Got my computer, all my stuff,
20 made it down to the Tote Maritime office at approximately 9:30. Upon arrival set up my
21 computer. I called, telephone called the rapid response damage assessment team. I
22 got a service, I think it was an answering service. And they called me back 5 minutes
23 later. I explained to them the situation of the ship. We had some preliminary

1 conditions, a list, maybe some water on board stuff like that. I relayed that to the team
2 and the first thing they asked for the loading conditions. I had those. I believe I
3 scanned them and sent them to that team, to ABS.

4 **Mr. Stettler:** And then what? What did they do?

5 **WIT:** I'm sure they put their – the loading into a mathematical model to see what kind of
6 stability the ship had left. It would come up with a righting arm curve. And we got the
7 information back sometime in the afternoon. Maybe 2, 3 O'clock I'm thinking. So within
8 that period they called, contacted me back and saw our inconsistency in the loading
9 data that I forwarded to them. I turned back to Ron Rodriguez, asked him about it, he
10 forwarded me a PDF with a new loading, those fuel tanks. And I re-forwarded that to
11 ABS. I believe that was before they came back with a final analysis of that day. So I
12 turned that analysis over to the team, John Lawrence, discussed it. The second day I
13 wanted to see how much water was actually in the hold in case we got into a recovery
14 phase for the ship to be able to get the water out. See if we need additional pumps. I
15 wanted to apply a wind heel onto the vessel to see if we could simulate a list on the ship
16 or the heel with that wind speed how much water would be in the holds. So I went back
17 to ABS and asked them to apply wind on to their model they came up with the day
18 before. Hours later, I don't know how long, they came up with numbers and it kind of
19 matched what this vessel has actually seen from the report the day before. So we were
20 pretty – had a good feeling of how much water was in that cargo hold.

21 **Mr. Stettler:** Based on that assessment what was the conclusion or the impression on
22 how much water may have been in that cargo hold?

23 **WIT:** The ABS analysis showed 10 to 20 percent flooded in the number 3 hold.

1 **Mr. Stettler:** With how much wind?

2 **WIT:** I'm not sure. I think it was 70, 70 knots.

3 **Mr. Stettler:** Did they run any other analysis with higher wind speeds, less water in the
4 cargo hold?

5 **WIT:** They did less water, they did no flooding, they did 10 to 20 percent and they did
6 flooded to the waterline.

7 **Mr. Stettler:** Do you happen to recall which of those conditions produced the worst
8 stability condition for the vessel?

9 **WIT:** I don't remember. If I could see the data I could tell you.

10 **Mr. Stettler:** Thank you. I would like to go back to your interaction with Mr. Rodriguez.
11 You mentioned that Mr. Rodriguez gave you a different loading printout from CargoMax.
12 Did you at any point take any time to compare the two printouts or conditions?

13 **WIT:** I didn't really compare the two. My whole goal was getting that information to
14 ABS as fast as I could.

15 **Mr. Stettler:** Okay. Did you have any subsequent discussions with Mr. Rodriguez or
16 Mr. Matthews perhaps on what happened to those load case printouts? Why the
17 difference occurred?

18 **WIT:** Not at all. I had no idea there was – why the difference was. I thought maybe it
19 was just an error, something like that. I don't know. I didn't delve into it.

20 **Mr. Stettler:** Thank you. Mr. Weinbecker you say that you have a degree in Naval
21 Architecture, correct?

22 **WIT:** Yes, sir.

23 **Mr. Stettler:** Could you describe, you know a Master's degree in Naval Architecture?

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1 **WIT:** Yes, sir.

2 **Mr. Stettler:** And a bachelor's degree as well in Naval Architecture?

3 **WIT:** Bachelor's in environmental science. Another Master's in engineering
4 management and environmental engineering.

5 **Mr. Stettler:** Thank you. Are you aware if there are any other degreed Naval
6 Architects working at Tote in an engineering function or management function?

7 **WIT:** I don't know.

8 **Mr. Stettler:** In your employment at Tote have you ever been asked to perform any
9 kind of review or participate in any kind of review of cargo loading and stability
10 assessment?

11 **WIT:** No.

12 **Mr. Stettler:** Either before or after the loss of the El Faro?

13 **WIT:** I don't do anything with cargo at all. Like I said I don't have access to their
14 loading program. I don't deal with it.

15 **Mr. Stettler:** After the loss of the El Faro did they ever ask you for your input or your
16 assistance in reviewing what occurred? Or what might have caused the loss?

17 **WIT:** Not as far as speculation. But when we got the analysis back from ABS damage
18 assessment team I explained what it meant, what the curves meant, what they were
19 showing. So in that capacity I was using my knowledge.

20 **Mr. Stettler:** I just have a few additional questions. Have you interacted much with Mr.
21 Rodriguez in terms of the loading of the vessel? Have you ever talked to him at all
22 about the loading of either the El Faro or the El Yunque?

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1 **WIT:** In terms of during the job I'm looking at getting the vessels out of port. I have to
2 call the tugs and the pilots, so I have to coordinate that. So occasionally I will ask how
3 they're doing. In their normal process they do a case load, they load the vessel, update
4 that to get the conditions and then they give it to the ship to review. So occasionally I'll
5 ask how it's going, any issues. Because my interest is getting the vessel out on time,
6 calling the pilots and the tugs on time. I have to give them a 2 hour notice.

7 **Mr. Stettler:** So you normally do not observe, look at or otherwise participate in the
8 loading process in terms of the loading, assessment, and stability assessment of the
9 vessel, is that correct?

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

11 **Mr. Stettler:** Thank you. You mentioned that you don't use CargoMax. Have you ever
12 used or looked at CargoMax since you've been at – since you've worked for Tote?

13 **WIT:** I've stood over Don Matthews shoulder and looked at the screen, looked at some
14 printout, but never – never used the program myself there.

15 **Mr. Stettler:** Okay. And just to confirm when Ron Rodriguez gave you either the initial
16 or the updated loading printout did you question him at all about the origins or the
17 content of the loading of the vessel?

18 **WIT:** I did not.

19 **Mr. Stettler:** Thank you. I think with that I'll pass off to Lieutenant Commander
20 Venturella for some additional questions.

21 **LCDR Venturella:** Good afternoon Mr. Weinbecker.

22 **WIT:** Good afternoon.

1 **LCDR Venturella:** During Doctor Stettler's line of questioning you repeatedly said that
2 you haven't done calculations or haven't looked at loading of the vessel. Could you
3 more specifically answer whether you've looked at aggregate weight changes versus
4 the 2 percent in the marine technical note 495 for either El Yunque or El Faro?

5 **WIT:** I have looked at that, yes.

6 **LCDR Venturella:** So you are asked on occasion to look at some stability calculations
7 for Tote, is that correct?

8 **WIT:** Wasn't stability it was weight changes. I did look at weight changes.

9 **LCDR Venturella:** Specifically were you asked to evaluate the potential aggregate
10 weight change associated with the conversion of El Faro for the West Coast trade?

11 **WIT:** Yes.

12 **LCDR Venturella:** What weight changes were factored in that analysis? Specifically
13 did you include weights added like winches and cables and weight subtracted like
14 transverse adaptor beams that would have to be removed?

15 **WIT:** Can't remember every weight change. This was going into the beginning of the El
16 Faro work. There's – something we had to look at. So I was asked to look at the weight
17 changes. There were transverse beams on deck which were being changed out. A set
18 of containers on deck, it was going to be RO-RO. I think the fructose tanks were going
19 to be taken out. So anything associated with that work, yes I was looking at the weight
20 changes.

21 **LCDR Venturella:** How did you come up with the comprehensive list of the changes
22 and how did you estimate the weights and centers of gravities?

1 **WIT:** My look at the weight changes wasn't that in depth. Just a cursory look, big
2 picture, I mean estimated beams, fructose tanks, things like that. The actual
3 calculations I forwarded that work to Herbert Engineering. They're the ones that did the
4 engineering on this.

5 **LCDR Venturella:** Was your work or any work from Herbert ever forwarded to the
6 American Bureau of Shipping or ABS for evaluation of the weight changes?

7 **WIT:** I did not forward anything to ABS. I don't know if Herbert did.

8 **LCDR Venturella:** How familiar are you personally with marine technical note 495 from
9 your time in the Coast Guard at the Marine Safety Center?

10 **WIT:** How, what's the scale?

11 **LCDR Venturella:** Have you personally evaluated weight changes as a member of the
12 Coast Guard?

13 **WIT:** Yes.

14 **LCDR Venturella:** Were you aware that the modification was already underway on the
15 El Faro and were you also aware at the same time that those weight changes weren't
16 evaluated yet?

17 **WIT:** What weight changes are you speaking of?

18 **LCDR Venturella:** Any involved in the modification for West Coast trade that we just
19 spoke of, the winches, the cables, go down the list. The removal of the fructose tanks.
20 The removal of the beams, those thing were all basically ongoing, right?

21 **WIT:** They were not. The ship was still in trade between Jacksonville and San Juan.
22 The deck beams were still on. So we had containers, fructose was still being

1 transported. Fructose tanks were still in. Winches were already – we were reinstalling
2 winches that were on board prior.

3 **LCDR Venturella:** Okay. So the winches were being reinstalled. Were there also
4 cables being installed?

5 **WIT:** Yes cables were being installed.

6 **LCDR Venturella:** Alright. Please go to Exhibit 54. Exhibit 54 is a conversion
7 progress email sent to you. And it looks like it from Mr. Mathias. And I'm going to read
8 off some of this. It says, we are nearing completion of the new reefer and ramp winch
9 cable installation phase. As of now I estimate that we are over 90 percent complete
10 with the new wire pulls. We ordered the remaining cable we need and it should be
11 delivered to Jacksonville. I'm sorry this date is September 13th, 2015 too. There was
12 probably more work after this. But going down to another paragraph. All four ramp
13 winches for the starboard side midship ramp have been hung on their corresponding
14 foundations and their motors are in the process of being wired up. Then also in the next
15 paragraph there's a hung 2 ramp winches on the port side for the anchorage main deck
16 midship ramp on the two existing foundations. The electricians are running power and
17 control cables. All total with, at the bottom of that paragraph, 6 winches are now
18 mounted. Then in the next paragraph. We fabricated the stand in 5 hold to mount the
19 new control cabinet on for the new mooring winch. The power supply cable has been
20 run. A new platform with hand rails was fabricated in front of the panel and is complete.
21 It mentions in the next paragraph. Deicing pipe is complete on the 2 ramp. Hangers
22 and expansion joints have been installed. Anyway you get the point. It just go on and

1 on, but the email there's a lot of small changes, I get it. But the point is you obviously
2 were aware all of this was going on.

3 **Tote Inc:** May I clarify, you said that the email was to Mr. Weinbecker and that's true.
4 But the email is also to Mr. Neeson and to Mr. Fisker-Andersen just for the record.

5 **LCDR Venturella:** Thank you. So what I want to talk to you is, you're aware as of
6 September 13th when this email came out that at least that amount of changes had
7 happened already and that it was still ongoing while underway on the El Faro. Can you
8 talk to from your experience with the Coast Guard's marine technical note 495 were you
9 aware or did you think that the Coast Guard would be okay with these changes going on
10 without an evaluation?

11 **WIT:** I think these winches mentioned in here were prior installed winches. We were
12 putting the ship back to a preexisting condition.

13 **LCDR Venturella:** Okay. So were the winches included in the light ship that was
14 calculated for the vessel at that time?

15 **WIT:** I don't know without having it in front of me.

16 **LCDR Venturella:** So the winches were not on board until you added them, right?

17 **WIT:** They were on in a previous service of the vessel.

18 **LCDR Venturella:** So would they have been in light ship?

19 **WIT:** If the inclining was done with them on board, yes.

20 **LCDR Venturella:** Alright. So what you want to go with is that you were unaware that
21 whether any of these changes were in light ship, is that your answer?

22 **WIT:** What's the question again?

23 **LCDR Venturella:** Did you know there was a change to light ship here?

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1 **WIT:** From these items?

2 **LCDR Venturella:** These items and any involved in this conversion to the West Coast
3 trade.

4 **WIT:** I don't know if the winches were. But I would say extra cabling that was not on
5 board during the last inclining would be a change.

6 **LCDR Venturella:** Did you know that the Coast Guard or ABS should evaluate that
7 before the modifications get underway?

8 **WIT:** I think that's why we were working with Herbert Engineering on all these changes.
9 They were submitting diagrams, drawings to ABS.

10 **LCDR Venturella:** Whose responsibility do you think it is to get that information to the
11 Coast Guard and ABS? Is it Tote's responsibility or is it Herbert's responsibility?

12 **WIT:** I think if you contract someone out to perform a job, they're doing it for you, but if
13 it doesn't get done I would say the ultimate responsibility is on whoever contracted them
14 out.

15 **LCDR Venturella:** Did you provide any input to Tote management that the review was
16 required and that the modifications shouldn't begin until they get reviewed?

17 **WIT:** Yes.

18 **LCDR Venturella:** What was the reaction you received?

19 **WIT:** They said – that's why I came up with the estimate and I added the transverse
20 beams, all that stuff that was going to come off in dry dock and prior to the Alaska
21 service would have all been calculated as an aggregate weight change. And that would
22 have been done to establish a new light ship. And that Herbert Engineering was taking
23 that on for us.

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1 **LCDR Venturella:** I just wanted to clarify. It sounded to me like you told that to Tote
2 management that the modifications shouldn't get underway until the weight changes are
3 analyzed. Is that correct?

4 **WIT:** A major weight change such as transverse beams, fructose tanks, things like that.
5 Wiring is, I mean if you did – if you brought a nut or a bolt on the ship and installed it I
6 mean there has to be a point where you are reasonable.

7 **Tote Inc:** I would object to any further questioning on this. Mr. Gruber clearly testified
8 that these changes that were being performed on the vessel prior to the accident
9 voyage were essentially meaningless with regard to the vessel's stability. So I would
10 request that we move on to some other subject.

11 **CAPT Neubauer:** I'm going to take a recess and reconvene at 3:25.

12 *The hearing recessed at 1516, 26 May 2016*

13 *The hearing was called to order at 1525, 26 May 2016*

14 **CAPT Neubauer:** The hearing is now back in session. Mr. Reid your recommendation
15 is noted. We are going to move on to the next line of questioning.

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

17 **CAPT Neubauer:** Lieutenant Commander Venturella

18 **LCDR Venturella:** Mr. Weinbecker as a Port Engineer for Tote what are your job
19 responsibilities and job description? And can you tell us some of your day to day
20 activities?

21 **WIT:** I'm a support for one vessel in the Port of Jacksonville, Blount Island. It runs a
22 weekly service to San Juan, Puerto Rico and back. Any needs the vessel has ashore
23 such as maintenance, parts, supplies, certificates coming due, inspections coming due

1 I'll track that. And I make the crew, the Master, the Chief Mate, notify them, make
2 arrangements for inspections and surveys. Any parts that are needed I'll try to find the
3 parts, work with our supply department in getting those parts to the vessel.
4 Coordinating vendors to come on board to do the repairs. So that's one aspect. What
5 are the other two parts of the question?

6 **LCDR Venturella:** Actually I think that covers it. Because you've got your job
7 responsibilities and day to day. Can you speak to how the Port Engineer construct
8 works at Tote? How many Port Engineers there are versus the number of vessels?

9 **WIT:** Well from Tote Jacksonville where we are there's two vessels and two Port
10 Engineers. One per vessel. Now you're talking overall Tote or just what I'm involved in
11 here?

12 **LCDR Venturella:** No that's acceptable, just Tote in Jacksonville, thank you. And can
13 you speak to how it would work if one of the Port Engineers goes on leave or if you
14 need break? Do you substitute for each other? Like do ever assist with El Faro?

15 **WIT:** We do back up for the other Port Engineer, yes.

16 **LCDR Venturella:** In your role as Port Engineer is it your job to contact ABS to
17 schedule surveys?

18 **WIT:** Yes I'll do that.

19 **LCDR Venturella:** Have you ever scheduled a survey for the El Faro?

20 **WIT:** I don't believe so. Not to my recollection.

21 **LCDR Venturella:** The last time that you scheduled a survey for El Yunque or another
22 vessel with Tote how much notice did you give ABS?

23 **WIT:** You said the last time?

1 **LCDR Venturella:** Yes during the last survey you scheduled, can you try to tell us
2 when that was and how much notice you gave the ABS surveyor?

3 **WIT:** The last survey on the El Yunque was approximately June and it was a, we
4 usually do the surveys down in San Juan. Probably a month out. Down in San Juan
5 they only have one surveyor so we want to make sure he there because he covers the
6 islands. So we want to give him plenty of notice to make sure he's there because we
7 have to get down there too.

8 **LCDR Venturella:** Is that typical for your scheduling notice a month out?

9 **WIT:** For a survey, an annual survey, yes. Like I said it's logistics coordinating all the
10 players down in San Juan.

11 **LCDR Venturella:** When we had spoken to the ABS surveyor in San Juan, Mr.
12 Hohenshelt, are you familiar with him?

13 **WIT:** Yes.

14 **LCDR Venturella:** During his testimony he was actually telling us that he gets about a
15 day or two of notice typical and that's what we heard as well from the Coast Guard in
16 San Juan. Is that more – is that not true?

17 **WIT:** I don't see – that doesn't seem realistic. As I said we have to get down to San
18 Juan with the ship's schedule and surveyor's schedule, if I were to show up and he
19 wasn't there that wouldn't be good. Now there's occasions where there's a damage
20 assessment, damage survey, the vessel's coming in, we know there's an issue we call
21 local ABS a day or two out when we find out there is an issue.

22 **LCDR Venturella:** In your role as Port Engineer do you evaluate Masters and Chief
23 Engineers?

1 **WIT:** Yes.

2 **LCDR Venturella:** Do you feel qualified to do that and what in your background makes
3 you feel qualified?

4 **WIT:** I haven't done an evaluation yet myself. A year with the company, the El Yunque
5 was my vessel. The prior Port Engineer wrote that evaluation. But I did see it, he
6 passed it to me, we talked about it. I agreed with it. And the new vessel Perla Del
7 Caribe hasn't been here a year yet. So an evaluation is not done. But I do feel I am
8 qualified to evaluate these personnel. I'm with them quite a bit.

9 **LCDR Venturella:** If the Master needed to discuss operational concerns would they
10 call you or someone else?

11 **WIT:** Operation of what?

12 **LCDR Venturella:** Voyage planning or concerns with cargo or anything operational.

13 **WIT:** Voyage he would go through the routing service. Cargo he would go through
14 Tote Maritime Puerto Rico.

15 **LCDR Venturella:** Do you recall if El Faro or El Yunque has procedures for blackouts
16 to restore a steam boiler propulsion using the emergency generator?

17 **WIT:** I've heard them discussed, but I haven't seen the written procedure.

18 **LCDR Venturella:** In your role as Port Engineer for El Yunque or if you've have any
19 experience with El Faro that you could speak to, did you typically have a lot of young
20 engineers or less experienced engineers including any rotary engineers on board?

21 **WIT:** What was that last engineer you spoke of? Rotary?

22 **LCDR Venturella:** Yes, that's correct.

1 **WIT:** Well there are young engineers right out of school. They come on as thirds.

2 They typically are young. So yes. And I don't know what a rotary engineer is.

3 **LCDR Venturella:** Would the new licensed engineers have any training on back
4 feeding from the emergency bus or a procedure to restore propulsion in the case of
5 being on an emergency generator?

6 **WIT:** You mean would they innately have this experience? Or can you rephrase the
7 question?

8 **LCDR Venturella:** Yes. Would you agree that restoring propulsion from the
9 emergency generator is a complex process that it is something that might be vessel
10 specific?

11 **WIT:** It is definitely vessel specific. I don't know about the complexity of it.

12 **LCDR Venturella:** Are you aware of any vessel specific training provided to the
13 licensed engineers on that process?

14 **WIT:** No.

15 **LCDR Venturella:** Did Tote or ABS ever verify the functionality of the blackout
16 procedures to restore propulsion from the emergency generator?

17 **WIT:** I never saw them verify that during a survey in which I was present.

18 **LCDR Venturella:** Were you aware of any outstanding Class recommendations on El
19 Faro or El Yunque for reduced sagging still water bending moment that was to be
20 applied to a loading manual?

21 **WIT:** Yes.

22 **LCDR Venturella:** Did El Faro or El Yunque have a loading manual? And also did they
23 have a loading instrument in CargoMax?

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1 **WIT:** They did have CargoMax which is a loading instrument. But they did not have
2 loading manual per se.

3 **LCDR Venturella:** Are you aware of what was done between ABS and Tote on the
4 Class recommendations related to the reduced sagging still water bending moment for
5 El Faro and El Yunque?

6 **WIT:** What do you mean what was done? I know there was an issue. There was an
7 issue.

8 **LCDR Venturella:** Were the recommendations cleared without action or was any
9 action taken?

10 **WIT:** I believe it was cleared without action. But action was going to be taken on the
11 next issuance of our CargoMax after the work was done to the, in specific with the El
12 Faro.

13 **LCDR Venturella:** Thank you. Were you the Port Engineer for El Yunque during the
14 first week of February 2016?

15 **WIT:** I'm not sure of the date. There's a transition where Mr. Neeson took over the El
16 Yunque. I believe he was Port Engineer then and I was Port Engineer on one of the
17 new vessels at that time.

18 **LCDR Venturella:** Were you aware of the opening of the hold 3 exhaust ventilation
19 trunk on the starboard side of El Yunque and the findings from that day?

20 **WIT:** Yes I was there.

21 **LCDR Venturella:** Please turn your attention to Exhibit 201. Exhibit 201 includes
22 pictures of the hold 3 exhaust ventilation trunk on the starboard side of El Yunque.
23 These pictures were taken during attendance to El Yunque by ABS and the U.S. Coast

1 Guard during the first week of February and like you said you were there. The internals
2 of this ventilation trunk was found with holes and wastage through the internal baffle
3 plate and there was a large opening around a side longitudinal near the top of the
4 ventilation opening through the hull. You can see this on page 1 is the baffle plate and
5 you can see a finger sticking through the baffle plate where the area is wasted and
6 holed. On page 2 is the opening around the side longitudinal. Do you recall seeing
7 this?

8 **WIT:** Yes.

9 **LCDR Venturella:** Based on your review after those findings what was the purpose of
10 the inner enclosure that we had to access to get to the hull and the baffle plate?

11 **WIT:** You said my review. What do you mean by that?

12 **LCDR Venturella:** Well as one of the Port Engineer and you were there I'm assuming
13 that you came to some conclusion about what you saw here. Can you tell me what your
14 conclusion was?

15 **WIT:** As I said I think, I'm pretty sure Mr. Neeson was the primary Port Engineer at this
16 time. But my conclusion was there was some corrosion and wastage that needed to be
17 attended to.

18 **LCDR Venturella:** What about the opening around the side longitudinal? Do you
19 remember where that opening led to?

20 **ABS:** If I may just as a point of clarification there's been prior testimony with regard to
21 the photograph figure 3 that's being referred to by Commander Venturella. That's
22 Exhibit 201 page 2. And during the testimony of Mr. Gruber he made it clear that there

1 wasn't any need for a repair. And that was located 78 inches above the deck and in
2 compliance with the load line convention.

3 **CAPT Neubauer:** I do remember Mr. Gruber testifying that. But I'm curious Mr.
4 Weinbecker was that area repaired by Tote? Or was there repair added to that side –
5 area?

6 **WIT:** I do not know. As I said my focus at this time was on a Marlin Class, new vessel.

7 **CAPT Neubauer:** I recommend we raise this line of questioning with Mr. Neeson if you
8 want to pursue it further.

9 **LCDR Venturella:** One other issue it was mentioned during the previous testimony that
10 the El Faro might be ice strengthened. Are you aware if that's the case?

11 **WIT:** I am not aware.

12 **LCDR Venturella:** Do you recall which of the two vessels, El Faro or El Yunque had
13 the thicker bottom plate?

14 **WIT:** I believe the El Faro had. I remember one of them had an extension and it had
15 plates added for additional strength on the bottom of the hull and on deck. So one of
16 them did have extra plating.

17 **CAPT Neubauer:** For the record I've received notification that Tote is currently
18 researching that subject and we'll get an answer later.

19 **Tote Inc:** Yes, sir.

20 **LCDR Venturella:** No further questions, sir.

21 **CAPT Neubauer:** Mr. Roth-Roffy.

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1 **Mr. Roth-Roffy:** Tom Roth-Roffy, NTSB. Just one quick question, sir. Regarding your
2 experience prior to becoming a Tote Port Engineer, had you sailed aboard commercial
3 steam vessels?

4 **WIT:** No.

5 **Mr. Roth-Roffy:** And did you feel yourself able to provide technical advice to the Chief
6 Engineers and the other engineers aboard the vessel regarding engineering
7 operations?

8 **WIT:** I was an engineer on probably the most complex nuclear powered vessel in the
9 world. Tons and tons of training through the Navy. So my technical ability was at
10 power with anybody. As far as the commercial end I'm learning that as I go.

11 **Mr. Roth-Roffy:** That's all I have. Thanks very much.

12 **CAPT Neubauer:** Mr. Weinbecker I believe when you were asked about the voyage
13 planning for the vessels you oversee or the vessel you oversee that you said they would
14 use the routing service. Can you elaborate on that?

15 **WIT:** I'm not really involved with the routing service. That's the Master and if he feels
16 he needs it he will use it. I know occasionally he'll say they're not taking the outside
17 route through the Bahamas, they're coming in the New Providence Channel making that
18 cut in. And I ask why. They say wave height, winds, so forth. They make those
19 decisions. So I don't really have a say in those decisions. But we do talk back and forth
20 about those decisions.

21 **CAPT Neubauer:** Would you say it's more of them informing you of their route plan?

22 **WIT:** Yes, sir.

23 **CAPT Neubauer:** At this time I would like to go to the parties in interest. Tote?

1 **Tote Inc:** No questions Captain.

2 **CAPT Neubauer:** ABS?

3 **ABS:** Yes. Good afternoon Mr. Weinbecker. My name is Jerry White I represent ABS.
4 Just a follow up on a couple of topics you discussed. With regard the RRDA, the rapid
5 response damage assessment. I understand you were part of the team that Tote
6 assembled to coordinate with ABS on that topic. Just tell me who else was part of that
7 team and who had primary communications with ABS on the RRDA.

8 **WIT:** Are you referring to the Tote team? The Tote members on the emergency
9 response team?

10 **ABS:** Yes.

11 **WIT:** That was John Lawrence. You want names or titles, positions?

12 **ABS:** Just names will be enough.

13 **WIT:** Okay. From memory it was John Lawrence, Patti Finsterbusch, Jim Fisker-
14 Andersen, Phil Greene, Mitch Walker, several others in and out.

15 **ABS:** And you know based on your expertise as a Naval Architect that's why you're
16 included on that team, correct?

17 **WIT:** Not – that is not correct.

18 **ABS:** Okay. Could you explain that?

19 **WIT:** I have some familiarity that's why I called RRDA. I think more of why I was there
20 when I was speaking to Jim Fisker-Andersen was my familiarity with the area. That's
21 what initially brought me into the fold of the emergency response team.

22 **ABS:** Understood. Were you the primary contact with ABS or was there someone else
23 within the group that was the primary contact?

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1 **WIT:** I was the primary contact with ABS.

2 **ABS:** As far as the surveys for the El Faro did you actually schedule the surveys for the
3 El Faro? Was that part of your job responsibilities?

4 **WIT:** El Faro surveys were scheduled by the Port Engineer and that was Mr. Neeson.
5 Sister ship El Yunque I would schedule the surveys for that vessel.

6 **ABS:** Okay. So Mr. Neeson did the scheduling for the El Faro?

7 **WIT:** Correct.

8 **ABS:** And based on your experiences of Port Engineer is it your understanding that
9 any damage or repairs affecting Class items need to be reported to ABS?

10 **WIT:** Most definitely yes.

11 **ABS:** Thank you. Nothing further.

12 **CAPT Neubauer:** Mrs. Davidson?

13 **Ms. Davidson:** No questions.

14 **CAPT Neubauer:** Are there any final questions for Mr. Weinbecker? Commander
15 Denning.

16 **CDR Denning:** Just one final question, sir. You mentioned all the folks from the Tote
17 side that were a part of the RRDA. Who were you working with on the ABS side?

18 **WIT:** His name is John Harrah something. It was an individual, he was the team leader
19 on the team.

20 **CDR Denning:** Thank you.

21 **CAPT Neubauer:** Mr. Weinbecker did you have any involvement or communications
22 with TNT the salvor for El Faro?

23 **WIT:** Yes, sir.

1 **CAPT Neubauer:** Can you explain that process and whether the response is
2 satisfactory?

3 **WIT:** I can explain how we dealt with the. But whether the response was satisfactory I
4 don't know if I can answer that. But as far as how we dealt with them they had a Naval
5 Architect come down. He was working right beside me. He had brought his computer,
6 his program. And the information I sent into ABS he also had that information and he
7 was running it on a program that he had. In addition I sent that same information, that
8 loading condition to the Marine Safety Center and they were running with that too. So
9 TNT was really doing a technical side on site where we had the Marine Safety Center
10 and ABS remotely working on the same issue.

11 **CAPT Neubauer:** Did their engineer deploy the same day to your location on October
12 1st?

13 **WIT:** I can't recollect when he got there. It may have been on the second day.

14 **CAPT Neubauer:** But in your opinion was it timely?

15 **WIT:** Oh yes.

16 **CAPT Neubauer:** Are there any final questions for Mr. Weinbecker at this time.

17 **Mr. Stettler:** Captain, I just have a follow up to that and if we could get the name of
18 Naval Architect, I would like to do that. We could either do that now or post testimony.

19 **CAPT Neubauer:** Do you remember the name, sir?

20 **WIT:** From ABS?

21 **CAPT Neubauer:** From TNT.

22 **WIT:** Oh. I would if you didn't just ask me.

23 **Mr. Stettler:** Is there email correspondence that you had with TNT?

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1 **WIT:** I have his name. I have his card.

2 **Mr. Stettler:** No I meant other than the side by side working with him. Is there email
3 correspondence similar to the correspondence with ABS RRDA? Or was it all in
4 person.

5 **WIT:** With TNT specifically?

6 **Mr. Stettler:** Yes.

7 **WIT:** I believe it was all in person. But I believe he's copied on several of those email
8 strings going between the three entities.

9 **Mr. Stettler:** Okay.

10 **WIT:** His first name is Matt.

11 **Mr. Stettler:** Yes I think I've got it.

12 **CAPT Neubauer:** Thank you. Are there any final questions? Mr. Weinbecker you are
13 now released as a witness at this Marine Board of Investigation. Thank you for your
14 testimony and cooperation. If I later determine that this board needs additional
15 information from you I will contact you through your counsel. If you have any questions
16 about this investigation you may contact the Marine Board Recorder, Lieutenant
17 Commander Damian Yemma. Do any of the PII's have any issues with the testimony
18 that we just received?

19 **Ms. Davidson:** No, sir.

20 **ABS:** No, sir.

21 **CAPT Neubauer:** I have one change to the schedule for tomorrow morning. We will
22 start with Lisk at 9 a.m. followed by Captain Hawkins from Coast Guard Headquarters.
23 The hearing will now adjourn and reconvene at 9 a.m. tomorrow morning.

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The hearing recessed at 1736, 25 May 2016.

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