

Re: M/Y UTOPIA IV
Collision with M/V TROPIC BREEZE
December 23, 2021

MATTHEW W. INGLIS
STATEMENT TO U.S. COAST GUARD

I, Matthew W. Inglis, state as follows in response to the numbered questions presented to me by Lt. [REDACTED]. (Ex. 1)

I currently hold the following marine licenses and certifications: (2)

USCG license as Master of All Power Vessels up to 1600 GRT/3000 GRT ITC with endorsement for All Oceans; Master of Tow Unlimited endorsement. This license allows for service as Master of non-US Flag vessels of up to 3000 GRT.

Fully STCW95/2020 Certified

ENG 1 (Medical – No Limitation/Restrictions)

In November 2021, I was hired to serve as Master of the Motor Yacht UTOPIA IV (hereinafter the “Vessel”) and served in that capacity until December 29, 2021. I am currently on leave of absence. I commenced employment with the Vessel’s Owners on November 12, 2021 when I boarded the vessel in Newport, Rhode Island. (1, 4).

I relieved Capt. Paolo Abis as Master and before he departed on November 13, he and I engaged in handover activities that allowed me to become familiar with the Vessel’s operation, systems and equipment. (5) From previous experience on other yachts, I was accustomed to operating the same type of bridge navigation systems and deck equipment that were on the Vessel, but we reviewed these to address any characteristics that were unique to the Vessel. (5) In particular, we reviewed the Rolls Royce bucket nozzle control panel, autopilot, alarm panel and the “I Bridge” computer that controls the screen location of the Vessel’s navigational and monitoring equipment. (5) He and I also maneuvered the Vessel together on November 12 and 13 in Newport Harbor.

The only item that I recall not being fully operational was the forward mast located at the bow. (6) This mast on which the forward masthead light (or range light) is mounted, has the capability of being raised and lowered but this function was out of service. (6) I do not know the height of the forward masthead light when the mast is in the fully raised position. (32) In the mast down position, I would estimate the height of the forward masthead light to be about 12-15 feet above the base that is mounted on the bow bulwarks. In my estimation, this would make the height of the forward masthead light about 25-30 feet above the Vessel’s waterline

on the night of the accident. (32) In my opinion, this condition would not have impaired another vessel's ability to identify the Vessel at night as being over 50 meters in length.

The Vessel departed Newport on November 14 at 0830 hours on a voyage to Miami. At about 0850 hours on November 15, we arrived at Hampton, Virginia where the Vessel refueled and departed at about 1400 hours. (9, 13) On November 17 at about 1100 hours the Vessel arrived at the Island Garden Marina in Miami. On November 18, the Vessel was shifted to a berth at the Owner's residence in Miami. (9) On November 28, the Vessel undertook a short daytime trip and on December 4 the Vessel was on an evening cruise (in darkness) from about 1916-2313 hours. (9, 13). Depending on how one defines a voyage, there were approximately seven voyages between November 12 and the Vessel's departure for the Bahamas with several at night. (9, 13) Additional nighttime voyages occurred on the voyage to the Bahamas (December 17), and on December 20 and 23. (13) I stood bridge watches during each one of these nighttime voyages. (13) These dates and times are contained in the Vessel's Official Log Book, Chief Officer's Log Book and GMDSS Radio Log Book.

During the Vessel's stay in Miami I was involved in hiring personnel for open positions aboard the Vessel. During this time I was provided with the resume of Ryan Fitzgerald (Ex. 2), and interviewed him for the position of Bosun. Ryan had many years of seagoing experience including several years as mate or first mate on superyachts with STCW navigational watch ratings. I believed him to possess all the qualifications necessary for the position and recommended that he be hired. Ryan joined the Vessel on December 16.

(14) Before proceeding to sea on the Vessel, I conducted pre-departure preparation and system checks to confirm that the Vessel was ready to go to sea. These checks included:

Preparing a voyage or passage plan with courses and course changes entered into the Time Zero electronic chart program.

Checking weather, tides and currents along the voyage route and at ports of call.

Make sure adequate safety equipment for number of crew and passengers are on board.

Attend to any destination port entry requirements (particularly if on an international voyage) including COVID compliances.

Navigation, collision avoidance and other bridge systems and devices including: radars (on standby and warming up, then switched on to transmit and tested at various ranges); Time Zero electronic chart system; AIS (enter new voyage data); GMDSS, depth sounder, VHF's and hand held radios in send/receive modes, navigation lights (turn on and if making an evening trip, walk decks and verify that they are on (an alarm will sound if they are not energized and illuminating)).

Engineering and propulsion systems checks including: warming up main engines (20 minutes before departure); turn on both generators (20 minutes before departure); bow thruster (on and tested at all three control stations); test steering and propulsion controls at all control stations; engage clutches and test port/starboard propulsion jets just before singling up the mooring lines.

These checks can vary somewhat depending on the circumstances (e.g., we have already been to sea with the same crew and passengers or when departing from an anchorage (when some systems or equipment may already be running)). (14)

When the Vessel was underway at sea, two people were assigned to the bridge watches. (8). As far as this Vessel is concerned, I am not aware of a requirement that both of those persons be physically present in the wheelhouse at all times during their assigned bridge watches.

When I am not on the bridge watch or in the wheelhouse, the watch standers are to follow the Captain's Standing Orders which are posted in the wheelhouse and are attached as Exhibit 3. (7)

On December 17 at 2000 hours the Vessel departed Miami on its intended voyage to Nassau, Bahamas. I am familiar with Bahamian waters and have operated vessels in those waters on a number of occasions, both day and night. (3) I would estimate that throughout my career, I have sailed as Master on about 10-15 voyages through Bahamian waters. (3)

During the voyage from Miami, I was joined on the bridge by the Bosun, Ryan Fitzgerald. During that time we reviewed the operation of the bridge equipment and navigation systems including the radars, ARPA, AIS, Time Zero electronic chart system, autopilot, alarm panel, emergency alarm procedure and windshield wipers. Ryan demonstrated his proficiencies in the actual operation of these systems including engaging and disengaging the autopilot and hand steering the Vessel. This review was conducted while also maintaining a safe bridge watch.

(25) On December 23, 2021 the Vessel spent most of the day anchored off of Albany, on New Providence Island in the Bahamas with the crew and passengers on board. At about 2030 hours we were in the process of getting underway for a planned voyage to Bimini. At that time the X-band radar was having a problem with the display on one of main screens and was not used. (11) However, the S-band radar (the preferred radar) was fully operational upon departure and throughout that voyage. Pre-departure checks were conducted (14) and with the exception of the X-band radar, all was in order including the VHF and GMDSS radios. (12) The hand-held radios utilized by the crew were also working properly. (12) At the time of our departure from Albany, I believed the Vessel to be sound and seaworthy and suitably equipped to perform the intended voyage.

(25) The First Mate (Jeffrey Wierzba) and Ryan attended to heaving up the anchor and according to the Chief Officer's Log, the Vessel was underway at 2055 hours. Jeffrey and Ryan

joined me on the bridge and Ryan was in the wheelhouse up until the time of the collision. (17) Ryan was a lookout during this voyage and was fully qualified to perform this function and the other watch standing responsibilities commensurate with years of experience as the mate or first mate of superyachts, his STCW navigational watch ratings and his other qualifications. (See Ex. 2). (17)

After the Vessel got underway, Ryan and I again reviewed the Vessel's bridge navigation systems, including the radar, Time Zero electronic chart system, disengaging the autopilot, operating the Vessel on hand steering and reengaging the autopilot. Again, he demonstrated that he was proficient in operating these systems. This review did not interfere with maintaining a safe bridge watch. From what I observed, his mental state prior to the collision was good. (18)

(25) The planned route to Bimini was around the western side of New Providence Island and then on a generally north northeast course to pass north of the Berry Islands and the Bahama Bank. Just past Goulding Cay we proceeded in a north northeast direction. The weather was clear and I estimate the visibility to have been from 5-7 miles. (10, 16) Winds were from the NE and slightly off the starboard bow at 10-15 knots with gusts possibly up to 20 knots. (10, 16) Swells were in the 3 foot range and occasionally to 5 feet. The swell was long and the Vessel was riding comfortably. (10, 16) From the commencement of the voyage until the time of the incident the Vessel proceeded at various speeds. At the time of the collision the Vessel was making about 19 knots. (15) This is the Vessel's normal cruising speed and was a safe speed under the prevailing conditions. (15)

(25) Shortly before 2200 hours, I checked the radar and no vessels were detected. I adjusted the range up and down and did not see any vessel targets. I then checked the Vessel's Time Zero electronic chart system and no other vessels were identified. No AIS identifiers were observed on either system. I looked out the wheelhouse windows and did not see the lights of any vessels. I then advised Ryan that I was leaving the wheelhouse for a few minutes to check on the guests. I reminded him to keep a close watch and to do the hourly log entries.

Many of the hourly observations are made simultaneously with lookout duties and while performing an interactive bridge watch. For example, when observing the radar for ship traffic, the watch stander can note the vessel's course and speed; when looking for other vessels visually, he can observe the weather.

(25) A mariner with Ryan's experience knows that maintaining a close lookout takes priority over making log book entries. This priority is confirmed in the Captain's Standing Orders. Such was the case here given that just before the collision, Ryan searched for other vessels both visually and on the Vessel's collision avoidance systems. As it turns out, Ryan had not made any log entries before the collision as the accident occurred just 48 seconds after the top of the hour.

(25) Before departing the bridge I asked Ryan if he had any questions. He acknowledged my instructions and had no questions. Throughout this trip Ryan and I had our hand-held radios on and I could be contacted immediately. If there was a problem, I would not have been more than 100 feet from the wheelhouse and I would be back on the bridge in a matter of seconds after being alerted.

(25) This was the only time I was away from the bridge prior to the incident. I do not recall leaving on another occasion, even to quickly use the toilet. The Captain's cabin is directly connected to the wheelhouse so if that did occur, my departure would have been extremely brief. (24)

Some of the Vessel's personnel did smoke or vape. (19) I have smoked cigarettes on occasion while on board the Vessel but it is not my practice to smoke while I am on a bridge watch. (20, 21) It is possible that I smoked while the Vessel was underway in the Bahamas but I can't recall doing so while I was on a bridge watch. (22)

During the Vessel's above-described previous voyages I would have very briefly gone into my adjoining cabin to use the toilet or retrieve an item, but other than that, I would not have left the wheelhouse while on a bridge watch. (23)

(25) I don't think I was away more than 4 to 5 minutes and was walking forward of the main dining room when I was thrown against the forward bulkhead and door frame. According to the Official Log, the time of the collision was 22:00:48 which would mean that I left the wheelhouse at about 2155 hours. At that time, the other vessel involved in the collision would have been very close, yet as already described, I did not detect her visually or on our radar, AIS, or our Time Zero electronic chart navigational system. Neither did Ryan.

(27) In a matter of seconds I was back in the wheelhouse. I looked out the forward bridge windows and could faintly make out a structure ahead of us. I noted that our engines were stopped. I looked out the starboard side door and forward to confirm what I had seen, and told Ryan to follow me to the bow. I climbed up on the anchor chain stopper and saw that our bow was hard up against the port stern transom of another vessel.

(27) Ryan and I returned to the wheelhouse and I grabbed my flashlight and returned to the bow. I saw no one on the other vessel. I vaguely recall seeing a very dim light on the other vessel, about as bright as a candle. It appeared as though the wind and seas had diminished. (16)

(27) When I was on our bow looking at the other vessel, I was looking down upon the other vessel's stern area so I was not in a good position to observe her freeboard. (30) Our Vessel's freeboard at the midship/plimsoll mark is about 8-9 feet. Because of the Vessel's raised bow deck and plumb bow, I would roughly estimate our Vessel's freeboard at the bow to be about 15-20 feet. (30) Our draft at the time was probably about 2.2 meters fore and aft. (31)

(27) I returned to the wheelhouse where the First Mate and some other crew members had gathered. We sounded a Mayday signal on the VHF radio (channel 16) several times. I mustered the crew and passengers. I spoke with the Chief Engineer who did not think we were taking on water. I advised the passengers and crew that I did not think we were in danger of sinking and told them not to abandon ship unless they were instructed by me to do so.

(27) We received a faint and broken Mayday reply from the Bahamian authorities and through the First Mate, I responded to their questions. We also heard from the M/Y AMARA that they were on route to our location. We did not hear any communications between those authorities and the other vessel involved in the accident and we were never able to communicate by radio with the other vessel which should have heard our Mayday calls. (29)

(27) At some point, the vessels disengaged. A crewmember from the other vessel was seen swimming in the water off our starboard bow and we attempted to communicate with him, but could not because of the language difference. Shortly thereafter, other crewmembers were seen launching and boarding their life raft and motorized life boat. The swimming crewmember was brought into the life raft.

(27) With our engines restarted, I maneuvered our Vessel to take on the crew from their life raft and life boat. After spending some time trying to accomplish this, I communicated with the Captain of the AMARA (which had arrived on location with a tender in tow) and asked if he could please use his tender to take on the crew from the life raft and life boat. He agreed and this was safely accomplished. It was confirmed that everyone from the other vessel had been rescued. The AMARA's tender proceeded to Lyford Cay.

(27) We then proceeded at slow speed to Nassau followed by the M/Y AMARA. About an hour into our return trip a number of bilge alarms came on, almost all at once. I became concerned that we might be taking on water and I again mustered the crew and passengers. However, after conferring with the Chief Engineer, I concluded that these were false alarms. I had previously spoken with the Vessel's managers (Peter Selivanoff) about what happened and called him again with an update. We continued on to Nassau, arriving at about 0300 hours on December 24. (25, 27)

(25, 27) At no time prior to or after the collision did I hear or see any distress calls, distress signals or other emergency signals from the other vessel involved in the collision. After the collision, I recall observing the AMARA on our radar and seeing its AIS identifier. After the collision, I was not looking for the other vessel involved in the collision on our radar because it was being observed visually. I do not recall observing the other vessel on our radar post-accident. (28)

Given the relative positions of the vessels as I observed them immediately after the collision, I believe our Vessel was overtaking the Tropic Breeze. (26) In that case, we would have been considered the "give-way" vessel under COLREGS Rule 16, and the Tropic Breeze

would be considered the “stand-on” vessel under COLREGS Rule 17. (26) We did not take evasive action because we were unable to detect the Tropic Breeze visually, by AIS or by radar.

If the Tropic Breeze had been maintaining a proper watch and proper lookout, those on board would have identified and detected our Vessel via their AIS, radars and visually as our navigation lights and multiple deck lights were on at the time.

As the stand-on vessel, the Tropic Breeze should have taken action under Rule 17 “to avoid collision by her maneuver alone “ (26) Rule 17 further provides that when “the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the action of the give way vessel alone, she shall take such action as will best aid to avoid collision.” (26) Such actions should be accompanied by radio calls and emergency signals, but we did not hear or see anything from the other vessel. (26)

(25, 27) The Bosun reported that he was keeping a close lookout right up until the time of the collision and that he never detected the Tropic Breeze visually or on our Vessel’s navigation or radar systems including AIS. He also did not hear any calls from the Tropic Breeze on the VHF radios. The Tropic Breeze must have been close to us and within radar range at the time I left the bridge and I did not detect her either. Because the Tropic Breeze could not be detected by us visually or by our collision avoidance and radar systems, I do not believe that my presence on the bridge before the collision would have changed the outcome.

Dated: February 18, 2022



Matthew W. Inglis

EXHIBIT 1

TO STATEMENT OF MATTHEW W. INGLIS TO U.S. COAST GUARD

QUESTIONS PRESENTED BY LT. [REDACTED] (02 07 22)

1. What is your position with the company? How long you been in this position?
2. Do you have a Merchant Mariner Credential? What capacity do you hold?
3. How often have you operated in the Bahamas as a master?
4. When did you start employment on the vessel? (date)
5. Was there any equipment on board the vessel you had to get accustomed to prior to taking control of the vessel?
6. Was there any equipment on board the vessel that was inoperable when you joined the vessel?
7. As captain, what were your standing orders when you were not at the helm?
8. How many people are required on the bridge while underway? (underway= while making way)
9. Prior to entering Bahamas, how many other voyages have you sailed on the UTOPIA IV?
10. Please describe the weather the day of the incident (December 23rd 2021)
11. Where there any equipment inoperable the day of the incident?
12. Were the radios operable the day of the incident? Radar?
13. How often have you operated the UTOPIA IV underway at night?
14. Is there a pre departure check utilized on the vessel? What does it consist of?
15. What was the speed of the vessel while underway?

16. What was the wind & sea state on December 23rd? Were there any changes in the weather while underway?
17. Who was the lookout with you on bridge watch? To your knowledge, was he qualified to maintain that position?
18. While operating the vessel on December 23rd prior to the incident, how was the mental state of the lookout (Mr. Ryan Fitzgerald)?
19. To your knowledge, does anyone on the vessel smoke cigarettes or vape?
20. Do you smoke cigarettes?
21. Do you smoke while the vessel is underway?
22. If so, did you smoke while you were underway in the Bahamas?
23. In previous voyages, have you left the bridge while at the helm for any reason?
24. Were there any times prior to the collision that you left the bridge? (restroom visits included) how many times and for what reason?
25. Please describe what happened from 8:30 P.M. December 23rd 2021 to the time of collision (please include times).
26. Please describe your actions of a Stand-on vessel in an overtaking situation.
27. Post collision, please describe your actions until the time the vessel began heading to Nassau, Bahamas.
28. Did you see the TROPIC BREEZE on radar post collision?
29. Were you able to communicate with the TROPIC BREEZE via radio post collision?
30. What was the freeboard of both vessels at time of collision, and were you looking down at the tanker's deck from your bow, or up at her gunwale?

31. What was Utopia IV's fore and aft draught?

32. How high is Utopia IV's forward masthead light when the fore mast is fully raised, and how high was it on the accident voyage?

END

Captain's Standing Orders

If in any doubt alert Captain IMMEDIATELY.

- A look out by sight sound and any other means appropriate to the prevailing circumstances shall be maintained at all times.
- The vessel shall at all times be operated within the rules outlined in the International Regulations for the Preventing Collisions at Sea 1972.
- A 2NM C.P.A shall be kept from all targets abeam or fwd of the beam and a 1nm C.P.A shall be kept for targets abaft of the beam.
- The log is to be filled out on the hour and for any course changes.
- The ships position is to be fixed hourly by any means appropriate (G.P.S, Radar range and bearing).
- Magnetic and satellite compass errors are to be checked and recorded once a watch.
- Engine room/interior checks are to be made hourly by the watch leader.
- Upcoming watch keepers are to arrive in the bridge 15 minutes before the start of their watch having done any pre watch checks.
- Captain should be called in the event of any of the following circumstances (**If you are questioning "should I call Captain" then you probably should have done so 5 minutes ago**):
 1. When the visibility is reduced to less than 2 NM.
 2. When you are unable to maintain the vessel's course as outlined within the passage plan.
 3. When another vessels action is unclear or causing you concern.
 4. In receipt of any form of distress message.
 5. An unexpected sighting of a land mass or navigation mark.
 6. Failure to sight a land mass or navigation mark within the passage plan.
 7. Any alarms or concerns indicating machinery or navigation equipment malfunction.
 8. Having sighted a danger to navigation or derelict.
 9. If in any doubt. You will never be criticized for being over cautious.
- Clean up the bridge after your watch and leave it free of any caps, cups, water bottles etc.
- Weather permitting the yacht will be rinsed once a day by the deck dept (Baron will make the call on the weather).