UNITED STATES OF AMERICA	
NATIONAL TRANSPORTATION SAFETY BOAF	۶D
<pre>* * * * * * * * * * * * * * * * * * *</pre>	CA21FM011
Via telephone	
Saturday, December 26, 2020	
FREE STATE REPORTING, INC. Court Reporting Transcription D.C. Area 301-261-1902 Balt. & Annap. 410-974-0947	

## APPEARANCES:

MICHAEL KARR, Senior Marine Accident Investigator National Transportation Safety Board

LT S. Coast Guard Senior Investigating Officer
CDR CDR Chief of Prevention U.S. Coast Guard
LCDR , Chief of Inspections U.S. Coast Guard
LT U.S. Coast Guard
LTJG U.S. Coast Guard
LTJG U.S. Coast Guard

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	4
1	INTERVIEW
2	(3:30 p.m.)
3	LT Today is December 26th. It's approximately
4	15:30. We're going to be conducting an interview with Mr. Rivera,
5	the owner and manager of the (indiscernible). I'm sorry. It's
6	been a long day for the purpose of the marine casualty that
7	happened onboard the Proassist III. Sir, if you don't mind to be
8	recorded, can you please tell us your name and that you accept the
9	recording?
10	MR. RIVERA: Yeah. My name is Pedro Felix Rivera
11	(indiscernible) and I don't have any problem with you recording
12	this interview.
13	LT So sir, Mr. Rivera, just for your awareness we
14	have Mr I know it's a lot of people here, but just so
15	you know who (indiscernible). He is a marine inspector, so he's
16	doing the role of (indiscernible) today. We got Lieutenant
17	Commander . He is the chief of inspections.
18	We got Lieutenant <b>et al.</b> She's an investigator. We got
19	Commander . He's the prevention department head. He's the
20	(indiscernible). We got Lieutenant JG
21	subject matter expert in tug boats.
22	MR. RIVERA: Okay.
23	LT And you've got me, Lieutenant
24	I'm the chief of investigation team, and I'm the lead investigator
25	on the line. I'm drawing a blank (indiscernible). We got
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Mr. Mike Karr on the line from the NTSB, and he will be assisting 1 2 in asking questions as needed. So without further ado, we would 3 like to ask you a couple of questions regarding the history of the 4 vessel. 5 MR. RIVERA: Okay. 6 INTERVIEW OF PEDRO RIVERA 7 BY LT 8 Can you tell us anything about the history of the vessel? Ο. 9 Α. Can I just tell you that at 4:00 I was supposed to have a 10 command center conference call? 11 UNIDENTIFIED SPEAKER: Yeah. We have to be at that phone 12 call too. Okay. Perfect (Indiscernible). 13 MR. RIVERA: 14 So just (indiscernible) half an UNIDENTIFIED SPEAKER: Yeah. 15 hour --16 We can do it in half an hour? LT17 UNIDENTIFIED SPEAKER: So, we'll try to wrap it up and if 18 we're not done by then, we'll take a break and then we continue on 19 for that phone call. 20 MR. RIVERA: Okay. Very good. So, you asked me about the 21 history of the tugboat? 22 BY LT 23 Yeah. History of the tugboat (indiscernible). Ο. 24 The tug-tow *Proassist III* is an ex-Mississippi River tug. Α. My 25 company before was called Puerto Rico Operations, and Puerto Rico FREE STATE REPORTING, INC. Court Reporting Transcription D.C. Area 301-261-1902 Balt. & Annap. 410-974-0947

purchased that tug from an individual named Nivero Luciana in 1 2 I don't recall the date, but it was in 1994 and he brought 1994. it on his own bottom under his own powers from Luciana to Puerto 3 4 Rico at that time. And we have operated first in San Juan harbor with harbor services, and in 1995 we transferred our operations 5 6 from San Juan harbor to the south coast of Puerto Rico. And since 7 January of '95 we've been operating in the south coast of Puerto 8 Rico, mainly Guayama, (indiscernible) and Yabucoa with that 9 vessel.

10 The history of it -- the tugboat, during our ownership, we 11 lowered the tonnage of it to less than 150, and we were 12 grandfathered on the length because it was built before the last 13 load line convention because it didn't have a load line. So in 14 order to do that we lowered the tonnage. We did a conciliatory 15 survey with the Coast Guard and everything, but we've been 16 operating all over the ports with it. The operation in the 17 harbors that I just mentioned (indiscernible) and we have to move 18 the boats between ports occasionally (indiscernible).

19 UNIDENTIFIED SPEAKER: Are those the two that you operate on?20 Do you operate anything other than those two?

21 MR. RIVERA: You mean two ports?

22 UNIDENTIFIED SPEAKER: Yeah.

23 MR. RIVERA: We do all the barges that come to Jobos Bay, 24 (indiscernible) terminal in (indiscernible), and we assist all the 25 LNG tankers since they've started coming to Puerto Rico in 2000,

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	7
1	but we don't use the tug to do that. It's an ASD (indiscernible)
2	for the Alejandro.
3	UNIDENTIFIED SPEAKER: All right.
4	MR. RIVERA: And we also assist all the barges that go into
5	(indiscernible) with diesel. We have had that service for the
6	last 10 or 20 years.
7	UNIDENTIFIED SPEAKER: So did a tugboat go through
8	(indiscernible)?
9	MR. RIVERA: I would have to check, but it has you know,
10	it's gone everywhere it's been needed, the Pedrito, all the tugs
11	go there.
12	UNIDENTIFIED SPEAKER: All right. Any modifications made to
13	the vessel under your ownership?
14	MR. RIVERA: No.
15	UNIDENTIFIED SPEAKER: No?
16	MR. RIVERA: Only the wheelhouse was refurbished. And we did
17	the modification of putting (indiscernible) frames and tonnage
18	openings to lower the tonnage.
19	UNIDENTIFIED SPEAKER: All right.
20	MR. RIVERA: Other than that, the wheelhouse, we replaced all
21	the windows. We've replaced all the electronics. We did all the
22	interior new. The last three years, you know, refurbished all the
23	interior. Overhaul of the main engines and the generators, which
24	are routine things.
25	UNIDENTIFIED SPEAKER: Yeah.
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MR. RIVERA: But no structural changes.

UNIDENTIFIED SPEAKER: All right. Thank you.

3

BY LT

4 From a management perspective, could you walk us through Q. 5 something similar to what a timeline would be of the incident? 6 When you got called? What information was passed to you? Just so 7 we can have an understanding from your side of the incident. Somewhere between 5:30 and 6:00 on Thursday, I got a 8 Α. Yeah. 9 call from the captain telling me that the tug is running low on 10 the stern, and he also seemed to think that there (indiscernible) 11 any major problems, but he thought it was advisable to tell me and that we should arrange to have extra pumps in the pier when he 12 13 arrived to make the procedure of de-watering whatever water came 14 About five minutes later -- but I didn't keep a log of in faster. 15 the time --

16 O. No. Of course.

17 -- he called me up again and he told me that he was not going Α. 18 to make it to the harbor, and at that time I called the Coast 19 Guard and I notified that we were going to need help immediately 20 to try to remove the people from the boat, from the tug. And the 21 person that answered at the Coast Guard said they were going to 22 get (indiscernible) immediately, and then he called me back and 23 said there was nobody to man the vessel that (indiscernible) but 24 that the Coast Guard had the (indiscernible) I think it was 180, 25 he mentioned (indiscernible) any lower.

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1	At the same time while these calls were going, I was talking
2	to one of my people and they were coordinating with local guys
3	that we have in Yabucoa because we do all the (indiscernible) of
4	the ships, and they know a lot of local people. And they were
5	going to try to locate some fishermen to go out and get them. And
6	they confirmed that they got some boats to go out and get the
7	crew, and I headed to the dock at (indiscernible) in Yabucoa, and
8	I think I made it to the dock from (indiscernible) over there
9	almost like three or four minutes before they started to come in
10	on the little boat through the harbor, and they went directly to
11	the tugboat dock. And at that time, probably, I don't know, like
12	10 vehicles from the police and local authorities came into that
13	same pier, but I left and I went and let the people in
14	(indiscernible) terminal that the boats (indiscernible). But that
15	was the sequence.

16 Q. Okay.

17 Simultaneously to that, I forgot to mention that our Α. dispatch, he took (indiscernible), which is a tugboat of my 18 19 company as well, from Guayama to head to Yabucoa to the location 20 in case nobody else showed up and I needed my own help to get the people off. And when they were coming through the area they 21 22 (indiscernible) to slow down and get a good close look to see they could locate the tug, and they called me and said we located it. 23 We saw a line floating, and we kind of went to the line and all of 24 25 a sudden we saw the antenna of the boat (indiscernible) latitude

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1 and longitude. So I got the latitude and longitude and they 2 passed it to the Coast Guard immediately. 3 Ο. Okay. 4 And that's about (indiscernible) then they went to Yabucoa Α. 5 and (indiscernible) stayed there. 6 How would you describe the proficiency of the crew onboard 0. 7 the vessel? 8 In my opinion, they are all really good seamen. Α. They 9 notified what was going on. They remained on the vessel until 10 they got saved and you know, thank God, nobody got hurt. The 11 engineer has been with me for many, many years, and the captain 12 went to Texas A & M. My son went to Texas A & M too but not for 13 marine transportation, but administration. I've known him since 14 he was in school and he's a very responsible and knowledgeable 15 captain, and he's always been abreast of all his duties. 16 I think they did a great job because for me, the safety of 17 the crew is the utmost important thing, and they all didn't lose 18 their focus and they did what they had to do in the circumstances. 19 And I told them that the main thing is that you guys are safe and 20 (indiscernible) that's the most important thing. Everything else 21 to me has no value for life, you know? 22 UNIDENTIFIED SPEAKER: You mentioned that you know them and 23 you feel comfortable with them. How does the hiring process work? 24 Do you have like an interview process? Do you have somebody to 25 take care of hiring people? Or like are you in charge of hiring FREE STATE REPORTING, INC. Court Reporting Transcription

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1 your captains, engineers (indiscernible).

2 MR. RIVERA: So far, I have done most of the hiring since I 3 started my company. In Puerto Rico, we have a situation where we 4 don't have an abundance of seamen (indiscernible). I used to work 5 for Crowley. I worked for Crowley for 14 years, '76 to '90, and a 6 lot of the good people, you know, they died and they have passed 7 their knowledge to people.

8 So that's the biggest problem we have in this island is not a 9 lot of seamen. But what we do is we get them through the ranks 10 from within if we can. And Luis Hernandez was the husband of a 11 sister of mine, so he's family, and ever since he came from the 12 army he's worked for me. So giving him a job in all the different 13 businesses that I have had -- the other thing that I do is I try 14 to hire local employees from the community that we work. Jose is 15 from Guayama.

16 A number of years ago, (indiscernible) years ago, a guy from 17 the area, from the local community (indiscernible) came to work 18 for me, and (indiscernible) like, we needed another guy, so do you 19 got a guy from the community that wants to work? Yes. So he 20 comes, we get him through the process of getting his seamen's 21 (indiscernible), and we put him to work on the shore. And if they 22 show good abilities and they're responsible and everything, then 23 he moves from the shore to the tugboats as a (indiscernible). Javier, like I said, he was a friend of my son and he asked 24 25 for a job, and he's got the credentials, the license, and he's

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1 shown to me that he's a very responsible and mature, and 2 straightforward kid. And I always say that my business is my 3 mission in life, is to create employment, so that's why I'm in 4 business. Not to become rich. Just to provide employment and 5 (indiscernible) but it's to provide employment, and that's how I 6 do it. It's word of mouth.

A lot of people know somebody that is looking for a job, and I say send me their credentials. I look at them and we review that they meet what I need. For example, they have to have a master of towing and tonnage. But it's an in-house process and it's a rather informal process, not a (indiscernible) --

UNIDENTIFIED SPEAKER: Yeah. I mean, sometimes that's the most effective way to do it, especially because (indiscernible) those employees don't want to break that trust, so they're going to refer people to you that they know are not going to make them look bad.

17 MR. RIVERA: Yes.

18 UNIDENTIFIED SPEAKER: Yeah, I'm just asking just to provide 19 some information (indiscernible).

20 MR. RIVERA: Okay.

21 BY LT

Q. Do you have any company policies in place as to reporting marine casualties, reporting the incident, how to follow through or anything like that?

25 A. Yes.

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1 Q. You do?

A. Yes. We (indiscernible) through the ropes, you know -- that
we have to -- if there's a serious emergency, we have to report it
within 24 hours. We have to do the 2692 within five days.

5 Q. Yeah.

6 And nowadays, the tugboat industry has gotten more and more Α. 7 regulated with this incoming of sub-chapter M, but we've walked 8 through that process from day one together. We have consulted our 9 (indiscernible) from Luciana, New Orleans. We have a company 10 called Maritime Compliance International, and they deal with a lot 11 of guidance on the drills and check our pumps all the time, you 12 know, in preparation for sub-chapter M. We have done five COIs, 13 the people from inspections, and naturally we have one river tug 14 in Cartagena, Colombia called the Pedrito, and it's an ex-15 Mississippi River tug. So we started our program to get those 16 tugs up to snuff in regulations. So the *Pedrito* is there and it's 17 coming back, I think, in early January, and the III was the next 18 one going there, and then (indiscernible).

One thing that we as a company have been doing -- and I know this is not what you asked me --

LT : No. That's okay.

22 MR. RIVERA: In terms of reporting, yes, we know we have to 23 report all the (indiscernible).

24 BY LT

21

25

Q. I wasn't referring so much as to reporting it to the Coast

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Guard because you do follow that. I'm more into company policy for your crew, your captain, and company policies for that -- not Coast Guard regulations. Like company policies. Like an example of a company policy would be if there's an incident, everybody is going to get drug and alcohol tested. Not just the one that got involved, but everybody. That could be a company policy there. A. We have a lot of rules.

8 Q. Okay.

But my company is a local company. I formed it from day one, 9 Α. 10 and a lot of people have different beliefs in it. I believe that 11 you're a slave of what you write. I don't write a lot of memos 12 and a lot of company policies. I don't believe in them, you know? 13 I think everybody knows the rules. We are a completely, fully, 14 totally, more than I would love regulated industry, and it's 15 getting more and more regulated by the day and more complicated, 16 and more expensive to operate. But (indiscernible) we get the job 17 done. We follow rules. We notify the insurance.

Like he called me, and I called the Coast Guard. 18 He didn't 19 have to call the Coast Guard because I do. But we're not a 20 policy-writing company that has a whole bunch of (indiscernible). 21 We have a TVR. Everything that we have to have, we have, and 22 during the last, I don't know, five, ten years, I have kind of 23 delegated a lot of the compliance issues to my son Pedro Rivera 24 Jr., who is the maritime administrator of the company. Young kids 25 (indiscernible) they're into a lot of the rule-making things and

1	writing, but policy, I don't like to write too much. A lot of
2	memos and
3	Q. The company does have a safety management system, right?
4	A. Yes.
5	Q. (Indiscernible) that you have some policies in place
6	(indiscernible).
7	A. We decided to go Coast Guard option, so we have a TVR, towing
8	vessel record
9	Q. Yes.
10	A and we were implementing a towing safety management, but I
11	would defer that question for the present because I want to
12	investigate what is if there's one thing that we were doing and
13	we stopped doing it, and then we did another thing.
14	Q. Okay. And that's fine. The purpose of meeting with you
15	today, sir, is not only to ask you a couple of questions that we
16	have. There are just a lot of particulars that we all can't
17	figure out, including yourself, but it was also so you could put a
18	face to the name to everybody that you're talking to.
19	A. Yeah.
20	Q. We're going to be working for a significant amount of time
21	while we investigate this (indiscernible) and we also wanted to
22	open it up so you can ask us questions too as per the process for
23	any questions you have. Mr. Karr is on; he might have a couple of
24	questions too. I don't have any more questions right now for you,
25	sir.
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	16
1	Mr. Karr, do you have any questions for Mr. Rivera?
2	MR. KARR: I do.
3	BY MR. KARR:
4	Q. Let's see, Mr. Rivera, does the vessel have any stability
5	information or a stability letter?
6	A. I think the answer to that is no.
7	Q. All right.
8	A. That is an ex-Mississippi River tug and I don't remember or
9	recall having seen a stability letter, but I can tell you that the
10	tugboat has been operating since '94 in the area, came on his own
11	bottom from Louisiana, and stability has never been an issue.
12	It's one of the most good-handling boats that we have had. I had
13	a captain who was a captain on it first and he was probably the
14	best boat handler that I have ever met, and he was always very
15	comfortable with the tug. Very safe, very stable boat.
16	Q. And is the bottom it came from the Mississippi. Is it a
17	V-hull or a flat-bottom hull?
18	A. Flat-bottom hull.
19	UNIDENTIFIED SPEAKER: (Indiscernible) give you a quick a
20	little bit more information. The load line and the stability
21	letter in regards to why this vessel does not have it, just so we
22	all are on the same page.
23	MR. KARR: Well, I can you know what? You guys, you're
24	under a time crunch, so let me just ask my questions if you guys
25	don't mind.
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	17
1	UNIDENTIFIED SPEAKER: Yeah. That's fine.
2	MR. KARR: Okay.
3	BY MR. KARR:
4	Q. Mr. Rivera, when was the last time the vessel was out of the
5	water so that the hull could be examined?
6	A. I think it was like 2012, 2013. We would haul it out in St.
7	Thomas at the sub base dry dock. I am not sure if you're aware
8	that in Puerto Rico there are no dry docks.
9	Q. No I was not aware.
10	A. There is no working dry dock in Puerto Rico. Probably
11	(indiscernible) that I can recall, 20 years.
12	Q. All right.
13	A. The first time that they attempted to revise the dry dock in
14	San Juan, most likely like in 2002, and I was the first guinea pig
15	to take a boat over there. When they were emptying the dry dock,
16	they blocked it wrong and it went on the side, and it ripped off
17	one propeller, one Z-Peller from the bow and starboard side, and
18	it cost me a million and a half to fix, and I had to take it to
19	Tampa to fix it.
20	Q. Oh, wow. Wow.
21	A. So the marine community in Puerto Rico has to either go to
22	St. Thomas, which is a very small floating dry dock very good
23	people, but they don't want to have you there for more than a week
24	because they are they want to have you there a week and then
25	the next week they have another one and it's ferry services, and
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	18
1	they want to do a quick repair job and nothing involved. But we
2	have to go to the Dominican Republic, which I used to, but they
3	were not very honest people. And like since 2010, I've been
4	taking my boats to Cartagena, Colombia, which is very good labor,
5	and they do a good job. They're very well-trained. Or you take
6	the boats to the east coast of the U.S.; Tampa or the New Orleans
7	area.
8	Q. Yeah.
9	UNIDENTIFIED SPEAKER: (Indiscernible).
10	MR. KARR: So the
11	MR. RIVERA: (Indiscernible).
12	MR. KARR: So
13	UNIDENTIFIED SPEAKER: (Indiscernible).
14	MR. RIVERA: What was that?
15	BY MR. KARR:
16	Q. So Mr. Rivera, was the <i>Proassist III</i> scheduled to go to
17	Cartagena, Colombia to do work for you?
18	A. Yes.
19	Q. And what type of work would it do in Colombia?
20	A. The first thing that I do is I do audio gauging of the entire
21	hull, and that determines any area that needs to be changed,
22	replaced. And we pull the shaft, we pull the rudders, and the
23	schedule was to install like almost a year ago, I started doing
24	something with all my tug boats that are conventional shaft tugs.
25	I'm installing the Johnson Duramax DryMax seals, which eliminate
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	19
1	the need of a patching brand, and they have a mechanical seal.
2	And I've done that with four tugboats, and the next one was the
3	Proassist III.
4	Q. Oh.
5	A. The <i>Pedrito</i> , which is a riverboat, it's in Cartagena as we
6	speak, and it's getting DryMax seals installed.
7	Q. And that DryMax seal, that's for the propeller shaft?
8	A. Propeller shaft. Yes, sir.
9	Q. All right. Has anyone since 2000 more specific, I
10	heard you mention consultant and maritime consultants, has
11	anyone outside your company gone through the Proassist III,
12	crawling all the spaces to give you a hull report ahead of you
13	going down to Colombia?
14	A. For insurance purposes and financing purposes, every three to
15	five years you do what is called a condition evaluation survey,
16	but not audio gauging. With a tug float, it is not the ideal
17	thing to do audio gauging, a float, so I haven't done it. But we
18	have had a surveying company do condition evaluations for
19	financing and insurance renewal purposes.
20	Q. All right. And if we haven't asked for that already could we
21	get a copy of that? The last one.
22	A. Yeah. Absolutely.
23	Q. Thank you. And you've gotten five of your vessels inspected
24	by the Coast Guard; can you tell me why Proassist III was not one
25	of those five?
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1 Yes. We started with the ASD tugs. We are involved in the Α. 2 everyday docking operation in (indiscernible) and we started with 3 And that's the (indiscernible) and the Alejandro. those. And 4 then we took the offshore tugs. The offshore tugs, we did the 5 (indiscernible) and we did the Aurora, and then we did the 6 (indiscernible), and those are offshore tugs. And then, the next 7 one is the last of the offshore tugs, which is the (indiscernible) 8 and it's only because that's the map that we decided to do. Do 9 the ASDs first, the tugs that go offshore, and then the tugs that 10 are in the harbor. But the offshore tugs and the ADSs do harbor 11 That's mainly what they do. But the offshore tugs, my as well. 12 company owns four jack barges, and we tow them through the 13 Caribbean moving mainly aggregates, you know, sand and stone, and 14 cement. And they move the barges. 15 So they have been available because of the pandemic, so we

16 decided to get the Aurora (indiscernible). That's the only 17 reason, sir.

Q. All right. Thanks to that. And let me look at my list. The
rudder compartment appears to be the focus of where the flooding
started. Are you aware of any issues with that compartment?
A. No, sir.

Q. Were there any repairs done to that compartment recently?
A. Not that I remember. I know that we occasionally go in and
have to work on the rudder (indiscernible). I know that there was
some structural members of the vessel that were going to be

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1 replaced in Cartagena, so there was some -- but it wasn't the hull 2 itself. It was some structure that had deterioration. This tuq was built in 1947, so it's not a spring chicken baby. 3 So we had 4 (indiscernible) like the Pedrito that is in Colombia, we replaced (indiscernible) and hull plating because it was -- we establish 5 6 what -- since we don't have drawings of these vessels, we take the 7 best reading possible of the thickness of the metal that is the 8 thickest, and we just said when this boat is (indiscernible). So we applied the ADS rules, whatever that is less than a quarter 9 10 deterioration or (indiscernible) we replace it. And I can tell 11 you that we replaced on the *Pedrito* probably five tons of steel or 12 more within the hull and the structure.

Q. All right. Thank you. And the last thing I'm going to ask you, it's another request, and do you have -- I would like to see pictures of the deck so I can see where the vents were located, and that's because we're looking at flooding. So I would like to see where seawater may have gotten high enough to have entered the vents. And with that -- that's a request, and I have no more guestions.

A. We will look into our photos and things like that, and we'll send you whatever photos we have that show that, okay? Q. All right. In addition to that photo, if you do have a good photograph of the vessel itself that shows the port side or starboard side, that would be helpful too.

25 A. Okay.

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	22
1	MR. KARR: No more questions.
2	LT Thank you, Mr. Karr. We will finish it up here
3	with this, and I will touch base with you on Monday, sirs, to
4	proceed with the investigation.
5	MR. KARR: Sounds good,
6	LT Thank you, sir. Thank you for all your help.
7	You have a good weekend.
8	MR. KARR: Hey, Coast Guard guys, thank you for coming in on
9	a Saturday and making this happen, and same thing to you,
10	Mr. Rivera. Good luck.
11	MR. RIVERA: Thank you.
12	(Whereupon, the interview was concluded.)
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## CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF:

SINKING OF THE *PROASSIST III* NEAR YABUCOA, PUERTO RICO, ON DECEMBER 24, 2020 Interview of Pedro Rivera

ACCIDENT NO.:

PLACE: Via telephone

DATE:

December 26, 2020

DCA21FM011

was held according to the record, and that this is the original, complete, true and accurate transcript which has been transcribed to the best of my skill and ability.

Kyle Jenkins

Transcriber