

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

2 Jacksonville, Florida held

3 20 February 2016

4 Volume 5

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

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

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

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

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

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

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

CAPT Neubauer: Thank you. We will now hear testimony from Mr. Johnathan Lawrence, Tote Services Incorporated, Manager of Safety and Operations. Mr. Lawrence, please come forward to the witness table and Lieutenant Commander Yemma will administer your oath and ask you some preliminary questions.

LCDR Yemma: Sir, would you please raise your right hand. A false statement given to an agency of the United States is punishable by a fine and or imprisonment under 18

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1 United States Code section 1001, knowing this do you solemnly swear that the
2 testimony you're about to give will be the truth, the whole truth and nothing but the truth,
3 so help you God?

4 **WIT:** I do.

5 **LCDR Yemma:** Thank you, sir. You can be seated please. Sir, can we start by stating
6 your full name and spelling your last name for record please?

7 **WIT:** Yes. Before I even say that can I start and I just want to mention that with no
8 disrespect to the board here as I may be throwing a lozenge in my mouth once in a
9 while during testimony. I've been fighting a cold for a few weeks now and it may help
10 my voice.

11 **CAPT Neubauer:** Yes, sir. I understand.

12 **WIT:** Okay, thank you. My name is John Richard Lawrence, L-A-W-R-E-N-C-E.

13 **LCDR Yemma:** And counsel please state your name and spell your last.

14 **Counsel:** Luke Reid, from K&L Gate, last name spelled, R-E-I-D.

15 **LCDR Yemma:** And sir, can you please state your current employment and your
16 position?

17 **WIT:** Work for Tote Services Inc. and my position is Manager of Safety and Operations.

18 **LCDR Yemma:** What are some of your responsibilities in that position?

19 **WIT:** My responsibility is to oversee the safety, environmental and the security and
20 regulatory issues of the company.

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

22 **WIT:** Yes, sir. I attended the United States Merchant Marine Academy, graduated in
23 1975. I sailed for approximately 14 years. With the last few years as Master on deep

1 sea vessels. I came ashore and worked for 10 years with a company Maritime
2 Overseas as Port Captain. Then I worked for another company that was owned by BP
3 Keystone shipping and Maritime Overseas called Alaska Tanker Company for 6 years.
4 And then I worked for a tug and barge company, K-Sea Transportation, which is now
5 Kirby for 7 years. And I began work here with Tote Services about 2 years ago,
6 February 2014.

7 **LCDR Yemma:** Thank you. What's your highest level of education completed?

8 **WIT:** Bachelors of Science Marine Transportation.

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

10 **WIT:** Yes, I have an unlimited Masters upon all oceans that just went into continuity last
11 year.

12 **LCDR Yemma:** Thank you, sir. Mr. Fawcett will ask you some questions

13 **Mr. Fawcett:** Good morning Captain Lawrence.

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

15 **Mr. Fawcett:** All of the questions I'm about to ask you relate to the time frame before
16 the loss of the El Faro and her crew unless I mention otherwise. Okay?

17 **WIT:** Yes, sir.

18 **Mr. Fawcett:** We're going to move three broad topic areas. The first one is an
19 overview of your job. The second will be the role of the Designated Person ashore and
20 the safety management system. And the final will focus on the call to you and the
21 related communications to the loss of the El Faro. So you haven't been in a hearing
22 before so after I complete my questions I will turn my – the questioning over to the

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1 Coast Guard, we'll move through the NTSB, parties in interest and then conduct follow
2 up questions.

3 **WIT:** Okay.

4 **Mr. Fawcett:** So I would like to turn our attention to the overview of your job at Tote
5 Services Inc. Within the Tote Service organization or other Tote organizations, have
6 you held any other jobs?

7 **WIT:** Not within the Tote, no, sir.

8 **CAPT Neubauer:** Mr. Lawrence could you please talk a little closer to the microphone,
9 sir?

10 **WIT:** Yes.

11 **CAPT Neubauer:** Thank you.

12 **Mr. Fawcett:** So who do you directly report to at Tote?

13 **WIT:** The Director of Marine Services and Safety, Lee Peterson.

14 **Mr. Fawcett:** In your function as the Designated Person ashore, who do you directly
15 report to?

16 **WIT:** The President and CEO, Admiral Phil Greene.

17 **Mr. Fawcett:** And within Tote Services who reports directly to you?

18 **WIT:** Ms. Patty, uh Patricia Finsterbusch, she's my assistant.

19 **Mr. Fawcett:** At the time of the accident were there other people that were supposed to
20 report to you?

21 **WIT:** No, sir.

22 **Mr. Fawcett:** Within the organization chart there weren't unfilled positions?

23 **WIT:** No, sir.

1 **Mr. Fawcett:** As part of your job do you conduct safety investigations?

2 **WIT:** Yes, sir.

3 **Mr. Fawcett:** And what type would those be?

4 **WIT:** Uh, most investigations are conducting – are conducted on board the vessel
5 depending on the severity of the incident. If it's a severity where I feel that I need to be
6 involved in the investigation, I say I'll be involved. Otherwise I review investigations that
7 may be done on board the vessels and come to the office.

8 **Mr. Fawcett:** Is there a document that would list how investigations are to be
9 conducted within the Tote Service organization?

10 **WIT:** To my knowledge there's no specific document. It's just indicated in our safety
11 management system.

12 **Mr. Fawcett:** So have you worked in the position as Designated Person outside of
13 Tote Services?

14 **WIT:** In my prior companies I was the Designated Person also.

15 **Mr. Fawcett:** So in very general terms, would you talk about what you do as Manager
16 of Safety and Operations?

17 **WIT:** Well as I said before I oversee our safety for the company so I oversee the safety
18 management system. I support, I think is the key word I feel in my position is I support
19 the operations groups and the entire company in fact as far as any safety issues or any
20 safety advice. Any – I'm also the company security officer. And I'm also a qualified
21 individual for the company for the oil spill response program. And I'm also the
22 emergency response team coordinator as well.

1 **Mr. Fawcett:** Okay. So how many vessels do you, from the stand point of providing
2 service for, how many vessels do you provide your services for?

3 **WIT:** I would say the entire fleet.

4 **Mr. Fawcett:** And that would be how many vessels?

5 **WIT:** At that time roughly 27 including the 2 vessels that are not under our safety
6 management system, but we do have crewing on board and we do give overview if
7 there are any injuries or accidents they have on board those vessels. That's the 2
8 passenger vessels.

9 **Mr. Fawcett:** And who else supports your efforts? In other words you mentioned your
10 assistant at Tote Services. Are anybody like your vessels or position, are they
11 worldwide?

12 **WIT:** Yes, sir.

13 **Mr. Fawcett:** So who provides that support for you for the worldwide operations?

14 **WIT:** Well the operation folks in my company. We basically act as a team and I support
15 them on anything, any issues that they need advice from me upon as far as any
16 regulatory advice or safety advice. But we work as a pretty closely knit team in our
17 office.

18 **Mr. Fawcett:** So if there was an incident outside of the Jacksonville area, how would
19 you conduct, first how would you conduct a safety investigation? Say it was anything
20 that affected the safety of a vessel. How would that be conducted?

21 **WIT:** That's kind of a broad question. Like I said if, more specifically I think if it's a,
22 depending on, again depending on severity. I mean if it's a severe incident typically
23 regulatory the Coast Guard would be involved or port state control would be involved if

1 it's overseas. And that – and maybe our owners of the vessels may be involved as well.
2 Basically we respond and contact all the involved, all the different parties that would be
3 involved that have a stake in that vessel. And we would make a decision at that time of
4 how we would conduct the investigation.

5 **Mr. Fawcett:** So looking at the departure of the El Faro from Jacksonville on the
6 accident voyage, can you please describe where you were and what you were doing?

7 **WIT:** I was believe it was the 29th when it left Jacksonville on a Tuesday and I was at a
8 National Safety Council industry meeting for the marine division of the National Safety
9 Council in Atlanta, Georgia.

10 **Mr. Fawcett:** Were you on vacation at the time?

11 **WIT:** I was coming back, I had been on vacation prior to that. I was on vacation from
12 the previous Thursday on the West Coast at a wedding. And Monday I flew back into
13 Jacksonville to turn around and fly right back to Atlanta, Georgia for that industry
14 meeting. So I was in Atlanta on Monday night and we had the meeting on Tuesday and
15 Wednesday, and I returned back to Jacksonville on Wednesday evening.

16 **Mr. Fawcett:** So you were in Jacksonville when the initial notification for the accident
17 came in?

18 **WIT:** Yes, sir.

19 **Mr. Fawcett:** So when you – when you go out of town or you travel, does anybody
20 relieve you of your duties as the Designated Person?

21 **WIT:** It varies depending where I'm going, how long I'm going to be gone. Depending if
22 I feel I'm going to be within email or telephone contact of the company. Typically I do at
23 times, my alternate Designated Person is Lee Peterson. So I would at time put on my

1 away emails if there was a Designated Person issue while I'm away please contact Lee
2 Peterson.

3 **Mr. Fawcett:** But is there a required certification or level of training to be the
4 Designated Person?

5 **WIT:** There is.

6 **Mr. Fawcett:** Is that required for the person that fills in for you when you're out of town?

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

8 **Mr. Fawcett:** How about for, let's say for the position of alternate Designated Person?

9 **WIT:** I'm not aware if it's a requirement or not.

10 **Mr. Fawcett:** So do you notify when you go out of town, do you notify, or on vacation,
11 do you notify the answering service that you will be traveling?

12 **WIT:** No I don't.

13 **Mr. Fawcett:** Can you talk about that – you were going to say something?

14 **WIT:** I was going to say to reach the Designated Person they call my cell phone direct
15 or the number I leave. They don't – typically we don't instruct them to call the call
16 center for reaching the Designated Person.

17 **Mr. Fawcett:** Well what I'm saying is in the event you're traveling and you know you're
18 not going to be reachable, do you contact the answering service and let them know of
19 your status that you're in travel state?

20 **WIT:** No I don't.

21 **Mr. Fawcett:** So can you briefly talk about that service?

22 **WIT:** The call center is set up for our emergency calls. They can reach a qualified
23 individual or if it's a marine emergency. Basically when they call that number, which is

1 posted in all of the vessels and all of our manuals, they will receive – when they call in
2 the answering service will ask if it's – do you need a QI or is this a marine emergency.
3 If it's not one of those then they'll ask them what else do they need. They typically may
4 be trying to reach somebody in crewing in our company or somebody in HR. And then if
5 they are doing that they will typically take the information from the person and call
6 crewing or HR and give them the call back number. If they – if it is a marine emergency
7 they hold on to the – they actually put it up to a supervisor level and then they keep the
8 person on hold while they contact somebody on our emergency response team and go
9 down our list. They send a text message and an email to everybody in our emergency
10 response team, which is approximately 8 or 9 people at this time. And then once we –
11 once we get the text obviously we would call the call center, they put the number of the
12 person who called back right there. Otherwise the call center immediately by computer
13 starts dialing everyone for the emergency response team members, down the lines
14 beginning with me to reach me directly on my own cell phone. Meanwhile they will take
15 the information from the person who's calling in a marine emergency or for QI and
16 they'll take that information down in case the calls lost so they can pass that on when
17 they do reach somebody on the emergency response team.

18 **Mr. Fawcett:** Thank you, sir. We'll talk more in detail about that later. But just a brief
19 question. At the time of the El Faro accident did they have detailed procedures on how
20 to handle a marine emergency?

21 **WIT:** Yes.

22 **Mr. Fawcett:** Had there been any updates to those procedures in the last year?

23 **WIT:** No.

1 **Mr. Fawcett:** So briefly you mentioned the safety management system and we'll talk
2 about that in the next topic area, but in the briefest sense do you conduct audits as part
3 of that process?

4 **WIT:** Yes, sir.

5 **Mr. Fawcett:** And an audit, do you ever audit the company operations itself?

6 **WIT:** Some departments I do. We have an annual audit of, you're talking about the
7 shore side, correct?

8 **Mr. Fawcett:** Correct, yes.

9 **WIT:** Yes we have an annual internal audit as well as our annual external audit by ABS.

10 **Mr. Fawcett:** And you conduct audits on board the Tote vessels, is that correct?

11 **WIT:** Yes, sir.

12 **Mr. Fawcett:** So of the 27 vessels that were in the fleet at the time of the accident,
13 approximately how many audits have you performed?

14 **WIT:** I would say I've been involved in, I think 6 to 8 audits in the last two years.

15 **Mr. Fawcett:** Had anybody else been conducting audits?

16 **WIT:** Yes, sir.

17 **Mr. Fawcett:** Thank you. So as the Manager of Safety and Operations, how do you
18 assess risks?

19 **WIT:** We, well it's in our safety management system manuals, and it has a whole page
20 on risk assessment. However, we expect our people, our employees to assess risks.
21 Typically we assess risks by a various different methods. One of our key methods is
22 the job hazard analysis that we perform, that's performed before every task they do on
23 the vessels. We, obviously with this hearing here we inform risk assessment by voyage

1 planning on the ships. We have various forms and permits we utilize within the
2 company. Specifically upper management has a risk matrix that we utilize on that.
3 Near miss reporting and safety programs. That to me that's our risk assessment as
4 well.

5 **Mr. Fawcett:** So from a safety perspective, does anybody in the company have a
6 specific task with monitoring tropical weather?

7 **WIT:** No, sir.

8 **Mr. Fawcett:** Could you give me some examples where you were involved with
9 provided nautical support for the operations, the nautical operations on the El Yunque or
10 the El Faro?

11 **WIT:** Can you define nautical operations please?

12 **Mr. Fawcett:** Well for example they had issues with the life boat davits on the El
13 Yunque. Did you get involved with that from a safety perspective?

14 **WIT:** No, sir.

15 **Mr. Fawcett:** So the Alaskan conversion project was going to have a Polish riding
16 gang. Were you involved in any meetings leading up to that conversion process?

17 **WIT:** No, sir.

18 **Mr. Fawcett:** As part of the audits, have you ever assessed the vessel specific heavy
19 weather plans for any Tote vessels?

20 **WIT:** Not that I can recall.

21 **Mr. Fawcett:** So if you'll turn to Exhibit 4, page 59. You sent an email on August 26th,
22 2015.

23 **CAPT Neubauer:** Can you give the witness a moment please?

1 **Mr. Fawcett:** Yes. I just --. And that was from you to the El Faro, is that correct?

2 **WIT:** Yes, sir.

3 **Mr. Fawcett:** Okay. In there in the second line you said, however, to ensure we are all
4 on same page and nothing is missed in the risk assessment and action area, please
5 send me a detailed email with your preparedness/avoidance plans and update daily
6 until all clear.

7 **WIT:** Yes.

8 **Mr. Fawcett:** And what caused you to send that message?

9 **WIT:** I'm not 100 percent sure as far as my recollection of at the time of sending this. I
10 do remember sending it. But to me it was more of a communication with the vessel just
11 to let them know I'm here for support as well. I think there's some other
12 communications with the owners and with other people in the office. And I knowing of
13 Erika out there I felt that I hadn't been fully apprised of the situation at this time there, so
14 I vaguely remember that's the reason I sent it to the Captain.

15 **Mr. Fawcett:** And so the line about risk assessment. What does that specifically relate
16 to?

17 **WIT:** As I said before, risk assessment to me is about a voyage planning. So I – as a –
18 just a general reminder and a communication to the Captain just letting him know more
19 of an awareness situation and my support, just tell him that this is the, obviously the
20 type of things that you know keep communications with us of anything you may change
21 or anything you may do in voyage planning due to this storm.

22 **Mr. Fawcett:** You said – you said the storm, sir?

23 **WIT:** Yes, sir.

1 **Mr. Fawcett:** So talking about a safety perspective, just from the Management of
2 Safety and Operations, how do you assess the loading and stability of a vessel to make
3 sure that this is being done properly at the terminals?

4 **WIT:** That's up to the Captain of the vessel. I don't get involved in that, that's strictly –
5 the shore side helps assist in conducting the load, but the Captain is in charge of the
6 stability of the vessel.

7 **Mr. Fawcett:** So if you'll turn to Exhibit 5, pages 18 to 21. And I only draw your
8 attention to that just to refresh your memory. And I just want to ask a brief question
9 without identifying the individual discussed.

10 **WIT:** Yes, sir. I remember that.

11 **Mr. Fawcett:** Okay. Based on your recollection. There was an incident where there
12 was a ship's officer, a deck officer that was sleeping on watch. Without identifying that
13 individual, do you know that whether Captain Davidson was the Captain at that time?

14 **WIT:** I don't recall. I would have to look back there.

15 **Mr. Fawcett:** Do you remember what your recommendations were to senior
16 management?

17 **WIT:** I would have to read that right now, but basically I treated it as a Designated
18 Person issue initially. But then I turned it over to Human Resources for their actions.

19 **Mr. Fawcett:** So in the – I turn your attention to Exhibit 61 and that's page 7 of that
20 exhibit. Which is the quarterly safety meeting newsletter.

21 **WIT:** Yes, sir.

22 **Mr. Fawcett:** And if you look at item 14, we've talked about it previously. That's page
23 7.

1 **WIT:** Yes, sir.

2 **Mr. Fawcett:** So this was an El Faro – El Faro engineering issue that occurred in
3 March. Why is that classified in the near miss category?

4 **WIT:** Well the ship reported it as a near miss, they actually reported it as an incident
5 also. I strongly stress to the vessels that if they're – if they're not sure of incident being
6 an actual incident at least send it in as a near miss. I'll take them any way I can get
7 them, as long as I get the information. And then if it's greater than a near miss then
8 we'll take it further than that like we did on this one here.

9 **Mr. Fawcett:** So did you reclassify that?

10 **WIT:** I didn't reclassify it, but it was reported to the Coast Guard as 2692. And we did
11 an investigation on it.

12 **Mr. Fawcett:** And so what ultimately was that classified as by the Coast Guard?

13 **WIT:** I'm not aware if the Coast Guard classified it as anything else other than a 2692
14 required marine casualty.

15 **Mr. Fawcett:** So on September 30th, Captain Davidson sent you an email talking about
16 a request to take, well it wasn't a request, but he told you that he was going to take, you
17 know the ship's condition and then he had a question about a return route. Do you
18 recall that message?

19 **WIT:** Yes, sir.

20 **Mr. Fawcett:** Why didn't you respond to that message?

21 **WIT:** I didn't respond because I received that while I was traveling, I was at that
22 National Safety Council meeting. Going back to the time I think it was sent late
23 morning. And I don't recall if I read it during the meeting or in route at the airport. But

1 the main reason I didn't answer because I was surprised he was asking permission, to
2 me, to take a different route on the way back on the return trip. And so I saw no reason
3 to answer at that time because we still a couple more days before he would even be
4 starting that route. And I, again see I was traveling I felt I wanted to take a closer look
5 at this before immediately answering it and I was going to wait until I got home and then
6 further – and when I got home I saw that Jim Fisker-Andersen, the Director of Ship
7 Management had already answered him. So then I didn't follow up any further.

8 **Mr. Fawcett:** So I draw your attention back to Exhibit 4, page 59. This an email from
9 you to Captain Davidson on August 26th, 2015.

10 **Tote Inc:** Page?

11 **Mr. Fawcett:** Yes, I'm sorry. Page 59.

12 **WIT:** That's the same one we looked at before.

13 **Mr. Fawcett:** That's correct. Was he sending that to you directly because he had been
14 told to keep you advised of your preparedness avoidance plans and update daily?

15 **WIT:** Well I mean he sent this to me because I asked him to keep me updated after – at
16 the point of this email. Just for the same reasons we stated before.

17 **CAPT Neubauer:** Mr. Fawcett can you read the email that was sent from Captain
18 Davidson?

19 **Mr. Fawcett:** Yes, sir. Sir, you're referring on the 30th?

20 **CAPT Neubauer:** The email that advised Mr. Lawrence.

21 **Mr. Fawcett:** Oh, yes, sir. It's to John Lawrence at Tote Services, El Faro, vessel
22 update, Hurricane Joaquin. Good afternoon. As per the latest BVS weather file and

1 NWS hurricane center, Miami, Florida, center of hurricane, you want me to go into
2 specific details?

3 **WIT:** I think we're on the wrong page.

4 **Mr. Fawcett:** Well the one that he sent on the 30th is, standby I'll give you that. That
5 would be page 58, Exhibit 4.

6 **WIT:** The one that starts, good evening Captain Lawrence?

7 **Mr. Fawcett:** Standby, sir. It's on page 101. The header is not on that particular
8 message, but it was directed to you. Do you recognize that message as the one
9 directed to you initially?

10 **WIT:** Yes, sir.

11 **Mr. Fawcett:** Okay. So the topic areas are he got the latest weather file, and I'm
12 paraphrasing it for the sake of remedy. He has his position, the position of the storm as
13 reported through the different weather sources and he says, I've monitored Hurricane
14 Joaquin tracking erratically for the better part of a week. Sometime after 0930 – 0200
15 she began her Southwesterly track, that's abbreviated. Early this morning I adjusted
16 our direct route in a more South, Southeasterly direction towards San Juan, Puerto Rico
17 which would put us 65 plus or minus nautical miles South of the eye. Joaquin appears
18 to be tracking now as forecasted and I anticipate us being on the back side of her by
19 10/01/0800. Present conditions are favorable and we're making good speed. All
20 departments have been duly notified as before. I have indicated a later than normal
21 arrival time in San Juan, Puerto Rico. Anticipating some loss of speed throughout the
22 night period. I will update the ETA tomorrow morning during our regular pre-arrival
23 report to SJP, etc. Question, and it's asterisks on both side. I would like to transit the

1 Old Bahama Channel on our return North bound leg to Jacksonville, Florida. This route
2 adds an additional 160, abbreviation for nautical miles to the route for a total of 1261
3 abbreviated nautical miles. We will need to make around 21 knots for our scheduled
4 10/05/1045 arrival time at Jacksonville pilot station. This precaution will take the
5 uncertainty of Joaquin's forecasted track and as you can see she really develops into a
6 formidable weather pattern on 10/03-05/15. I'm confident that Joaquin will track in a
7 Northerly direction once reaching the Gulf Stream current. I will await your reply before
8 transiting Old Bahama Channel on our return leg to Jacksonville, Florida. Should you
9 have any questions or concerns kindly contact this vessel. Best regards. Do you recall
10 that message?

11 **WIT:** Yes, sir. That's the one we spoke about earlier.

12 **Mr. Fawcett:** Thank you very much. I have no further questions. I'll pass it over to
13 Commander Denning.

14 **CDR Denning:** Good morning Captain Lawrence.

15 **WIT:** Morning.

16 **CDR Denning:** I want to start by going back to, actually not back to, Mr. Fawcett didn't
17 bring it up directly, but Exhibit 6, page 18, that's your job description. I want to go
18 through a few things and ask you some specific questions about how you perform
19 certain functions. So again that's Exhibit 6, page 18. It actually begins on page 18 and
20 continues on to page 19 and 20.

21 **WIT:** Okay.

1 **CDR Denning:** So just for clarification from some of the other testimony we received
2 from other witnesses, on your job description it states, evaluates deck officers assigned
3 to the TSI fleet. Can you describe for us your involvement in the evaluation process?

4 **WIT:** Well that's incorrect. We hadn't updated my job description. My previous
5 predecessor, excuse me, said I've been with the company since 2014 and we hadn't
6 updated this section here. But I do get involved in some of the interviews, just
7 beginning recently on the new build vessels when they're interviewing senior officers.
8 But I don't evaluate the officers.

9 **CDR Denning:** So this job description had been, essentially update at least informally
10 and this is no longer one of your functions?

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

12 **CDR Denning:** One of the other items on the job description it say monitors safety
13 meetings. Can you describe that how you monitor safety meetings on the vessels?

14 **WIT:** We don't monitor them on the vessels, we just ensure that they're completed on
15 the vessels. We monitor safety meetings in the office. But on the vessels we collect,
16 they send in their safety meetings, minutes then we review them in the office. And we
17 also keep track of them make sure that they're being completed.

18 **CDR Denning:** Back to the discussion of investigating accidents that Mr. Fawcett
19 asked you about, you answered one of his questions as far as when you do this, you
20 stated if I feel like I need to be involved, if I feel like I need to investigate an accident.
21 How do you determine whether it's appropriate to investigate an accident or not? What
22 measures do you use?

1 **WIT:** It's depending on some of the, for instance some of these near misses, they don't
2 necessarily need a greater follow up other than what's being conducted on the vessel.
3 And the vessel's trained to conduct investigations. And they look at the root causes of
4 any type of incident and they give us corrective actions. They do that also even on
5 more serious incidents, but if it's something that – it's more of a judgement call I would
6 have to say on my part of how serious it is. And also if I see an investigation report from
7 the vessel that I feel just based on my experience, since I've been, you know I did over
8 40 years in the industry and I've been doing this type of job for quite a long time. So
9 just based on my investigative knowledge and experience of whether there needs to be
10 more questions asked and for the follow up it's my judgement call on my side.

11 **CDR Denning:** So what I'm hearing, correct me if I'm wrong, is that the vessel
12 investigates the incident, they report it to you, you evaluate their investigation and
13 determine if additional follow is necessary?

14 **WIT:** That's correct. And it's not always just me. You know I obviously share this with
15 the operation and the Director of Ship Management or others involved with that vessel
16 as well to get a better overall feeling of the incident itself and what follow up may be
17 needed.

18 **CDR Denning:** And the specific incident that Mr. Fawcett asked about was a lost
19 propulsion leaving San Juan in March.

20 **WIT:** Yes, sir.

21 **CDR Denning:** For that particular incident were there any corrective actions developed
22 by the overall team?

23 **WIT:** Yes there were.

1 **CDR Denning:** Could you describe those for us please?

2 **WIT:** I don't recall. They're in an investigative report and some emails from – I had an
3 email from Jim Fisker-Andersen. I had written up the investigation report and I'm not
4 sure at that time if he had conducted that with the vessel directly or with anybody else
5 involved. But it was an email that he had sent to his direct report, Phil Morrell, Vice
6 President of Operations. And he had all the causes and the corrective actions in that
7 report.

8 **CDR Denning:** Moving on to another topic. During Captain Lofffield's testimony a
9 couple days ago, he stated that he determines the appropriate GM margin as the
10 Master of the vessel, they determine the GM margin that they would like. Typically
11 that's half of a foot, 6 inches above the required GM. He stated that if he wanted to – if
12 he wanted additional stability, additional GM for the vessel that he would start a
13 conversation with you about that. Does that sound like the process that would be
14 followed and can you tell me about the process, how that conversation might go?

15 **WIT:** No, sir. I think, in my opinion, if he said that he was probably saying he would be
16 speaking to me as the Designated Person. Whereas Designated Person I communicate
17 to everybody in the fleet that if they don't know where to take an issue or if it needs
18 further follow up in the office they can feel free to call me and I will steer them in the
19 right direction. But the stability calculation wouldn't involve me typically.

20 **CDR Denning:** Is it likely that your role as the Designated Person is as the primary
21 focal point within management for safety concerns, correct?

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

1 **CDR Denning:** So is it – is his – would your involvement be to facilitate communication
2 with upper management on the reason for additional stability requirements?

3 **WIT:** If he came to me as Designated Person issue, yes I would.

4 **CDR Denning:** Have any vessel Masters ever initiated a conversation like that with you
5 requesting, or not requesting, but stating that they are requiring additional stability?

6 **WIT:** No, sir.

7 **CDR Denning:** If you could turn to Exhibit 47 please, page 9 of Exhibit 47.

8 **WIT:** The org chart.

9 **CDR Denning:** That's correct. That's the Tote Services organization chart. I see your
10 position on this organization chart. I see your assistant's position on the organization
11 chart. And also beneath you on the organizational chart there's a box that says, safety
12 and Ops coordinator TBD. Can you tell us about this, Mr. Fawcett asked you earlier if
13 there were any positions that weren't filled, I believe this what he was referring to. Can
14 you tell us about that? Was there a plan to hire someone to assist you with your duties?

15 **WIT:** Yes, sir, there was. After our annual audit, external audit of – for in January of
16 2014, by our findings we felt that we may need additional resources with my department
17 of two at the time, and we had agreed with executive management that we would
18 interview and hire an additional person. As we got closer to that period we had
19 basically set a date of April to hire that person. As we got closer to that just due to
20 changes in the organization at the time and actually if I remember correctly I think we
21 hadn't actually reduced some personnel in the organization. Executive management
22 and with my agreement we decided that it would be – we were able to reallocate some
23 of the duties that we were looking for that person to perform within my department and

1 so we actually in August I think it was, we put out in internal memo and had a meeting,
2 an executive meeting to reallocate a number of my duties within the existing resources
3 we had within the office with some of the other Directors of Ship Management and a few
4 other people as well.

5 **CDR Denning:** Thank you that's very helpful. Because one of – it actually answers
6 some of my follow on questions. Reading your job description it seems like a lot duties
7 for one individual. You have an assistant, it seemed like a lot as far as span and control
8 for 27 vessels. So that's what I was going to ask you about your experiences. Was it
9 difficult to perform all of those function?

10 **WIT:** At that time we, like I said, we did feel that we did need some additional resources
11 through managing that we felt in order to really to – the continuous improvement and
12 move forward that it would be helpful to have an additional person on the staff.

13 **CDR Denning:** And just to clarify one thing you said, sir. This particular exhibit dated
14 March 31st, 2015. I think you said the original plan was to fill the position in April. Did
15 you mean April 2015?

16 **WIT:** April 2015, correct.

17 **CDR Denning:** And the organization decided to go a different direction with the
18 reallocations. Turning your attention back to Exhibit 4, which Mr. Fawcett asked you
19 about. The email you sent regarding Tropical Storm Erika. You asked for daily updates
20 until all clear. Why did you choose daily as the frequency for updates?

21 **WIT:** I don't recall.

22 **CDR Denning:** Thank you, sir. That concludes my questions.

23 **WIT:** Thank you.

1 **CAPT Neubauer:** Commander Odom.

2 **CDR Odom:** Good morning Captain Lawrence.

3 **WIT:** Good morning.

4 **CDR Odom:** Earlier you stated to Mr. Fawcett that as a DPA it requires a qualification
5 or certification. Can you clarify on that from the code, understanding you're qualified,
6 does it require a license or a credential to be a DPA?

7 **WIT:** Uh, I would have to read the code, but yes to my recollection it does.

8 **CDR Odom:** Thank you. And for clarification is Tote required to comply with all
9 aspects of the International Safety Management Code?

10 **WIT:** Yes, sir.

11 **CDR Odom:** Within the systems we see position descriptions very well articulated. But
12 one of the things I noticed that seemed to be lacking are authorities explained to the
13 company officers. Do you have that anywhere? Does it expressly describe anywhere
14 what the authorities of the positions are?

15 **WIT:** In the job descriptions?

16 **CDR Odom:** Umm huh. Or anywhere in the safety management system?

17 **WIT:** I don't recall. I would have to review our manuals.

18 **CDR Odom:** Would you be able to tell us who in the company has the authority to
19 defer maintenance or preventative maintenance items?

20 **WIT:** I don't know.

21 **CAPT Neubauer:** Commander Odom can you speak closer to the microphone please?

22 **CDR Odom:** As the DPA do you have access to the highest levels of the company?

23 **WIT:** Yes Commander.

1 **CDR Odom:** And who would that be?

2 **WIT:** That would be President and CEO Admiral Phil Greene.

3 **CDR Odom:** And we've established that you're responsible scheduling internal audits.

4 Are you also responsible for corrective action, uh actions for as a result of
5 nonconformities for those audits?

6 **WIT:** Yes, sir.

7 **CDR Odom:** Are you responsible to make sure that the action, the corrective action is
8 completed, but you might not necessarily be responsible for doing?

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

10 **CDR Odom:** So can you explain to us what you, in your words, what you think the
11 difference is between an observation and nonconformity and a major nonconformity is?

12 **WIT:** Again it would be better to review the action definitions in our manuals.

13 **CDR Odom:** I'm not looking for verbatim, just in your words, you know what are the
14 differences between the three.

15 **WIT:** Well major nonconformity would be basically a show stopper, it should be
16 something that should be addressed immediately, possibly before the vessel, if it's a
17 ship nonconformity before the vessel sails. It could be a 2692 or a Coast Guard, you
18 know order, but even within our own internal audit process if I found a major
19 nonconformity issue it would be addressed immediately. A regular nonconformity, we
20 would address that typically within a three month period. And an observation would be
21 something that may not be required to be corrected within a time period, but it would
22 just basically as a place in the report to note this. And typically how we look at an
23 observation would be a subsequent, any subsequent report or visit to the ship. If we

1 look at an observation that was made and that hadn't been addressed or remains an
2 observation then I may move it to a nonconformity at the subsequent.

3 **CDR Odom:** At the time of the casualty were there any open or nonconformities or
4 observations on the El Faro?

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

6 **CDR Odom:** Were there any open nonconformities from the external audit from ABS at
7 the time?

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

9 **CDR Odom:** Prior to the casualty you received an external audit from ABS on the 22nd
10 of January, 2015. Were there any open nonconformities or were there any
11 nonconformities assigned as a result of that audit?

12 **WIT:** I would have to review the audit report. I can't recall.

13 **CDR Odom:** Do we have that audit report as an Exhibit?

14 **CAPT Neubauer:** We do not.

15 **CDR Odom:** Are evaluations of the officers required by the safety management
16 system?

17 **WIT:** Yes they are.

18 **CDR Odom:** Have you received a nonconformity for evaluations of the officers not
19 being completed?

20 **WIT:** I don't recall.

21 **CDR Odom:** When you conduct an internal audit can you explain the process that you
22 use for how you select what element of the plant you're going to audit on board a vessel
23 like the El Faro or the El Yunque or any vessel? Can you explain the process to us?

1 **WIT:** The process of the audit or what we would specifically select?

2 **CDR Odom:** The process of how you decide what specific items you're going to select
3 for audit.

4 **WIT:** Well if I was conducting the audit myself, or another auditor, each auditor has
5 their own key points. I think they like to sample a vessel when they're doing their audit.
6 Myself I would look at the previous audit and see what type of findings they may have
7 had there. And just general awareness of the vessel itself and each item was typically
8 done on an annual basis starting with back in some of the reports. So the vessel, I
9 would look at the typically the Master's change over notes just prior to the audit, see if
10 there are issues there. I would typically review the Master's reviews, sent in twice a
11 year to see if there's any issues involved there. And then, again have some of my own
12 key issues that I typically plan on auditing when I go on any vessel.

13 **CDR Odom:** And you stated earlier that you don't necessarily, you obviously don't do
14 all the audits.

15 **WIT:** Correct.

16 **CDR Odom:** And your staff assists you with that. Do you guys use audits, third party
17 auditors to also assist you?

18 **WIT:** Yes, sir.

19 **CDR Odom:** And how do you – what process or what standard do you use to vet those
20 auditors to make sure that they meet your standard?

21 **WIT:** Well basically they have to have, show they've had previous auditor training and
22 the two internal auditors, we've only used two external auditors at this time in this past

1 year. And it's just general knowledge of their reputation within the industry is really what
2 we base – utilizing those people on at this time.

3 **CDR Odom:** One of the elements of the code is overriding authority of a Master. Can
4 you explain to us what you understand overriding authority to be?

5 **WIT:** Uh yeah, the Master's overriding authority and the responsibility is to make
6 decisions on various safety or pollution, prevention items. And also to utilize any
7 assistance he may possibly need from management.

8 **CDR Odom:** Do you think the overriding authority means that the company does not
9 have to provide guidelines through the safety management code for the Master to safely
10 operate the vessel?

11 **WIT:** No.

12 **CDR Odom:** You issued a safety notice, 15-008 for Hurricane Danny, are you familiar
13 with that notice?

14 **WIT:** Yes, sir.

15 **CDR Odom:** So earlier testimony we had stated that that was issued in order to notify
16 the fleet that hurricane season was essentially here, they needed to take preventative
17 measure to make sure that they were ready for the season. Would you characterize
18 that as being accurate?

19 **WIT:** Yes, sir.

20 **CDR Odom:** Did you guys hold any type of training or meetings or do any type of risk
21 analysis before the commencement of hurricane season?

22 **WIT:** You mean in the office?

23 **CDR Odom:** In the office or on the vessels.

1 **WIT:** No. Like I said the risk assessment is continuous on the vessels for all their
2 voyage plan.

3 **CDR Odom:** Earlier one of your Captain's testified that he considered weather a risk to
4 the vessel. One of – in your Exhibit 6, page 18, it states that one of your jobs is to
5 identify risk to personnel, the environment and to ships and recommend corrective
6 action to senior management when necessary. Have you identified weather as a
7 specific risk to the vessels?

8 **WIT:** Not outside of it being listed within our manuals as instructions, but there's been
9 no separate specific risk assessment done on that that I'm aware of.

10 **CDR Odom:** Can you walk us through, from the company side, if a hurricane becomes
11 an issue, what is the company required to do to support the vessel if it's at sea or if it's
12 getting ready to get underway and a hurricane – is there any specific actions on the
13 shore side that the company does?

14 **WIT:** Only if the vessel requests it. It's the vessel's – the Master's responsibility for
15 preparing for a storm and for getting – doing his voyage planning. I mean again as we
16 said, you know the overriding authority to deal with anything, you know, we don't tell the
17 Masters what to do. However, you know if they ask for our support we have quite a
18 large experienced team in the office that would be – definitely be able to assist them
19 with whatever information he would need.

20 **CDR Odom:** So there's no type of increased profile within the company structure that
21 you go to, to track a storm or to track the vessel while they're on the voyage or anything
22 like that shore side?

1 **WIT:** Case by case we may do so. Again more for the awareness within the various
2 operating departments of the office. And again in case support is needed or if we, you
3 know, know that the vessel may be, again having to change her stay in port or she may
4 be needing some type of assistance, recommendations or assistance from us in the
5 office, again really just on a support mode and just our own awareness obviously. It's
6 our vessel and we're operating the vessels and you know we want to be aware of
7 what's happening out there as well.

8 **CDR Odom:** So the International Safety Management Code requires the company to
9 identify risk to the vessel. And your position description establishes that's your job to
10 identify those risks. And it further explains that the company has to provide
11 contingency, integrated contingency plans to have a shore side and a vessel side
12 integrated plan to address those risks and to deal with emergencies related to those
13 risk. Do you have one for vessel flooding?

14 **WIT:** Well we do have, we do address vessel flooding within our safety management
15 system.

16 **CDR Odom:** My question is do you have an integrated plan for dealing with that risk
17 and responding to the emergency in vessel flooding that is identical to what's on the
18 vessel and shore side?

19 **WIT:** I would say we do as far as our vessel response plan and that is Coast Guard
20 approved and it's more required for oil spills, but it also addresses those situations
21 which you explained as far as flooding or collisions and various other emergency cases.
22 And it does address you know the communications and the emergency procedures.

1 **CDR Odom:** So is the plan specific to flooding, loss of propulsion, fire, things like that?

2 Are there specific plans that identify those specific emergencies as a risk and a

3 contingency plan to deal with that specific item?

4 **WIT:** Again, I think just ----

5 **CDR Odom:** Or is that a general plan is what I'm trying to get out. Is it just a general

6 contingency plan for all?

7 **WIT:** It's more of a general contingency plan. But it does address each specific

8 casualty that you did mention.

9 **CDR Odom:** Is one of those risks identified generally as weather? Hurricanes?

10 **WIT:** Yes, sir.

11 **CDR Odom:** So in that plan for vessels underway from a hurricane there's no required

12 action from the company?

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

14 **CDR Odom:** Your safety management system, does it require the vessels to be in

15 compliance with the trim and stability book on board the vessel?

16 **WIT:** I would have to look as far as the trim and stability book. It is required to, you

17 know comply with stability.

18 **CDR Odom:** Have you ever, during your internal audits, used that as a sampling to

19 verify that the vessels are in compliance with the trim and stability book?

20 **WIT:** I have not myself. I don't know if any of the other auditors have.

21 **CDR Odom:** Has Tote in the past ever used that as an internal audit, or has there ever

22 been a nonconformity assigned?

23 **WIT:** I can't speak about the past. I've only been there for 2 years.

1 **CDR Odom:** Thank you. That concludes my questions.

2 **CAPT Neubauer:** Thank you. At this time the hearing will recess for 10 minutes and
3 reconvene at 10:15.

4 *The hearing recessed at 1005, 20 February 2016*

5 *The hearing was called to order at 1016, 20 February 2016*

6 **CAPT Neubauer:** The hearing is now back in session. Good morning Captain
7 Lawrence.

8 **WIT:** Good morning Captain.

9 **CAPT Neubauer:** Sir, before I pass the questioning to the NTSB I just have a few
10 follow up questions on the Designated Person ashore duties.

11 **WIT:** Yes, sir.

12 **CAPT Neubauer:** Sir, I believe you mentioned that you had delegated the DPA duties
13 to another individual in the past, is that correct?

14 **WIT:** Yes, sir. While I was on vacation I basically gave Lee Peterson as an alternate
15 number for the Designated Personnel, correct.

16 **CAPT Neubauer:** In the year before the incident, how many times would you estimate
17 that you did that process, delegated the authority?

18 **WIT:** I'm just guessing maybe 2.

19 **CAPT Neubauer:** How many individuals at Tote Services have had DPA training and
20 received a certificate? Or how many individuals at the time of the accident had the DPA
21 training and had the certificate?

1 **WIT:** I'm now aware of any actual certificate for DPA training. I don't have one myself.

2 It's just basically the experience and what it says in the ISM code as far as licensing and
3 various types of training involved. But I'm not aware of a specific certificate.

4 **CAPT Neubauer:** Yes, sir, it's not a requirement. How many people have had DPA
5 training?

6 **WIT:** I'm not aware. Just myself. I mean, let me just restate one thing that I said. As
7 far as our office you know we, I think it's been stated before, you know we're I like to
8 think as a type of team atmosphere. We're a very small office, open space seating,
9 everybody's communicating with everybody on a daily basis. I'm in the office most of
10 the time if I'm not, you know on the ship or a few days of vacation. And many times an
11 incident will come up and say it's a DP issue, typically it may be confidential and I'll be
12 discussing it with, only with the President. But my direct report, Lee Peterson you know
13 he's aware we talk a lot about the DP functions, some might get reported to him, so I
14 think he's capable of performing those functions.

15 **CAPT Neubauer:** Sir, you mentioned you served as a DPA at another company
16 previous to Tote?

17 **WIT:** Yes, sir. The – it was – my position was Vice President of Health Safety Quality
18 Environment at K-Sea's Transportation tug and barge company. And I was the DPA for
19 over 110 vessels with that company. And I was also the sole Designated Person for
20 Alaska Tanker Company which we had most out there. We had 11 oil tankers, I
21 mentioned before and they ran from the West Coast to Valdez, Alaska.

22 **CAPT Neubauer:** Sir, you also testified that – about the, you were going to have an
23 assistant hired around the April 2015 time frame but that did not occur.

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

2 **CAPT Neubauer:** And then I believe that you said that you re-delegated duties instead
3 of hiring, some of your duties rather than hiring that individual, is that correct?

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

5 **CAPT Neubauer:** Can you explain what duties were re-delegated and who they went
6 to, sir?

7 **WIT:** That would be, I would be able to do that better if I had a documentation of the
8 memo that was sent out of the office that actually specifically named three or four
9 people within the operations group that did take some of those various responsibilities.
10 Off the top of my head for one was Port Captain, Eunice Cadorette-Young, she took
11 over my responsibilities of the Designated Employee Representative for our drug and
12 alcohol program. And I still oversee the overall drug and alcohol program, but I had that
13 specific title and training before so we gave her that position. We also gave a few, a
14 position of my, some of my environmental oversight plans of our environmental
15 objectives. As far as our task and progress matrix that we review annually. I think we
16 designated her to also oversee that in conjunction with one of the Directors of Ship
17 Management. An action tracking plan that we've been working on. That was given to
18 another person in the office, another one of the Directors of Ship Management. Yeah, I
19 would have to – I would have to look at the list to kind of give you a better, a more
20 specific answer.

21 **CAPT Neubauer:** Understand. Thank you, sir. Sir, when you were serving as DPA
22 during the El Faro's voyage, during Tropical Storm Erika in the late August time frame,
23 were you in the office at that time, sir?

1 **WIT:** I don't recall.

2 **CAPT Neubauer:** At this time I'll pass the question over to Mr. Roth-Roffy.

3 **Mr. Roth-Roffy:** Thank you Captain. Good morning Captain Lawrence.

4 **WIT:** Good morning.

5 **Mr. Roth-Roffy:** Tom Roth-Roffy, National Transportation Safety Board. Sir, you
6 mentioned in your previous experience before your present position that you had served
7 with a company as a Port Captain. Could you say how long that was and which
8 company it was and thirdly what those duties were as Port Captain?

9 **WIT:** That was my first shore side company I worked for after I stopped going to sea
10 back in 1989. I began working with Maritime Overseas Corporation which is now OSG.
11 And I was one of I think 4 or 5 Port Captains in the office. That office was set up where
12 we had a Port Captain and a Port Engineer designated for each vessel, or for a set of
13 vessels. So my recollection I had I think 4 or 5 vessels assigned to me as Port Captain.
14 And it encompassed a lot of the duties I also do now as head of safety, safety
15 environment and security. There was no – we did have a regulatory affairs person that
16 looked after the oil spill response contracts and plans. But as far as all the safety items,
17 I did that as Port Captain.

18 **Mr. Roth-Roffy:** Sir, do you have an understanding of if that company has the
19 positions, Port Captain within their organizational structure?

20 **WIT:** I believe, I can't answer that to be 100 percent correct.

21 **Mr. Roth-Roffy:** You mentioned that you would become involved in investigations of
22 shipboard incidents if they were, if you thought you should look into. Can you give

1 some idea of the number of investigations that you have performed in say the past 2
2 years before the El Faro sinking?

3 **WIT:** Actually I have not performed any directly. I may have given some minor input
4 into just, as I mentioned before, maybe some of the numerous investigations or just
5 asking a few additional questions. But I have not conducted any formal investigation
6 myself.

7 **Mr. Roth-Roffy:** And sir, you mentioned that you had one, I believe 16 audits, internal
8 audits in recent years in your position, is that correct? Approximately?

9 **WIT:** I think I said, for myself?

10 **Mr. Roth-Roffy:** Correct.

11 **WIT:** I think I said 6 to 8.

12 **Mr. Roth-Roffy:** Six, I'm sorry.

13 **WIT:** Yeah 6 or 8 audits that I've conducted myself in the past few years.

14 **Mr. Roth-Roffy:** And those not conducted by you personally, you mentioned that you
15 had occasionally used third party?

16 **WIT:** Correct.

17 **Mr. Roth-Roffy:** Would that be for the remainder of all the other audits that have been
18 performed by your organization?

19 **WIT:** No. We have a, my assistant, Ms. Finsterbusch, as she has conducted a few of
20 the audits, she's qualified. Our Port Captain, Eunice Cadorette-Young has conducted a
21 few of the audits and she is qualified. And we have a Port Engineer, Mr. Sullivan out in
22 the West Coast who's conducted a few of the audits. I think roughly 50 or 60 percent of
23 the internal audits were conducted by third party.

1 **Mr. Roth-Roffy:** And sir, could you name those organizations that conducted audits on
2 your behalf?

3 **WIT:** I'm trying to think. They're both consultants, I'm trying to remember the name. I
4 think Westervelt Consultant and Softy Consultant. Basically it was James Westervelt
5 and Richard Softy were the two individuals that conducted the audits for us.

6 **Mr. Roth-Roffy:** On these internal audits conducted under your direction, how many
7 persons are involved in the audit team, typically?

8 **WIT:** From the third party?

9 **Mr. Roth-Roffy:** Let's start with the ones performed by your employees?

10 **WIT:** Typically, 1, 2. We have had 3 I think on one audit. It depends on the availability
11 of our auditors and how's the time frame and the location. I think we did have maybe
12 one audit of the El Yunque where I had sent 3 of them down just, excuse me, based on
13 the short time in port. I felt it would be best, you know get the bigger bang for our buck
14 with the additional auditor, larger auditor team. Usually it's 1 or 2 auditors on a team.

15 **Mr. Roth-Roffy:** And have you ever used the services of the marine operations
16 department or the Director of Commercial Operations organization as a member of the
17 audit team?

18 **WIT:** I'm not sure. Can you explain exactly which?

19 **Mr. Roth-Roffy:** Yeah. So the organization below Mr. Morrell. Have you ever used
20 members of that branch on our audit team?

21 **WIT:** Umm, no the three people I just named out are directly – direct reports to Mr.
22 Morrell. However, first it's Jim Fiskier-Andersen, Director of Ship Management and he is
23 a trained auditor as well, so I could utilize him if – depending on the situation.

1 **Mr. Roth-Roffy:** You say you could?

2 **WIT:** I could. I have not used him at this time.

3 **Mr. Roth-Roffy:** Sir, could we go back to Exhibit number 6, page 18, your job
4 description?

5 **WIT:** Okay.

6 **Mr. Roth-Roffy:** I believe when another person on this board was questioning you
7 about your responsibilities you said that this was an old job description. Could you give
8 us a history of this one and when it was renewed, or modified?

9 **WIT:** I said I would really read through all the various descriptions, but the history was
10 my predecessor. Like I said I just started with the company February 2014. And the job
11 description, that's when they were reorganizing various positions within the company.
12 For instance there were no Directors of Ship Management at that time. So my
13 predecessor's job description was basically passed on to me to bring with. But there
14 was within the first 6 months there was various changes through the organization. We
15 just didn't update my job description.

16 **Mr. Roth-Roffy:** So there is no revised version of this job description, is that correct?

17 **WIT:** There is – there is now, but you know it was after the El Faro I think, incident. I
18 mean we revised it once before just shortly and then now we've got a better revision of
19 the actual responsibilities of myself that actually just did for our recent external audit
20 back in January.

21 **Mr. Roth-Roffy:** And I'm sorry you said you revised it, it's been revised twice since this
22 version?

1 **WIT:** Well because this one here says it was modified in October 2014, so I had one
2 before that. So now it's been revised again. We actually had a finding in our 2014, or
3 beginning of 2014 external audit that the job descriptions within in the company needed
4 to be updated. So we completed that before this last external audit in January. So it
5 was, like I said there was a number of changes in various other parts of the company
6 that we had updates for the descriptions. So it was an ongoing process by Human
7 Resources during the past year.

8 **Mr. Roth-Roffy:** On page 18 here there's a clause that says coordinates with the Port
9 Captain for ordering and scheduling vessel bunkers.

10 **WIT:** That was some past job, there was a different position that when I joined the
11 company that position was eliminated. You see Port Captain/Safety Director. And
12 many of his duties were incorporated into mine, in to others of the Directors of Ship
13 Management. So I do not have anything to do with scheduling of vessel bunkers.
14 Anything with purchases as well takes over that.

15 **Mr. Roth-Roffy:** I'm sorry. Did you say the Port Captain position does not exist any
16 more either?

17 **WIT:** We do have one Port Captain for, she's dedicated to one vessel and that's the
18 SBX-1, that's Eunice Cadorette-Young. We do utilize her expertise for other things but
19 she's dedicated to that one vessel as far as Port Captain position.

20 **Mr. Roth-Roffy:** And on the next page it says reviews hot work permits. In close space
21 permits, etc. And delegates theses duties to Port Captain in his absence. Is that a
22 responsibility that has been reassigned?

23 **WIT:** Yes, sir.

1 **Mr. Roth-Roffy:** Who currently does that?

2 **WIT:** The hot work permits are a vessel function. And unless there is an office
3 requirement to notify that they get permission to do certain levels of work based on a
4 risk matrix that they have to go through for work procedures. And that will come to
5 either myself or port engineers who have the authority to grant permission of the hot
6 work permits. And the hot work permits are sent in typically on a quarterly basis, and
7 file just within the office.

8 **Mr. Roth-Roffy:** So does anybody currently review these permits to ensure that ships
9 are adhering to the prescribed safety practices before they're filed?

10 **WIT:** I can't speak as far as if the Port Engineers that are reviewing those, but that's
11 what I consider an auditing processing. When we visit the vessels our auditors should
12 be looking at files to ensure that they are complying with our permit procedures.

13 **Mr. Roth-Roffy:** Sir, thank you. That's all I have now.

14 **WIT:** Thank you.

15 **CAPT Neubauer:** Mr. Kucharski.

16 **Mr. Kucharski:** Thank you Captain. Good morning Captain Lawrence.

17 **WIT:** Good morning.

18 **Mr. Kucharski:** Just some follow on questions along with what Mr. Roth-Roffy was
19 asking about, Port Captain. When you were Port Captain, you mentioned you were Port
20 Captain for overseas, Maritime Overseas was it?

21 **WIT:** Correct.

22 **Mr. Kucharski:** What typically did you handle during that time?

1 **WIT:** Well like I mentioned before I was assigned – it varied. I was there for 10 years
2 as a Port Captain before moving up to Alaska Tanker Company which was also owned
3 by Maritime Overseas. And as Port Captain my typical duties would be to anytime we
4 had any type of customer or regulatory visit or inspection on vessel by the Coast Guard,
5 the Port Captain would typically attend those. And as far as, to do auditing on – as a
6 Port Captain. Also on various vessels. A lot of my time was spent on customer,
7 charterer requirements on filling out of forms and paperwork to send to oil tankers, we
8 have a lot of vetting by our customers. Our customers repeat actually. And we have a
9 lot of paperwork going, so this is basically when a vessel sent in all their load
10 information I would have to take that information, enter it into various different formats
11 and forms to send to the customer. And just a little bit of everything, the safety
12 management of the vessel as far as the deck side. Attend ship yard periods as the
13 deck side representative. And the way it was set up kind of the Captain basically
14 reported to me as far as going through – into areas of the company.

15 **Mr. Kucharski:** Did you just say that the Captain would report to you?

16 **WIT:** That's the way it was looked at back then. Back to 1990's.

17 **Mr. Kucharski:** Did you also say that you would go to shipyard and attend as a deck
18 side representative?

19 **WIT:** That's correct. For a certain period of time. I would be in charge of ensuring the
20 ship was ready for shipyard. They had to put off, again being an oil tanker, ensuring the
21 cleaning stages of the tanks prior to getting into the shipyard. So I would meet the ship
22 at the shipyard and ensure the slops were taken off the ship, arrange for that. And
23 make sure the ship was given a gas free certificate. At that point on typically the Port

1 Engineer would take over for all the requirements in the shipyard. And I may or may not
2 attend various times during that period and then I would also help the arrangements of
3 readying the ships for departure, shipyard. I would typically attend to that also. It varied
4 case by case. You know the requirements of a vessel for the deck repairs or deck side
5 equipment that I may be involved in. As – and ensure I have a full budget for the deck
6 side of the ship itself. A lot of the requisitioning, purchasing would have to go through
7 me as well on the deck side.

8 **Mr. Kucharski:** On the deck side. So would you typically interface a fair amount of the
9 time with the Master, of course Master's not deck department, sorry the Chief Mate say,
10 and then would you also interface quite a bit with the Master?

11 **WIT:** Yes, sir.

12 **Mr. Kucharski:** A general question about your background. You said you sailed
13 Master right before coming to ashore?

14 **WIT:** Yes, sir. About 2 years I sailed Master before I came ashore.

15 **Mr. Kucharski:** Was any of that Master time at sea on a container or a roll-on roll-off
16 type vessel?

17 **WIT:** No I was Master – I was Master of oil tankers and bulk carriers. And some other
18 heavy lift ships, but none. I had sailed on container ships before but not as a Master.

19 **Mr. Kucharski:** To your job description, sorry, I'm going to go back to that. That's
20 Exhibit 6, page 18.

21 **WIT:** Yes, sir

22 **Mr. Kucharski:** And about, well towards the end of the page it starts with the sentence,
23 it's a one sentence paragraph. Assist marine operations, see that?

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 **WIT:** Yes, sir.

2 **Mr. Kucharski:** And the rest of it is, marine operations, Government and commercial
3 and coordinates with Port Engineers in ensuring that the cargo gear and the deck
4 equipment are properly repaired. Is that still one of your duties?

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

6 **Mr. Kucharski:** Who is that assigned to now, do you know?

7 **WIT:** Well the Port Engineers report directly to the Directors of Ship Management.

8 **Mr. Kucharski:** So the Port Engineers then coordinate and assist in ensuring that the
9 cargo gear and deck equipment are properly repaired?

10 **WIT:** Well the vessels obviously does, but as far as any support from the office, yes
11 that's my understanding.

12 **Mr. Kucharski:** Thank you on that clarification. Back to audits, you say there are 25
13 vessels and you performed I believe 6 to 8 audits since you've been here.

14 **WIT:** Yes within the last 2 years.

15 **Mr. Kucharski:** And you mentioned that you used third party auditors?

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

17 **Mr. Kucharski:** Were third party auditors used on the Tote vessels in the two years
18 that you've been here?

19 **WIT:** Yes, sir.

20 **Mr. Kucharski:** And those ----

21 **WIT:** Which – on the Tote Maritime Alaska vessels they were used.

22 **Mr. Kucharski:** How about the Tote Puerto Rican trade vessels?

23 **WIT:** Uh, no, sir. I mean before the El Faro incident. They have been since then.

1 **Mr. Kucharski:** And these audits take approximately how long, the internal audits?

2 **WIT:** They're basically a full day.

3 **Mr. Kucharski:** A full day. And that's a dock side audit, or the ship's alongside?

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

5 **Mr. Kucharski:** Had there been any audits or observations while the ships are
6 underway in navigation?

7 **WIT:** None while I've been here, no, sir. Well I'm sorry. Let me rephrase that. There
8 has been one out on the West Coast. Our Port Engineer on one of our military ships.

9 **Mr. Kucharski:** The Port Engineer rode the ship? One of the military ships?

10 **WIT:** One of Port Engineers rode one the ships there and conducted the audits over a
11 period of a week he was on there.

12 **Mr. Kucharski:** And that was the only one in the two years. How about before that?
13 Were you aware of any audits or vetting to observe on board while the ships were
14 underway?

15 **WIT:** Prior to my time I can't speak to that. I'm not aware of that, let me put it that way.

16 **Mr. Kucharski:** Just to be clear, I think the question was asked about if anyone while
17 the ship was in a storm or approaching bad weather if anyone plotted positions or
18 looked at the position of the storm relative to the ship. Did anybody do that?

19 **WIT:** I don't recall plotting positions, but we typically would, and this is a case by case, I
20 should reword that, look at weather online in the office and at times we would print that
21 out and post it. And actually Patty Finsterbusch would do that for me and post it next to
22 the Director of Ship Management's area just so they could see updates on it.

1 **Mr. Kucharski:** And was the storm plotted against the position of the ship just to see
2 relatively how they were doing?

3 **WIT:** Not necessarily. You know we know the position at times based on their noon
4 position. Some of our fleet, the American roll-on roll-off, we have a different weather
5 routing system. So you can go online, you can see how where these ships are and you
6 can actually see where the storms are and there as well so. There's different tools that
7 we have and various tools I should say we have. But those are the tools we have
8 available to us and obviously we can look at it if we so desire.

9 **Mr. Kucharski:** So this other system you were talking about that was, did I hear the
10 word days earlier the Arc vessels?

11 **WIT:** American roll-on roll-off vessels do have a separate, I think it's called purple
12 finder. A system that they have, we took over management with them last year.

13 **Mr. Kucharski:** And with that system you can actually see the position of the vessel
14 down there on it with the position of the weather nearby?

15 **WIT:** Yes, sir.

16 **Mr. Kucharski:** Of your time, I've looked through some of the duties that you've
17 mentioned, the 25 vessels, you're DPA, and responsible as part of that for ensuring that
18 the safety management system's complied by the vessel. Were all departments, deck,
19 engine, radio, steward department, all departments, is that correct?

20 **WIT:** I don't understand the question.

21 **Mr. Kucharski:** Your duties that would be for all the departments to make sure that
22 they comply with the safety management?

1 **WIT:** Yes, that's my responsibility is the safety management system for the entire
2 company. Let me go back there it's my responsibility to ensure the system is working
3 as my position of a Designated Person. And to monitor the system and maintain the
4 manuals. But again that's everybody's job.

5 **Mr. Kucharski:** So when changes occur or the review of it, do different parties to the
6 Tote organization get input for change into the system?

7 **WIT:** Well the vessel would give input.

8 **Mr. Kucharski:** The vessels. Solely the vessels recommend the input or changes to
9 the system?

10 **WIT:** Oh we can add input, obviously by our external annual audits by ABS and the
11 annual audits on the – well on the vessels audits are required basically 2 ½ years. So
12 whenever we have external audits they can also give input.

13 **Mr. Kucharski:** Can someone at the company like yourself make a recommendation to
14 change a particular section of the safety management system?

15 **WIT:** Yes, sir. I can not only recommend, but I can do it.

16 **Mr. Kucharski:** The audits that are performed, back to the internal audits that you
17 perform, did you do any sampling or spot checking to see if the actual items that the
18 vessel says that they were doing were actually being done?

19 **WIT:** Yes, sir.

20 **Mr. Kucharski:** And how did you do that?

21 **WIT:** You look at the previous audits and the previous findings and then I – we would
22 have to have a correction, corrective actions from the vessels and then we have to
23 follow up on those to ensure that they close out and they're being done. And typically

1 the way we do it on internal audits is that at the subsequent internal audit the auditors
2 would be required – and I would inform all the auditors, that’s actually a finding two
3 years ago, so as a corrective action for that I would ensure that all the auditors go on
4 board the vessel including our third party auditors review the past audit, procedures
5 manual, excuse me, to see if there’s anything that hasn’t been closed out yet and verify
6 that if anything has been closed out it has been completed.

7 **Mr. Kucharski:** Is it merely just looking at the past findings to see that they’re closed
8 out or would you actually look at, for instance it says to log the watertight closures in the
9 log book, the official log book? Would you actually cite any particular things to see that
10 it was actually being done as per the safety management system?

11 **WIT:** Yes, that’s all included in an audit and the spot check. You would, and again the
12 audit is a sampling. Every audit is done by a different auditor. We have different things
13 that may have – different sampling they would typically do on their audit. But many
14 times that would be reviewing the audit books on the vessels and seeing if things were
15 done. One of the things that I looked at is that we’re seeing we require the vessels to
16 send in a quarterly training reports and monthly safety meetings and things like this.
17 When I go on a vessel I typically may not check that again because I know they’re doing
18 it because they’re sending it in to me on a quarterly basis and I check so that’s one less
19 thing, if I’m doing the audit, I’ll check on it. But again if it’s a third party auditor they may
20 not have that advantage so again they look at the sampling then, typically look at them,
21 type out a statement, but yeah everything in the manual is subject to review when
22 you’re doing an audit.

1 **Mr. Kucharski:** So when you did those audits did you ever review the voyage plans of
2 the vessels or the stability calculations of the vessels?

3 **WIT:** Uh I'm not sure of the voyage plans, I know I did not review any stability
4 calculations of the audits that I conducted.

5 **Mr. Kucharski:** Were you aware that the vessels were operating close to their marks
6 on the Tote run in Puerto Rico?

7 **WIT:** No, sir.

8 **Mr. Kucharski:** Were you aware of any of the vessels being loaded to where they
9 exceeded their full load displacement?

10 **WIT:** No, sir.

11 **Mr. Kucharski:** I think you already said that you didn't discuss the stability margins
12 with Masters, is that correct?

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

14 **Mr. Kucharski:** Could you tell us if there were any personnel in the Tote organization
15 that had stability training besides yourself?

16 **WIT:** Other than the people on board the vessel?

17 **Mr. Kucharski:** Yes, sir.

18 **WIT:** I do not, I do not know for sure what the in training – and the Directors of Ship
19 Management may have that in their past or a Port Captain, no I'm not aware.

20 **Mr. Kucharski:** Would you say that stability is a safety concern to the vessel, of the
21 management system?

22 **WIT:** Safety concern, yes, sir.

1 **Mr. Kucharski:** Earlier I think you were also asked about assessing the risk of bad
2 weather, or was that a risk to the vessels, correct?

3 **WIT:** That is a risk, yes.

4 **Mr. Kucharski:** Does the company have any type of a risk matrix? Do you assess the
5 different risks in numerical type or anything like that?

6 **WIT:** We use various of types of risk assessment. I said that in our procedures it does
7 give description of how to assess risk of frequency versus severity and it gives you a
8 formula to utilize to do a risk assessment. As far as any matrix other than our matrix
9 that we would use in our hot work permits we do not have that. We also have a risk
10 assessment we do on safety, quality and environmental. It's specifically on our
11 requirements for our 14001 environmental program and it gets risk assessments done
12 on that to confer the various targets and objectives that we're going to look at and
13 address, address as issues during the year. And that's all based on a risk assessment
14 of looking at all the aspects of the business and looking at the impacts that our
15 operations have them and then coming up with various objectives to mitigate those
16 types of risks.

17 **Mr. Kucharski:** Is that part of the safety management system of the ----

18 **WIT:** Yes, sir.

19 **Mr. Kucharski:** Company or is it another system that your company has?

20 **WIT:** No it's part of the safety management system. It includes the standards of 14001
21 the environmental standards and the quality standards of 9001 as well.

22 **Mr. Kucharski:** And 14001 is that ISM?

23 **WIT:** ISO.

1 **Mr. Kucharski:** ISO. Okay. So that's a different system from the safety management
2 system?

3 **WIT:** No, our safety management system incorporates and is approved and certified, it
4 meets, conforms to the IMO standards of the ISM system and also it conforms to the
5 additional standards, the voluntary standards of ISO 9001 and which is the quality ISO
6 and the also the environmental standards of ISO standard 14001. We're not specifically
7 certified on two of those standards, but the ABS has certified that we conform to those
8 standards under the ABS health, safety quality environmental security and energy
9 guide.

10 **Mr. Kucharski:** Well I wasn't going to go there yet, but since we're on that topic. So
11 the company does not actually have ISO 9001 certification?

12 **WIT:** We meet the requirements of it, but we don't have that specific certification.

13 **Mr. Kucharski:** So does the company have a policy, objectives, a manual for
14 procedures, a record system, and a quality manual shore side for this?

15 **WIT:** Yes, sir.

16 **Mr. Kucharski:** It does, okay. And that's under the – is it kept under the safety
17 management system, or is it under the ----

18 **WIT:** Our safety management system includes shore side manual and vessel manuals.

19 **Mr. Kucharski:** And does the – does that system also have measurable objectives for
20 the system? You know aims and goals?

21 **WIT:** Well the environmental side it's more – it was clearer and had specific ones.
22 We've recently put in objectives and targets for the safety and quality side as well.

23 **Mr. Kucharski:** So there are goals for the safety also?

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

2 **Mr. Kucharski:** And measureable – thank you.

3 **WIT:** And the goals will be eventually published for within the fleet now. There's been
4 overall company goals for that based on the company's performance. But and that just
5 recently became more specific and put out what we call as an actual score card to track
6 those within the fleet and the shore side as well.

7 **Mr. Kucharski:** All right, thank you, thank you that's great information. Would you
8 please look at section, I'm sorry, Exhibit 25, section 5.7? That's – Exhibit 25 is the
9 operations manual of the vessel.

10 **WIT:** Yes, sir. What page was that?

11 **Mr. Kucharski:** I think it's – I think it's 130, I believe it's 130.

12 **WIT:** Okay.

13 **Mr. Kucharski:** Maybe 129, 130 somewhere in there. Do you see that section
14 Captain?

15 **WIT:** Yes, sir.

16 **Mr. Kucharski:** Okay. It's going to be down in the section, section on 130 and it says
17 when a vessel encounters heavy weather.

18 **WIT:** Oh, yes, yep I see it.

19 **Mr. Kucharski:** The Master should review the vessel's stability, consider the possibility
20 to taking additional ballast or transferring cargo to improve the vessel's stability. Is that
21 section still in the safety management system?

22 **WIT:** Yes, sir.

23 **Mr. Kucharski:** Have you ever looked at that before?

1 **WIT:** Yes, sir.

2 **Mr. Kucharski:** Before the El Faro's sinking?

3 **WIT:** I don't specifically recall, I looked at basically everything in these manuals, I can't
4 recall exactly when I probably reviewed that in the past before the incident.

5 **Mr. Kucharski:** Is there any way you could take additional ballast or transfer cargo on
6 the PONCE class vessels if it's down in its marks?

7 **WIT:** I can't speak to that. That's all done on board by the Master's discretion. So I
8 wouldn't get involved in that.

9 **Mr. Kucharski:** Have you ever reviewed what the Masters have done as part of the
10 safety management system to see how they ----

11 **WIT:** Not for that specific paragraph, no, sir.

12 **Mr. Kucharski:** For, I'm going to go back to nautical issues. We asked Captain
13 Lofffield about this in his testimony. Who would a Master on board the vessel if they
14 wanted to come to someone shore side with nautical issues such as route planning,
15 stability concerns, if there's a discrepancy in the visual and computer drafts, for ship
16 handling training, for adverse weather training, for bridge resource management training
17 in adverse weather? Who would they come to at the company for the nautical
18 expertise?

19 **WIT:** Obviously the first answer would be they have probably more nautical expertise
20 on the vessel itself and then during the time that they're looking for it in the office,
21 anytime they need support of any type of question for any of their operations they can
22 always come to anybody in the office or the department they feel is best suited to
23 address that, and they do. And once again as I said as my position as the designated

1 person, I always encourage when I'm speaking to the vessels and on board the vessels
2 that if they don't know where to go to come to me and I'll steer them in the right
3 direction.

4 **Mr. Kucharski:** That's interesting. You just mentioned to the department, the particular
5 department. But what department would the Master go to for those type of nautical
6 issues? That's my question.

7 **WIT:** Again they could probably go to the, I would say he could go to the director, his
8 specific director of ship management for any inquires or the Port Engineer.

9 **Mr. Kucharski:** So the Port Engineer would be able to discuss voyage planning with
10 the Master?

11 **WIT:** If he couldn't he would take it to the appropriate person he felt that could help him
12 out with that issue. Again it's kind of a team sport, we're you know within our office and
13 everybody – if we can't get – don't have the answer yourself, we find the answer.

14 **Mr. Kucharski:** Okay. So let's just deal with route planning, if it wasn't the Port
15 Engineer, couldn't answer that, who then would the Master go to? Who would have that
16 expertise at the company?

17 **WIT:** For?

18 **Mr. Kucharski:** Route planning.

19 **WIT:** Route planning. Once again it's the Master has the best expertise for route
20 planning probably above and beyond anybody else in the office. I don't really know
21 exactly what type of question he would have on that that he would address to us.
22 However, again you got a lot of expertise in our office. You know combining 100's of
23 years of experience whether that be my maritime background for 40 plus years or you

1 have Admiral Greene's you know Navy background and then a number of other people
2 with maritime and military and Coast Guard backgrounds throughout our organization
3 that could, like I said, I'm positive could address any questions the vessels bring to us or
4 find out the answers for them.

5 **Mr. Kucharski:** Approximately how much of your time was spent dealing directly with
6 the Master of the vessel?

7 **WIT:** 100 percent of my time is spent to them dealing with all issues. Every day is a
8 little bit different. It depends on, you know one day you'll be spending more time with
9 one vessel versus another day directly visiting one vessel. But I could never give a
10 percentage of how much of my time is spent for each vessel, but I spend it equally for
11 the entire fleet.

12 **Mr. Kucharski:** I guess that wasn't my question. With the Master, directly with the
13 Master of the vessel, is that the only person you deal with then, or?

14 **WIT:** The Master's or the Chief Mate typically. Again unless there's a specific that a
15 crew member is bringing to me directly in my position as designated person, but for just
16 day to day operational issues typically I'm dealing with the Master. And let me back up
17 to. Obviously our MARAD fleet the Chief Engineer is in charge of the vessel, so I'm
18 dealing with the Chief Engineer on those vessels.

19 **Mr. Kucharski:** Do you also have also have daily interface with the Chief Engineers on
20 the other vessels, not the MARAD fleet?

21 **WIT:** I wouldn't say daily interface, I don't have daily interface with the Master of all our
22 vessels.

23 **Mr. Kucharski:** Thank you.

1 **CAPT Neubauer:** At this time does Tote have any questions?

2 **Tote Inc:** I'm Ray Burke of Burke & Parsons in New York. Tote has no questions at this
3 time.

4 **Tote Inc:** I have a couple questions, sir.

5 **CAPT Neubauer:** Yes, sir. Could you just identify yourself?

6 **Tote Inc:** Sure, Luke Reid on behalf of Tote. Captain Lawrence during this week's
7 testimony and your testimony there's been a number of questions about weather –
8 weather monitoring and voyage planning and who's making decisions with respect to
9 weather. And I have a question for you. You – are familiar with the SOLAS
10 convention?

11 **WIT:** Yes, sir.

12 **Tote Inc:** And the SOLAS convention is a major safety convention that's implemented
13 worldwide, is it not?

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

15 **Tote Inc:** And with respect to that convention it's been implemented in the United
16 States and in fact the El Faro had its SOLAS certificate, various SOLAS certificates, is
17 that right?

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

19 **Tote Inc:** If – I would ask that we put up what's previously been marked as Exhibit 75,
20 or I offer it up at this time. 76.

21 **CAPT Neubauer:** This document will be marked as Exhibit 76.

22 **Tote Inc:** Okay. Could we bring that document up on the screen please?

23 **CAPT Neubauer:** Yes. Lieutenant Commander Yemma.

1 **Tote Inc:** Is there a way we could make that full screen picture? Or increase the size?

2 Thank you. Okay. So Captain Lawrence have you reviewed this document?

3 **WIT:** Yes I have.

4 **Tote Inc:** And this is a proposal from the United States to amend the SOLAS
5 convention, is it not?

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

7 **Tote Inc:** And this is from 2000 and it's to amend Chapter 5 of SOLAS?

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

9 **Tote Inc:** And could we move to page 3 of that document please? I'm going to put the
10 document in front of you so you can take a look at it. And in paragraphs 1 and 2 of that
11 document, that sets forth the various requirements of the SOLAS convention for voyage
12 planning, does it not?

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

14 **Tote Inc:** And in that section who does it say is responsible for voyage planning?

15 **WIT:** Master.

16 **Tote Inc:** And the Master takes into account that process, very risks including hazards
17 to navigation and weather conditions, is that not correct?

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

19 **Tote Inc:** And I'll turn your attention to paragraph 3 and I'll ask you if you've seen that
20 before?

21 **WIT:** Yes I have.

22 **Tote Inc:** And this describes, does it not the relationship between shore side personnel
23 and – and the ship's Master with respect to decision making and navigation, does it not?

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

2 **Tote Inc:** And so what I'll ask you to do if you would, and it's important because it sets
3 forth the legal relationship between the shore side staff like yourself and the vessel's
4 Master. So if you would please read paragraph 3 into the record.

5 **WIT:** The owner, charterer, or manager of a ship or any other person, shall not prevent
6 or restrict the Master of the ship from taking or executing any decision which, in the
7 Master's professional judgement is necessary for safe navigation and protection of the
8 marine environment.

9 **Tote Inc:** And Captain Lawrence you're aware that this provision that was proposed by
10 the United States was adopted at the IMO and is in fact implemented into U.S. law, are
11 you aware of that?

12 **WIT:** Yes, sir.

13 **Tote Inc:** And so is this provision a reflection of the overriding authority that we talked
14 about, about the Master and his ability to make decisions?

15 **WIT:** Yes.

16 **Tote Inc:** And is the reason for this provision to provide clarity of decision making with
17 respect to decisions on the vessel when decisions need to be made?

18 **WIT:** Yes it is.

19 **Tote Inc:** Thank you.

20 **CAPT Neubauer:** Does Tote have any further questions?

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

22 **CAPT Neubauer:** Does ABS have any questions?

23 **ABS:** No, sir.

1 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

2 **Ms. Davidson:** Yes, Captain. William Bennett from Blank Rome. Sir, I draw your
3 attention to Exhibit 4, page 101.

4 **WIT:** Okay.

5 **Ms. Davidson:** Sir, that is an exhibit which identifies an email that was received by Mr.
6 Fisker-Andersen from the El Faro on September 30th, 2015 at 10:22 a.m., correct?

7 **WIT:** It was actually addressed to me and copied to Mr. Fisker-Andersen.

8 **Ms. Davidson:** And the original time of the email from the El Faro was September 30th,
9 2015 at 10:22, correct?

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

11 **Ms. Davidson:** And that's between 20 and 21 hours before the incident, correct?

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

13 **Ms. Davidson:** And the Captain is advising you that he's reviewed the BVS weather
14 file?

15 **WIT:** Yes, sir.

16 **Ms. Davidson:** And also information from the Hurricane Center in Miami, Florida, isn't
17 that true?

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

19 **Ms. Davidson:** And at that time the forecast was for winds of 50 knots with gusts to 70
20 knots, correct?

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

22 **Ms. Davidson:** And 50 knot winds as you know in your 40 years experience as a
23 mariner is tropical storm winds, correct?

1 **WIT:** Yes, sir.

2 **Ms. Davidson:** With gusts that reach hurricane status of category 1, correct?

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

4 **Ms. Davidson:** And he's also advising that the seas were going to be 12 to 14 feet
5 throughout the night and into tomorrow morning, correct?

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

7 **Ms. Davidson:** The size of a ship, the El Faro compared to 12, 14 foot seas is fairly
8 minimal seas, isn't that correct?

9 **WIT:** In my opinion, yes it is.

10 **Ms. Davidson:** And Captain Davidson is also – also advising in that email that he had
11 carefully monitored Joaquin, correct?

12 **WIT:** Correct.

13 **Ms. Davidson:** And that on 9/30 at 0200 she began a Southwesterly course, correct?

14 **WIT:** Correct.

15 **Ms. Davidson:** This ship was already at sea by, between 6 and 7 hours, correct?

16 **WIT:** Yes, sir.

17 **Ms. Davidson:** And when he got that forecast he immediately altered course didn't he?

18 **WIT:** That's what he said, yes, sir.

19 **Ms. Davidson:** And then he wrote that Joaquin appears to be tracking now as
20 forecasted. Do you see that?

21 **WIT:** Yes, sir.

22 **Ms. Davidson:** He was following the forecast very carefully wasn't he?

23 **WIT:** In my opinion, yes.

1 **Ms. Davidson:** And he anticipated being on the backside of the storm by the morning
2 of October 1st, isn't that true?

3 **WIT:** Yes, sir.

4 **Ms. Davidson:** In your 40 years of experience as Master mariner the backside of the
5 storm is the safest part of the storm, correct?

6 **WIT:** Yes, sir.

7 **Ms. Davidson:** And he notified you that all departments had been duly notified,
8 correct?

9 **WIT:** Yes, sir.

10 **Ms. Davidson:** And when you read that did you understand that to mean that he told
11 the engine department and the deck department to be prepared for heavy weather?

12 **WIT:** I did understand that, yes.

13 **Ms. Davidson:** And if you go down to the bottom after he has a question there's a
14 statement, additional where he says she really develops into formidable weather pattern
15 on October 3rd to the 5th, do you see that?

16 **WIT:** Yes, sir.

17 **Ms. Davidson:** Based upon the forecast that he was reviewing did you gain an
18 understanding from this email that he didn't expect a formidable storm until October 3rd?

19 **WIT:** That he was going to encounter, I agree. That's the way I read it.

20 **Ms. Davidson:** And as you sit here today are you aware that the forecasted storm for
21 Joaquin as sent out by the National Weather Hurricane Center was at least 100 miles in
22 error from its real track within 24 hours of the incident?

23 **WIT:** That's what I understand from various reports, yes.

1 **Ms. Davidson:** And in fact 12 hours before the incident the real track and the forecast
2 was off by about 50 miles. Do you understand that?

3 **WIT:** I do believe I heard about, yes.

4 **Ms. Davidson:** Sir, I want to turn your attention to Exhibit 25. Is this operations manual
5 a manual that is specific for the El Faro?

6 **WIT:** No, sir, it's specific for our entire company.

7 **Ms. Davidson:** And what sort of vessels does your company operate?

8 **WIT:** Various types of vessels.

9 **Ms. Davidson:** Such as?

10 **WIT:** Such as ro-ro, ro-ro ships, container – these ro-ro container ships. We have a
11 number of MARAD military ships, we have an oil tanker and we have a type of, I guess
12 we call them Military Sealift Command, radar tracking ships. So we have various –
13 various types of ships.

14 **Ms. Davidson:** Can you turn to page 130 for me please?

15 **WIT:** Yes, sir.

16 **Ms. Davidson:** There's a clause that's been referred to several times for several
17 witnesses, and I would like to clarify that clause. It starts with, when a vessel
18 encounters heavy weather. Do you see that?

19 **WIT:** Yes, sir.

20 **Ms. Davidson:** It says the Master should review the vessel's stability and consider the
21 possibility to taking on additional ballast or transferring cargo to improve the vessel's
22 stability. In your 40 years of experience, you know of any container ship that even has
23 the possibility of changing – of moving cargo while at sea?

1 **WIT:** Like I said I haven't sailed on many container ships, but I would jest to say not.

2 **Ms. Davidson:** And with respect to a ro-ro vessel that's encountering heavy seas
3 would you believe that it would be prudent for a Master to tell his crew to go out on deck
4 in heavy seas to start unlash cargo and to move ro-ro cargo internally within a ship?

5 **WIT:** Absolutely not.

6 **Ms. Davidson:** That's absolutely dangerous, correct?

7 **WIT:** Depending on the weather, circumstances and the location of lashings and cargo
8 I would agree.

9 **Ms. Davidson:** So really what this clause refers to about when moving cargo, doesn't
10 that refer to an oil tanker that may have a slack tank and they may have the ability to
11 move cargo internally within an oil tanker?

12 **WIT:** I believe it could be referring to that, yes, sir.

13 **Ms. Davidson:** Thank you, sir. No further questions.

14 **CAPT Neubauer:** HEC do you have any questions?

15 **HEC:** No questions.

16 **CAPT Neubauer:** Mr. Lawrence before we break I just have a few follow up questions.
17 As a follow up to Mr. Bennett's question about your knowledge of the forecast
18 diversions from Hurricane Joaquin, when did you become aware of that – the
19 forecasting errors?

20 **WIT:** After the incident.

21 **CAPT Neubauer:** After the incident?

22 **WIT:** Correct.

1 **CAPT Neubauer:** Sir, in regards to the GM margins that are required for El Faro and El
2 Yunque, were you ever aware of a margin that was required?

3 **WIT:** No, sir. I mean if I'm aware for that vessel, no I'm not. I mean my experience I'm
4 familiar with GM on vessels that I sailed on and the requirements. But not for the El
5 Faro.

6 **CAPT Neubauer:** Sir, I would like to draw your attention to Exhibit 4, page 56. Sir, this
7 an email from Mr. Morrell directly to Captain Davidson. The date is August 26th, 2015
8 and it was sent during Tropical Storm Erika. Do you ever remember reading this email,
9 sir?

10 **WIT:** No, sir.

11 **CAPT Neubauer:** Okay. I would like to go to MBI Exhibit 4, page 59.

12 **WIT:** Okay.

13 **CAPT Neubauer:** Sir, this an email that you sent to Captain Davidson in regards to
14 Tropical Storm Erika. And I'm just going to read the contents of your email. You said,
15 good day Captain. I realize that you have been in various communications with Jim
16 Fisker-Andersen and SSL regarding plans/ops in preparation for Erika and I have been
17 copied in same. However, to ensure we are all on same page and nothing is missed in
18 the risk assessments and actions area, please send me a detailed email with your
19 preparedness/avoidance plans and update daily until all clear. Thanks and regards,
20 John. So my question is why did you request an avoidance plan from the Master?

21 **WIT:** And as I mentioned to a similar question earlier, I really don't recall why I sent him
22 this email with this specific wording in it. And I can only speculate which, just my
23 wanting the Captain to keep us informed, you know just kind of repeating the various

1 requirements of going into a storm. More of an awareness for myself, as we obviously
2 receiving information or communicating with some of the other people, the customers.
3 So again I honestly can't give you a 100 percent correct answer of why I sent this at the
4 time. I really don't recall.

5 **CAPT Neubauer:** Do you remember where you were when you sent that email?

6 **WIT:** No, sir.

7 **CAPT Neubauer:** Did Captain Davidson comply with your request?

8 **WIT:** Yes he did.

9 **CAPT Neubauer:** Are there any further questions at this time. Commander Denning.

10 **CDR Denning:** Captain Lawrence if you wouldn't mind turning to Exhibit 45.

11 **WIT:** Yes, sir.

12 **CDR Denning:** I want to draw your attention to the first sentence of the last paragraph.
13 This is a reminder that all of our vessels in all oceans should review their general and
14 vessel specific heavy weather procedures and be prepared for the unexpected
15 occurrence. What specific proceed – and then it follows on another sentence on ready
16 reserve fleet vessels which doesn't apply to the El Faro, what heavy weather – what
17 specific weather procedures were you referring to when you wrote this safety alert.

18 **WIT:** And I said vessel specific heavy weather procedures, I was referring to any
19 specific procedures that they may have themselves on board their vessels. Similar to
20 Captain standing – the Master's standing orders. Every vessel I would expect to have
21 their own procedures based on their individual circumstances, the cargo they carry and
22 what they would have to do. Not unlike any other type of, you know fire and boat drill,
23 each vessel have, at least to my experience would have some type of specific plans.

1 Whether they be written or verbal, they would have something when they were going to
2 be approaching any type of heavy weather.

3 **CDR Denning:** I understand, thank you. My final question, at the time of the incident
4 the El Faro did not had – they had the BVS weather information service, they did not
5 have a separate weather routing service that provided the Master and the crew with
6 route advice or assistance in doing – in performing that voyage planning. Have you
7 been involved in any discussions since the incident of adding the weather routine,
8 Jeppsen weather routing specifically to the remaining vessels including the Marlin class
9 as well as the El Yunque?

10 **WIT:** I wasn't involved in the final decision making. I was asked to review the Jeppsen
11 system when they were looking at and basically that was just giving an input that it
12 looked like a decent system. But I could have – if I didn't think it was a good system I
13 would have said so. But that was the limit of my input really, just a review of the system
14 prior to the decisions being made.

15 **CDR Denning:** Thank you, sir. No further questions.

16 **CAPT Neubauer:** Are there any follow up questions before we take a recess? All right.
17 We're about to take a recess. Before we do I want to provide a notice to everyone in
18 the hearing room and following the live feed that after this recess we will hear audio of
19 phone conversations between Captain Davidson and Captain Lawrence from the
20 morning of the accident voyage. At this time we'll take – the hearing will recess and
21 reconvene at 11:30.

22 *The hearing recessed at 1121, 20 February 2016*

23 *The hearing was called to order at 1135, 20 February 2016*

1 **CAPT Neubauer:** The hearing is now back in session. Mr. Reid you had additional
2 questions for the witness?

3 **Tote Inc:** Yes, sir, thank you. Captain Lawrence you were asked a few questions
4 about Hurricane Danny and Erika and specifically about the alert that was issued, what
5 you were doing with regards to these storms and what you were doing with respect to
6 Hurricane Joaquin. So I want you to look at Exhibit 4, page 48. And if we could put that
7 up on the screen. Do you see that – do you see that – do you see that weather report?

8 **WIT:** Yes, sir.

9 **Tote Inc:** And does that weather report depict the storm in the form of Erika as several
10 days away from hitting Puerto Rico and area of the Puerto Rico trade?

11 **WIT:** Yes. Yes, sir.

12 **Tote Inc:** Okay. And in fact this forecast is from several days before the hurricane is
13 due to come near the Puerto Rico area, is that not right?

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

15 **Tote Inc:** If you will also look at Exhibit 4, page 20. Do you see that? We'll wait for it to
16 come up on the screen.

17 **WIT:** Yes, sir.

18 **Tote Inc:** And this is Hurricane Danny which is a forecast, again several days out
19 before this path is predicted to reach landfall in Puerto Rico, is that correct?

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

21 **Tote Inc:** And when you circulated these emails about Hurricane Danny, was that in
22 response to these weather forecast that were occurring days out that were planning on
23 hitting Puerto Rico and the area where the vessels transit in the Puerto Rican trade?

1 **WIT:** Yes it was.

2 **Tote Inc:** Okay. Did you see any weather forecast remotely similar to these two
3 forecast in the days leading up the voyage of the El Faro?

4 **WIT:** No I did not.

5 **Tote Inc:** No further questions, thank you.

6 **CAPT Neubauer:** Are there any further questions before we move on to the next topic?

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

8 **CAPT Neubauer:** Mr. Lawrence at this time we're going to be playing an audio clip
9 from a message you received, a phone message from Captain Davidson on the
10 morning of October 1st at around 0700. Do you remember that recording, sir?

11 **WIT:** Yes, sir.

12 **CAPT Neubauer:** If anyone would like to leave the hearing room, we are going to play
13 the recording at this time. Lieutenant Commander Yemma.

14 (Audio plays.) Captain Lawrence, Captain Davidson Thursday morning 0700 we have a
15 navigational incident. I'll keep it short. A scuttle popped open on 2 deck and we were
16 free communication from water go down to 3 hold. Have a pretty good list. I want to
17 just touch – contact you verbally here. Everybody's safe. But I want to talk to you. And
18 that's the end of the call.

19 **CAPT Neubauer:** Sir, do we need to play it again, or do you remember that recording?

20 **WIT:** I remember that.

21 **CAPT Neubauer:** Just to clarify, that was your voice at the end of the recording talking
22 to an investigator?

23 **WIT:** Yes, sir.

1 **CAPT Neubauer:** Sir, when you received that phone message, were you aware that
2 Hurricane Joaquin was in the vicinity of the El Faro

3 **WIT:** No, excuse me, no, sir. I mean, I knew the hurricane was in the Atlantic, but I was
4 not aware that it was in the vicinity of the vessel.

5 **CAPT Neubauer:** Had you read the email from Captain Davidson discussing trying to
6 go south of the hurricane by 65 miles?

7 **WIT:** Yes, sir.

8 **CAPT Neubauer:** So you were aware that Hurricane Joaquin was in the vicinity of the
9 El Faro potentially?

10 **WIT:** Yes, sir. Yes, sir. I was interpreting vicinity meaning right on it. When you asked
11 that before, yes, sir, I was aware of his plans per that email on the prior day.

12 **CAPT Neubauer:** Yes, sir. Where were you when the phone message was received?

13 **WIT:** When he -- he had called me -- that was on my cell phone direct, and I was
14 actually getting ready for work that morning. It was approximately 0700, I think it was
15 0659 I got the call, and I was unable to pick up my phone before it went to voice mail. I
16 picked it up just at the last ring, and it went to voice mail. So I listened to it, and it was --
17 so I was just in my bedroom of my house. So I listened to the voice mail, and then I
18 attempted to immediately call him back. And while I was calling him back, that's when I
19 was receiving a call from a call center that I assumed was him, so I took that call.

20 **CAPT Neubauer:** Did you have a chance to review the voice mail before you received
21 the call center call?

22 **WIT:** Yes, sir. Yes, sir. I listened to the voice mail, and then after I heard the voice mail
23 then I tried to call him back.

1 **CAPT Neubauer:** For the purpose of this questioning, then, we're going to focus on the
2 phone message, first, during this initial round. Mr. Fawcett, do you have any questions?

3 **Mr. Fawcett:** Yes, sir, Captain. Captain Lawrence, what was your assessment of the
4 situation aboard El Faro when you reviewed that message?

5 **WIT:** I knew he was having some type of problem that he wanted to contact and talk to
6 me about.

7 **Mr. Fawcett:** Did the thought cross your mind that he was in close proximity to
8 Hurricane Joaquin?

9 **WIT:** At that time, I did not, you know, put the two together that that was the reason for
10 his call.

11 **Mr. Fawcett:** So I know that shortly thereafter there was a minimal time span, but can
12 you share with us your initial thoughts as what your plan of action was going to be
13 based on that call?

14 **WIT:** My plan of action was to call him back and find out more about the situation. As
15 he said at the end of the tape there, he says he needed to talk to me. And so he's
16 obviously -- you know, again, I didn't speculate or read into it. It was a captain calling
17 me, telling me he was having some concerns or problems, and he needed to talk to me.
18 So I was, you know, holding my opinions or whatever until I called him back, you know,
19 and found out more information.

20 **Mr. Fawcett:** So when he used the terminology "navigational incident," did you have
21 any thoughts about that, what that meant?

22 **Mr. Fawcett:** I can't recall exactly what I thought at that time as far as navigational
23 incident, other than what he was telling me in the rest of the voice -- voice message

1 there. And, you know, as far as, you know -- actually, I'd have to refer to my notes to
2 see exactly what the message is. I'm confusing that message and the actual -- my
3 conversation with him as far as what time period he told me some of the different
4 information. So it would be helpful to either hear that again to respond to that question
5 or to move on to the -- my conversation with him.

6 **CAPT Neubauer:** Sir, I think we should play the recording again.

7 (Audio plays.) Captain Lawrence, Captain Davidson Thursday morning 0700 we have a
8 navigational incident. I'll keep it short. A scuttle popped open on 2 deck and we were
9 free communication some water go down to 3 hold. Have a pretty good list. I want to
10 just touch -- contact you verbally here. Everybody's safe. But I want to talk to you. And
11 that's the end of the call.

12 **WIT:** Okay. Thank you. No, at that time there, he said everybody was safe, and,
13 obviously, he said, we had the list on the vessel and that he had taken some water
14 through a scuttle. But based on his calm report, his demeanor during that voice
15 message, again, I took it that, yes, he has some type of problem, but it didn't seem to be
16 a distress call at that time.

17 **Mr. Fawcett:** Did the term "navigational incident," does that conform to any kind of plan
18 that you might have at Tote Services that requires follow-up action?

19 **WIT:** No. The term "navigational incident" didn't really -- there wasn't any specific, you
20 know, anything that I thought of at the time, other than what he was telling me the
21 situation was, as far as the list and having some water there. So that was the time that
22 he told me the additional information which I heard when I talked to him and which was
23 really the incident.

1 **Mr. Fawcett:** He used the terminology "free communication." What does that mean to
2 you as a mariner?

3 **WIT:** It means that basically water's coming in through a place where it's not supposed
4 to be coming in through and it's entering the vessel.

5 **Mr. Fawcett:** The consequences, from your viewpoint as an experienced mariner, of a
6 pretty good list, what would those consequences be?

7 **WIT:** Again, at the time, for the short period between me receiving that and me talking
8 to him a few minutes later, I really didn't speculate on the pretty good list. Again, he
9 seemed very calm through the voice message, so I didn't -- again, I didn't speculate
10 until I talked to him and found out more information.

11 **Mr. Fawcett:** Thank you, sir. I pass my questions to Commander Denning.

12 **CDR Denning:** I don't have any direct questions on this particular voice mail.

13 **CAPT Neubauer:** Commander Odom. Mr. Roth-Roffy.

14 **Mr. Roth-Roffy:** No, sir. I'll pass to Mr. Kucharski.

15 **Mr. Kucharski:** Captain Lawrence, just a quick follow-on. Free communication, would
16 that mean water is freely coming in and out without any prevention of it, or is it -- does
17 this mean water comes into the --

18 **WIT:** Well, I think in the strict definition, you probably -- you're probably correct, it
19 means water coming in and out, but I think it's just a term he used at the time to tell me
20 that there was some flooding that was occurring on the vessel.

21 **Mr. Kucharski:** Thank you, Captain.

22 **CAPT Neubauer:** Are there any other questions before we move to the next recording?
23 Mr. Fawcett.

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

1 **Mr. Fawcett:** Yes, sir, just a brief follow up. Were you aware of the position of the EI
2 Faro at the time of that call?

3 **WIT:** No, sir.

4 **Mr. Fawcett:** Were you aware of the position of the hurricane at the time of the call?

5 **WIT:** No, sir.

6 **Mr. Fawcett:** Thank you, sir. Thank you, Captain.

7 **CAPT Neubauer:** Tote, do you have any questions?

8 **Tote Inc:** No questions, Captain.

9 **CAPT Neubauer:** ABS, do you have any questions?

10 **ABS:** No questions, Captain.

11 **CAPT Neubauer:** Mr. Davidson?

12 **Ms. Davidson:** Yes, I have some questions. Sir, could you turn to Exhibit 52 for me?

13 **WIT:** Yes, sir.

14 **Ms. Davidson:** Have you ever seen that document before?

15 **WIT:** No, I have not.

16 **Ms. Davidson:** That is the evaluation of Michael Davidson, correct?

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

18 **Ms. Davidson:** Do you see, there's one item, cooperation with technical manager is not
19 filled in. Do you see that?

20 **WIT:** Yes, sir.

21 **Ms. Davidson:** And do you see down in the middle of the comment section, comments
22 by technical manager are not there, correct?

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

1 **Ms. Davidson:** So the only open item is the technical manager's comments; correct?

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

3 **Ms. Davidson:** But all other categories, including situational judgment, leadership,
4 they're all rated excellent, right?

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

6 **Ms. Davidson:** And we can sit here today, and we gather an understanding, that that
7 phone call that Mr. Davidson made to you, Captain Davidson made to you, he was
8 experiencing hurricane winds, he was very close to the eye of Joaquin; correct?

9 **WIT:** I didn't know that at the time of that call.

10 **Ms. Davidson:** But you know that now; right?

11 **WIT:** Yes, sir.

12 **Ms. Davidson:** And at that time his demeanor was calm, correct?

13 **WIT:** Those were my exact words when I spoke to people after that call, correct.

14 **Ms. Davidson:** So his actions during severe crisis validates everything that was said
15 about him in his evaluation, isn't that correct?

16 **WIT:** I would agree.

17 **Ms. Davidson:** Thank you. No further questions.

18 **CAPT Neubauer:** HEC, do you have any questions?

19 **HEC:** No questions.

20 **CAPT Neubauer:** At this time we're going to play two recordings that were conducted
21 between Captain Davidson and the emergency call center that Tote used. There's two
22 in succession, and after that time we'll have another round of questions. Lieutenant

1 Commander Yemma, can you start with Exhibit 29 and then also follow up with Exhibit
2 30.

3 (Audio plays.) Audio 2:

4 Operator: Okay sir.

5 CAPT Davidson: Are you connecting me through to a QI?

6 Operator: That's what I'm getting ready now. We're seeing who is on call and I'm going
7 to get you right to them give me one second sir, I'm going to put you on a quick hold.

8 So one moment please. Okay, sir. I just need your name please.

9 CAPT Davidson: Yes, ma'am, my name is Michael Davidson, Michael C. Davidson.

10 Operator: Your rank?

11 CAPT Davidson: Ships master.

12 Operator: Okay thank you. Ship's name?

13 CAPT Davidson: El Faro

14 Operator: Spell that E-L.

15 CAPT Davidson: Oh man, the clock is ticking can I please speak to a QI? El Faro, E-L
16 F-A-R-O, El Faro.

17 Operator: Okay and in case I lose you what is your phone number please.

18 CAPT Davidson: Phone number 870-773-206528.

19 Operator: Got it.

20 CAPT Davidson: That's my globe and let me give you my mini M. Ready to copy?

21 Operator: Yes.

22 CAPT Davidson: 870-764-667272

23 Operator: Got it sir. Again I'm going to get you reached right now, one moment please.

1 CAPT Davidson: And Mate what else to do you see down there? What else do you
2 see?

3 Operator: I'm going to connect you now okay. Hi good morning my name is Sherida.
4 Just give me one moment I'm going to try to connect you now. Okay. Mr. Davidson?

5 CAPT Davidson: Okay.

6 Operator: Okay, one moment please. Thank you for waiting.

7 CAPT Davidson: Oh God.

8 Operator: Just briefly what is your problem you're having?

9 CAPT Davidson: I have a marine emergency and I would like to speak to a QI. We had
10 a hull breach, a scuttle blew open during a storm we have water down in 3 hold with a
11 heavy list. We've lost the main propulsion unit, the engineers cannot get it going. Can I
12 speak to a QI please?

13 Operator: Yes, thank you so much, one moment.

14 **CAPT Neubauer:** That was the end of the conversation with the call center. It's my
15 understanding after that time the phone call transitioned to you Captain Lawrence?

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

17 **CAPT Neubauer:** And that conversation was not recorded?

18 **WIT:** That's correct. To my knowledge.

19 **CAPT Neubauer:** Captain Lawrence, can you give a detail of what was passed by
20 Captain Davidson after it was transferred to you, sir?

21 **WIT:** Can I refer to my notes?

22 **CAPT Neubauer:** Yes, sir. And your notes are Exhibit 32.

1 **WIT:** Okay. Excuse me. Once -- once I was connected to Captain Davidson, reading
2 through my notes -- and it's basically in my own handwriting, and I have to interpret a
3 few of the words that I know what they say. But one is he -- once we spoke, he said,
4 based on the email -- I mean, the voice message he left me, he said, We've secured the
5 source of water. A scuttle blew open. Number 3 Hold has considerable water. We have
6 a port list. We have no main engines. He then gave me -- which he had readily
7 available -- he then gave me his latitude and his longitude. And he told me that the
8 crew was safe. And then I asked him could he tell me -- what is your, you know, exact
9 position in relationship to any land as that latitude-longitude? And, obviously, he didn't,
10 you know, give me that information, didn't have the chart in front of me at the time. I
11 heard him speak to a female, who we now would imagine was the second mate on
12 watch. And he spoke to her and asked her to give him a position off land. And she also
13 spoke in a very calm voice. I could hear her speak back then, and said that they were
14 48 miles east of San Salvador. And, again, to reiterate, both he and the mate, second
15 mate, were both very calm during this conversation. I then asked him, are you able to
16 pump out the hold? And he said he thought he could. And then he also told me the list,
17 he felt, was due to wind heel, that was a good part of it. Again, then he tells me that --
18 told me that nobody's panicking. And then I asked him a few additional questions. I
19 asked him what is the exact weather right now? And he told me they have a northeast
20 swell and an approximately 10- to 12-foot swell and high winds. And then I asked him, I
21 said, what type of list are you talking about, Captain? And he took a few seconds to
22 answer me, and then told me -- so I imagine he was looking at his inclinometer -- and
23 he said approximately 15 -- excuse me -- approximately 15 degrees. And once again, I

1 asked him, Okay, you said you're pumping out the hold. Are you able -- do you have
2 power to pump the hold out? And he said he believes so. And then he said that he was
3 about to push the -- all his buttons, and he said, including the ship security alarm
4 system, the SSAS button. And at that time, that was when I -- in my own opinion, I
5 realized that it sounded like a little more serious than initially it was coming across.
6 And so at that time I told him, I said, okay, Captain, you go do your thing and I'll notify
7 the Coast Guard. And that was the end of the conversation.

8 **CAPT Neubauer:** Sir, you asked for the exact weather, and he answered with high
9 winds, is that correct?

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

11 **CAPT Neubauer:** Did he ever mention that he felt like he was in Hurricane Joaquin?

12 **WIT:** This is all he mentioned. I wrote down basically every reply and everything he
13 said to me right here. He didn't give me any additional information other than what I just
14 told you. It was a fairly quick conversation. And at the time I didn't -- I said at the end of
15 the conversation, where he mentioned he was going to be pushing alarms, that's when I
16 realized that I had no need to keep him on the phone any longer and let him do his
17 thing, as I said, and I had enough information at the time.

18 **CAPT Neubauer:** When he mentioned he was going to be pushing alarms, including
19 the security alert system alarm, did you feel it was an emergency situation at that time?

20 **WIT:** I felt it was serious, yes. I felt it was some type of emergency.

21 **CAPT Neubauer:** Mr. Fawcett, do you have any questions?

22 **Mr. Fawcett:** Yes, sir, Captain. Thank you. So when they said that they don't plan to
23 leave the ship, what was your analysis of that statement?

1 **WIT:** I was concerned. Once again, due to his calmness in giving this information and --
2 and the second mate's comments, I felt that there was no immediate concern that this
3 was going to go the way it did.

4 **Mr. Fawcett:** When did you look collectively at everything that Captain Davidson had
5 told you and reassessed the consequences for that vessel?

6 **WIT:** Basically, when I hung up, and after I began, you know, to go into a response
7 mode for myself of making any proper notifications. But in my opinion, in my mind at the
8 time, the fact -- in my own assessment, the fact that he told me that he was able to -- he
9 felt he was able to pump out the hold, I honestly felt that, okay, the ship will be -- you
10 know, he won't have that list any longer, he'll get his engines back and he'll be under
11 way. I expected to talk to him further.

12 **Mr. Fawcett:** At the time, did you consider setting up some kind of communication
13 schedule so that, if you were busy or he was busy, you could check up on each other?

14 **WIT:** No, sir.

15 **Mr. Fawcett:** How about suggesting that assistance tugs or somebody be dispatched
16 or examine the dispatchment of assistance vessels based on the fact that there was no
17 main engine?

18 **WIT:** Based on the -- what I did assess was his final words about the -- setting off the
19 alarms, at that point I -- I assessed that there was some urgency to what he needed to
20 do and that I shouldn't keep him on the phone any longer than I had to and let him do
21 what he needed to do to respond to what was, obviously, an emergency for him. So I -- I
22 felt I needed to get off the phone fairly quickly and not hold him any longer.

1 **Mr. Fawcett:** When he said they don't plan to leave the vessel, at any time did you
2 think there was perhaps the alternative that they would actually have to abandon ship?

3 **WIT:** At the time I did not.

4 **Mr. Fawcett:** I do have some follow-ups about the call center call, but I will -- they're
5 technical in nature, and I'll ask them later. Thank you, sir.

6 **CDR Denning:** During your phone call with Captain Davidson, did he indicate to you
7 that any of the cargo had broken free, whether that's containers on deck or any of the
8 Ro-Ro cargo?

9 **WIT:** No, sir.

10 **CDR Denning:** Did you ask him about that?

11 **WIT:** No, sir.

12 **CDR Denning:** And so he didn't say, No, it has not, it just didn't come up during the
13 conversation?

14 **WIT:** Didn't come up in the conversation.

15 **CDR Denning:** Did he indicate -- you spoke about the vessel had lost propulsion. Did
16 he indicate any reason --

17 **WIT:** No, he did not.

18 **CDR Denning:** And back to the comment about "we don't plan on leaving the vessel,"
19 you answered Mr. Fawcett's question with, at the time you didn't think about any -- that
20 there were any concerns or that they had considered abandoning ship. Did you reflect
21 on that later and come to a different thought about that comment?

22 **WIT:** I thought it was an interesting comment at the time, because I just really did not
23 get that feeling from him, and, again, in my own opinion, that if he felt they were in any

1 grave danger. And it wasn't until, obviously, a few days later that I even accepted that
2 that was a possibility.

3 **CDR Denning:** Did you conclude at that time that the thought must've entered their
4 mind to consider?

5 **WIT:** At that time I didn't really go into that detail of thought.

6 **CDR Denning:** Did you have any conversations with Captain Davidson about the
7 condition of the lifeboats?

8 **WIT:** No, sir.

9 **CDR Denning:** Thank you.

10 **CAPT Neubauer:** Commander Odom.

11 **CDR Odom:** So to be clear, did he state that the pumps were running, or he thought he
12 could get them running?

13 **WIT:** My recollection is that he -- I actually thought that he was going to get -- the
14 pumps were operating is what -- the way I took it. I can't recall his exact word, whether
15 "he thought" or "they are," but after the conversation, we were thinking that -- you know,
16 he said that they are pumping out the holds. Because I wrote that down, "pumping out
17 the hold," at one point.

18 **CDR Odom:** Thank you.

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

20 **Mr. Roth-Roffy:** Good afternoon again, sir.

21 **WIT:** Yes, sir.

1 **Mr. Roth-Roffy:** I just have one question regarding the information regarding pushing
2 all the buttons. What did that mean to you? I believe you wrote on your notes there
3 "SSAS," but what are the full list of buttons that you believe he would've been pushing?

4 **WIT:** At that time my major thought was the SSAS, that would be the button I'm most
5 familiar with as being the security – company security, and knowing where that goes to.
6 Afterwards, I realized he was pushing the GMDSS emergency, and I guess the --
7 maybe meant the EPIRB as well. I'm not sure. But all he actually said was, I'll be
8 pushing all the buttons, and he did say SSAS. He didn't mention specifically any other
9 button, just the word "all."

10 **MR. Roth-Roffy:** Thank you. That's all I have.

11 **Mr. Kucharski:** Captain, just a quick question. Earlier on, it was mentioned about loss
12 of propulsion.

13 **WIT:** Yes, sir.

14 **Mr. Kucharski:** And did any conversation come up on the emergency diesel
15 generator?

16 **WIT:** No, sir.

17 **Mr. Kucharski:** So we don't know if she -- if the vessel had the plant or not on the line?
18 Did that come up?

19 **WIT:** He never said that -- you know, again, in my recollection of my notes, he never
20 said they had lost power. And he didn't say that they were, you know -- again, to my
21 recollection, they were running the pump, so my thoughts were that they had some type
22 of power available to them.

1 **Mr. Kucharski:** Do you know if they -- any discussion -- no. I'll hold that for another
2 time.

3 **CAPT Neubauer:** Does Tote have any questions?

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

5 **CAPT Neubauer:** Does ABS have any questions?

6 **ABS:** No questions.

7 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

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

9 **CAPT Neubauer:** Does HEC have any questions?

10 **HEC:** No questions.

11 **CAPT Neubauer:** Captain Lawrence, did you think it was unusual that Captain
12 Davidson used the security alert system in that type of circumstance?

13 **WIT:** I really didn't think about it at the time. I just, obviously, thought that he was going
14 to push any alert button that would hopefully indicate his position.

15 **CAPT Neubauer:** Wouldn't his position normally be able to be obtained through other
16 means, including the automatic identification system?

17 **WIT:** There is a number of other means, but, once again, I think in his -- again, I'm -- I
18 can't really speculate what was in his mind when he was going to push all the buttons.

19 **CAPT Neubauer:** We're going to now take another ten-minute recess, and when we
20 reconvene, we'll play the audio recording between you and the Rescue Coordination
21 Center in Miami. The hearing is now recessed until 1217.

22 *The hearing recessed at 1207, 20 February 2016*

23 *The hearing was called to order at 1219, 20 February 2016*

1 **CAPT Neubauer:** The hearing is now back in session. Now I refer to Exhibit 31, which
2 is an audio clip that we will play from a phone conversation between the Seventh
3 District Command Center, Petty Officer Matthew Chancery and Captain John Lawrence
4 on the morning of October 1st, 2015, at approximately 7:38 a.m. Lieutenant
5 Commander Yemma.

6 (Audio plays.) Audio 3:

7 CAPT Lawrence: John Lawrence.

8 Coast Guard: Hey John this is Petty Officer Chancery I'm from the Coast Guard in
9 Miami, Florida. How are you?

10 CAPT Lawrence: Yes, sir.

11 Coast Guard: Hey I'm calling you back, you were listed as a POC for the El Faro.

12 CAPT Lawrence: That's correct.

13 Coast Guard: Okay, do you have contact or direct communication with the vessel?

14 CAPT Lawrence: I did they called me I was just actually trying to call them back, and I
15 couldn't the satellite is dropping the call. I can give you the phone number.

16 Coast Guard: Yeah give me the phone number for the vessel that's fine.

17 CAPT Lawrence: The satellite number, you have to dial 011 first to get the satellite.

18 870-773-206528.

19 Coast Guard: Okay, I'm going to repeat that back. 011-870-773-206528.

20 CAPT Lawrence: That's correct, that's what they called me on. I tried calling them back
21 a few minutes ago to see if they had any contact with you guys yet. They have?

22 Coast Guard: We contacted – they've contacted LANT Area.

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 CAPT Lawrence: Yeah, RCC Norfolk I talked to them and they said they were going to
2 notify you. Can you tell me what the plan, what you planning on doing now? You said
3 you were going to contact the Bahamas I guess?

4 Coast Guard: Well yes, sir. So here's the deal and that depends. So right now, right
5 now based on all the information you've provided me, you know I'm not in the distress
6 phase currently, because ----

7 CAPT Lawrence: Okay.

8 Coast Guard: Because they're not at risk of sinking and they have dewatered and they
9 uh – they're without power and engines.

10 CAPT Lawrence: Correct.

11 Coast Guard: Are they – so are they able to anchor that boat right there?

12 CAPT Lawrence: Uh I don't think, they're 48 miles East of San Salvador, so I don't
13 think so.

14 Coast Guard: Yeah. Well the position I'm looking at they should be able to anchor.

15 CAPT Lawrence: Oh really, okay.

16 Coast Guard: It's not that deep and there's some small Islands that they're right near.
17 So I'm trying to ----

18 CAPT Lawrence: Yeah you've got a better map than me right now. I'm sorry your last
19 name is?

20 Coast Guard: Chancery, C-H-A-N-C-E-R-Y. And right now I am going to pass this
21 information on to the Bahamas. And you know it just depends because this is a large
22 motor vessel.

23 CAPT Lawrence: Right.

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 Coast Guard: So generally for these types of situations where there's not like an
2 emergency distress where we would need to go out there and remove people from the
3 vessel or something like that.

4 CAPT Lawrence: Correct.

5 Coast Guard: If they are just disabled then generally it would be up to the company to
6 provide some type of tug assist or something else like that.

7 CAPT Lawrence: Okay.

8 Coast Guard: Have you guys, like do you guys have like commercial towing assistance
9 or any type of salvage contracts in place already?

10 CAPT Lawrence: Yes. Yes we do. And I can contact them.

11 Coast Guard: I would say to contact them sooner rather than later.

12 CAPT Lawrence: Okay.

13 Coast Guard: Because you know, obviously I'm going to call the ship and try to get a
14 better deal of what the situation is. But from what was passed on to me right now we
15 would be -- we would generally go that route.

16 CAPT Lawrence: Okay, no that makes sense.

17 Coast Guard: If you're in a territorial seas of foreign countries as well. So I'm looking --

18 --

19 CAPT Lawrence: Right.

20 Coast Guard: I'm looking right now. Your nearest probably safe haven where they
21 could pull in is Turks and Caicos.

22 CAPT Lawrence: Okay.

1 Coast Guard: All right. And I will give you a call back with updates. Are you going to
2 be the point of contact through this case with me?

3 CAPT Lawrence: Yes.

4 Coast Guard: Okay. All right, great. I'm going to try to give the ship a call and get a
5 better handle on what the situation is and what's going on now. And if you hear from
6 them just give me a call back.

7 CAPT Lawrence: And what's your direct number?

8 Coast Guard: It's 305.

9 CAPT Lawrence: Okay.

10 Coast Guard: 415-1600.

11 CAPT Lawrence: Okay, sir.

12 Coast Guard: Thank you. Bye.

13 **CAPT Neubauer:** Captain Lawrence, I just have a few questions based on the phone
14 call with the Seventh District Command Center.

15 **WIT:** Yes, sir.

16 **CAPT Neubauer:** Prior to receiving that call from the command center, had you talked
17 to anyone at Tote Services?

18 **WIT:** I don't recall exactly what time I called. I spoke to our vice president of
19 operations, it was either just before that call or right after that call. And I also sent a
20 message to our emergency response team by email. And, again, I'd have to look -- I can
21 tell you the time on it actually, if you'll let me look at my notes here.

22 **CAPT Neubauer:** Yes, sir, let's go to that exhibit. That exhibit is 32.

1 **WIT:** So I don't have when I actually contacted our office, but 0706 is when I spoke with
2 the vessel – with the captain. At 0717 is when I received the SSAS alert, because I do
3 receive that by -- via email and via text automatically when he pushes it, as well as the
4 Coast Guard at RCC Norfolk receives it. So I receive that simultaneously. So I don't
5 have what time I actually hung up with the captain. So, again, I spoke with -- I started
6 the conversation at 0706. I got the alert at 0717, which was 11 minutes later. So some --
7 it was just a minute or so after I hung up with them probably. And then I called -- after I
8 got the actual alert, then I looked up the telephone number for RCC Norfolk, and I called
9 them at 0724, seven minutes later. And that's when -- so I talked to the Coast Guard
10 and RCC, Regional Command Center in Norfolk, and that's when they told me they
11 would be calling Coast Guard District 7 or Miami. And that's -- and this call was after
12 that. And that was 0738, is when the Coast Guard Miami contacted me on that
13 telephone call. Again, I'm sorry, your original question is, you know, did I contact my
14 own office. I actually -- we must have another exhibit of that email I sent, the E --
15 SSAS email. I don't know if it's here. It was an email I sent to the office telling them.
16 Again, during that time period, which I didn't write down the exact time that I also called
17 my office to alert them of the situation, and I asked our vice president of operations to
18 make the additional contacts that we make within our organization for any type of
19 emergency. As I had told the Coast Guard, I was the -- the person of contact, that I
20 didn't want to tie myself up anymore, so I left all the additional contacts internally and to
21 our client, Tote Maritime, to be done internally within my office personnel.

22 **CAPT Neubauer:** And in all of those contacts, sir, when was the first occasion that
23 Hurricane Joaquin was mentioned?

1 **WIT:** I don't recall.

2 **CAPT Neubauer:** Mr. Fawcett, do you have any questions?

3 **Mr. Fawcett:** Yes, sir, Captain. Thank you very much. Captain Lawrence?

4 **WIT:** Yes, sir.

5 **Mr. Fawcett:** I know that you didn't know of the recording from the call center at the
6 time immediately following the accident, but you had said that the demeanor of Captain
7 Davidson was calm, there was no panic. What's your assessment of Captain
8 Davidson's demeanor in the call center recording?

9 **WIT:** In my opinion, obviously, there was some frustration on his part when he was
10 saying, "the clock is ticking," and it appeared to be some frustration. I understand that
11 frustration. I would probably feel the same way if I was trying to reach somebody
12 quickly. However, the call center was doing exactly what they're supposed to do in that
13 situation in case the call was lost. We talked about that earlier, and -- and, yeah. I
14 mean, there was some definite -- definite frustration and concern, as you could hear in
15 his voice in the background on the two other parts of the conversation as well, which,
16 again, I'd have to speculate of what that was. But there did seem to be a little more
17 concern than when he had spoken to me on the phone.

18 **Mr. Fawcett:** And I realize you didn't know that at the time, because we only became
19 aware of the call center recording later. But what are the implications of "the clock is
20 ticking"?

21 **WIT:** Once again, that was prior to my conversation with him, so -- and I talked -- and,
22 again, after hearing the call center a month or so later, this tape, I -- to me, there was no
23 implications at the time that I was speaking to him, as we went through that

1 conversation. Again, he seemed very calm, no frustration, no excitement at all during
2 the whole conversation I had with him after the call center conversation.

3 **Mr. Fawcett:** Thank you, sir. So referring to the discussion you had, just to make sure
4 we have the sequence of events correct, you called the Coast Guard in Virginia, is that
5 correct?

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

7 **Mr. Fawcett:** And then you received a phone call a short time later from Coast Guard
8 District 7, Petty Officer Chancery, is that correct?

9 **WIT:** That's correct, about 14 minutes later.

10 **Mr. Fawcett:** Okay. So when you spoke to Petty Officer Chancery, there was a
11 discussion about a map, and you made a comment, "You have a better map than I do."

12 **WIT:** Yes, sir.

13 **Mr. Fawcett:** Did you have a map where you were referencing?

14 **WIT:** No, sir, I was just referencing that I was sitting at my kitchen table at the time
15 when I was speaking to him with my notes in front of me.

16 **Mr. Fawcett:** Did you have any idea the latitude and longitude that Captain Davidson
17 transmitted to you as to where the physical location of that latitude and longitude were?

18 **WIT:** Yes, I did, because I had asked him where he was in relationship to land, and
19 that's when he told me he was 48 miles east of San Salvador.

20 **Mr. Fawcett:** So was there anytime between the time that you talked to Captain
21 Davidson and the time you talked to the Coast Guard either in Virginia or in Miami,
22 where you mentally elevated the seriousness of the situation for the vessel, from

1 whatever your initial thoughts were to some other condition of the vessel or the
2 situation?

3 **WIT:** No, sir. And I think you could hear with that conversation between Petty Officer
4 Chancery and myself there that in -- basically just transferring information about what
5 appeared to be, in his words, as a disabled vessel, possibly. And I think you can hear
6 the -- our voices are fairly light, and didn't hear any concern there, even when I -- you
7 know, looking back on that conversation, that's the second time I've heard it, we're
8 talking about a map, you know, you could tell by my voice that there was not a lot of
9 concern at that point.

10 **Mr. Fawcett:** So at the time you spoke to Petty Officer Chancery in Miami, just so I'm
11 clear, you did not think the vessel was in distress; is that correct?

12 **WIT:** Well, my definition of distress versus after I talked to the Coast Guard and he
13 explained disabled means that it's not ready to take people off, that's when I agreed with
14 -- with him at that time, and said, I understand. And it did appear to be just a disabled
15 vessel from all the information we had obtained at that point.

16 **Mr. Fawcett:** So you said from your situation you considered the vessel disabled?

17 **WIT:** That's correct. I did not disagree with the Coast Guard on that note, because I
18 had no other additional information that they were in distress. And when I say
19 "distress," I mean disabled. You could interpret it as a distress as well, depending on
20 the situation; they pushed the buttons, however. Again, I'm just -- you know, I can't
21 speculate as it was, but it's prior to the distress of a danger of sinking or having to
22 abandon ship. I did not at that time think that that was the case.

1 **Mr. Fawcett:** So just for the record, you took notes of your conversation with Captain
2 Davidson the last time you spoke to him, and you jotted down these notes. Was there
3 any other information in the conversation you had with Captain Davidson that was not
4 contained in the notes you talked about here today?

5 **WIT:** No, sir.

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

7 **CAPT Neubauer:** Commander Denning.

8 **CDR Denning:** Captain Neubauer asked you when was the first time you had
9 discussed Hurricane Joaquin with the company. When was the first time you realized --
10 you stated you didn't remember when it was discussed. When did you first realize the
11 proximity of the El Faro to Hurricane Joaquin?

12 **WIT:** Within the actual call?

13 **CDR Denning:** At any time, during the investigation --

14 **WIT:** Well, the first time was when I received the email from him the night before.

15 **CDR Denning:** Okay. So then bringing it closer to the context of his call with you
16 around -- between 7:00 and 7:38, when these calls took place?

17 **WIT:** No, I didn't --

18 **CDR Denning:** When did you realize it had become even closer than the night before?

19 **WIT:** It wasn't until after these calls when we actually, you know, realized his -- where
20 his position was in vicinity to the storm at that time.

21 **CDR Denning:** And tell me about that, how you came to that realization. Did you plot
22 the positions relative to one another?

1 **WIT:** They did in the office. We ramped up our emergency response and command
2 center in the office. I should say that the personnel in the office did. Our vice president
3 gathered whoever was available of our emergency response team at that time of the
4 morning, or as they were coming in. And they – they began working on the information
5 that I had passed on to them on the position in a quick email. And I'm not exactly sure
6 what they did at that time, but they did look at charts and look at positioning, and that's
7 where they started putting the pieces together.

8 **CDR Denning:** And how did that change the assessment that you and Petty Officer
9 Chancery had essentially agreed that it wasn't a distress situation at that point? How
10 was the -- how were the conversations within the organization?

11 **WIT:** I'm not sure when it actually became a distress situation. I mean, my -- in my
12 recollection and opinion, it's when the Coast Guard ramped this up to a search and
13 rescue mission. At that point there is when it changed, and that was, you know, later on
14 in the morning. The exact times, I don't know.

15 **CDR Denning:** Thank you. That's all my questions.

16 **CAPT Neubauer:** Commander Odom?

17 **CDR Odom:** Captain, during your conversation with the captain, did you hear any
18 alarms in the background going off by any chance?

19 **WIT:** No, sir.

20 **CDR Odom:** Thank you.

21 **CAPT Neubauer:** At this time the NTSB has requested that we replay Exhibit 31, which
22 is the conversation between the Coast Guard Seventh District Command Center and

1 Captain Lawrence. Mr. Kucharski, can you indicate when you – at what point we can
2 stop recording?

3 (Audio plays.) Audio 3:

4 CAPT Lawrence: John Lawrence.

5 Coast Guard: Hey John this is Petty Officer Chancery I'm from the Coast Guard in
6 Miami, Florida. How are you?

7 CAPT Lawrence: Yes, sir.

8 Coast Guard: Hey I'm calling you back, you were listed as a POC for the El Faro.

9 CAPT Lawrence: That's correct.

10 Coast Guard: Okay, do you have contact or direct communication with the vessel?

11 CAPT Lawrence: I did they called me I was just actually trying to call them back, and I
12 couldn't the satellite is dropping the call. I can give you the phone number.

13 Coast Guard: Yeah give me the phone number for the vessel that's fine.

14 CAPT Lawrence: The satellite number, you have to dial 011 first to get the satellite.
15 870-773-206528.

16 Coast Guard: Okay, I'm going to repeat that back. 011-870-773-206528.

17 CAPT Lawrence: That's correct, that's what they called me on. I tried calling them back
18 a few minutes ago to see if they had any contact with you guys yet. They have?

19 Coast Guard: We contacted – they've contacted LANT Area.

20 CAPT Lawrence: Yeah, RCC Norfolk I talked to them and they said they were going to
21 notify you. Can you tell me what the plan, what you planning on doing now? You said
22 you were going to contact the Bahamas I guess?

1 Coast Guard: Well yes, sir. So here's the deal and that depends. So right now, right
2 now based on all the information you've provided me, you know I'm not in the distress
3 phase currently, because ----

4 CAPT Lawrence: Okay.

5 Coast Guard: Because they're not at risk of sinking and they have dewatered and they
6 uh -- they're without power and engines.

7 **Mr. Kucharski:** Stop right there. Stop right there.

8 **CAPT Neubauer:** You can stop the recording.

9 **Mr. Kucharski:** "Without power and engines," Captain Lawrence, can you elaborate on
10 that, where you understand --

11 **WIT:** I did not correct him on that. At the time I didn't see the reason to. But that is
12 incorrect. Nobody -- I had not given that information to anybody that he had no power.
13 So, in my view, that's just an incorrect statement he made.

14 **Mr. Kucharski:** Thank you for clarifying that. Thank you.

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

16 **MR. Roth-Roffy:** Thank you, Captain. Sir, referring to your notes, Exhibit 32, can you
17 say from your recollection, were all of these notes taken at the same time the events
18 occurred, that is, contemporaneously, or did you at some point later come back and add
19 additional information?

20 **WIT:** All of my notes during the conversation with the captain were taken exactly at that
21 time. As you can see, it's -- some of the lines weren't even completed, and so those are
22 all at the time. The actual timetable I have on the other page of the notes, I did that by

1 looking back at my telephone -- my cell phone numbers to get the exact times of those,
2 that time line.

3 **Mr. Roth-Roffy:** And when was that done?

4 **WIT:** Just -- it was still a few minutes, you know, within the -- within the hour or two that
5 I was still at home before I left for the office.

6 **Mr. Roth-Roffy:** Thank you. That's all I have.

7 **CAPT Neubauer:** Does Tote have any questions?

8 **Tote Inc:** Just a couple, sir. In the conversation with Petty Officer Chancery, he
9 suggested that the vessel could possibly anchor, and your voice seemed surprised by
10 that during the call. Were you surprised at that suggestion?

11 **WIT:** Yes, I was.

12 **Tote Inc:** And why were you surprised?

13 **WIT:** Well, again, I didn't have any physical chart in front of me, but I couldn't have --
14 just, again, in my own opinion, I couldn't imagine that the ship was that close to land
15 without mentioning anything and saying he was 48 miles off the island. I just didn't
16 picture he was in a place to anchor. However, I didn't question. I thought maybe that
17 they -- the Coast Guard may have had some updated or better information on the
18 position than what the captain had given me.

19 **Tote Inc:** Okay. I'm going to ask you to turn to your notes on page -- Exhibit 32, Page
20 2, and if you could read the latitude and longitude there that you have in your notes.

21 **WIT:** Latitude 23 degrees, 26.3 minutes north, longitude, 073 degrees, 51.6 minutes
22 west.

1 **Tote Inc:** Okay. And so just to understand the time line of -- and sequence of events,
2 after you took your notes, you made a call to the Coast Guard in Norfolk, is that
3 correct?

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

5 **Tote Inc:** Okay. I'd like to turn to Exhibit 34. If you could read over that, please, for a
6 moment. Exhibit 34 is an email from the Coast Guard in Norfolk to the RCC Miami. Do
7 you see that?

8 **WIT:** Yes, sir.

9 **Tote Inc:** And there's a report there that indicates that they -- an Inmarsat C distress
10 alert was received from the motor vessel El Faro, and it gives a position. Do you see
11 that?

12 **WIT:** Yes, sir.

13 **Tote Inc:** And could you read that position for the record, please?

14 **WIT:** It says: We received the below Inmarsat distress alert from the El -- okay.
15 Position here -- it says it's this position here. The vessel is in position 2326.3 north,
16 7351.6 west, 48 nautical miles east of San Salvador.

17 **Tote Inc:** And does that match up with what was in your notes?

18 **WIT:** I have to go back to my notes to make sure. That's correct.

19 **Tote Inc:** Okay. And the -- can you read, also, there's a description here about what
20 the situation was which was passed from the Coast Guard in Norfolk to Miami?

21 **WIT:** A scuttle opened in rough weather, and the vessel took on water, creating a 15-
22 degree list. They stopped the ingress of water and are not at risk of sinking, but they are
23 without power and engines. They are dewatering the vessel.

1 **Tote Inc:** Okay. And so when -- you're familiar with this location where the vessel's last
2 known position was?

3 **WIT:** Yes, sir.

4 **Tote Inc:** And, at the time, why did you think that the vessel could not anchor in that
5 position?

6 **WIT:** Well, again, in hindsight, looking, when I got back to the office to see exactly
7 where the position was, it was fairly deep water, over a few miles deep.

8 **Tote Inc:** Okay. And, to your knowledge -- so, in reviewing this, is it fair to say that you
9 passed along a latitude and longitude that was accurate?

10 **WIT:** It's a latitude-longitude the captain passed along to me, that's correct.

11 **Tote Inc:** And that matches up with the latitude and longitude that was provided from
12 Norfolk to Miami, is that correct?

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

14 **Tote Inc:** And as you sit here today, do you think that the El Faro was in a location
15 where it could've anchored?

16 **WIT:** No, sir.

17 **Tote Inc:** Thank you. And just a follow-up on Mr. Kucharski's question. In there it says
18 that the vessel was without power and engines. Is that accurate, from what you were
19 reported by Captain Davidson?

20 **WIT:** That is not accurate.

21 **Tote Inc:** Thank you.

22 **CAPT Neubauer:** Does Tote have any further questions?

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

1 **CAPT Neubauer:** Does ABS have any questions?

2 **ABS:** Yes. Based on your, this is Jerry White, based on your conversations with
3 Captain Davidson, was it your understanding that the vessel was without power or
4 without propulsion?

5 **WIT:** Without propulsion.

6 **CAPT Neubauer:** Mr. White, can you speak a little closer to the microphone, sir?

7 **ABS:** Yes. I have nothing further.

8 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

9 **Ms. Davidson:** Yes, sir. Bill Bennett. Captain Lawrence, I'd like to turn your attention
10 to your notes one more time.

11 **WIT:** Okay.

12 **Ms. Davidson:** At 0724, it indicates that you called RCC Norfolk; is that true?

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

14 **Ms. Davidson:** How long was that phone conversation?

15 **WIT:** I don't know how long it was. I didn't look at that on the phone.

16 **Ms. Davidson:** Do you recall who you spoke to?

17 **WIT:** No, I don't.

18 **Ms. Davidson:** In that section of your notes, is there any indication that the Coast
19 Guard RCC Norfolk was aware of Hurricane Joaquin?

20 **WIT:** I don't recall.

21 **Ms. Davidson:** If they had --

22 **WIT:** Not in my notes.

1 **Ms. Davidson:** If they had told you that based upon their information the vessel was
2 near Joaquin, would you have written it down?

3 **WIT:** Yes, sir.

4 **Ms. Davidson:** Your next call was at 7:38?

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

6 **Ms. Davidson:** And that was with Coast Guard Miami?

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

8 **Ms. Davidson:** And that was with Petty Officer Chancery?

9 **WIT:** Yes, sir.

10 **Ms. Davidson:** And during that telephone call -- he's based in Miami, Florida; correct?

11 **WIT:** Yes, sir.

12 **Ms. Davidson:** And based upon that phone call, was there any discussion about the
13 ship being in Hurricane Joaquin?

14 **WIT:** No, sir.

15 **Ms. Davidson:** Sir, can you turn to page -- Exhibit 34?

16 **WIT:** Okay.

17 **Ms. Davidson:** Exhibit 34 is an email, correct?

18 **WIT:** Yes, sir.

19 **Ms. Davidson:** And the title of that is October 1st, 7:33 in the morning; correct?

20 **WIT:** Yes, sir.

21 **Ms. Davidson:** And that is the time that's in between your call with Coast Guard
22 Norfolk and Coast Guard Miami, correct.

23 **WIT:** Yes, sir.

1 **Ms. Davidson:** And the first line reads: RCC Miami, we received the below Inmarsat C
2 distress alert. Do you see that?

3 **WIT:** Yes.

4 **Ms. Davidson:** Is there -- what is an Inmarsat C distress alert, do you know?

5 **WIT:** I'm not fully familiar with how it -- how it works. It's some satellite system, so it
6 sends out an alert of position as well. I'm not that fully aware of the exact workings of it.

7 **Ms. Davidson:** But the word is distressed and not disabled, correct?

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

9 **Ms. Davidson:** In anywhere in that email, which is a page long, does Coast Guard
10 Norfolk advise Coast Guard Miami that the vessel is at or near Hurricane Joaquin?

11 **WIT:** Not that I see here, sir.

12 **Ms. Davidson:** Thank you, sir. No further questions.

13 **CAPT Neubauer:** Does HEC have any questions?

14 **HEC:** No questions.

15 **CAPT Neubauer:** Captain Lawrence, I have a couple of follow up questions in regards
16 to the emergency response plan and potential salvage operations.

17 **WIT:** Yes, sir.

18 **CAPT Neubauer:** When was the first time you considered engaging with your
19 emergency salvage provider?

20 **WIT:** Immediately, when I was talking with Petty Officer Chancery there. Anytime we
21 have an emergency, it's part of our emergency response plan to notify our salvage
22 contractor, and I did so. And you can see the time line there that I contacted our -- T&T

1 Salvage, which is our contractor salvage company, 7:45, which was within seven
2 minutes after -- probably within five minutes after talking to Coast Guard Miami.

3 **Ms. Davidson:** Can you summarize the conversation you had with T&T --

4 **WIT:** Yes, sir.

5 **Q** -- That time, sir?

6 **WIT:** Yes, sir. I told him the situation, and I told him we have a possible disabled
7 vessel and gave him the position, and basically told him I was putting them on notice.
8 And they told me that they would contact all their resources in the vicinity areas to see
9 what type of response would be available if we need them. But they didn't dispatch
10 anything at that time. They -- basically, I just put them on notice until -- you know, to find
11 out where everything was and what they can -- what they can do, and they would get
12 back to us on that.

13 **CAPT Neubauer:** Did you have any subsequent phone calls with T&T on that issue,
14 sir?

15 **WIT:** We did later, in the command center, once I was in the office. I did not -- I don't
16 recall having anything further from them at the time, but, basically, we activated them
17 once we ramped up our command center later on in the morning.

18 **CAPT Neubauer:** Were there any delays in dispatching a vessel due to the storm
19 condition, sir?

20 **WIT:** I don't recall. I can't talk to that. We'd have to look at our notes from our command
21 center. I don't recall any problems of dispatching, other than getting any type of vessel
22 out there, that would obviously take some time. There was nothing in the immediate
23 vicinity of the -- of the position.

1 **CAPT Neubauer:** When you talked to your salvage provider during the initial phone
2 call, did Hurricane Joaquin come up during that conversation?

3 **WIT:** I don't recall.

4 **CAPT Neubauer:** Are there any other follow up questions for Captain Davidson?
5 Commander Denning. I'm sorry, for Captain Lawrence. Commander
6 Denning.

7 **CDR Denning:** Just one follow-up question, and it's in regards to the question that Mr.
8 Kucharski asked. And we've had a couple of follow-up questions regarding this as well.
9 It's the power versus propulsion. If you would go back to Exhibit 34 one more time?

10 **WIT:** Oh, I'm sorry, yes.

11 **CDR Denning:** So it appears in this exhibit, everything below the reference to your
12 name, vessel position as it was stated, matches your notes. A lot of the other language,
13 you know, 48 nautical miles east of San Salvador matches your notes. Scuttle open in
14 rough weather, all that paragraph seems to match your notes. The discussion about --
15 let me find it -- the difference between your notes and this is where it states, "without
16 power and engines." I'm trying to understand why they may have put that in there.
17 Is it your understanding, then, that they misunderstood when you spoke with RCC
18 Norfolk -- we don't have that recording -- is it your understanding that they
19 misunderstood your conversation, or why might they have put that in there?

20 **WIT:** I don't know.

21 **CDR Denning:** So did you -- did you ever say to them is what I'm getting at -- did you
22 ever say that they were without power?

23 **WIT:** Not in my recollection.

1 **CDR Denning:** I just want to clarify -- we can -- we can clarify this more with those
2 witnesses, with other witnesses later in the hearing, perhaps, but I just wanted to be
3 clear on your conversation with RCC Norfolk.

4 **WIT:** As far as I remember, I, you know, did not say that. But, again, without a tape or
5 something, I'm -- you know, I do not know if I misspoke at all, but it's my recollection I
6 wouldn't have said that and didn't say that, as far as I remember -- recall.

7 **CDR Denning:** Understood. Thank you.

8 **CAPT Neubauer:** Are there any additional follow-up questions for this final round?

9 **Mr. Kucharski:** Yes.

10 **CAPT Neubauer:** Captain Kucharski.

11 **Mr. Kucharski:** Thank you, Captain. Mr. Lawrence, the -- earlier in your testimony,
12 you talked about O'Brien and emergency services respond services?

13 **WIT:** No, Gallagher Marine Services.

14 **Mr. Kucharski:** I'm sorry?

15 **WIT:** Gallagher Marine Services.

16 **Mr. Kucharski:** I'm sorry, Gallagher. Are you familiar with the ABS's Rapid Response
17 Damage Assessment program?

18 **WIT:** Yes, sir.

19 **Mr. Kucharski:** Great. Would you consider that a tool for the vessel or the master to
20 use in an emergency if there was some kind of stability issue?

21 **WIT:** It is available to him. They have a placard on our ship that has all the information,
22 but I would consider it -- I consider it more of a tool for shore side response.

23 **Mr. Kucharski:** And that placard was given to the El Faro?

1 **WIT:** To the best of my knowledge, at the time, yes.

2 **Mr. Kucharski:** And the -- it's at the master's disposal to call into that system, and not
3 for the company necessarily to call into the system, but the ship can call into the
4 system?

5 **WIT:** It is available to him, yes, sir.

6 **Mr. Kucharski:** And are there scenarios in that system for adverse weather; do you
7 know?

8 **WIT:** I'm -- I'd have to see what we've actually forwarded to the ship. The only thing I'm
9 aware of right now is the placard with the contact numbers and other information. I'm
10 not sure of -- what entirely we've provided to the vessel for the RRDA.

11 **Mr. Kucharski:** Is the vessel also given the operating manual, how that's --

12 **WIT:** I don't recall. I'd have to check on that.

13 **Mr. Kucharski:** Was that system used at all during this incident?

14 **WIT:** It was in the response and command center, yes, sir. It was used by T&T
15 Salvage.

16 **Mr. Kucharski:** In response, though, after you were notified that the --

17 **WIT:** Yes, sir. Yeah, after. After -- after we ramped up our incident command center.

18 **Mr. Kucharski:** How new is that system aboard the vessel, or was it put in -- I believe -
19 - does the certificate go vessel per vessel?

20 **WIT:** Yes, sir. Yes, sir. It's an individual vessel, and I'm not sure. I'd have to look up and
21 see what that was. Some of the vessels were just added within the past year. I'm not
22 sure if that was one of them or if they had it previously.

1 **Mr. Kucharski:** Was that process captured anywhere in the Safety Management
2 System?

3 **WIT:** I don't believe it's in the -- in our safety management manuals. It is in the
4 emergency response plan, though, the RRDA information. Again, I'd have to look to be
5 -- to give you an exact answer on that.

6 **Mr. Kucharski:** Were any drills run with that program?

7 **WIT:** Not to my knowledge aboard the vessel, no.

8 **Mr. Kucharski:** How about shore side, were there any drills run shore side with the ...

9 **WIT:** Not to my recollection while I've been there.

10 **Mr. Kucharski:** Thank you on those answers. I'd like to shift gears a little bit to
11 training. Is there someone at the company that assesses the training for the deck
12 officers?

13 **WIT:** At the company? Well, their training is mostly done within their -- their union
14 training, and that's where it's assessed.

15 **Mr. Kucharski:** How about additional training in addition to the union. When you say,
16 "union training," do you mean what's required with their license or their --

17 **WIT:** There is. There's additional training that's available to them. Again, I think our
18 crewing can speak to that better than I can, as far as, you know, what our people are
19 taking within the union -- you know, the AMO and the SIU, supply courses. I'm not
20 aware exactly, you know, what's being offered or what they're taking above and beyond
21 the required training at this time.

22 **Mr. Kucharski:** I believe we asked that question about HR, if that was the training over
23 and above, and that -- I believe Mr. Kondracki said it wasn't his responsibility. So for

1 deck training specifically, is there someone at the company that's responsible for
2 looking at the training or providing above and beyond the training?

3 **WIT:** We capture training that's done on board the vessel, you know, for training, drills,
4 and, you know, they send in a quarterly report of all the training that we've acquired for
5 them, all the -- it was called track training. So, I mean, various drills, specific drills that
6 we have in our manuals, as far as various firefighting drills and man overboard drills and
7 just a variety of drills that we do instruct them to -- to conduct within a certain time period
8 and time frame. They do have to put down the names of the persons in the log, who's
9 taking training, what times it was done, and give us a report of some specifics in that
10 training. They send that in to us on a quarterly basis to the office, and we track that to
11 make sure that the training has been completed and then file it. And if it's not
12 completed, we do follow up with the vessels.

13 **Mr. Kucharski:** Would you consider that regulatory mandatory, the training must be
14 done?

15 **WIT:** No, sir.

16 **Mr. Kucharski:** Is there someone ashore who would keep abreast of possible new
17 training or new trends in training?

18 **WIT:** Again, that -- I think that's more of the overall team. It's a combination of my
19 department. I get involved in it. The operations directors get involved in it, and crewing
20 and HR may get involved in it as well. It's, again, more of a team effort usually. When
21 we're talking about any type of additional training that we want to give to or actually
22 mandate for any of our personnel.

1 **Mr. Kucharski:** So if the master came -- or the master, he or she wanted additional
2 training for herself or himself, who would they go to specifically? Would that be to HR?

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

4 **Mr. Kucharski:** Are you aware if there were any written materials, videos, any form of
5 instructional materials aboard the El Faro, which offered the vessel personnel guidance
6 in adverse weather ship-handling or to recognize or avoid dangerous rolling-type
7 situations?

8 **WIT:** I'd have to refer to our list of what we have supplied to the vessel, but not off the
9 top of my head.

10 **Mr. Kucharski:** So would that be in a list of publications? Is that where it would be?

11 **WIT:** A List of -- we have a list of publications and a list of videos that we have on ship,
12 but that doesn't limit what they may have on board or what they may, you know, have
13 supplied. Typically, you know, especially officers on board may bring videos from their
14 own specific training they've had in different areas at different companies, and it may be
15 available to the ships, too. But anything that we've supplied or that we require on board
16 should be in our list of videos and publications.

17 **Mr. Kucharski:** And where is that captured, this list of publications so we can --

18 **WIT:** In our manuals.

19 **Mr. Kucharski:** In which manual? In the ----

20 **WIT:** Either in the OMV or in the emergency preparedness manual.

21 **Mr. Kucharski:** Okay. So the operational ----

22 **WIT:** Yes.

23 **Mr. Kucharski:** Yeah, okay. So are they an addendum to that?

1 **WIT:** Yes. We also have a -- yes. We have a -- in addition to our two main manuals, we
2 have a series of what we call presentation or Tier 3 manuals, and one is a training
3 addendum it's called. I would have the information on that one there.

4 **Mr. Kucharski:** Okay. Thank you.

5 **CAPT Neubauer:** Are there any final questions for Captain Lawrence?

6 **Tote Inc:** Could I just take a minute, sir? Just one minute?

7 **CAPT Neubauer:** Yes.

8 **Tote Inc:** So, Captain Lawrence, just to look back at Exhibit 34 and the paragraph in
9 here about the information that Norfolk, the Coast Guard in Norfolk, passed to District 7
10 in Miami, and I think it was Commander Denning indicated that much of that was
11 accurate. Do you remember passing to -- to them that the vessel took on water creating
12 a 15-degree list, or was it the information that you had that the captain reported that the
13 list was due to wind? Is that accurate what it says right there?

14 **WIT:** I don't recall my exact wording when I told him that. And, you know, the Captain
15 didn't say he had a list, and he initially indicated it was due to the water. And then, later
16 in the conversation, he did indicate that he felt the list was actually more due to
17 wind heel.

18 **Tote Inc:** Okay. Thank you.

19 **CAPT Neubauer:** Are there any further questions at this time?

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

21 **ABS:** No, sir.

22 **CAPT Neubauer:** Hearing none, at this time, Captain Lawrence, we are now complete
23 with your testimony for today. However, I anticipate that you may be recalled to provide

1 additional testimony at a later date. Therefore, I'm not releasing you from your testimony
2 at this time, and you remain under oath. Please do not discuss your testimony or this
3 case with anyone other than your counsel, the National Transportation Safety Board, or
4 members of this Coast Guard Marine Board Investigation. If you have any questions
5 about this, you may contact my legal adviser, Commander Jeff Bray. Sir, I'd like to
6 thank you for your testimony, and I think it was a difficult session for all of us. I
7 appreciate you providing that, sir.

8 **WIT:** Thank you.

9 **CAPT Neubauer:** I need to make two announcements. U.S. Coast Guard Lieutenant
10 Kimberly Beisner with Sector Jacksonville will be added to the -- as the second witness
11 to the hearing schedule for Friday, February 26th. Lieutenant Beisner was a ship rider
12 for several weeks on the *El Faro* during the summer of 2015. Also, just as a notice to all
13 in attendance and watching the proceedings, we will further explore the search-and-
14 rescue issues related to the *El Faro* during the second week of this hearing next week.
15 At this time, I want to make sure, are there any -- do the parties in interest have any
16 concerns with the testimony provided by Mr. -- Captain Lawrence?

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

18 **ABS:** No, sir.

19 **HEC:** No, sir.

20 **CAPT Neubauer:** We will now -- the hearing is now in recess, and we will reconvene at
21 2 O'clock.

22 *The hearing recessed at 1308, 20 February 2016*

23 *The hearing was called to order at 1402, 20 February 2016*

1 **CAPT Neubauer:** The hearing is now back in session. We will now hear testimony
2 from Mr. Ronald Rodriguez, terminal manager. Mr. Rodriguez, please come forward to
3 the witness table, and Lieutenant Commander Yemma will administer your oath and ask
4 you some preliminary questions.

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

10 **WIT:** I do.

11 **LCDR Yemma:** Thank you. Be seated, please. Sir, could you please start by stating
12 your full name and spelling your last name?

13 **WIT:** Ronald R-O-D-R-I-G-U-E-Z.

14 **LCDR Yemma:** Can we move the microphone a little closer? Thank you. Can you
15 please tell the Board where you're currently employed and what your position is?

16 **WIT:** I'm a terminal manager for Tote Maritime Jacksonville.

17 **LCDR Yemma:** And what are some of your general responsibilities in that position?

18 **WIT:** The day-to-day terminal operations when the vessel is in port, the stevedoring
19 operations.

20 **LCDR Yemma:** And can you please describe some of your prior relevant work
21 experience, please?

22 **WIT:** I have 28 years of experience, 15 years with Sea Star Line, Tote Maritime, five
23 years with Inchcape Shipping and eight years with the cruise industry.

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

1 **WIT:** Three years college.

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

3 **WIT:** No, sir.

4 **LCDR Yemma:** I think we need to just, if you can speak a little closely into the
5 microphone.

6 **WIT:** No problem.

7 **LCDR Yemma:** So the court reporter can pick it up. Thank you. And the Board will
8 have some questions for you now, sir.

9 **CAPT Neubauer:** Good afternoon, Mr. Rodriguez.

10 **WIT:** Good afternoon.

11 **CAPT Neubauer:** Sir, to start out the -- Mr. Jeff Stettler from the Coast Guard's Marine
12 Safety Center is going to begin with a line of questioning. Mr. Stettler -- Dr. Stettler.

13 **Mr. Stettler:** Thank you, Captain. Good afternoon, Mr. Rodriguez.

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

15 **Mr. Stettler:** Thank you for coming. I understand that Mr. -- the marine operations
16 manager, Mr. Don Matthews, who reports to you was on vacation in the days leading
17 up to the accident voyage of the El Faro, and we understand that you filled in with his
18 duties while he was on vacation; is that correct?

19 **WIT:** That is correct.

20 **Mr. Stettler:** Thank you. So I'd like to ask you some basic procedures or process that
21 you followed, and then we'll talk about some more detailed things. Could you just briefly
22 describe the general duties of Mr. Matthews that you fulfilled during those days leading
23 up to the final voyage?

1 **WIT:** Mr. Matthews is working with the operation on the vessel, Isla Bella. On that
2 particular day they didn't take that. He working with engineer directly for the fuel
3 feeders, and any kind of stevedoring operations during the vessel operation.

4 **CAPT Neubauer:** Mr. Rodriguez, can you speak a little louder into the microphone,
5 please?

6 **WIT:** I will.

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

8 **Mr. Stettler:** Thank you. Since you're performing Mr. Matthews's duties, as I
9 mentioned, I'd like to ask you some basic questions and then some more detailed
10 questions. Specifically, we're going to start specifically dealing with the loading process
11 and the stability assessment that you went through during that day or so before the --
12 before the accident voyage. We'd like you to limit your discussion to what you did or
13 what you were involved in on that day or leading up to that, on that voyage. However, if
14 you're aware of any procedural changes or anything that's changed since the accident
15 voyage, feel free to highlight that. But please be clear if something has changed
16 specifically since the accident voyage. And, again, if you would -- like everyone else, if
17 you would like to take a break at any time, please let us know. Thank you. So I'd like to
18 start with basically asking you to describe very briefly, you know, in a minute or two,
19 nothing -- nothing lengthy of the basic process for loading -- from your perspective or
20 that -- on the day, since, say, the 29th of September, what was your basic process for
21 that day, and then we'll come back and we'll revisit some specifics of that.

22 **WIT:** Okay. When the vessels arrive, I went to the vessel, I deliver the mail to the
23 Captain and the Chief Mate. I have a conversation with the Chief Mate and we will have

1 the same load figures from the last week, if we plan to go full and the working ballast on
2 the 2200 tons, can you exchange it for 150 tons each. After that, I pick up the mail, any
3 kind of documentation they have, and I went to the terminal to start the operation.

4 **Mr. Stettler:** Okay. So what happened after that, just in general? We'll talk about the
5 details, but if you could just talk about the generality of the day, what else happened
6 that day?

7 **WIT:** On that day, I only discharged the vessel. We load couple of containers back,
8 and then we began the operation the next day. We started the 28, and we finish the
9 operation the 29th.

10 **Mr. Stettler:** Could you talk a little bit about the general process for -- on the 29th of
11 September? Again, not details, but just generally what you did during that day.

12 **WIT:** On that day, it's only print the stow plan every time that the stevedore make
13 updates. I put information and target amounts of weight, and we have conversation via
14 radio with the Chief Mate with the vessel conditions.

15 **Mr. Stettler:** Okay. And then later in the day, prior to the vessel departure, what did
16 you do?

17 **WIT:** Before the vessel depart, we bring in the final load case. I print the final stow
18 plans. I wait for the dangerous cargo manifest and the reefer manifest, and I drive to the
19 vessel and deliver it to the Chief Mate.

20 **Mr. Stettler:** Okay. We'll cover some details of that. Thank you for the overview.
21 I'd like to talk a little bit about the stevedores and your relationship with the stevedores.
22 What information did the stevedores provide to you on that day and how did they
23 provide that information to you, what form?

1 **WIT:** Well, they stow the vessel in Spinnaker, and I print that from Spinnaker and I use
2 the stow plan to put information on CargoMax with the tonnage.

3 **Mr. Stettler:** Could you highlight what Spinnaker is, please?

4 **WIT:** Spinnaker is a stow plan that we use for stow the vessels.

5 **Mr. Stettler:** Okay. And that -- just to be clear, that is a computer program, correct?

6 **WIT:** It's a computer program.

7 **Mr. Stettler:** Okay. Thank you. And you did mention CargoMax, which is another
8 computer program that you utilized. We'll get into more detail. I just wanted to clarify that
9 is also a computer program, correct?

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

11 **Mr. Stettler:** Okay. Thank you. Did you use any other -- other than CargoMax,
12 Spinnaker, what else -- what else are you given, or what else do you use as tools for --
13 during that day, during that process, or what did you use?

14 **WIT:** Spinnaker is the tool that we use for Lo-Lo operation. And Ro-Ro operation is
15 writing stow plans, and as soon they finish that particular deck, they provide copy to me
16 and I put the information on the CargoMax.

17 **Mr. Stettler:** Okay. Do you transpose that information by hand? Do you read it off of
18 one document and type it into the computer yourself, or did you type it into the computer
19 yourself?

20 **WIT:** Yes.

21 **Mr. Stettler:** Thank you. So since Tote uses the loading and stability software
22 CargoMax to assist in your assessment, your loading assessment and stability
23 evaluation, I'd like to walk through with you basically to talk a little bit about this process.

1 So I'd like to walk through the vessel loading process using the CargoMax printout,
2 basically, as a format for the discussion. So I'd like to, please, refer you to Exhibit 059,
3 which is a revised CargoMax printout for the Jacksonville departure on September 29th.
4 And specifically, please, we'll start off by looking at the second and third pages of that,
5 and I believe Lieutenant Commander Yemma is going to bring this up on the screen just
6 so everyone can see just basically what we're talking about here. What I'd like you to
7 do is using these two, so the second and the third pages, talk a little bit about how you
8 go about entering weights for the various onboard tanks. So, you know, fuel tanks,
9 ballast tanks -- you did mention ballast earlier, we'll get back into that -- fuel tanks,
10 ballast tanks, and freshwater tanks, et cetera. So talk a little bit about how you -- how
11 you input those weights and those items into CargoMax, please.

12 **WIT:** We put the weights on CargoMax as -- we weigh off the long tons, and that
13 information's supplied for Chief Mate.

14 **Mr. Stettler:** Do you enter weights by tons or volume or percent or tank soundings, or
15 how do you get that data?

16 **WIT:** No, that -- that particular one we put as long tons.

17 **Mr. Stettler:** Okay. And where do you get that information?

18 **WIT:** From the Chief Mate.

19 **Mr. Stettler:** Okay. So they give you what kind of document that provides --

20 **WIT:** They send us an email on a spreadsheet with all information for the tank ballast.

21 **Mr. Stettler:** For all -- all onboard tanks --

22 **WIT:** Yes, sir.

23 **Mr. Stettler:** In one email?

1 **WIT:** Yes, sir.

2 **Mr. Stettler:** Okay. Thank you. So I notice -- let's look specifically at the fuel tanks,
3 which is at the top of the second page. So I notice in there that both the fuel tanks and
4 the freshwater tanks, and also the saltwater tanks, which are on the top of the next
5 page, there's a large number of tanks, both fuel and water, that there -- what we call
6 slack, meaning there they're only partially filled. Is that normal for the vessel to depart
7 with such a large number of tanks slack and, if so, why is that done?

8 **WIT:** Repeat that again.

9 **Mr. Stettler:** Is it normal -- so, for example, the fuel tanks -- so if you look at the fuel
10 tanks, all -- none of the fuel tanks are at 100 percent, and they're all somewhere
11 between 50 and 80 -- 84 percent full. Is there a reason that tanks aren't filled
12 completely or emptied completely? Why are they partially filled? Is there a reason for
13 that?

14 **WIT:** I don't have that information.

15 **Mr. Stettler:** Thank you. On September 29th, did you take on fuel or bunkers that day?

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

17 **Mr. Stettler:** Not that you recall, thank you. How did you know or determine the
18 density or the specific gravity of fuel in the fuel tanks?

19 **WIT:** The only information that we received from the Chief Mate is based on the
20 spreadsheet is a long ton. The density, I don't have the information. I don't change that
21 information in CargoMax.

22 **Mr. Stettler:** Okay. So you -- so I assume that means that you used what was
23 previously included in the program from the previous week?

1 **WIT:** That is correct.

2 **Mr. Stettler:** Okay. Thank you. Did you take on any -- you mentioned ballast a moment
3 ago. Did you add any ballast, ballast water to the vessel on that day, the 29th -- or the
4 28th or the 29th of September?

5 **WIT:** At the time of departure?

6 **Mr. Stettler:** Prior to departure, did you add any ballast water or remove any ballast
7 water from any of the ballast tanks?

8 **WIT:** No. As soon as I had the conversation with the Chief Mate to have two working
9 ballast 150 tons, we don't change that.

10 **Mr. Stettler:** Thank you. On the top of the third page -- excuse me, the bottom of the
11 third page, there is a category there called Constant Weights, and I'd like to know how
12 much do those -- there's a "stores" item in there, which I assume is things like food and
13 repair parts, et cetera. Do you ever change that, the weight of that item? It's about 119
14 or 120 tons. Do you ever consider or did you consider what the weight of that item was?

15 **WIT:** No.

16 **Mr. Stettler:** Okay. I'd like to talk a little bit about the cargo load entry. So start -- let's
17 look at the container weights, which in the CargoMax printout are on the top of the fifth
18 page, excuse me, the fourth page, and it shows a weight summary, and I believe that's
19 up on the screen there. And it shows basically by -- by stow location, and it's a
20 summary -- could you explain a little bit how you put weights -- or you said -- you
21 mentioned getting a stow plan from the stevedores. Could you discuss how you take
22 that stow plan and put that information into CargoMax?

1 **WIT:** We don't put information in the summary. We put information on the real stow
2 position of CargoMax.

3 **Mr. Stettler:** Can you talk about that process a little bit? What's in that stow location?

4 **WIT:** Stow location, we identify the size, type of the equipment is, and we put the
5 tonnage, the long ton of that, of the container.

6 **Mr. Stettler:** Okay. What else goes in with that? Are all the containers the same?

7 **WIT:** Say that again.

8 **Mr. Stettler:** Are all the containers the same, the same –

9 **WIT:** No, you have 20s, 40s, 45, 53s, 48, and different weights.

10 **Mr. Stettler:** So the length, I assume, then, is entered in addition to the weight?

11 **WIT:** Say that one more time.

12 **Mr. Stettler:** So I assume that means that the length of each container is entered in
13 addition to the weight?

14 **WIT:** Yes. Before I put the tonnage for that container, we identify it as we put on right
15 side tank on CargoMax.

16 **Mr. Stettler:** Do you ever change the transverse or locations of the centers of gravity of
17 any of the container weights in terms of the vertical locations based on the container
18 load, or do you simply use the default value that's included in the software program?

19 **WIT:** The software. The soft value of the program.

20 **Mr. Stettler:** Thank you. I'd like to refer to the bottom -- or, actually, the top of the next
21 page, talk a little bit about the Ro-Ro cargo entry. So the roll-on/roll-off cargo are the
22 items that are rolled on the ramps and stored on the second deck and below. And so,
23 as an example, Hold 2B, so that's, as I recall yesterday from our discussions, 2 would

1 be for the second deck, and -- so that would be the uppermost below deck where Ro-Ro
2 cargo is stored, and B would be the B hold. So that would be above the B hold; correct?

3 **WIT:** Yes.

4 **Mr. Stettler:** Could you discuss a little bit about how you take the documentation
5 provided by the stevedores to enter the values for the Ro-Ro cargo?

6 **WIT:** Yes. On the spreadsheet that stevedores supply to those, we then -- we divide
7 the port side, center and the starboard side of the vessel, and they have the specific
8 position for the trailer or container will sit in that place. We separate the port side
9 centerline and the port -- the starboard side, and we add in all weights and we put the
10 long tons on the final, and we put the amount of containers on trailer is sitting in that
11 slot.

12 **Mr. Stettler:** And where do you get that weight from?

13 **WIT:** From the stevedore.

14 **Mr. Stettler:** In long tons, always?

15 **WIT:** It's in pounds, and we change that to long ton.

16 **Mr. Stettler:** Do you manually calculate that conversion?

17 **WIT:** I put information in a spreadsheet, and Excel will give me that calculation.

18 **Mr. Stettler:** So the spreadsheet converts from pounds to long tons?

19 **WIT:** Yes.

20 **Mr. Stettler:** Okay. Is that spreadsheet work on a -- on a per stow location basis or
21 individual trailer basis? In other words, is it calculating for each trailer, or is it grouping
22 all of those trailers in that stow location together?

1 **WIT:** What I put in Excel is the amount of weight per trailer, and then I, as I said, do the
2 calculation as long ton.

3 **Mr. Stettler:** Okay. Thank you. Similar question to the containers, since they're the
4 locations -- the precise locations of the trailers change from load to load, do you ever
5 modify the longitudinal and the transverse position of the center of gravity of the trailers
6 that are being stored in the Ro-Ro holds?

7 **WIT:** No, sir.

8 **Mr. Stettler:** Okay. So you simply use the default value that is with the program; is that
9 correct?

10 **WIT:** That is correct.

11 **Mr. Stettler:** Okay. Thank you. Were you aware of any nonstandard loading on the
12 cargo holds for the ramps on this voyage? In other words, were there any stow
13 locations that were voided or anything that was unusual about the loading of the vessel
14 on that day?

15 **WIT:** I don't recall.

16 **Mr. Stettler:** You don't recall?

17 **WIT:** No.

18 **Mr. Stettler:** Okay. Thank you. I'd like to refer you back, Mr. Rodriguez, back to the first
19 page of the exhibit. And this is a -- what's titled on this page, Departure Trim and
20 Stability Summary. I'd like you to briefly explain to us what you look at as the loading
21 manager or the person who's assessing the vessel stability and loading. What do you
22 look at on this page? This basically summarizes the condition of the vessel at departure
23 based on the loading that you input on the other -- which are reflected on the other

1 pages. So what is it that you look at on this page to assess the suitability of the
2 departure condition of the vessel?

3 **WIT:** Well, actually, before I'm looking for this page, I'm looking for the CargoMax
4 software, and we look for the available deadweight and GM margin above .50, and list
5 should be a zero.

6 **Mr. Stettler:** You say what was above a .5?

7 **WIT:** The margin -- the GM margin.

8 **Mr. Stettler:** GM margin, okay. And you said -- you also mentioned available
9 deadweight. Could you explain what that means?

10 **WIT:** The available deadweight is where they can -- the vessels he have to receive
11 cargo or take ballast.

12 **Mr. Stettler:** So that's basically how much additional cargo you can potentially load and
13 what? What's the limitation on that deadweight? Could you explain that?

14 **WIT:** We need to -- what we looking is to have some available deadweight before the
15 vessel depart and the GM margin .50 or above.

16 **Mr. Stettler:** Okay. I guess what I'm asking is, what is the limit that determines the
17 available deadweight? Is it a weight that -- limiting the weight of the vessel, or what is it
18 that it's limiting?

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

20 **Mr. Stettler:** So you said the available deadweight, as you noted, is not on the trim and
21 stability summary. You mentioned it's in the CargoMax program. Could you explain
22 where that is located in the CargoMax program?

1 **WIT:** It's one of the windows that we have put the parameters on the CargoMax, and
2 we look into that parameters going into the operations.

3 **Mr. Stettler:** If you were to load the vessel to the point where it -- the program told you
4 that the available deadweight was zero, what would that -- what would that mean in
5 terms of the condition of the vessel?

6 **WIT:** It's completely full. It's completely loaded.

7 **Mr. Stettler:** Thank you. I'd like to go back. You mentioned GM margin. If you could,
8 could you please describe -- there's -- looking at the first page here of this trim and
9 stability summary, there's a number of GM. Could you just explain what GM is? And it
10 talks in there about GM -- GM required, GM margin. Could you just explain, just in
11 layman's terms what the difference between those are? You mentioned you look at the
12 GM margin. Can you just kind of highlight what that -- what that means?

13 **WIT:** Well, the GM margin is a -- the parameters that we have for the -- for the
14 conversation with the captains and the marine people before, that I've been there, and
15 that's the parameter we're looking for. Be above or no less than .50 on GM margin.
16 Have some positive available deadweight and have zero list.

17 **Mr. Stettler:** Okay. So you mentioned talking to the Captain. Does the Captain
18 establish -- you mentioned .5 as being a limit, limitation on your GM margin. Who
19 establishes that? Is it the captain of the vessel?

20 **WIT:** Well, apparently, you know, I don't -- I don't have that information who was the
21 one to decide that. In our SOP, that's what -- the SOP that we have as organization at
22 Tote Maritime and we go with that parameter. If for some reason something is above

1 that, we have a conversation with the Captain. We call the Captain and tell him the
2 condition of the -- of the vessels.

3 **Mr. Stettler:** You mentioned SOP. I assume that means standard operating procedure.
4 Is that something that's written or --

5 **WIT:** Yes.

6 **Mr. Stettler:** Is that just unwritten?

7 **WIT:** It's written.

8 **Mr. Stettler:** So does that mean that this .5-foot GM margin is -- that limit is written
9 somewhere?

10 **WIT:** Yes, in the SOP it is a .50 or above.

11 **Mr. Stettler:** It's written in which -- which document?

12 **WIT:** It is departure trim and stability of SOPs.

13 **Mr. Stettler:** Okay. Thank you. I'm familiar with that, we'll -- thank you. Could you
14 explain -- so you mentioned trying to limit the GM margin to .5 feet prior to departure.
15 That's one of the -- more than two primary limitations. The other one mentioned -- you
16 mentioned was the deadweight limiting the -- or -- you know, optimizing, I guess, for
17 lack of a better word, the available deadweight; right? You want to -- we're going to try
18 to get the deadweight, available deadweight, as close to zero as you can, and you want
19 that GM margin as high as possible; is that correct?

20 **Tote Inc:** I'd just like to suggest that I think it misstates some of the comments that --
21 the testimony so far.

22 **Mr. Stettler:** Okay. Mr. Rodriguez, could you clarify, again, what limitations you have or
23 you used in loading the vessel?

1 **WIT:** We have guidance of loading the vessel, and when you use CargoMax, again, we
2 go to .50 or above, as an available positive -- available deadweight, and it leads to zero.
3 That's for CargoMax. For the regular stevedoring, we loading that as, you know, low,
4 heavy, medium, and light on the containers, and that's the way we load up the vessels.

5 **Mr. Stettler:** Okay. Thank you. So you mentioned loading the vessel to a GM margin of
6 .5 feet. What happens during that departure from Jacksonville? What happens to that
7 GM margin during the voyage to San Juan?

8 **WIT:** I don't have that information, sir.

9 **Mr. Stettler:** Is it -- does that GM margin ever change during the voyage?

10 **WIT:** I don't have that information.

11 **Mr. Stettler:** Thank you. On September 29th, it was well known that there was a
12 hurricane, or a tropical storm perhaps, at the time, Joaquin. Was there any discussion
13 at Tote Services or Tote Maritime Puerto Rico about potentially reducing the load, the
14 cargo load, the deadweight on the vessel, or increasing the GM margin in preparation
15 for the heavy weather?

16 **WIT:** No, sir.

17 **Tote Inc:** Dr. Stettler, if I could object for a minute. I don't think there was any evidence
18 to suggest that there was a hurricane at the time the vessel was loaded. And so I think
19 your question suggested that there was. I just want to make sure that that's not --

20 **CAPT Neubauer:** Mr. Reid, your objection is noted. I think the phrase used was, "it
21 was widely known" there was a hurricane. I agree with you that we can't assume that it
22 was widely known that it was a hurricane or a tropical storm. So I agree with the
23 objection.

1 **Mr. Stettler:** Thank you. Sir, you mentioned two limitations, one is the GM margin,
2 which is a measure of the vessel's -- stability of the vessel, the other being the available
3 deadweight. Are you aware of any other limitations on the vessel, either that would be
4 highlighted to you in the CargoMax program or in some other -- some other way,
5 limitations on your loading?

6 **WIT:** No, sir.

7 **Mr. Stettler:** Are you aware of any limitations on the trim of the vessel at departure?

8 **WIT:** No, sir.

9 **Mr. Stettler:** Did you evaluate any -- was there anything you evaluated in the departure
10 condition to assess the structural stresses on the hull or the bending moment on the hull
11 prior to departure?

12 **WIT:** No, sir.

13 **Mr. Stettler:** Okay. I'd like to, then, now talk to you about -- ask you to talk a little bit
14 about -- so you did this all in your office, I would assume, in the last bit, in terms of
15 putting things into CargoMax, you did it sitting in front of a computer. I'd like to talk now
16 or have you discuss now what happened once you established the loading condition in
17 the CargoMax stability loading software and you walked down to the vessel to meet the
18 Chief Mate and to provide -- produce or provide him all of the loading documentation.
19 You mentioned that earlier that you go down with the CargoMax program, you have the
20 loading plan, you have the hazardous cargo manifest, et cetera, and you provided that
21 to the Chief Mate. Could you talk a little bit in more detail about what kind of interaction
22 you had, specifically, on September 29th, with the Chief Mate? Perhaps, start by just

1 mentioning, how far before -- how long before the vessel departed did you meet with the
2 Chief Mate on that day?

3 **WIT:** On that day I had a conversation with the Chief Mate and tell him that I have all
4 document with me, and I made it on the gangway. I deliver to him the cargo and stability
5 harbor -- the harbor paper and the stow plans and all the documents that you referred.
6 And he opened the CargoMax summary, and he identified that I have a hundred ton
7 more on the diesel -- on the fuel board tank, and he addressed that to me. He said, you
8 have a hundred ton more that is physically on the vessel? And also he address a -- the
9 miscellaneous tank that I have 1.1 -- 1.5. I say, You have -- should be put 11.5,
10 however, due to the condition of the information that I have, we are good, because
11 change that on your -- on your CargoMax. And I do my change. After that, he gave me
12 the draft, and we wait until the vessel's departure the last night.

13 **Mr. Stettler:** What time was this that you went down to the ship? Do you remember or
14 recall the time?

15 **WIT:** Around 1815, more or less.

16 **Mr. Stettler:** Do you recall what time the vessel departed?

17 **WIT:** I don't recall.

18 **Mr. Stettler:** Could you estimate how many minutes before the vessel departed did you
19 meet with the Chief Mate?

20 **WIT:** I can guess in about, you know, the time that we had met in the vessel and the
21 vessel depart about 30 to 45 minutes.

22 **Mr. Stettler:** 30 to 45 minutes, okay. Thank you. When during that process were the
23 drafts of the vessel read or measured?

1 **WIT:** The Chief Mate was the one to have the draft.

2 **Mr. Stettler:** Does that mean he had already taken the drafts ----

3 **WIT:** He take the draft ---

4 **Mr. Stettler:** By the time you got there? So you did not observe the draft reading, is
5 that correct?

6 **WIT:** On that particular day, no.

7 **Mr. Stettler:** Okay. If you had done this before, would you normally observe the drafts
8 with the Chief Mate, draft readings?

9 **WIT:** We went together to take the drafts. Both of us at the same time.

10 **Mr. Stettler:** But that was not done on this particular day?

11 **WIT:** No, sir.

12 **Mr. Stettler:** Okay. Thank you. Did the Chief Mate take a measurement of the density
13 of the seawater or the specific gravity of the water on that date; do you recall?

14 **WIT:** I don't recall.

15 **Mr. Stettler:** Approximately how much time did the Chief Mate spend with you
16 reviewing the CargoMax printout?

17 **WIT:** About five to ten minutes.

18 **Mr. Stettler:** Okay. You mentioned a couple of discrepancies. You noted fuel oil, I
19 believe you said? You said fuel oil, there was a discrepancy with the quantity of fuel
20 oil?

21 **WIT:** Fuel oil.

22 **Mr. Stettler:** Correct?

23 **WIT:** Yes.

1 **Mr. Stettler:** And I believe you said lube oil as well. Lube oil?

2 **WIT:** No.

3 **Mr. Stettler:** What was the other discrepancy?

4 **WIT:** It was fuel oil and the oil gravity on the miscellaneous tanks.

5 **Mr. Stettler:** LL. Okay. So that would be lube oil, right, lube oil and gravity tank, right.

6 So you had those discrepancies. And did you correct those on your shore-based

7 CargoMax software or not?

8 **WIT:** I don't correct the same day. I correct after that.

9 **Mr. Stettler:** So you went back to your office and corrected those quantities?

10 **WIT:** Not the same day.

11 **Mr. Stettler:** Not on the same day, okay. Do you recall when you did that, when you

12 made that correction?

13 **WIT:** October 1st.

14 **Mr. Stettler:** On the 1st of October?

15 **WIT:** Yes.

16 **Mr. Stettler:** Okay. So you updated the shore-based CargoMax software on that day,

17 on the 1st of October. Was that after that notification about the problems on the El Faro

18 or before?

19 **WIT:** I don't recall what time it was.

20 **Mr. Stettler:** Do you store the CargoMax software -- when you load a vessel and

21 create a -- what are called load case files, the electronic files that -- where that data is

22 contained, do you store those files in multiple locations?

23 **WIT:** Yes.

1 **Mr. Stettler:** And can you just highlight where those locations are?

2 **WIT:** On the C drive in the computer and the T drive on the network of the company.

3 **Mr. Stettler:** I'm sorry, I didn't hear the second one.

4 **WIT:** C drive, the hard drive on my computer, and the T drive of the network of
5 company.

6 **Mr. Stettler:** The network of the company, okay. Is there a process for ensuring that
7 those are the same? In other words, do you save them all always at the same time?
8 When you change one, do you always save them in both locations?

9 **WIT:** I try to save it at the same time.

10 **Mr. Stettler:** I'd like to call your attention to Exhibit 58, which -- and I believe you just
11 explained why this is a little different. This was an earlier printout of CargoMax, and it
12 looks like it's got a print date of the 29th. Up in the upper right-hand corner of the sheet,
13 or the first sheet, is the print date of 1756 on the 29th of September. So I'm assuming,
14 based on what you just told me, that that was the -- this was the original that you walked
15 down to the ship with that had the discrepancy of the fuel oil tanks; is that correct?

16 **WIT:** That is correct.

17 **Mr. Stettler:** Okay. So we had fuel oil tanks and the lube oil. Also, I'd like to draw your
18 attention to Exhibit 57. So Exhibit 57 is another printout that was created based on the
19 electronic load case file that Tote Services provided to the Coast Guard, which was
20 saved on the network drive. And I -- basically, I'm just asking -- this is the reason I ask
21 the question about, do you save it in multiple places. Although the -- the water and fuel
22 and other weights are the same, the cargo weights are much different. So I was

1 wondering if you knew what happened here to this -- to the load case file that's on the
2 network drive. Is it possible that it did not get saved?

3 **WIT:** This one is a work-in-process load case. You see the time as 1524, we're still
4 working the vessel. That's the reason we have the discrepancy on the weight of the
5 containers.

6 **Mr. Stettler:** Okay. All right. So it somehow got saved on your hard drive and then
7 provided to the Coast Guard?

8 **WIT:** Yes.

9 **Mr. Stettler:** Okay. I'd like to draw your attention to Exhibit 021, 21, please. This is a --
10 actually includes two emails. I'll wait until you hold it up.

11 **CAPT Neubauer:** Dr. Stettler, we're also going to display that exhibit on the screen.

12 **Mr. Stettler:** Okay.

13 **CAPT Neubauer:** Exhibit 21, the picture, please.

14 **Mr. Stettler:** Third page; right?

15 **CAPT Neubauer:** Yes, the third page.

16 **Mr. Stettler:** If you would, Mr. Rodriguez, take a quick look at the email. So this was an
17 email sent by you, and I believe it was to Mr. Fisker-Andersen -- well, there were two
18 emails. The first one was sent by you to George Newkirk. Could you explain who
19 George Newkirk is?

20 **WIT:** Okay. George is a stevedoring manager for Portus.

21 **Mr. Stettler:** What is his general role during the day of loading?

22 **WIT:** He's stowing the vessel.

23 **Mr. Stettler:** Could you just highlight what that means?

1 **WIT:** So in the vessel is an -- stow the vessel on Spinnaker, use software Spinnaker to
2 stow the lo-lo and working with the ro-ro operation.

3 **Mr. Stettler:** So he's physically putting the loading information in the Spinnaker; right?
4 As opposed to physically loading the vessel, correct?

5 **WIT:** That is correct.

6 **Mr. Stettler:** Thank you. So you had sent an email to Mr. Newkirk on the 29th, looks
7 like, in the middle of the afternoon. And could you explain what's -- and there was a
8 follow-on email on the 1st of October in the afternoon. Could you explain what's going
9 on here?

10 **WIT:** Yes. On September 29th at 3 O'clock, I sent an email -- I take a photo, I sent it to
11 George. I request that to stop loading on starboard side and start loading on port side in
12 order to bring the vessel leveled again.

13 **Mr. Stettler:** Okay.

14 **WIT:** On the October 1st, so I sent an email to my superior saying that's the only
15 observation that I have on the El Faro operation, was that list.

16 **Mr. Stettler:** Okay. Do you know that this vessel was removed prior to the departure of
17 the El Faro? In other words, could you -- can you confirm to us that that list was
18 removed by cargo transfer or cargo loading prior to the departure of the El Faro?

19 **WIT:** At the time the vessel depart, the list was zero.

20 **Mr. Stettler:** It was zero. Thank you. And finally one last question before I turn it over to
21 Commander Denning. Do you know what the actual -- the time of departure of the El
22 Faro was on the 29th of September?

23 **WIT:** I don't recall. It should be 2000 or something. I don't recall the specific time.

1 **Mr. Stettler:** 2000?

2 **WIT:** I don't recall the time.

3 **Mr. Stettler:** But it was in the evening?

4 **WIT:** It was in the evening.

5 **Mr. Stettler:** After 1800 anyway, correct?

6 **WIT:** Yes.

7 **Mr. Stettler:** Okay. Thank you. I'll pass it over to Commander Denning.

8 **CAPT Neubauer:** Thank you, Dr. Stettler. I have a couple of follow-up questions to
9 ask Mr. Rodriguez before we go to Commander Denning.

10 **CAPT Neubauer:** Mr. Rodriguez, I'm going to read the email that you sent to Mr.
11 Wagstaff and Mr. Fisker-Andersen on October 1st, 2015, at 4:11 p.m. You said that --
12 in the email: Guys, only an observation, the El Faro had this list on Tuesday at 1509
13 hours. This is the first time that I see a list so much to the starboard side. Sir, my
14 question is, how often did you observe cargo-loading operations for the El Faro in your
15 normal day-to-day position?

16 **WIT:** How many time I observe vessel operations?

17 **CAPT Neubauer:** Yes, sir. I mean, do you normally, when Mr. Matthews is in town,
18 observe the actual loading of the vessel?

19 **WIT:** Yes, we working together.

20 **CAPT Neubauer:** And so how many times have you -- would you estimate over the last
21 year before the accident voyage had you actually witnessed cargo loading of either the
22 El Faro or the El Yunque?

1 **WIT:** Every time that Don Matthews asked off for some reason, then I take his duties.
2 During that process, during the day, he -- he's put the information, we working and
3 talking about how the vessel react.

4 **CAPT Neubauer:** Can you clarify your statement that this was the first time you had
5 seen so much list at the starboard side?

6 **WIT:** When I describe that, because in the four years we have a ro-ro ramp working at
7 the same time, and my concern is that leads to -- with a ro-ro ramp safety point -- I say
8 safety point because it is very, very, very close to the ground. That was my -- the
9 first time I see that.

10 **CAPT Neubauer:** Your email subject is -- this was a forwarded email, but your initial
11 email subject for that warning was: Need cargo port side immediately. Do you know
12 what was done specifically? Did you notice operations that were done to correct the list
13 after you sent that email?

14 **WIT:** Absolutely. Less than 10 minutes, the vessel was in -- at zero, completely level,
15 10 to 15 minutes. After I sent a message to Mr. Newkirk, 10 to 15 minutes after, the
16 vessel was even.

17 **CAPT Neubauer:** Mr. Rodriguez, how many days would you say -- this is an estimate,
18 from -- in the year prior to the accident voyage, were you in charge of the actual cargo
19 operations with Mr. Matthews not -- on vacation or not available?

20 **WIT:** I don't recall how many times.

21 **CAPT Neubauer:** Could you just give a general estimate? Would you say more than
22 ten times?

23 **WIT:** In the year?

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

2 **WIT:** Less than ten time.

3 **CAPT Neubauer:** Would you say it was less than five times?

4 **WIT:** Whatever time Don Matthews was off, I will take care of that.

5 **CAPT Neubauer:** Would you say it was very infrequent?

6 **WIT:** I can say, you know, every time that he's off, I take care of that.

7 **CAPT Neubauer:** Okay. Thank you. Commander Denning, do you have any
8 questions?

9 **CDR Denning:** I do. In your duties as terminal manager, did you ever, in a prior time,
10 handle this type of operation on a more frequent basis than you do now?

11 **WIT:** Absolutely.

12 **CDR Denning:** Can you describe that for us, and a little bit more on your background
13 and history and experience doing this type of operation?

14 **WIT:** Yes. Before I came to Jacksonville, I was a port manager in Port Everglades,
15 Florida, then any kind of activity about loading any kind of a Ponce class vessel,
16 basically in Port Everglades I am the one to put information on CargoMax, I worked with
17 CargoMax. Also in -- when we've been in Philadelphia, (inaudible) was the one to go
18 and put the information on CargoMax. In 2011, I went to San Juan, and I teach those
19 guys in San Juan on how they can use CargoMax and put information in CargoMax.

20 **CDR Denning:** And when you say you taught the folks in San Juan, did that include
21 Mr. Matthews, or was it different people?

22 **WIT:** Well San Juan started putting information in CargoMax, and revise and
23 Don orl myself will revise it and say I it's a right way to do it or not.

1 **CDR Denning:** You spoke about interactions with the Chief Mate of the vessel. How
2 often do you interact with the Chief Mates and the other mates during a typical day?

3 **WIT:** Very often.

4 **CDR Denning:** Very often. Could you -- very often, could you classify that a little bit
5 more for us? Is it every, you know, half hour, every ten minutes, every three hours?

6 **WIT:** Let's say more than that. When Don Matthews is working in the operation the --
7 with the CargoMax, I'm working directly with the stevedoring guys loading the vessel,
8 and I'm the one to go walk back and forth to see how the operations is on the vessel.

9 **CDR Denning:** Dr. Stettler asked you earlier about departure condition versus arrival
10 condition. Is there -- isn't there a screen within CargoMax, one of your screens, are the
11 two columns to the right; one that has departure condition, another one that shows
12 arrival condition at the next port?

13 **WIT:** That is correct.

14 **CDR Denning:** And in that -- in those two columns, one of the rows is GM margin,
15 correct?

16 **WIT:** Yes.

17 **CDR Denning:** So you can see in your screens what the -- if the departure condition is
18 0.5, that column to the right will show you what the arrival condition is anticipated to be,
19 is that correct?

20 **WIT:** That is correct.

21 **CDR Denning:** So your answer to Dr. Stettler's question earlier, is it that you don't --
22 you just don't recall what the arrival condition would have been on that particular day,
23 but you did have that information available to you at the time, is that correct?

1 **WIT:** That is correct.

2 **CDR Denning:** Do you recall -- how often do you look at those particular figures during
3 a typical loading operation? In other words, is it common to look at what you anticipate
4 the arrival condition to be? Because fuel levels might change, ballast levels might be
5 changed. Do you look at the arrival condition, or do you only focus on departure
6 condition?

7 **WIT:** We only focus on the departure condition.

8 **CDR Denning:** Tell us about the typical relief process between yourself and Mr.
9 Matthews. Is there -- are there notes passed on key items to look out for, things to -- that
10 you need to know? What information do you pass to one another when you're filling in
11 for him?

12 **WIT:** The information that we pass back and forth when we loading the CargoMax is if
13 for some reason we have a change in weight or the list of the vessel, how -- how much
14 weight we have or how many tonnage -- total tonnage vessel have, you know, that's --
15 that's the typical information we passing forth.

16 **CDR Denning:** So prior to Mr. Matthews going on vacation this time, did he pass
17 anything to you about this particular voyage that you needed to watch out for?

18 **WIT:** No.

19 **CDR Denning:** When you're not filling in for Mr. Matthews, what are your normal -- can
20 you explain to us your normal duties, your normal role, your normal -- just run us
21 through your typical day of when the vessel is in port.

22 **WIT:** When the vessel is in port, as a terminal manager, I'm working with the day-to-day
23 terminal operation when the cargo is receiving on time, being ready for being loaded on

1 the vessel. If the stevedore have any kind of concern about any kind of equipment be
2 loaded, they call me and then we went through the thoughts between the stevedore and
3 me, you know, working -- be around on the vessel operations, see how the vessels work
4 and the productivity, and also the reefer area, that's typical, normal operation of the
5 vessel days.

6 **CDR Denning:** And when Mr. Matthews is on vacation, do you still have to deal with
7 those same duties in addition to filling in for him?

8 **WIT:** No, sir.

9 **CDR Denning:** How does that work? Does somebody else relieve you of those duties?

10 **WIT:** I have my terminal superintendent, and then he take over those kind of duties,
11 and I focus on the vessel operation.

12 **CDR Denning:** Can you tell us how the trucks and containers are weighed as they
13 come onto the facility? How do you obtain -- how does -- how do you and/or Portus
14 obtain the weights from all the cargo coming into the facility in order to allow you to put it
15 in the CargoMax?

16 **WIT:** We have three scale in the facility, and drivers come, go to the scale, the checker
17 have a booking number on the container, and we have a solid unit for that particular
18 container. If that container is a reefer, then we deduct a chassis tare weight, the chain
19 set weight and the weight of the truck, and then we have it only weight for containers
20 and cargo on that container.

21 **CDR Denning:** So how is the weight of the truck -- the truck is weighed along with the
22 container. How is that weight removed to allow you to perform your calculations?

1 **WIT:** When we started the new task, we save that information, the first time that the
2 drivers arrive to the terminal, we have the tag for that truck, and we have the tare for
3 that truck. And every time that truck come to the terminal, it's done, that -- that
4 weight.

5 **CDR Denning:** So what I hear is that you have -- on file at Tote Maritime, you have
6 typical weights of each truck. The trucks are registered with you?

7 **WIT:** Yes.

8 **CDR Denning:** Registered with Tote so you know how much these trucks weigh.
9 How do you count for fuel differences in the trucks?

10 **WIT:** We don't make that calculation.

11 **CDR Denning:** Do you know how the scales are calibrated or how often?

12 **WIT:** Every month.

13 **CDR Denning:** Do you know who accomplishes that?

14 **WIT:** Mettler Toledo.

15 **CDR Denning:** I'm sorry?

16 **WIT:** Mettler Toledo. Mettler Toledo.

17 **CDR Denning:** Can you spell that for me? I can't understand.

18 **WIT:** Mettler Toledo.

19 **CDR Denning:** That's the name of the company?

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

21 **CDR Denning:** So we understand that some modifications were being made to El Faro
22 in order to prepare them for the transition to the Alaskan trade that would incorporate

1 some weight changes. Do you know -- are you aware of these modifications and how
2 they might have been adjusted, how CargoMax may have been adjusted?

3 **WIT:** No, sir.

4 **CDR Denning:** Do you know who at Tote would be responsible for adjusting CargoMax
5 for those particular changes?

6 **WIT:** I don't recall.

7 **CDR Denning:** Prior to -- just two final questions. Prior to the El Faro sinking, had you
8 received any formal or documented training on the CargoMax program, or was it all
9 basically on-the-job training?

10 **WIT:** It is in-house training.

11 **CDR Denning:** In-house training. Can you describe that training for us?

12 **WIT:** In the past we have the marine guys working before for Sea Star Line is the one
13 to train us how to use CargoMax.

14 **CDR Denning:** How long is that training?

15 **WIT:** It's about a week.

16 **CDR Denning:** One week training?

17 **WIT:** Yes.

18 **CDR Denning:** Eight hours a day?

19 **WIT:** Say that one more time.

20 **CDR Denning:** One week, all day for a week?

21 **WIT:** Couple hours during that week, the entire week.

22 **CDR Denning:** How many hours total?

23 **WIT:** It's about four hours per day.

1 **CDR Denning:** Four hours per day for five days?

2 **WIT:** Yes.

3 **CDR Denning:** Have you received any formal training regarding ship stability beyond
4 the CargoMax-specific training?

5 **WIT:** No, sir.

6 **CDR Denning:** Thank you. That concludes my questions. I'll pass to Mr. Fawcett.

7 **Mr. Fawcett:** Good afternoon, Mr. Rodriguez. How are you, sir?

8 **WIT:** Good, and you, sir?

9 **Mr. Fawcett:** I have a couple of very brief human factors' questions. Just to start, all my
10 questions revolve around the 28th and 29th of September 2015. So when did you start
11 covering for Mr. Matthews for this period of time?

12 **WIT:** That month, the 28th.

13 **Mr. Fawcett:** Did you have enough rest to do your job?

14 **WIT:** Yes, sir.

15 **Mr. Fawcett:** Were you in good health?

16 **WIT:** Yes, sir.

17 **Mr. Fawcett:** During the course -- if you take just a minute to think about it, during the
18 course of the loading of the vessel, did anything unusual happen?

19 **WIT:** Not that -- only my observation when I see the vessel just leaning to the starboard
20 side.

21 **Mr. Fawcett:** So you mentioned that you didn't observe the draft taking or the salinity
22 test. Is there a reason that didn't happen?

1 **WIT:** I was not there at that time, because I wait for the DCM, the dangerous cargo
2 manifest. And I told to the Chief Mate via radio that I wait for the cargo manifest, and he
3 say, I will take the draft.

4 **Tote Inc:** I'd like to object to the suggestion that salinity was not tested, if that's what I
5 heard in the question.

6 **Mr. Fawcett:** The question is, did he observe the salinity being tested?

7 **WIT:** No, I was not there.

8 **Mr. Fawcett:** Thank you. So, at that same timeframe, did the El Yunque have a
9 permanent Chief Mate?

10 **WIT:** Yes, sir.

11 **Mr. Fawcett:** Did the El Faro have a permanent Chief Mate at the time they loaded
12 cargo on the 29th?

13 **WIT:** Yes, sir.

14 **Mr. Fawcett:** A permanent Chief Mate?

15 **WIT:** There's a Chief Mate on board, yes.

16 **Mr. Fawcett:** How experienced was that Chief Mate in cargo loading?

17 **WIT:** Repeat that question again.

18 **Mr. Fawcett:** That Chief Mate, how experienced was he in the cargo loading and
19 stowing of the vessel?

20 **CAPT Neubauer:** I think he's asking for your opinion. Do you have an opinion on that,
21 sir?

22 **WIT:** No, I don't have an opinion.

1 **Mr. Fawcett:** Do you know if his corrections to the CargoMax plan were accurate and
2 correct?

3 **WIT:** I don't know.

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

5 **CAPT Neubauer:** Mr. Roth-Roffy. Mr. Kucharski.

6 **Mr. Kucharski:** Thank you, Captain. Good afternoon, Mr. Rodriguez.

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

8 **Mr. Kucharski:** Just a follow-on of when they talked about the cargo scales. How many
9 scales are there?

10 **WIT:** Three.

11 **Mr. Kucharski:** Three?

12 **WIT:** A Yes.

13 **Mr. Kucharski:** And you said they're calibrated once a month?

14 **WIT:** Yes.

15 **Mr. Kucharski:** Is there a record of those calibrations?

16 **WIT:** Yes, sir.

17 **Mr. Kucharski:** Do you know if there's any tolerance, plus or minus, in those cargo
18 scales on the weights?

19 **WIT:** I don't know, sir.

20 **Mr. Kucharski:** Were you aware of any discrepancies between the CargoMax program
21 you were running ashore and the one that was being run on the ship?

22 **WIT:** No.

23 **Mr. Kucharski:** Do you know if they were the same programs, ship and shore?

1 **WIT:** Should be the same.

2 **Mr. Kucharski:** You mentioned you use CargoMax to calculate stability?

3 **WIT:** Yes, sir.

4 **Mr. Kucharski:** Is there any other function that you use the CargoMax for?

5 **WIT:** Not for the stability.

6 **Mr. Kucharski:** Were you aware of any permanent list that the El Faro had from the --
7 what the CargoMax showed and what the actual ship actually -- it actually did, if you
8 will?

9 **WIT:** Say that one more time, sir.

10 **Mr. Kucharski:** Yeah. Was there any observed list that they actually saw that the ship
11 was listing, and, on CargoMax when you computed it, it showed it was even keel?

12 **WIT:** Yes, there's a number different on the list, on the CargoMax.

13 **Mr. Kucharski:** I'm sorry, I didn't hear that.

14 **WIT:** There's a number different on -- like a 2 point, starboard side list.

15 **Mr. Kucharski:** Yes. Was it different -- were you aware of any differences? So when
16 the -- you know, in CargoMax, it tells you if the vessel is level, does it?

17 **WIT:** No, the vessel was in CargoMax at 2-point-something to the starboard side.

18 **CAPT Neubauer:** Sir, just to clarify, are you saying that the CargoMax readout is
19 different than the actual list of the vessel?

20 **WIT:** I'd say yes.

21 **CAPT Neubauer:** And what was the degrees it was different?

22 **WIT:** I don't know, sir.

23 **CAPT Neubauer:** Okay. You just know that it was not -- they did not match?

1 **WIT:** No match.

2 **Mr. Kucharski:** Did you have any -- are you finished, Captain? Did you have any
3 conversations with the ship personnel on the El Faro on -- on that final load-out, during
4 the final load-out? Did you talk to the Chief Mate or -- on the radio, or did you talk to the
5 Captain on the radio, or did you talk to them face to face at all?

6 **WIT:** Yes, in the end of operation before the cranes go away, I call the Chief Mate
7 about the list to let me know if the vessel is even to depart, or if -- asking if we need to
8 move the cargo from port side to starboard side to be even. And the Captain was the
9 one to answer and say: No, we are .20 degrees to port side, even, good job.

10 **Mr. Kucharski:** So was there any conversation about the starboard list initially? Did
11 you have any conversations with him about that?

12 **WIT:** No, sir.

13 **Mr. Kucharski:** Could you tell us about your training on CargoMax, how you learned to
14 operate the CargoMax? Was there any book training or any training by the
15 manufacturer, or how did you learn how to operate CargoMax?

16 **WIT:** I learn CargoMax from the previous personnel in marine department. They have a
17 presentation, and then they do different scenario to load CargoMax and see how the
18 CargoMax react.

19 **Mr. Kucharski:** Was this presentation, was it a written presentation, or was it -- did
20 somebody give a presentation on it?

21 **WIT:** They give you a hard-copy presentation.

22 **Mr. Kucharski:** I'm sorry?

23 **WIT:** They give us a hard-copy presentation.

1 **Mr. Kucharski:** A hard copy?

2 **WIT:** Yes.

3 **Mr. Kucharski:** Thank you. No further questions on this line. Thank you.

4 **CAPT Neubauer:** Mr. Roth-Roffy, do you have any questions?

5 **Mr. Roth-Roffy:** No, sir.

6 **CAPT Neubauer:** Tote do you have any questions?

7 **Tote Inc:** May we confer for a second?

8 **CAPT Neubauer:** Yes, sir. Would you like to take a five-minute recess at this time?

9 **Tote Inc:** Good idea.

10 **CAPT Neubauer:** The hearing is recessed. We will reconvene at 3:10.

11 *The hearing recessed at 1503, 20 February 2016*

12 *The hearing was called to order at 1514, 20 February 2016*

13 **CAPT Neubauer:** The hearing is now back in session. Tote, do you have any
14 questions?

15 **Tote Inc:** Yes, Captain. Mr. Rodriguez, during the testimony you were asked questions
16 regarding whether you used CargoMax only for stability. The question I have for you is,
17 do you also use CargoMax to provide information regarding whether a stack weight
18 limitation has been exceeded?

19 **WIT:** Yes, sir.

20 **Tote Inc:** And do you also use CargoMax to provide an indication to you of the trim of
21 the vessel, that is, whether it's down by the stern?

22 **WIT:** Yes, sir.

23 **Tote Inc:** No further questions, Captain.

1 **CAPT Neubauer:** Thank you. Does ABS have any questions?

2 **ABS:** No questions.

3 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

4 **Ms. Davidson:** No questions.

5 **CAPT Neubauer:** Does HEC have any questions?

6 **HEC:** Captain, I do have a few questions.

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

8 **HEC:** Mr. Rodriguez, good afternoon. My name is Spencer Schilling with Herbert
9 Engineering. Sir, at the beginning of your testimony, there were some questions about -
10 - or you described your first meeting with the chief mate and captain when the ship
11 arrived and you went down and delivered the mail. And you mentioned that you told
12 them the load was going to be similar to the last week's, going to be full, and you
13 mentioned something about the ballast change, 150 tons. Could you just elaborate on
14 that a little bit, what you told him and how you determined that that was necessary?

15 **WIT:** Well, based on the volume of the container that we were planning to load on the
16 vessel due to the booking standpoint, and we -- I saw the last -- the previous vessel, and
17 it was one similar, and I see the ballast, the working ballast to have 150 ton. That's the
18 only two working ballast we have for the -- for the El Faro.

19 **CAPT Neubauer:** Mr. Rodriguez and Mr. Schilling, can you both speak into the
20 microphone a little closer.

21 **HEC:** So you were saying that they were going to need to add 150 tons of ballast in the
22 forward deep tanks?

23 **WIT:** Put 150 tons on the two working ballast.

1 **HEC:** So evenly split between the two?

2 **WIT:** In each one.

3 **HEC:** 150 tons of each?

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

5 **HEC:** Thank you. I have another question about entering data into the CargoMax and
6 also working with the Spinnaker program. I understand the Spinnaker program is used
7 by the terminal planning team, and they gather the weights for the containers to load the
8 cargo from the -- from the terminal gate information and then use the Spinnaker
9 program to place each container on board the vessel in a particular slot, is that correct?

10 **WIT:** Yes, sir.

11 **HEC:** That data is then the -- the data is passed to you in order to use it to enter into
12 CargoMax. And I understand that you said they give you a printout for that?

13 **WIT:** I print out.

14 **HEC:** So you have access to the Spinnaker program, and then you print out information
15 in a printed form and then enter it manually into CargoMax, is that correct?

16 **WIT:** That is correct.

17 **HEC:** Does the Spinnaker program or the printouts provide summaries of the cargo
18 weights, centers of gravity, things like that?

19 **WIT:** No, sir.

20 **HEC:** Does it provide any summary of weight?

21 **WIT:** [Shakes head.]

22 **HEC:** Do you know if it does lashing calculations?

23 **WIT:** No, sir.

1 **HEC:** And, clearly, there's no -- no facility to automatically transfer data from one to the
2 other?

3 **WIT:** No.

4 **HEC:** Thank you. For the ro-ro cargo, you mentioned that there's a stow plan prepared
5 by the terminal and you used that to enter it -- to enter weights in the CargoMax, and
6 CargoMax has groupings by hold, port, starboard and centerline. You summarize the
7 weights in the spreadsheet and put those weights into CargoMax, correct?

8 **WIT:** Yes.

9 **HEC:** In the forward two holds, 2A and 2B, I believe, there are now some ISO tank
10 containers carrying fructose. How do you get weights for those units?

11 **WIT:** We put that information in cargo and directly with the -- with the 53 containers on
12 the 4A and two in 4B, starboard side and two on port side.

13 **HEC:** And where do you get those weights?

14 **WIT:** Came from C&C.

15 **HEC:** I'm sorry, say that again. C&C?

16 **WIT:** C&C is a -- the company to pump product to the on-board tanks, and we call them
17 53 because it's attached to the vessel, and then we put the weight that is supplied to us
18 on those tanks.

19 **HEC:** Okay. So they report to you after they've loaded the cargo, what they're planning
20 on loading --

21 **WIT:** Beforehand.

22 **HEC:** Beforehand?

23 **WIT:** Yes, sir.

1 **HEC:** Thank you. The information that you print out from Spinnaker or any information
2 from Spinnaker, does that get to the Chief Mate when you hand off the information at
3 the end of the day?

4 **WIT:** The final documents delivered to the Chief Mate, including the stow plans from
5 Spinnaker.

6 **HEC:** So they had the CargoMax printouts, summary printouts, I guess?

7 **WIT:** We give the bay by bay all bays to the Chief Mate.

8 **HEC:** Okay. So in addition to the samples that we looked at earlier today, Exhibits 37,
9 38 and 39, which was kind of a summary, the tank weight detail and the summary
10 weights of the containers by day, do they get detailed stow plans that show each stack
11 of containers with the weights in each stack?

12 **WIT:** Yes, sir.

13 **HEC:** Okay. As a -- do you provide the weight case file from CargoMax to the Chief
14 Mates?

15 **WIT:** Yes, sir.

16 **HEC:** So he can actually take that load case file and read it right into his version of
17 CargoMax and see everything that you entered?

18 **WIT:** That is correct.

19 **HEC:** Thank you, sir. I don't have any more questions.

20 **CAPT Neubauer:** Mr. Rodriguez, if I could turn your attention back to Exhibit 58,
21 please, the first page. You had testified to this earlier, but I just want to clarify one point,
22 sir. This was the departure trim and stability summary. It was printed at 1756 on

1 29th September 2015. This -- just to clarify, this was the final plan you presented to the
2 chief mate; is that correct, sir?

3 **WIT:** That is correct.

4 **CAPT Neubauer:** Did the -- do you know if the report was changed prior to departure?

5 **WIT:** No. There was a final document that I delivered to the Chief Mate.

6 **CAPT Neubauer:** And, sir, can you state the GMT margin on this 29 September
7 report?

8 **Tote Inc:** Captain, if I could interrupt, I think your question was: Is this the final that
9 was presented to the chief mate that day? Was that the question?

10 **CAPT Neubauer:** Yes, sir. Was this the final report that was exchanged with the Chief
11 Mate?

12 **Tote Inc:** Okay.

13 **WIT:** This is the final document that I deliver to the hands of the Chief Mate.

14 **CAPT Neubauer:** Thank you. Can you read the GMT margin on this document that
15 was printed at 1756 on 29 September 2015?

16 **WIT:** .80.

17 **CAPT Neubauer:** .80 feet, is that correct?

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

19 **CAPT Neubauer:** Could we go to Exhibit 59, please. This is a departure trim and
20 stability summary printed at 11:48 on 1 October 2015, and this would be during the time
21 that the vessel was missing at sea. Do you know where this final trim and stability
22 summary came from, sir?

23 **WIT:** It came from me.

1 **CAPT Neubauer:** Did you do this calculation in the office on October 1st?

2 **WIT:** I changed that, yes. I made that calculation and changed it while the Chief Mate
3 addressed me on October 29th -- on September 29th.

4 **CAPT Neubauer:** Okay. But did you ever, when the changes were given to you on
5 September 29th, give a new departure trim and stability summary back to the chief
6 mate?

7 **WIT:** No. At the time that I delivered the document to the Chief Mate, he address my
8 typo, and he say, Ronald, change yours, and we do the same to mine.

9 **CAPT Neubauer:** Did you ever see a report back from the Chief Mate that he did the
10 correction?

11 **WIT:** No, sir.

12 **CAPT Neubauer:** On this 1 October 2015 report, can you read the GMT margin,
13 please?

14 **WIT:** The GMT margin is .64 feet.

15 **CAPT Neubauer:** Just to clarify that, the GMT margin is now .64 feet, which I calculate
16 to be a reduction in the GMT margin from the 29 September report of .16 feet. Would
17 you agree with that, sir?

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

19 **CAPT Neubauer:** Thank you. Mr. Kucharski.

20 **Mr. Kucharski:** Thank you, Captain. Mr. Rodriguez, back to Exhibit 58, which is the
21 CargoMax printout that you said you presented to the Chief Mate, I believe?

22 **WIT:** Yes, sir.

1 **Mr. Kucharski:** On Page 1, down where it says Totals, it says 34814.5. What is that
2 number? What does that mean? It's on the -- it says Departure Trim and Stability
3 Summary, Jax Final, then, above total deadweight of 14871.6, there's a number,
4 34814.5.

5 **WIT:** That's the total weight -- that's for the item before that.

6 **Mr. Kucharski:** What is that total call, do you know?

7 **WIT:** That's the weights of containers, miscellaneous, fuel oil, ballast.

8 **Mr. Kucharski:** Do you know what the full load displacement of the vessel is, what the
9 number actually is, the maximum in the trim and stability booklet?

10 **WIT:** No, sir.

11 **Mr. Kucharski:** Do you ever consult the trim and stability booklet for the vessel? Do
12 you ever look at that?

13 **WIT:** For that particular voyage?

14 **Mr. Kucharski:** Before the -- before the El Faro's actual sinking, have you ever looked
15 at the trim and stability booklet for the vessel?

16 **WIT:** I don't recall.

17 **Mr. Kucharski:** Did you ever look at the cargo securing manual for the vessel?

18 **WIT:** Yes, sir.

19 **Mr. Kucharski:** Did you ever look at the lashing, the Tote lashing manual?

20 **WIT:** Yes, sir.

21 **Mr. Kucharski:** This was before the El Faro sinking?

22 **WIT:** Yes, sir.

1 **Mr. Kucharski:** Just wanted to clarify that for the record. Okay, great. Would you go
2 to Exhibit 042 -- 42, and just look at Page 5 for us, please. And the title of the document
3 says CCI TOTE Lashing Manual.

4 **Tote Inc:** What page was that?

5 **Mr. Kucharski:** It's Page 5, and it's just a point of clarification. I just want to make sure
6 that this is -- was for the El Faro. Because on Page 5 it says --

7 **CAPT Neubauer:** Sir, they're still trying to find the exhibit.

8 **Tote Inc:** Page 5 of Exhibit 42 is not the last --

9 **Mr. Kucharski:** I'm sorry. It's 10, Page 10, sorry, of Exhibit 42. It says Cargo Securing
10 Manual. Do you see that? Okay. The title of the document, the complete document, is
11 CCI TOTE Lashing Manual, and then on this page, it says Cargo Securing Manual, SS
12 El Morro and SS El Yunque. Okay. I just want to be clear, this is the manual that you
13 used to secure the cargo on the El Faro.

14 **WIT:** No. The El Faro had their own set of CargoMax -- the El Faro had their own set of
15 CargoMax for the El Faro.

16 **Mr. Kucharski:** I'm sorry, I didn't get that.

17 **WIT:** It's another document say El Faro.

18 **Mr. Kucharski:** There was another document.

19 **WIT:** Yes.

20 **Mr. Kucharski:** So we're not looking at the correct cargo -- the lashing manual --
21 lashing manual, not talking about cargo security?

22 **Tote Inc:** We're talking about the cargo security manual. That's what we're in right now.

1 **Mr. Kucharski:** Well this is -- yeah, but if you look at the document that was presented,
2 it says Tote Lashing Manuals. Do you see it says Document 042, and it says Tote
3 Lashing Manual? Do you see that?

4 **Tote Inc:** On Page 10?

5 **Mr. Kucharski:** Well, no, it's the name of the document that was provided. It's called
6 the Tote lashing manual.

7 **Tote Inc:** I don't see where you have that title.

8 **Mr. Kucharski:** It's not on the document itself. If you look at the list of exhibits, and this
9 is what was presented to us in document requests, the lashing manual for the El Faro,
10 and this is what we received. So I just -- I'm assuming that this is the lashing manual for
11 the El Faro.

12 **Tote Inc:** I believe the witness has clarified that is not -- first of all, it's not a lashing
13 manual, it's a cargo securing manual, and this is not the one for the El Faro.

14 **Mr. Kucharski:** Well, I can -- not to be argumentative, I can point out the cargo
15 securing manual, which we have, which is different for the El Faro than what this shows.
16 The pictures -- it looks like -- Mr. Rodriguez, if you go to the very end of this, what's
17 called the lashing manual, you see pictures in there, and -- of the lashings, at the very
18 end, say, Page 126, you'll see different lashing arrangements of the Roloc Boxes and
19 the frames and -- do you see those?

20 **WIT:** Yes, sir.

21 **Mr. Kucharski:** Okay. So this would be only for the El Yunque and the El Morro, or
22 would this --

23 **WIT:** Those will show the way we lashing the containers on the ro-ro vessels.

1 **Mr. Kucharski:** Okay. So this would be the way you do it on the El Faro?

2 **WIT:** Yes, sir.

3 **Mr. Kucharski:** Okay. I'm sorry, Counsel, do you -- I'm not trying to -- again, you
4 know, it looks like they have put the cargo securing manual inside the lashing manual
5 and added pictures and used -- and then call it the lashing manual, and I just want to
6 make sure that we're clear on that.

7 **Tote Inc:** I just think we should avoid getting hung up on a title put in an index. The
8 document is what it is. Now, if the pictures are representative of the lashing used on the
9 Ponce class, that's fine. That's fine. If you want to ask that type of question, that's fine.

10 **Mr. Kucharski:** Yes, yes, yes. Is this the lashing guide that you would use for the
11 Ponce-class vessels?

12 **Tote Inc:** No. I think what I said was, the pictures are representative of a form of
13 lashings. If you wanted to ask, Are these representative of how you would lash a given
14 item on the Ponce class, I understand that question, that line, but we have to be careful
15 to try to argue that this manual, as a whole, applies to the El Faro.

16 **CAPT Neubauer:** Mr. Kucharski, I think we're going to say that we're not -- we agree
17 with that objection. We're not going to title this manual at this time, and we'll solve that
18 between the parties in interest. But the question to you, Mr. Rodriguez, is: Do you --
19 does this look familiar to you? Is this what you would use for the vessel, for the El Faro?

20 **WIT:** Yes. You can say that. You know, it's a way that we lashing the containers in
21 ro-ro operation.

22 **CAPT Neubauer:** Are you familiar with this manual and those pictures?

23 **WIT:** Yes, I'm the one to take those pictures.

1 **CAPT Neubauer:** Yes, sir. Thank you.

2 **Mr. Kucharski:** So, Captain, this is the manual that they used and I can go on with?

3 **CAPT Neubauer:** I think you can reference the pictures, but, you know, we're not
4 saying that that is exactly the manual for lashing for the El Faro. Is that correct?

5 **Tote Inc:** Thank you, Captain. That's correct.

6 **Mr. Kucharski:** Is there any difference that you know of between this manual and the
7 manual that was used on El Faro?

8 **Tote Inc:** I would object to that. He would have to read them page by page in order to
9 answer that question.

10 **Mr. Kucharski:** Okay. Okay. Mr. Rodriguez, you mentioned that there were other
11 things you look at in CargoMax besides the stability of the vessel?

12 **WIT:** Yeah, we're looking for the stacking weight and the trim of the vessel.

13 **Mr. Kucharski:** Great. Okay. I would like to ask you to look at Exhibit 68. So when
14 you said that you looked at stack weights, is this the type of diagram that you would look
15 at?

16 **WIT:** Yes, sir.

17 **Mr. Kucharski:** I'm sorry?

18 **WIT:** Yes, sir.

19 **Mr. Kucharski:** Thank you. So if you look at that particular diagram, could you tell me
20 what -- when I say diagram, it's down in the center where the Bay 12A number is, and
21 then you see, looks like, pictures of squares in there. Are those the containers
22 themselves?

23 **WIT:** Those are the weight for the containers, that's correct.

1 **Mr. Kucharski:** Okay. And just to clarify, this is for Bay 12A, just for that particular bay?

2 **WIT:** Yes, sir.

3 **Mr. Kucharski:** And then below those squares, you see lash, lash, looks like MGN,
4 looks like WIVCO, and then STRMG. Do you see those?

5 **WIT:** Yes, sir.

6 **Mr. Kucharski:** So which numbers do you look at there – which one is the stack
7 weight?

8 **WIT:** It's a WT.

9 **Mr. Kucharski:** I'm sorry?

10 **WIT:** The WT, the third one.

11 **CAPT Neubauer:** The third line down, WT.

12 **Mr. Kucharski:** The third one down, okay. And do you know what STRMG is?

13 **WIT:** No, sir.

14 **Mr. Kucharski:** Do you know what lash MGN is?

15 **WIT:** That's the lashing margin.

16 **Mr. Kucharski:** And what does that mean specifically?

17 **WIT:** When we have that in red, we change the lashing and we lash that particular
18 stack.

19 **Mr. Kucharski:** Is that something else you also look at?

20 **WIT:** Yes, sir.

21 **Mr. Kucharski:** So on the El Faro's last voyage, if I were to see negative numbers in
22 there and red numbers, what would that -- what would a negative number mean to you?

23 **WIT:** In what line?

1 **Mr. Kucharski:** Either the lash MGN or the STRMG. What would that mean if you saw
2 a negative number? In this example. This is not the El Faro's last voyage, but if you
3 look at STRMG, the strength margin negative 2.5, what does that mean to you?

4 **CAPT Neubauer:** Sir, I think the witness testified that he didn't know what the strength
5 margin was.

6 **Mr. Kucharski:** Oh, okay. Is that what you said?

7 **WIT:** Yes, sir.

8 **Mr. Kucharski:** Okay. So you don't know what that negative number would mean?

9 **WIT:** No.

10 **Mr. Kucharski:** Okay.

11 **CAPT Neubauer:** Can you explain what a negative lashing margin would be, sir?

12 **WIT:** When we look at this, I'm looking for the lashing margin. If that margin, lashing
13 margin, is in red, then we click on the system to see if we need to lash that stack. If they
14 have stretch margin – lashing margin, I don't have that in my screen. I don't know.

15 **CAPT Neubauer:** Can you just repeat the last part, sir? When there's a negative
16 lashing margin, what does that mean for you to do?

17 **WIT:** I don't recall, sir. I don't know.

18 **Tote Inc:** Could you repeat that question? I don't think he understood the question.

19 **CAPT Neubauer:** I'm sorry. Can you just explain the negative lashing margin again? I
20 didn't -- and speak a little closer to the microphone. I had trouble following you.

21 **WIT:** It's a negative lashing margin?

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

1 **WIT:** We are no -- we are not allowed -- that container is there if it's exceeding the
2 lashing margin, no.

3 **CAPT Neubauer:** So you're saying the container is exceeding lashing margin?

4 **WIT:** I don't know, sir. I don't know. I don't use this strength margin.

5 **CAPT Neubauer:** Have you ever seen a negative number in those -- in those boxes?

6 **WIT:** I don't -- my setup doesn't have those -- those items. You can select which one
7 you want to select. I see the lashing -- the lash, the lashing margin, and the stacking
8 weight.

9 **CAPT Neubauer:** Sir. Mr. Kucharski.

10 **Mr. Kucharski:** Did you order the gangs? Were you the one who actually placed the
11 order for the gangs, the longshore -- the lashing gang or the ro-ro and the lo-lo gangs?

12 **WIT:** I ordered the gang for the vessel operation.

13 **Mr. Kucharski:** And was there one gang for each operation? Is that the way it worked?

14 **WIT:** It depend how many moves. We start with two or three cranes on lo-lo, and we
15 only have one gang on ro-ro.

16 **Mr. Kucharski:** Was the vessel in a lashing profile, a certain lashing profile, for this
17 voyage?

18 **WIT:** Repeat that question.

19 **Mr. Kucharski:** The lashing profile, did it -- I think Mr. Callaway mentioned a hurricane
20 profile. Was it in a hurricane profile lashing?

21 **WIT:** On the ro-ro?

22 **Mr. Kucharski:** Yes.

23 **WIT:** On the ro-ro, we lashing the ro-ro as the bad weather lashing.

1 **Mr. Kucharski:** I'm sorry, as what?

2 **WIT:** Bad weather --

3 **Mr. Kucharski:** Bad weather?

4 **WIT:** That was lashing, yes.

5 **Mr. Kucharski:** And does that change when you do a bad weather lashing? Is there
6 any change made to the container stacks?

7 **WIT:** No.

8 **Mr. Kucharski:** In your experience on this run, have they ever asked for extra lashings
9 on the container stacks?

10 **WIT:** For that particular vessel?

11 **Mr. Kucharski:** Yes.

12 **WIT:** No, I never had that information.

13 **Mr. Kucharski:** Looking at that same diagram, that same exhibit, that's Exhibit 68,
14 that's container buildup, CBU, Bay 12A, it also -- at the top line where we were reading
15 from, it says lash, and then reading across it says lash, lash, T/L, T/L. Can you tell us
16 what that means?

17 **WIT:** When we lash -- we lash the port side and the starboard side first position. That's
18 the reason we change that lash. We know that we lash that no matter what. Then it is --

19 **Mr. Kucharski:** Could you speak -- I'm sorry, yeah. Thank you.

20 **WIT:** No, we put a lash in the twins, in the port side, starboard side, we lash that. The
21 stevedoring is a process that we lash those two containers in the wings. The other one
22 is when we see the lashing margin is -- is in red, we click, hit the lashing margin, it's
23 coming on blank, then we'll tell stevedoring, please lash that container.

1 **Mr. Kucharski:** So does that mean where I see "lash," that that particular one is lashed
2 there?

3 **WIT:** Yes.

4 **Mr. Kucharski:** Is that what I'm looking at? Yeah. What does the TL mean?

5 **WIT:** I don't know what means, the TL.

6 **Mr. Kucharski:** Do you know if the -- that row -- any of those rows that have a TL in
7 them, are they lashed?

8 **WIT:** Repeat that again.

9 **Mr. Kucharski:** Are they lashed at all, the row that has the TL in it?

10 **Tote Inc:** I think he just answered that, that if there's a -- a margin has exceeded, that
11 row -- that tier will get lashed, even if it's an internal tier.

12 **Mr. Kucharski:** Yeah. That wasn't the question. If it just says TL on it, does it mean
13 that there is no lash on there? That's the question.

14 **WIT:** We don't lash this one.

15 **Mr. Kucharski:** No?

16 **WIT:** No, we don't lash this one.

17 **Mr. Kucharski:** Great. Thank you. Would you please look at Exhibit 41? And it says
18 CCI Lashing El Faro, and it shows pictures of a double-lash arrangement or a 40- to 45-
19 foot container typical homogeneous. And it's at Page 7, please.

20 **WIT:** Yes.

21 **Mr. Kucharski:** Have you ever seen this diagram before?

22 **WIT:** Yes, sir.

1 **Mr. Kucharski:** Great. If you would, this says 9-foot GM margin or 9-foot GM -- GM
2 equals 9 foot, but it will suffice -- look at the second row -- stack of containers from the
3 left. It starts at the top weight with 54,275. Do you see the row I'm talking about?

4 **WIT:** Yes, sir.

5 **Mr. Kucharski:** Okay. Below that, it shows lashings on there. Is that -- is that a
6 double-lash arrangement?

7 **WIT:** Double-lash arrangement, yes.

8 **Mr. Kucharski:** Do you ever use that?

9 **WIT:** No.

10 **Mr. Kucharski:** Do you have enough lashings inventory to make a lashing like that, if --

11 **WIT:** If necessary, yes.

12 **Mr. Kucharski:** I'm sorry?

13 **WIT:** If necessary, yes.

14 **Mr. Kucharski:** And the blue colors there, does that indicate the blue lines? Are those
15 the actual lashings themselves in this diagram? It looks like there's a blue X there. Blue
16 X's.

17 **Tote Inc:** It's hard to tell the colors.

18 **Mr. Kucharski:** You may be able to see it on the screen there.

19 **CAPT Neubauer:** Could we point to the screen with the laser what you're referring to,
20 sir?

21 **Tote Inc:** We might be able to make this faster if we're talking about the X's across the
22 Bottom row in the second tier. --

23 **Mr. Kucharski:** Yes.

1 **Tote Inc:** Row and the second tier.

2 **Mr. Kucharski:** Yes, exactly, yeah, yes.

3 **WIT:** Second tier, yes.

4 **Mr. Kucharski:** Can you see them now?

5 **WIT:** Yes.

6 **Mr. Kucharski:** Or do you want to go up there and look at it on the screen with me?

7 **WIT:** No, I have it right here.

8 **Mr. Kucharski:** That's okay there? Okay. The blue lashings, do you see how long they
9 are? Do you have those length lashes in inventory? Do they require bars and
10 everything too? Do you have those in inventory?

11 **WIT:** I don't recall that. I don't have that inventory.

12 **Mr. Kucharski:** Okay. When you ordered gangs for this last loadout of the El Faro, was
13 there any difference from the trip before, do you know?

14 **WIT:** No, sir.

15 **Mr. Kucharski:** Are you the one who orders the gangs trip by trip or --

16 **WIT:** Yes, sir.

17 **Mr. Kucharski:** If the crew requested double lashings on there as per the diagram,
18 would you have enough people in the gang to be able to do that with the people on
19 board the -- that were ordered?

20 **WIT:** If they order, yes.

21 **Mr. Kucharski:** If they ordered in advance?

22 **WIT:** No. They order immediately, we have enough manpower to do it.

23 **Mr. Kucharski:** So they could order it immediately and you'd get the manpower in?

1 **WIT:** Yes.

2 **Mr. Kucharski:** There were enough people on board to do that type of a lashing that
3 you're seeing in the picture there?

4 **WIT:** On board from the longshoreman?

5 **Mr. Kucharski:** I'm sorry?

6 **WIT:** On board from the crew or from the longshoreman?

7 **Mr. Kucharski:** Can the crew put these lashes on?

8 **WIT:** No, the stevedore is the one to lash those containers.

9 **Mr. Kucharski:** Right. Okay. So would there be enough manpower on board if they
10 asked to do these --

11 **WIT:** Yes, sir.

12 **Mr. Kucharski:** Yes. Would it delay the sailing at all?

13 **WIT:** No, sir.

14 **Mr. Kucharski:** Were you aware of any incidents where cargo broke loose due to
15 heavy weather on any of these ships?

16 **WIT:** No, sir.

17 **Mr. Kucharski:** Yesterday, Mr. Callaway mentioned the hooks, okay, that they use on
18 the chains, big hooks and little hooks. Were you aware of that?

19 **WIT:** Yes, sir.

20 **Mr. Kucharski:** Any reason that you went to the bigger hooks?

21 **WIT:** No, sir.

22 **Mr. Kucharski:** What was closeout on the El Faro's load? Was it the ro-ro deck or the
23 lo-lo deck, or did they end at the same time?

1 **WIT:** I don't recall.

2 **Mr. Kucharski:** On that CargoMax printout which we looked at before and it said lash
3 on it, do you know if that's a single lash, double lash on there? I don't know if that was
4 answered before.

5 **Tote Inc:** Which one?

6 **Mr. Kucharski:** The CargoMax printout. 68 yes, thank you.

7 **Tote Inc:** Could you just clarify your question, please?

8 **Mr. Kucharski:** Yeah, sure. The question is -- if I can get it to pull up. Here we go.
9 When you look at that and it says lash on there, can I look -- see by that if it's a single
10 lash or a double lash on it?

11 **WIT:** When look at this and just see a lash, then we need a calculation. Then you have
12 a single lash -- or single lash.

13 **Mr. Kucharski:** We couldn't understand that. Would you say that -- is it a single lash?

14 **WIT:** It was a single lash.

15 **Mr. Kucharski:** That's a single lash?

16 **WIT:** Yes.

17 **Mr. Kucharski:** Okay. That's it. Thank you.

18 **CAPT Neubauer:** Thank you. Sir, I just have one additional question for the date of
19 the accident -- the day you were loading before the accident voyage. Do you remember
20 any Polish riding gang members getting ready to depart that day on the El Faro or any
21 gear associated with those members?

22 **WIT:** No, sir.

23 **CAPT Neubauer:** Does anybody have any final questions for Mr. Rodriguez?

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

2 **Tote Inc:** Briefly, Captain, if I could.

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

4 **Tote Inc:** Mr. Rodriguez, if you look at Exhibit 68, I just want to make sure we're clear
5 on this. This one shows the outer two tiers as being lashed, correct?

6 **WIT:** That is correct. Yes, sir.

7 **Tote Inc:** Are there circumstances where any of the inner tiers would be lashed?

8 **WIT:** If the system said to lash, we lash.

9 **Tote Inc:** Could you repeat that, please?

10 **WIT:** If a lash margin is in the red, and we click as a lash and it go on black again, we
11 go and lash that particular stack.

12 **Tote Inc:** If the ship -- anyone on the ship requested additional lashings beyond what
13 you had put on or had the stevedores put on, what would happen?

14 **WIT:** We put it on.

15 **CAPT Neubauer:** Did you receive any of those additional requests the day before the
16 accident voyage?

17 **WIT:** No, sir.

18 **CAPT Neubauer:** Mr. Kucharski?

19 **Mr. Kucharski:** Mr. Rodriguez, is there any -- besides the weights that go in there, is
20 there anything else you need to put into that CargoMax computer to make the
21 calculations work out?

22 **WIT:** We put on the particular -- the size, the length, the height, and the weight.

23 **Mr. Kucharski:** For the container?

1 **WIT:** Per each load.

2 **Mr. Kucharski:** Is there any other information you must put into the CargoMax to get
3 these calculations to come out?

4 **WIT:** Absolutely, the information the Chief Mate forwarded to us about the fuel and the
5 ballast.

6 **Mr. Kucharski:** No further questions. Thank you.

7 **CAPT Neubauer:** Are there any final questions for Mr. Rodriguez?

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

9 **ABS:** No, sir.

10 **HEC:** No, sir.

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

12 **CAPT Neubauer:** Mr. Rodriguez, you're now complete with your testimony for today.
13 However, I anticipate that you may be recalled to provide additional testimony at a later
14 date. Therefore, I'm not releasing you from your testimony at this time, and you remain
15 under oath. Please do not discuss your testimony or this case with anyone other than
16 your counsel, the NTSB, or members of this Coast Guard Marine Board investigation.
17 If you have any questions about this, you may contact my legal adviser, Commander
18 Jeff Bray. Thank you for your testimony, sir.

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

20 **CAPT Neubauer:** Do any of the parties in interest have any concerns with the
21 testimony by Mr. Rodriguez?

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

23 **ABS:** No, sir.

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

2 **HEC:** No, sir.

3 **CAPT Neubauer:** The hearing is now recessed, and we'll reconvene at 4 O'clock

4 *The hearing recessed at 1550, 20 February 2016*

5 *The hearing was called to order at 1602, 20 February 2016*

6 **CAPT Neubauer:** The hearing is now back in session. We will now hear testimony
7 from Mr. Donald Matthews, Marine Operations Manager. Mr. Matthews, please come
8 forward to the witness table, and Lieutenant Commander Yemma will administer your
9 oath and ask you some preliminary questions.

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

14 **WIT:** I do

15 **LCDR Yemma:** Thank you, sir. You can be seated. Sir, please start by stating your full
16 name and spelling your last name for the record.

17 **WIT:** Donald R. Matthews, M-A-T-T-H-E-W-S.

18 **LCDR Yemma:** Thank you. And what is your employment and current position, please?

19 **WIT:** I am the Marine Operations Manager for Tote Maritime Puerto Rico, here in
20 Jacksonville.

21 **LCDR Yemma:** What are some of your general responsibilities in that position?

22 **WIT:** I basically do a lot of communicating and coordinating to ensure the vessel
23 operation goes smoothly between various vendors, various departments within Tote

1 Maritime and Tote Services, Customs border protection, Homeland Security,
2 stevedores, just ...

3 **LCDR Yemma:** Can you describe some of your prior experience relevant to your
4 current position?

5 **WIT:** Okay. I graduated college in 1980, in December of 1980 -- January of 1981. I was
6 a second -- was commissioned as second lieutenant in the United States Army. Went
7 to -- was in the Transportation Corps, January of 1981, reported for the Transportation
8 Officers Basic Course at Fort Eustis, Virginia. At that time, the Transportation Corps,
9 small as it was, still had two branches within it. One was highway rail, the other was
10 marine terminal. I was in a marine terminal branch. After six months of the basic course,
11 I reported to active duty at Oakland Army Base to the Military Ocean Terminal bay area,
12 which is subordinate command to the Military Traffic Management Command Western
13 area, which is now known as the Surface Deployment and Distribution Command.
14 There, I served until July of 1985. During that time, while I was at Oakland Army Base, I
15 spent approximately a year and a half as the operations officer assistant pier
16 superintendent, where we loaded break bulk vessels and roll-on/roll-on vessels for unit
17 deployments. The second year and a half that I was there, or so, I was promoted to the
18 -- promoted to first lieutenant and served as the operations officer for the cargo
19 operations division for the Military Ocean Terminal bay area, which was one step higher
20 to where I had been. Went to a few other non-Marine associated units while I was in
21 the Army. Left active duty in 1992. In 1993 I became an individual mobilization
22 augmentee in the Reserves, again, with MTMC -- at Oakland Army Base; basically, the
23 same place I spent my first three and a half years in the Army. And I -- during my two-

1 week deployment period, you know, active duty periods, I'd report back to either the
2 Oakland Army Base, Concord, Naval Weapons Station or Port Hueneme working on
3 ocean deployments or unit deployments. In 1994 I was hired by Navieras Puerto Rico
4 as a special commodities supervisor. This is -- I was also in the Reserves at the same
5 time, and I was with Navieras up until April of 2002, when Sea Star bought Navieras. So
6 I left Navieras as an equipment control manager. When I came over to Sea Star, I was
7 essentially the equipment control manager there until April of 2008. In April of 2008, I
8 joined a -- switched over to the marine operations department and have been there ever
9 since.

10 **LCDR Yemma:** Thank you, sir. And what's your highest level of education completed?

11 **WIT:** I have a bachelor of science in education.

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

13 **WIT:** No, I do not.

14 **LCDR Yemma:** Thank you, sir. The Board will have questions for you.

15 **WIT:** Okay.

16 **CAPT Neubauer:** Dr. Stettler?

17 **Mr. Stettler:** Thank you, Captain. Good afternoon, Mr. Matthews.

18 **WIT:** Good afternoon.

19 **Mr. Stettler:** Thank you for joining us. I know you were sitting in the back of the room
20 when Mr. Rodriguez was testifying, so we'd like to take a similar approach with you, is
21 basically step through the process of loading the vessel. We do understand that you
22 were on vacation prior to the -- to the accident voyage so that you did not participate
23 directly in the loading of the vessel, but we think that your insight, because of your

1 history and your experience, would be valuable for us to understand the loading process
2 and why certain routines are followed. So some of the questioning may seem repetitive,
3 but our intent is to try to better understand the loading process --

4 **WIT:** Sure.

5 **Mr. Stettler:** On the vessels. So thank you for your patience. As with Mr. Rodriguez,
6 we ask that you focus on -- in your case, on your routine and your procedures prior to
7 the accident voyage. Please limit it to that time frame. If there are procedural changes
8 or things that have differed since, it would be fine if you would highlight those, but
9 please do specify that those are new --

10 **WIT:** Sure.

11 **Mr. Stettler:** New procedures. Could you please briefly walk through the
12 routine on, let's say, the day -- on the day of departure of the vessel, and just as an
13 example, we're going to walk through a departure from -- and I just chose a random
14 date in August, August 11th, which was Voyage 178. We're going to walk through that.
15 So just as an example, you don't have to refer specifically to that date, but what is the
16 standard process that you go through in loading a vessel from basically the morning,
17 when you pull inside the -- inside the gate at the terminal? What do you do during
18 that day? Can you give us a brief overview?

19 **WIT:** Okay. Well, actually, for a Tuesday departure, which you're talking about, we'd
20 actually start working on Monday, okay? Prior to the vessel arriving, I would normally
21 get an email or some information from the Chief Mate telling what the current ballast
22 conditions are when they arrive. I will receive information from Bulk Solutions to C&C,
23 what the -- how much fructose is going to be loaded in the fructose tanks. On the El

1 Faro, there were six tanks. I will get a projected fuel departure figure from the Chief
2 Engineer. Generally, that's added with the chief -- Chief Mate's information. So prior to
3 the ship's arrival, I would have arrival ballast condition, I'll have the fructose that's going
4 to be aboard, and the projected fuel figures for departure. I will start -- actually, over the
5 last year or so, the load cases are very similar, the load conditions are very similar for
6 each vessel, whether it be the Tuesday vessel or the Friday vessel. I would open up
7 the previous week's sailing, for the El Faro in this case. I would resave that file, say, in
8 case of the 178 South sailing, I would say that is -- I'd open up the 177 South sailing,
9 resave it as the 178 South sailing, put in the particulars, the date of departure, my
10 initials, if I hadn't had it in there, who was making the load case, and call it the Jax Final
11 Departure.

12 At that time, I'd also put in the fructose figures, I would put in the fuel figures. I would
13 have the weight figures in from -- the previous loading condition in there already, as all
14 of the vessels tend to sail, just as a generic term, full. "Full" having several different
15 connotations. I would make an assessment as to what we may need to do for departing
16 ballast figures. Normally, with a full vessel with six fructose tanks loaded, I'd bring both
17 of the working ballast tanks, that's the 1A centerline and the 1B starboard, initially, tell
18 the chief mate to bring those down to 150 long tons each. At that point I could assess
19 looking up the GM margin, available deadweight from the previous week's sailing,
20 whether that was going to be in the ballpark or not for a Tuesday departure the next
21 day. I would consult with the cargo management people at the corporate headquarters
22 what they expected as for a load, full load, about how many cars, about how many
23 running reefers, just so I have an idea. You know, and with full vessels, those numbers

1 generally – there is some variance, of course, but I could -- we'd have a good idea as to
2 what to expect for the next day. When the vessel arrived, usually for a 1300 start on
3 Monday, I immediately go up to the vessel with any documents or paperwork or parts or
4 anything that has, you know, to be delivered to the vessel that I could carry. Take those
5 up. Go up, talk to the Chief Mate. Tell him what it looked like. There's a pouch that he
6 has that I would bring down that had the reefer manifest from the previous southbound
7 sailing where they maintain temperatures on the reefer logs for the northbound sailing
8 for the running reefers that were on it to maintain the temperature checks. There's a
9 flash drive that I get, and that's what we put the load case on that the Chief Mate at the
10 end of the sailing will get back. I'll go talk to the Captain, if nothing else, just a courtesy
11 call, see if there's anything that I can do for them, if he has any concerns about
12 anything. Just five or ten minutes, you know, just talking. I would then go back down to
13 the office, and, generally, on a -- on the -- with a Monday arrival that's mostly
14 discharged, very little load back, I may slide out of the office at 3:00 or 4:00 in the
15 afternoon. I always have my phone. The Chief Mates all have my phone number. I
16 have all their numbers. If there's any concerns that they had, I'm on call, basically, 24/7
17 with them. They call me if there's something -- I'm going to have everybody else's
18 number that I have to contact with in the normal communication coordination that I do. If
19 they had a concern or something going on that I would just -- I could take care of that by
20 phone. If I had to go back to the office, I certainly would. So that takes care of Monday.
21 On Tuesday, when we go in, labor would normally start with Monday discharge 8:00 or
22 9:00. I would log into my computer, print out from Spinnaker, the terminal operating
23 system, the load plans that the stevedore department from Portus had already planned

1 for the day before and very possibly already loaded on the ship. I'd print those pages
2 out and print out the bays that they had already put information in for -- to
3 start the operation. I would -- with that, I'd put that into a -- I have an Excel spreadsheet
4 that I maintained that I track where the reefer plugs are and how they're being utilized,
5 make sure we're not trying to put too many reefers in where there are too few plugs.
6 And I also identify container size by a color code system that we have in there in each
7 block, and also put in the hazardous codes -- for any hazardous material classes that
8 are there, other than Class 9 or limited quantity materials, because they have no
9 segregation requirements. And that way I can tell we weren't putting a Class 3 next to a
10 2.1, a flammable liquid next to a flammable gas or an oxidizer. And with that Excel
11 spreadsheet, I have clear visibility of the entire vessel, the containers relating to each
12 other for the lo-lo decks. Put that information into the Excel spreadsheet first to make
13 sure we don't have any segregation problems. Then I will go open up the CargoMax, the
14 load case that I started the day before, and then I would input the weights, the correct
15 weights. At that time, I would also preplan -- for bays that I don't have, I would cancel
16 out the previous week's weights and put in, like, a uniform weight, say, the bottom tier
17 23 tons, the second tier 15 tons, and the third tier 15 tons. That way I can easily tell,
18 when I go from bay to bay, whether I have put weights in there or not so I don't confuse
19 myself later on in the day. As the stevedores progress with their operation, I would,
20 again, print out those bay plans and update the CargoMax load case, keeping an eye
21 on the GM margin, the available deadweight, trim, list, and things that -- things that we
22 have to look at to make sure the ship sails in a safe and stable manner. During the
23 course of the day, since the roll-on/roll-off plans aren't computer generated, I get

1 handwritten plans from the stevedore checkers. They'll bring them up. Those plans have
2 the container numbers, where they are on the ship, along with the weights. Also, if
3 there's any cargo that isn't in a container, what we call a NIC, not in container or
4 automobiles, those are also indicated on that ro-ro plan. With the weights -- the NICs
5 have their weights rounded into thousands of pounds as the containers are rounded in
6 thousands of pounds. Automobiles, we figure one and a half long tons each. I would
7 then put in a -- those weights into the CargoMax. As Ronald just mentioned earlier, the
8 ro-ro holds, we separate into a port, center, and starboard section within that one hold,
9 so each hold has three sections. I would take the total -- count the number of trailers,
10 and CargoMax has a separate section for each type of equipment -- for the ro-ro is not
11 one lump sum number, there's a -- there's a line for trailers, there's a line for other, and
12 a line for autos within each section. So if a -- if a hold had three trailers, two NICs and
13 five cars in there, I would figure out the weights for each of those and put those in the
14 respective blocks. And that's an ongoing process throughout the day. Throughout the
15 day I'll also go up on the ship, normally have lunch on the ship with the Chief Mate or
16 the other mates or the engineers, communicate and coordinate if there's anything,
17 otherwise, just build a bond and camaraderie, if nothing else, get to know them and they
18 get to know me. There's a lot of trust involved in this business.

19 If there's anything during the day that needs to be brought to my attention by the Chief
20 Mate or the Captain or the Chief Engineer, there's a radio they can call me on. We're
21 on the same frequency. I can hear anything that's going on in the ship that they talk
22 about on that frequency, and I can easily get ahold of the people -- the officers that I
23 need to get ahold of that way. If a reefer comes up, it's out of temperature, a reefer

1 won't start, they'll call me, I'll get the reefer techs working on it. If they see a box coming
2 up that, say, they've tried to put a 45-foot box on top of a 40, which is fine, but there's a
3 reefer in front of it and there's not enough room for the crew to work on the reefer, I'll
4 notify the stevedores that, you know, something has to be done to correct the situation.
5 That's just an example. That really doesn't happen that often. So we're in constant
6 communication throughout the day. They have my phone, I have their phone numbers,
7 we're all on the radio, so, you know, anything goes -- we need to coordinate, we'll
8 coordinate. At the end of the day, which would be about 1800 or so, the normal
9 operations should be done about 1800, I would then get the final load case that I'll be
10 looking at throughout the day. I'll print that out. I'll save -- during the day, I'm also
11 saving the load case to the T drive that we have, the network server, the flash drive that
12 the chief mate gets, and the hard drive in my laptop computer. If -- I'll keep the Captain
13 notified during the day if it looks like the load is going to be close to leaving on the
14 marks. The GM margin that we have -- the self-imposed margin that we have is .50 feet
15 or greater, that is a company self-imposed safety margin as it were, taking into account
16 that there are variances of the container weights as the weights are rounded, through
17 the fuel consumption will vary during the southbound trip anywhere from 320 to 360
18 tons, 380 tons. So a .50 GM margin or close to that, the ship would generally arrive in
19 San Juan with a .25 to a .3 GM margin. Anything lower than that .50 GM margin, I'll talk
20 to the Captain, ask him how he feels about it, what's it look like, is he comfortable with it.
21 Say it's a .48 or a --

22 **FEMALE VOICE:** It's hard for me to do this; Sir, could you please slow down please?

23 **WIT:** Oh I'm sorry -- yeah. I usually talk slow, but, I'm getting on a roll. Okay.

1 **FEMALE VOICE:** Anything lower than a .53 GM Margin?

2 **WIT:** There's a .50 GM margin, I will call the Captain, tell him what the load case looks
3 like, tell him how much available deadweight we have, at least what CargoMax
4 indicates, tell him what I'm looking at, tell him the options I have for taking cargo off, if
5 he wants to and he'll take a look at his voyage plan, take a look at the weather,
6 whatever else he wants to consider, and he'll say, no, I want .50 or greater, or the
7 captain may say, We can take a .48 this week, we can take a .47. So, once we -- so
8 once I've communicated with the Captain what the load condition's going to be, I'll call
9 the Chief Mate on the radio and say, I'm heading down to bring the paperwork. Again,
10 I'll pick up the documents that we have to take, that's hard copy of the stow plans, both
11 ro-ro and lo-lo, the reefer manifest,
12 dangerous cargo manifest, flash drive that has the load case on it, and the hard copy
13 printout of the CargoMax summary. If we have livestock on that ship, there's paperwork
14 that has to go down for the livestock and the attendants that are riding with them so that
15 the Captain can include the attendants' and the riders' information, as far as electronic
16 notice of arrival information. I will take that down to the dock. The Chief Mate will
17 generally meet me on the dock. He'll look at the CargoMax summary. We'll -- we will go
18 get the drafts fore, aft and midship on the starboard side. Generally, he'll have one of
19 his mates on the port side to take the midship draft there. If they haven't taken the
20 salinity at that time, they'll have one of the mates take the salinity. We'll find out what
21 that is. Once we have the midship drafts if it's anything over 30 feet, 2 or 3/8ths inches,
22 which is the max draft we can have in saltwater, I have an immersion table that I keep in
23 my truck. We'll have the salinity. We'll compare the immersion table to what the actual

1 midship drafts are, average is, to make sure that we're not exceeding the available
2 deadweight or the actual load limit of the ship. Once that happens, the chief mate will
3 go back -- go back up the gangway. We'll wait for the docking pilot and -- or the docking
4 master and the river pilot to board. The gangway will go up. I'll stay down on the dock
5 until they have departed with last line. Sometimes it's ten minutes later, sometimes it's
6 an hour later, depending on river traffic. Then I'll go back up in the office, finish up my
7 paperwork. We put something out called the port report just to tell people within the
8 company the vessel of utilization we have, the arrival drafts, the arrival time, departure
9 drafts, fore and aft, departure time, and the comment on the -- the total cargo weight
10 that we had and how many cars we put on and the amount of reefers. So if we are
11 done with cargo about 1800, 1830, ship departs about 1900, I'm out of the office about
12 2000.

13 **Mr. Stettler:** Thank you. That was very thorough. Very good. Thank you. So I'd like to -
14 - similarly, with Mr. Rodriguez, I'd like to walk through this particular case. So I'll call
15 your attention to Exhibit 056, which I mentioned is the CargoMax printout for departure
16 from Jacksonville on the 11th of August. Which, you know, you've mentioned most of
17 the departures from Jacksonville are very similar, at least they have been in recent
18 months. So this is just simply an example of that. I'd like to walk through a few sections
19 of this, Mr. Matthews, and just ask some general questions.

20 **WIT:** Sure.

21 **Mr. Stettler:** Again, some of this is practice, you know, what goes into your decision-
22 making and your practice. So we'll start on Pages 2 and 3, which start off showing
23 basically areas or weights and centers of gravity for some of the fluid tanks, specifically

1 fuel tanks, fresh water, salt water, et cetera. So I'd like to ask you a couple of specific
2 questions. So we'll start on the fuel tanks. I notice in this case and in others, many of
3 your load -- departure load case conditions, the vessel departs with less than a full load
4 of fuel.

5 **WIT:** Correct.

6 **Mr. Stettler:** And it almost appears it always is the case. So one question is: When
7 you take on fuel, do you -- do you fill -- or bunker, as it's called, do you normally fill the --
8 fill the fuel tanks; and, if not, why?

9 **WIT:** The decision on where to put that fuel is up to the Chief Engineer. I am not a party
10 to that at all.

11 **Mr. Stettler:** Okay.

12 **WIT:** He tells me what tank -- what tanks there's fuel in and how much is in those by
13 long tons and barrels.

14 **Mr. Stettler:** Do you know what his rationale will be for not pressing up the tanks?

15 **WIT:** No, sir.

16 **Mr. Stettler:** Have you ever -- have you ever discussed that with the Chief Engineers?

17 **WIT:** No, I have not.

18 **Mr. Stettler:** Thank you. On this load case, there's a -- total volume of fuel is listed at
19 82,000. It's on the top of the second page. It's the fifth or so column over from the left,
20 which is the -- it's listed as 8295.9, so basically it would be called 8300 barrels. Is there
21 something special about that number in terms of the loading of the vessel, in terms of a
22 routine at Tote Services or Tote Maritime?

1 **WIT:** Right. But what we're doing now with a fairly full vessel, to get the proper GM
2 margin, get the available deadweight and get as much cargo on as we can and sail in a
3 safe manner, it's something that's been found over the years, even before I started this
4 role, 8500 barrels is about the optimum amount of fuel to carry to where we can depart
5 the way we need to depart, with as much cargo on hand. It's a balancing act for the --
6 to get everything together for the available deadweight, the GM margin, and the
7 development -- my brain went dead there for a second, I'm sorry -- to, say, parameters.
8 That allows us to -- if we sail with less fuel, that may decrease the GM margin, and we
9 have compensated for that by not putting as much cargo on up top. If we have more fuel
10 than that, that increases the GM margin, but it decreases the available deadweight,
11 which would also result in not putting out as much weight in cargo. So it's a balancing
12 act between everything. So 8500 barrels allows a round trip, the normal round trip to
13 San Juan and back to Jacksonville, and leaves a three or four days' reserve supply of
14 fuel in there in case there is a weather diversion or something. So it's a -- it's a -- in the
15 past, when cargo was lighter, we would actually sail -- not the El Faro, because it only
16 has four fuel tanks, but the other ships maybe depart with 11,500 barrels and bunker
17 every other week. So that's -- that's the basis for about that 8500-, 8300-barrel target for
18 fuel departure.

19 **Mr. Stettler:** Thank you. So there is a tradeoff with cargo carrying capacity --

20 **WIT:** Yes.

21 **Mr. Stettler:** And GM margin?

22 **WIT:** Yes.

1 **Mr. Stettler:** Okay. Thank you. In the case when bunkering is done, how do you -- or
2 when you fill fuel tanks, when you add fuel to the vessel, how do you account for -- in
3 CargoMax, how do you account for the variable density or specific gravity of the fuel
4 when you take fuel on?

5 **WIT:** In CargoMax, we don't change that density number. I actually put in the long tons
6 that the chief -- Chief Engineer has given me. I put in the actual weight.

7 **Mr. Stettler:** So how about the -- so I notice, for example, under fuel oil tanks, we're
8 looking at the top of Page 2 there, there isn't actually a column for density, but there's a
9 column for specific volume. There's also a column for temperature and degrees
10 Fahrenheit. So how does that convert to the density of the fuel in those tanks?

11 **WIT:** That is something we don't do. I put in strictly long ton weight.

12 **Mr. Stettler:** So am I to understand, then, that you're simply using the default values in
13 the program for that?

14 **WIT:** Correct.

15 **Mr. Stettler:** Thank you. On the top of the next page, which would be Page -- actually,
16 the middle of the next page, it refers to saltwater ballast tanks. And actually at the
17 bottom of the second page, there's a listing of freshwater tanks, but I note that it
18 appears that you're using -- you, Tote, I should say -- Tote Services, in loading the
19 vessel, uses those freshwater tanks both for storage of fresh water and salt water.

20 **WIT:** The only freshwater tank with salt water in it is the 1B starboard. That is one of
21 the working ballast tanks that we have.

22 **Mr. Stettler:** Okay. I'm looking down the list and under the listing of specific volumes.
23 935.00 would be equivalent to salt water; correct?

1 **WIT:** Yes.

2 **Mr. Stettler:** So there's several tanks that I see that are -- when you say you don't use
3 them, so maybe you don't put water in them. Is that what you're saying?

4 **WIT:** Well, there's fresh water in those. The other -- the other tanks that have the 35.00,
5 if you look over there, are empty.

6 **Mr. Stettler:** Okay.

7 **WIT:** That's -- those two are empty.

8 **Mr. Stettler:** Understand, thank you. So, question, when you do -- you mentioned that
9 you come up with a plan for whether or not you need to bring on ballast water or pump
10 ballast water off. When you do that, do you adjust the density or specific gravity of the
11 ballast water in CargoMax when you do that?

12 **WIT:** For -- to go with the -- in Jacksonville, we always drop ballast. The ship sails with
13 the cargo loads, coming up from San Juan, 70 to 80 percent of the containers are
14 empty. Going south, they're 100 percent full. Northbound load might be 5- or 6,000 tons
15 at the most. Southbound, we've had as much as about 11,400 tons of cargo.

16 So in order to carry the cargo and keep the ship down at the stern, having some trim,
17 we have to decrease the amount of ballast in the two working ballast tanks. And
18 normally from San Juan to Jacksonville, those two tanks arrive full, southbound will
19 come up with a number on what they bring them down to.

20 **Mr. Stettler:** All right. So, normally, you are deballasting --

21 **WIT:** Correct.

22 **Mr. Stettler:** In Jacksonville? Thank you. On the, I believe it's the top of the fourth
23 page, the constant weights, I'd like to ask you about the stores, the quantity of stores --

1 or the weight of stores on board. And can you tell me anything about where that value --
2 so it's listed as 119.7 long tons for storage. Could you provide any insight as to where
3 that -- how that weight is determined?

4 **WIT:** I believe those numbers are out of the trim and stability book, and we don't
5 change those.

6 **Mr. Stettler:** Okay. So you're using the default values for that as well?

7 **WIT:** Correct.

8 **Mr. Stettler:** Thank you. I'd like to now talk a little bit about containers entering. Mr.
9 Rodriguez talked a little bit about using CargoMax container weights. You mentioned
10 that you -- sounded like fairly early in the day you began the process of making --
11 physically putting -- putting weights into CargoMax, manually entering those weights.
12 What happens during the day? I would assume -- we've heard from other -- other
13 witnesses that cargo comes in all day long --

14 **WIT:** Correct.

15 **Mr. Stettler:** In the Tote facility and sometimes that planned load-out changes either
16 the weight of the loads or the locations of the loads, the containers on the trailers.
17 How do you keep track of that during the day so that you ensure that your trim and
18 stability computer analysis is accurate?

19 **WIT:** Okay. During the day, you're correct about the 60 to 70 percent of our cargo will
20 come in the day of sailing. So what I put in the weights before, the day before or the
21 morning of, are projected weights just based on history and planning figures. Once the
22 stevedore department or Portus has developed or planned cargo to go in a certain place
23 in the Spinnaker program, I will print those pages out, and I'll input those weights. I

1 periodically, and rather frequently, go check through all the bays through the Spinnaker,
2 which is pretty quick, and I keep the old bay, the bay that I already have, in the stack.
3 As I check Spinnaker, if anything is changed, I'll print out the new page, throw away the
4 old page and then input the data. And that way -- and, also, if the stevedores -- and
5 that's -- I try to stay ahead of the curve on that in order to prevent rehandling of the
6 cargo. If something is -- isn't quite right, then we can change the plan before they've
7 actually put it on the ship and have to take it off. Again, check for hazardous
8 segregation and check it for stack weights and generally just try to be proactive on that.
9 So it's an ongoing process throughout the day, and I'll go through quite a bit of paper
10 doing that.

11 **Mr. Stettler:** So it sounds like you have a lot of activities going on during the day.

12 **WIT:** Yes.

13 **Mr. Stettler:** Do you have a -- any kind of validation process or -- to ensure that
14 mistakes aren't made, typographical errors, transposing numbers, et cetera? Is there a
15 check process in any of those?

16 **WIT:** I double-check myself.

17 **Mr. Stettler:** So you double-check yourself?

18 **WIT:** I'll go look at it. If the stevedores have changed something, they'll give me a call.
19 Or, in the office that I had in our old building, I actually had a hole -- put a window in my
20 wall into their office, as it were, where I could just -- we could just talk to each other
21 through the wall, essentially. So I keep my ears open, find out what they were doing.
22 So the communication is very smooth, and it's just a -- it's a constant process of just

1 keeping up with it. I can go out and do other things, come back, and just check it again.

2 I mean, it's -- there's a lot of check, check, check going on.

3 **Mr. Stettler:** But just to verify that, all of this data transfer is manual; correct?

4 **WIT:** Correct.

5 **Mr. Stettler:** So stevedores give you a printout, hard copy, you take that hard copy
6 printout and you manually type those values --

7 **WIT:** Correct.

8 **Mr. Stettler:** Into CargoMax? There's no electronic transfer of data?

9 **WIT:** No, no, not at all.

10 **Mr. Stettler:** Thank you. So, actually, I think that -- let's talk a little bit about ro-ro cargo.

11 And if you look back at -- so I think it's the next page of your printout of -- your

12 CargoMax printout there. So let's, just, as an example, use cargo Hold 2B, which --

13 that's Mr. Rodriguez that's on the second deck, Hold B. Could you describe how you

14 determine the weights in each of those locations and the centers of gravity, the location

15 of the center of gravity of each of those weights and each of those locations?

16 **WIT:** Okay. Second part first. Center of gravity goes to the default within CargoMax,

17 and we have no way of knowing any different for -- these are closed, sealed containers.

18 Basically they're just a box on wheels for what we're doing. The weights are determined

19 by when the -- the container comes in or the trailer comes in the gate, goes across the

20 scales, it's weighed on the scales. The tare weight for the tractor is taken off. Tare

21 weight for the chassis is taken off. Tare weight for the container's taken off. So we know

22 what the weight of the cargo is. And there's another purpose for that that really doesn't

23 involve me, that we need to know the weight of cargo -- when that cargo is released for

1 shipment, the Spinnaker shows up, shows a lifting weight of the container and cargo.
2 So, say, if that lifting weight is 50,000 pounds, if it's going ro-ro, we've got to put a
3 chassis under it, and the Roloc Box, we will add 8,000 pounds, we've got the chassis
4 weight and the roll-off box, so that 50,000 box becomes a 58,000-pound box for ro-ro.
5 The checker -- that weight is written on a tag that is put on that chassis that the
6 container is on so, when the checker is loaded on the ship, has a weight that he'll write
7 on his plan, so he'll put a container number, the position on that -- in that ro-ro hold and
8 58,000 pounds. They'll do that for every container. When I get the plan, saying this
9 particular plan for 2 Bravo, it's showing three trailers in the port side with a total weight
10 of 96.9 long tons. I will physically add those weights up, 58 -- whatever those numbers
11 happen to be, into the hundreds of thousands of pounds, divide by 2240, which is a long
12 ton, and that will give me how many tons there are. And that's the number I would type
13 in. In CargoMax, I will type in three trailers with the total weight, and then CargoMax
14 comes with the -- does the division of the calculations, average weight of 32.9 tons. For
15 the NICs that come in, as we described earlier, they'll also have those weights
16 associated.

17 **Mr. Stettler:** Would you define NICs please?

18 **WIT:** NICs -- NICs could be anything from -- anything not in a container and not a car. It
19 could be -- it could be a boat on a trailer, it could be a tractor from, you know, over the --
20 over-the-road rig, it could be a jet ski, it could be a bulldozer, it could be -- just anything
21 that won't fit in the container and is not -- not a regular vehicle, a car. I have those
22 weights and, say, if there's -- 2 Bravo, you do not have any NICs, so you add a zero
23 there. In fact, there were no others in 2 Bravo, but there are four cars on the port side

1 and four cars on the center, you'll see that there's an average of 1.5 long tons each
2 there, and I'd type that in. And I'd just go through every hold, ro-ro, in the same manner.

3 **Mr. Stettler:** Okay. You just mentioned that you do not change the center of gravity
4 location, that you use the default values for the port centerline and starboard --

5 **WIT:** Correct.

6 **Mr. Stettler:** Sections of each bay. We've seen email correspondence discussing
7 voiding certain store -- or ro-ro bay locations or hold locations. For various reasons,
8 we've heard discussion about weather, for example, on the second deck so the -- so
9 that cargo doesn't get wet, maintenance, so basically creating voids so that certain
10 maintenance activities can be completed during the voyage. How do you -- if you're
11 moving sections, say, the outboard segments of the bay's voided, do you correct the
12 transverse center of gravity locations for the -- say, the port side or the starboard side --

13 **WIT:** No.

14 **Mr. Stettler:** Whichever one is voided?

15 **WIT:** No, we would not do that.

16 **Mr. Stettler:** Okay. Please refer back to the first page of the -- of the exhibit, which you
17 actually mentioned this before, but the trim and stability summary which you mentioned
18 using this or looking at it. Could you -- I don't know if, Lieutenant Commander Yemma,
19 you could -- so this is Exhibit 56, if you could possibly put up the first page of Exhibit 56.
20 Could you just discuss a little bit about, you know, what are the -- you mentioned a few
21 things a few minutes ago, but using this page as a prop, if you would, could you just
22 discuss the -- kind of in a hierarchy, what are the most important parameters that you're

1 looking at while you're loading the vessel and determining that the departure condition is
2 a safe one?

3 **WIT:** Okay. I don't see this page until I print it out. The columns in CargoMax is what I
4 would be looking at, but the important numbers that I would look at in the CargoMax
5 would be the GMt margin. In this case, it would be, what, .498 is what I printed out. On
6 the computer screen, I'd actually be seeing a .50, around a .50. I would be looking for
7 the trim, in this case, to make sure that it's down at the stern. In this case, it's a little -- a
8 little over 5 feet aft, so I know I'm down at the stern; the list showing 3 degrees
9 starboard. CargoMax for the El Faro, I'd be looking for about two and a half degrees
10 starboard to be level.

11 **Mr. Stettler:** Can you explain briefly why that is?

12 **WIT:** Don't know exactly why. It's just -- it's the number. Each ship had -- each -- you
13 know, we had the El Morro, we had the El Yunque, and the El Faro. Each ship basically
14 had their own reference point, which was a zero, to show a level keel or no list. The El
15 Yunque's is about three and a half to four degrees starboard. I forget what the El
16 Morro's
17 was. It's been a couple of years since we looked at that ship. When I first came to this
18 position, people that I learned from and trained me, I asked them about that, and they
19 said CargoMax is not the greatest tool to tell you what the list actually is, but it is great --
20 once you have that number as a reference point, say 3 degrees, if you move one
21 container, it'll tell you absolutely what the change in list will be. So with this -- with that
22 3-degree starboard, I would say that's probably fairly level. So I'm looking at that
23 number.

1 **Mr. Stettler:** Okay.

2 **WIT:** What number does not show up on this page is the available deadweight. That
3 just -- it doesn't show up there. That's something that I see from the CargoMax screen,
4 the computer screen that I'm looking at.

5 **Mr. Stettler:** Okay. Could you define what that is?

6 **WIT:** The available deadweight is really -- the ship can only weigh so much or displace
7 so much water, to be at its marks, to be safely loaded, and available deadweight just
8 tells you how many more tons you have to achieve that weight. So when we have
9 available deadweight, that means the ship can take more weight. If you have negative
10 deadweight, then you're basically too heavy, and we would have to take something off,
11 whether it be cargo, whether it be fuel, whether it be ballasts, something. So it's just a
12 reference point. Since -- the fuel's fixed at that time, for whatever we have at that time,
13 so that it's a matter of adjusting ballast to cargo if the boats have negative deadweight.

14 **Mr. Stettler:** You mentioned GM margin. I think earlier on you mentioned that that
15 comes from the company policy --

16 **WIT:** Correct.

17 **Mr. Stettler:** I believe you said -- was the term you used. Do you know where that
18 comes from?

19 **WIT:** That was established before I was in the department. So I can tell you --

20 **Mr. Stettler:** Is it written down anywhere?

21 **WIT:** The only place it is written down now is an SOP that I wrote.

22 **Mr. Stettler:** So that was an SOP that you wrote?

23 **WIT:** Yes.

1 **Mr. Stettler:** Kind of on how to do your job, basically?

2 **WIT:** Correct.

3 **Mr. Stettler:** Okay. Thank you. Could you explain a little bit on this page, there's -- right
4 above GM margin, there's -- there's "GM required" and "GM corrected" and then "GM."
5 Could you just briefly describe what that is, why there's multiple versions of GM?

6 **WIT:** The GM required, as I understand it -- again, I was not a maritime-trained grad,
7 but the GM required is per the trim and stability book. The GM corrected would be
8 taking into account corrections for slack tanks, and GM -- and the GM margin would be
9 how much more we have to go to meet that minimum GM that we have to have to sail or
10 for it to be in safe condition at that time. So in this case, we would have almost 6 inches
11 left to go.

12 **Mr. Stettler:** Thank you. Is there anything else on this page that you can talk about a
13 little bit about what else -- we talked about GM margin, available deadweight. Are there
14 other things or metrics or limitations that you consider in loading the vessel?

15 **WIT:** Well, in this vessel, bending and shear force moments are looked at, but the way
16 they're designed and the loads we have, they never come into play.

17 **Mr. Stettler:** What does that mean -- looking at 62 percent of allow, what does that
18 mean?

19 **WIT:** These ships have a hog to them, and there's a -- I don't know how -- quite how to
20 describe it, but there's a range of tons that allows the ship to bend, and 100 percent is
21 the most you could get it to. So 62 percent will tell me that, although we do have hog,
22 we're in no danger of really stressing the heel where it's going to snap in half on sail to
23 San Juan.

1 **Mr. Stettler:** Okay. Thank you. Is there anything else in CargoMax that may or may not
2 be portrayed on this summary sheet that you look at when you're determining whether
3 or not you have a suitable loading condition?

4 **WIT:** Well, as we're going through the loading different bays, I'll be looking at stack
5 weight – stack weights and lashing margins, generally, and -- as I'm putting in the
6 weights, because that all feeds into this part. But it -- I look at every -- basically every
7 cell, as we're putting in, to make sure we're not doing anything we really shouldn't be
8 doing.

9 **Mr. Stettler:** What are you looking for?

10 **WIT:** Stack weights.

11 **Mr. Stettler:** Could you describe what a stack weight is?

12 **WIT:** Generally, stack weights are -- one stack of containers we're allowed per cell is
13 120,000 pounds per cell. Lashing margins -- so that's across the ship. There are some
14 sections of the ship, especially forward, where the frames are closer, where there's --
15 actually that weight is greater than that, about 150,000 pounds, and I think way up fore
16 where the 20s are, you can actually put 180,000 pounds in a stack. But to keep it
17 simple for everybody, we go with 120,000 pounds for a 40-, 45-, 48- or 53-foot stack.
18 Bay 7, which is the 20-foot stacks, 20-foot bays I can put in there, that's definitely
19 90,000 pounds.

20 **Mr. Stettler:** Once you've worked out -- and you went through this in some detail
21 before, so I have limited questions here. But once you walk down, you're happy with
22 the loading condition of the vessel, you talked about gravity and having a stack of
23 papers which include the CargoMax printout and the stow plans and several other

1 documents with a flash drive, you walk down to the vessel and meet the chief -- chief
2 mate. And you already discussed reading of the draft marks. How often -- if you were to
3 estimate on a percent basis, how often is there not enough time to -- for you to witness
4 the draft readings where either they -- they would've been done prior to your arrival or --
5 or for whatever reason there wasn't -- you did not observe the draft readings? How often
6 does that occur?

7 **WIT:** That may have happened three or four times over the last seven and a half years,
8 and, even those times, I would take what the Chief Mate has told me the drafts are, and
9 I would double-check them myself and make sure we're on the same page -- make sure
10 we're in agreement.

11 **Mr. Stettler:** You said three or four times over the last seven years?

12 **WIT:** That I've -- that I've been doing the ships, yes.

13 **Mr. Stettler:** So Mr. Rodriguez mentioned that -- that he did not have an opportunity to
14 observe the draft readings and the salinity readings. So would you consider that
15 to be an unusual situation?

16 **WIT:** Yes. He also stated the reason that I haven't been there would be for the same
17 reason he didn't -- he was waiting for the dangerous cargo manifest and reefer manifest
18 to be generated. So what may happen, and I'll give -- I will give the Chief Mate an idea
19 that that's going on. If we're coming up close to the scheduled departure time, we've
20 already firmed up with the tugs and pilots, the pilots are already aboard, what we may
21 do -- in the three or four times I've done -- what we've done, we actually have a 5-gallon
22 bucket with a rope. Everybody's aboard. They'll raise the gangway. They'll lower the
23 bucket down. I will put all the documents in that bucket. They'll raise it up. He will radio

1 me or talk to him on the phone. He'll tell me what his draft readings were, and I'll ask
2 him what the salinity was, and then I'll go double-check. But that's -- that's not a very
3 common occurrence.

4 **Mr. Stettler:** Referring to draft readings, are you aware of any -- any issues related to
5 the draft markings on the El Faro where they -- on one of the sister vessels, there was
6 some discrepancy or some re-marking of the drafts that occurred that Captain Lofffield
7 discussed a couple of days ago on the El Yunque. And were you aware of any similar
8 condition with the draft readings on the -- that had to do with the -- with the antifouling
9 coding, having -- the draft marks having been applied. Were you familiar or was there a
10 similar issue on the El Faro with the draft marks?

11 **WIT:** On the stern, dealing with the 30 feet rather than 33 feet, when they should have
12 -- last time they came out of the yard -- about 20 feet up on the side of the ship, there's
13 another set of draft marks that we could read, and that's where we take our draft marks,
14 about 20 feet up from of the stern on the side of the ship.

15 **Mr. Stettler:** Okay.

16 **WIT:** For the aft -- midship was fine, and the forward draft mark was no issue.

17 **Mr. Stettler:** Okay. Good, thank you.

18 **CAPT Neubauer:** Sir, can you explain the discrepancy again, how you compensated? I
19 just want to make sure I understand.

20 **WIT:** Well, the aft draft on the -- on the Ponce class ships would be fully laden, about
21 32, 33 feet. Last time we came out of the shipyard, the stern mark on the very center of
22 the stern, I believe was only painted about 30 feet. On the perpendicular -- or about 20
23 feet up from the stern on the side of the ship is another set of draft marks that came up

1 the full -- the full length, up to, I think -- I believe it was 33 feet. I may be mistaken, but
2 we -- those are readily and easily seen so that we would take the draft mark from there.

3 **CAPT Neubauer:** Sir, do you know what set of draft marks CargoMax would go by?

4 **WIT:** Probably the -- to be honest, no, but also not to -- CargoMax, as we produced the
5 load case, we work in -- we leave the salinity at 1.025, as that's what it always is from
6 the sea buoy down to San Juan. So the draft marks are never dead-on at the dock
7 versus what CargoMax is showing.

8 **CAPT Neubauer:** But, I mean, do you know what's set longitudinal that CargoMax
9 would use for the draft marks? I believe you said you had to shift the reading 20 feet, is
10 that correct? For one of the draft mark readings? And I'm just -- I mean, the markings
11 themselves, sir.

12 **WIT:** That, I do not know. I can tell you what I assume, but I don't know for a fact.

13 **CAPT Neubauer:** Yes, sir. What would you assume the CargoMax --

14 **WIT:** I would assume that would be the very aft, stern draft marks.

15 **CAPT Neubauer:** And you were actually taking the draft marks 20 feet from that
16 position; is that accurate?

17 **WIT:** Correct, correct.

18 **CAPT Neubauer:** Thank you. Dr. Stettler?

19 **Mr. Stettler:** Thank you. Mr. Matthews, once you've completed, or once the process of
20 taking draft measurements is completed, do you do anything, you or the Chief Mate do
21 anything with those draft readings associated with the CargoMax calculation in terms of
22 stability and trim?

1 **WIT:** Not so much with CargoMax, but the Chief Mate would radio up to the mate on
2 the bridge what the fore -- what the draft marks are, to include the midship drafts, and
3 also what the salinity is or was at that time. In Jacksonville, that salinity can go
4 anywhere -- average from -- last time it was 1.008 to 1.025. So we'll take that salinity,
5 we'll take that immersion table, and we'll take the average midship drafts and make sure
6 and compare the two so that the actual midship draft had to be allowed by the
7 immersion table when we went out sailing.

8 **Mr. Stettler:** You mentioned salinity readings or specific gravity --

9 **WIT:** Yes.

10 **Mr. Stettler:** Of the water there at Jacksonville Blount Island. So you take that, I think
11 you just mentioned the bulkhead, the hydrometer, I don't know if you used the term, but
12 a hydrometer was used -- is used to measure that --

13 **WIT:** Yes.

14 **Mr. Stettler:** The specific gravity. Do you do anything with that salinity reading?
15 You mentioned that you leave the default seawater in CargoMax at 1.025. Did you do
16 anything in terms of your records? Do you record the drafts and salinity for that matter
17 anywhere?

18 **WIT:** I do not keep track of the salinity or the midship drafts. I do have a record of fore
19 and aft drafts and the -- any observable list the Captain reports. And I keep that record,
20 really, just to make sure that no port, either San Juan or Jacksonville, is getting in the
21 habit of leaving, say, a list on the ship all the time. If I start seeing a trend, then I will tell
22 San Juan or get our people here in Jacksonville to rethink how we're doing cargo to
23 have the ship level upon departure without having to put water in the ramp tanks to

1 compensate for that. But I do not keep a permanent record of the midship drafts or the
2 salinity.

3 **Mr. Stettler:** You mentioned that there's a discrepancy or disagreement or inaccuracy,
4 however you want to phrase it, associated with the predicted CargoMax angle of the list.
5 And you mentioned that somewhere in the, I think you said 2- to 3-degree range at the -
6 - in the full load departure condition. Are there any other discrepancies? What about
7 draft? Does CargoMax predict drafts fore, aft, midships reasonably well, or what is the
8 assessment in terms of --

9 **WIT:** As I mentioned earlier, they're never dead on due to the salinity. Could be any
10 number of factors, because all the weights are fairly approximate. I'm fairly confident
11 that -- you know, I'm very confident that the weights of the containers are very close
12 what they should be, but over a course of the ship, with several hundred containers,
13 there is going to be some -- some difference.

14 **Mr. Stettler:** Thank you. So you mentioned going down to the ship with the -- this
15 package, and you present it to the Chief Mate, and you guys -- you discuss the
16 condition of the vessel, he reviews the printout. How much time does a chief mate, on
17 average, typically spend reviewing your CargoMax calculation and the loading condition
18 while with you -- with him, were -- and maybe if you could also say how much time do
19 you think they'd typically spend prior to the vessel's departure?

20 **WIT:** Well, we're -- we're in constant communication during the day, so if anything is
21 noteworthy, we'll be talking about that throughout the day. I will keep them apprised of
22 what's going on during the day. So at the end of the day, when I come down there with
23 the paperwork, there are no surprises. If they're going to be posting draft marks that are

1 close to a .5 GM margin, the marks, they ought to be well aware of that. So when he
2 peruses the summary, there really is no surprises for him. He just -- he's just really
3 looking to confirm what we've already discussed. So it -- actual looking at the summary,
4 because he knows what he's looking for -- you know, these are all educated, trained,
5 experienced professional seamen and officers, so they're just looking for -- he may only
6 peruse it for a minute -- actually peruse it for a minute or two. We may be together for
7 10, 15, 20 or 30 minutes. In some cases, when I'm able to -- able to get down there
8 while cargo operations are still going on, we would be sitting in the truck, he would look
9 at this, we would be watching the operation, and if anything -- operations are ongoing,
10 say if a list started to happen while we're still working the ship sitting on the dock, we
11 could actually make changes, get ahold of the stevedores and make the corrections at
12 that time.

13 **Mr. Stettler:** On the occasion when there is maybe a discrepancy noted -- or you just
14 mentioned, in some cases, where there's a last-minute change required because of list
15 or some other reason. How often does that occur on a typical -- if you were to say on a
16 percent basis, focusing specifically on the departures from Jacksonville to San Juan,
17 how often are there changes made after you've walked down to the ship with your
18 loading?

19 **WIT:** It's rarely probably 5 percent possibly. And in those cases, I would go back up --
20 he's aware of what's going on. I would go back up to the office with those changes,
21 update my CargoMax, then I would email him the corrected CargoMax numbers.

1 **Mr. Stettler:** How often are you notified after the vessel departs that there's a
2 difference or there's a discrepancy of some sort, if you were just to estimate on a
3 percent basis?

4 **WIT:** I think the only -- only thing I could recall was one time on the El Faro with Steve
5 Shultz, when he first started, I miscounted the number of containers in one of the holds.
6 I put in the correct tonnage, and rather than saying six containers in 2 Charlie, I left the
7 number five in there, but the tonnage was right. So that's -- that stuck out because that
8 was the first time I've actually been called on a southbound load that there was a
9 discrepancy.

10 **Mr. Stettler:** Thank you. In the cases of the 5 percent, I think you just said, the cases
11 when there is a change here at the last minute, do you always go back and change or
12 update your load case file or your calculation file --

13 **WIT:** Yes, sir.

14 **Mr. Stettler:** For emergency response or other reasons?

15 **WIT:** Well, normally what that is, is either we take the weight off or we have shifted a
16 container from three high from one side to another, a position like that, I will change that
17 in another case.

18 **Mr. Stettler:** So always?

19 **WIT:** Yes.

20 **Mr. Stettler:** I have no further questions, Captain.

21 **CAPT Neubauer:** Thank you, Dr. Stettler. Mr. Matthews, would you like to take a
22 break or would you like to keep going?

23 **WIT:** I'm fine.

1 **CAPT Neubauer:** Sir, I have some follow-on questions. Has the GM margin always
2 been 6 inches for the Ponce class vessels while you've been --

3 **WIT:** Yes, sir.

4 **CAPT Neubauer:** Working those vessels?

5 **WIT:** That's always been a target, let's put it that way. It's also always been where the
6 Captain has the final say and what -- they've never sailed -- they've never not sailed
7 with a GM margin of .50 or greater. And depending on the conditions, some captains
8 will be satisfied with a little less than that.

9 **CAPT Neubauer:** What's the lowest GM margin you can remember sailing with or that
10 the vessels sailed with?

11 **WIT:** I have one -- the lowest is probably -- it's either a .42 or a .44. That was Captain
12 Lofffield. He looked at his -- he looked at the conditions of the ship, he had looked at his
13 weather, he knew what his fuel burn-off was going to be, and his plan was they were
14 going southbound, and the GM margin would be reduced. He was going to add ballasts
15 to -- working ballast tanks to compensate for the -- the fuel burn-off, and so he would still
16 arrive in San Juan with plenty available positive GM.

17 **WIT:** Sir, does your office keep a written record or log of the offsets between CargoMax
18 and the actual list of the vessels? So, for instance, I believe you said there was a 2.5-
19 degree target offset for the El Faro and around 4 degrees for the El Yunque, is that
20 correct, sir?

21 **WIT:** Correct. And the only record of that is I have a Post-it note in my cubicle, so I
22 remember each -- there's no other written record of that.

1 **CAPT Neubauer:** Is it possible that Mr. Rodriguez did not know about the 2.5-degree
2 starboard offset for the El Faro prior to loading on the 29th of September?

3 **WIT:** Oh, we've discussed that. As I do my load cases on a twice-weekly basis, I'll often
4 discuss with Ronald just different things that are occurring just so he's -- so he has an
5 idea of what all's going on with the load cases. Different jobs we may have to resolve
6 during the day, or unique things, or a combination of things, and how we go about
7 handling them. So he's aware of the CargoMax load case, in order to have a level ship,
8 CargoMax would show about 2 and a half degrees starboard.

9 **CAPT Neubauer:** Yes, sir. Were you all aware of that --

10 **WIT:** Yes.

11 **CAPT Neubauer:** That before the accident voyage?

12 **WIT:** Yes.

13 **CAPT Neubauer:** I'd like to call up Exhibit 21. Lieutenant Commander Yemma, could
14 you go to the third page of 21.

15 **CAPT Neubauer:** Sir, this was the -- at 1509 on 29 September is a picture of the El
16 Faro that was taken by Mr. Rodriguez. Coast Guard engineers have calculated that the
17 list is approximately 4.3 degrees to starboard at this time. And I want to know, of your
18 opinion, have you ever seen a list at that magnitude while you've been loading a
19 vessel?

20 **WIT:** The list -- generally, if there's a list of 4 degrees or even 3 degrees, we start
21 getting radio calls from chief mate or one of the mates saying we need to handle this.
22 So if he did not get a call with that, I could not tell you why. Lists going back and forth,
23 these ships are tender. The list -- I'm surprised it's actually to the starboard, not the fact

1 that there was a list. The list could go either way. Normally, the way the boat shifts, the
2 list would be to the port, because that's how the cranes come across. Two or three
3 cranes work at the same time, and they're on the same side, they get more weight on
4 the port side, because they generally try to work port to starboard. It just helps land the
5 container better. If we do see that happening, we'll get ahold of the port of stevedores
6 and say, we need to start putting weight on the starboard side. Ronald took this picture
7 of what is going to be not so much that the ship was at this list, but it was where the ro-
8 ro ramp that has the structure -- that holds the tires under to hang down it. If the tide
9 gets low and the ship comes down too far go on the starboard side, it may end up
10 damaging the ramp. The picture was more to get the starboard list off of the ship to
11 protect the ramp without any concern -- I don't know if that's the right word -- of
12 something gone askew with the vessel.

13 **CAPT Neubauer:** Are you aware --

14 **WIT:** At 4 degrees, if that really was, I would be surprised if the Chief Mate wasn't
15 calling saying something was -- something needed to be fixed real quick.

16 **CAPT Neubauer:** Are you aware of any written maximum lists that the vessel can incur
17 while loading? Is there anything written down about it?

18 **WIT:** There was a letter that came out several years ago. I forget -- I think it may have
19 gone to Herbert Engineering, I am not sure, saying the ship should never sail with more
20 than 2 degree list either way, and in ports should never -- I think it was 4, could've been
21 5 degrees, while in port.

22 **CAPT Neubauer:** Have you ever seen a starboard list of this degree in your
23 experience?

1 **WIT:** I honestly don't remember. It's -- nothing that I took note of that I thought was out
2 of the ordinary. If I see something that's out of the ordinary, if it was me, if I would've
3 thought that was unsafe, I would call the stevedores and either tell them to stop what
4 they're doing, and then we would figure out a plan and how to fix it.

5 **CAPT Neubauer:** Sir, did you ever have to adjust loading to accommodate the open
6 lanes for work being conducted on the vessel and how you -- I refer specifically in this
7 case to, like, the Polish riding gang or anybody else who could've been riding.

8 **WIT:** Occasionally -- and for them I don't recall specifically the days -- in the last few
9 voyages, I knew there was a Polish riding gang doing work. Don't keep a written record
10 of it, but if we had been instructed to keep some lanes open for them so they could
11 move, like, a man lift up and down to do things like that, we would certainly do that.
12 And that would be, of course, on the second deck, ro-ro, those lanes would be left open.
13 The engineers started working with us to minimize that for sailing, so we may be only
14 talking a lane with a 40-, 45-foot container lane, maybe two containers or three
15 containers on one side or the other. At the end of the day, when we're done loading, it
16 wouldn't make any difference in the safe condition of the ship. We might just be a little
17 lighter on cargo.

18 **CAPT Neubauer:** It didn't impede your loading operations at all?

19 **WIT:** I wouldn't say don't impede, it wouldn't prevent. The stevedores that we had to
20 leave lanes open, they would have to work around that requirement, that they would go
21 do what they had to do at the end of the day. It would be how it had to be.

22 **CAPT Neubauer:** Was there ever any gear from those -- for the extra work being done
23 that was -- that you noticed that got in the way of the loading operations?

1 **WIT:** In the way, no. To be honest with you, no. With what I do, I'm not on the ship all
2 the time, most of the time. When I'm on the ship walking it -- and I don't always go on
3 the ro-ro decks, so -- no.

4 **CAPT Neubauer:** Mr. Fawcett, do you have any questions?

5 **Mr. Fawcett:** No, sir, Captain.

6 **CAPT Neubauer:** Commander Denning, do you have any questions?

7 **CDR Denning:** I do. Mr. Matthews, your testimony so far has been very specific and
8 very thorough. And you described a number of duties that you do when the vessels are
9 in port. How do you feel, having worked with Mr. Rodriguez, as far as his
10 thoroughness? Is he as equally qualified as you are to perform those functions?

11 **WIT:** I believe he's far more experienced and knowledgeable than was communicated
12 during his testimony.

13 **CDR Denning:** Do you think his level of qualification equals your own?

14 **WIT:** Yes, it -- when he does cover for me, yes, I have no qualms. I don't worry about it
15 when I'm gone.

16 **CDR Denning:** So I'll ask you some of the similar questions that I asked him. Do you
17 receive or have you received formal documented training on stability particularly?

18 **WIT:** No, I did not. When I joined the marine operations department, there was a
19 department of five, three of the other individuals are very experienced in CargoMax.
20 They're the ones that trained me. For the first few months when I was doing it, they
21 would be there looking over my shoulder. I would ask them questions whenever I saw
22 anything. I certainly wasn't just turned loose with it. The captains very often made a
23 point to come through the office and look over my shoulder to see what I was doing to

1 build that level of trust that we have. You know, in my role, I'm an adviser to them, and
2 they have to be at a point where they can trust me. So those first few months, and,
3 actually the first year or so, various captains on the ship would come through, and they
4 knew what I was doing. They would -- they would also come in and talk with the other
5 marine operations personnel that they had known for years and just -- they keep track of
6 me. At the end of the day, when the Chief Mate goes up in the office with a load case,
7 they go through it. So it's -- yeah, they're checking. They were checking on me.

8 **CDR Denning:** So as Captain Neubauer mentioned, the riding gangs on board that
9 were doing some work to modify the vessel to prepare it for the Alaskan trade, that work
10 involved some weight changes. Were there ever any weight changes addressed to
11 CargoMax that you're aware of?

12 **WIT:** No.

13 **CDR Denning:** If there were to be -- if that was to happen, what would be the process?

14 **WIT:** If there are significant weight changes, we'd have to identify those weight
15 changes. We'd have to go through the Port Engineers. The Port Engineers would
16 submit that to, I believe, Herbert Engineering. Herbert Engineering would have to revise
17 the CargoMax. CargoMax would go to ABS for approval, review and approval. They
18 would go back to Herbert Engineering as approved and then send it to us. That's how I
19 would understand the process to be.

20 **CDR Denning:** Thank you. I have no further questions.

21 **Mr. Fawcett:** Captain, I have a little follow up.

22 **CAPT Neubauer:** Mr. Fawcett.

23 **Mr. Fawcett:** Yes, sir. Good day, sir.

1 **WIT:** Sir.

2 **Mr. Fawcett:** Do you routinely get automatic weather updates from Applied Weather
3 Technology which indicate a graphic position of hurricanes, storms, along with pressure,
4 position, radiuses and so forth?

5 **WIT:** What I get from Applied Weather Technology is if there is a tropical system out
6 there someplace, I'll get an email in the morning with a graphic showing approximately
7 where it is and projected track. Further -- other than that, I don't recall exactly what all
8 information.

9 **Mr. Fawcett:** Did you get -- say again, sir.

10 **WIT:** I don't recall what other information is relayed with that one photo -- actually, the
11 diagram that I received.

12 **Mr. Fawcett:** Did you receive them for Danny?

13 **WIT:** I've been receiving those for the last several years. I could not tell you a specific
14 storm that I -- I couldn't tell you for a specific storm. If Applied Weather Technology sent
15 it out since I've had that -- been on that email distribution list for them, I would've got it.

16 **Mr. Fawcett:** Okay. Do you take a look at those in the course of your business
17 activities?

18 **WIT:** Yes.

19 **Mr. Fawcett:** And just to be sure, do they have a graphic chart that shows the position
20 of storms along with the predicted path, intensity, graphic position?

21 **WIT:** Generally speaking, yes.

22 **Mr. Fawcett:** Do you recall if you ever got any from Joaquin?

1 **WIT:** Joaquin, I probably did. That Wednesday morning, you know, I was on vacation
2 up in South Carolina, so I would've got it. But from what I saw Wednesday morning, it
3 obviously made no significant impact on me.

4 **Mr. Fawcett:** So when did you return to work?

5 **WIT:** The following Monday. So that would've been about October 4th or 5th, whatever
6 the Monday was after the incident.

7 **Mr. Fawcett:** Does your relief have access to the same weather monitoring
8 information?

9 **WIT:** I do not know if he did at that time or not. He does now, but I don't know if he did
10 then.

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

12 **CAPT Neubauer:** Sir, I just have one question before I pass to the NTSB.

13 Yesterday Mr. Callaway testified that on occasion he had noticed that Holds 2 Echo and
14 2 Foxtrot were left somewhat cleared for heavy weather. Are you familiar with that
15 process?

16 **WIT:** They were left somewhat clear or unclear?

17 **CAPT Neubauer:** Yeah, they would be left clear to avoid the storm damage because of
18 wave action in that area.

19 **WIT:** Oh, in 2E and 2F, there were several openings along the side on the second deck
20 of what we call the bowling alley. That's the starboard wing and the port wing. Waves
21 will come through there. In the past we've learned, through experience, that if
22 something is there, let's say of relatively fragile nature like an office trailer is by those
23 openings, a wave will slam through there and destroy the office trailer. Leaving the

1 lashing in place with the framing of the office trailer, and this was a specific case, a side
2 wall of the office trailer was blown in by the wave, the lashing gear will stay the same.
3 But in order to avoid damage to cargo, we would either put things here that could not be
4 damaged by the wave action or just leave them void completely.

5 **CAPT Neubauer:** Was that the practice that you were aware of all the way up until the
6 accident voyage?

7 **WIT:** Generally. If we had -- if we had had -- recently suspected that heavy weather
8 was going to be an issue, we would do that. Often, the captains or chief mates would be
9 the ones that would tell us, say we need to -- something's brewing out there, we need to
10 leave -- don't put new cars there, don't -- you know, just be careful what you put there,
11 because we do suspect some wave action coming in back there.

12 **CAPT Neubauer:** How about leaving that area clear of cargo? Have you seen that
13 within the last year?

14 **WIT:** I don't recall.

15 **CAPT Neubauer:** Yes, sir. I understand. Mr. Roth-Roffy, do you have any questions?

16 **Mr. Roth-Roffy:** Not at this time.

17 **CAPT Neubauer:** Mr. Kucharski?

18 **Mr. Kucharski:** Thank you, Captain. Good afternoon, Mr. Matthews.

19 **WIT:** Hello.

20 **Mr. Kucharski:** To finish up on the BVS or the Applied Weather Technology's weather
21 information, were you responsible for getting the subscription renewed for the El Faro?

22 **WIT:** When Carl Hausheer, I believe is his name, the sales guy, came through several
23 years ago, we looked at -- and I don't remember who all "we" was -- at the Applied

1 Weather Technology. We got that program for the ships from BVS -- or the BVS from
2 Applied Weather Technology. It was put on the ships sailing at the time. I don't know if
3 it was just the El Yunque or the El Morro. I know eventually, when the El Faro came
4 back into service, it was also supplied that. We got that with the Captain's review, and
5 all the responses from all the captains, the -- they really liked the program, so we kept it.

6 **Mr. Kucharski:** Did you have any discussions with any of the masters to get the
7 weather routing service that BVS offered?

8 **WIT:** No. And I did know they offered that program. Between Jacksonville and San
9 Juan, there's really only three routes that the captains normally take. One is this direct
10 route. The other's they go through the Grand Bahama Channel, or they'll go down --
11 start that way and cut through the Providence Channel through the Bahamas and go
12 down through San Juan. Those are the three basic courses that I know that they've
13 taken, and they -- depending on the weather and what kinds of seas and winds they're
14 going to experience, they will adjust their route accordingly and let us know what they're
15 going to do. If there was another route that they were going to take, I would not know
16 what it is, other than just whatever they figured out.

17 **Mr. Kucharski:** Just out of curiosity, does Tote Maritime services have their own
18 Safety Management System or ISO 9001 certification?

19 **Tote Inc:** Could you repeat the company you're asking about?

20 **Mr. Kucharski:** Tote marine Puerto Rico, sorry.

21 **WIT:** Tote Maritime?

22 **Mr. Kucharski:** Tote Maritime.

23 **WIT:** I am unaware of Tote Maritime having that.

1 **Mr. Kucharski:** Did you work with the Safety Management System from Tote Services
2 Inc.?

3 **WIT:** No, I do not.

4 **Mr. Kucharski:** When you were -- I believe you worked for Sea Star before you worked
5 --

6 **WIT:** Yes, sir.

7 **Mr. Kucharski:** Was your title -- part of your title the Port Captain?

8 **WIT:** No. Port Captain was actually a promotion -- when I was in the marine operations
9 department here, I was initially hired as a marine operations coordinator, I believe, and
10 marine supervisor -- changed the job title to marine operations supervisor and changed
11 to port captain -- title to Port Captain. And now it's changed to marine operations
12 manager. In all those positions I'm essentially doing the same thing.

13 **Mr. Kucharski:** You did the same thing in all the positions?

14 **WIT:** Correct.

15 **Mr. Kucharski:** Were you involved at all with the repairs to the fixed securing devices
16 on the ship, the D-rings, buttons?

17 **WIT:** I am involved in that process as in I procure the lashing gear that's needed to
18 repair those items. We have a vendor in town that's about four miles from us where we
19 can acquire that rather quickly. So when there's a need for any big securing devices
20 that's identified by either the chief mate, generally, the chief mate will tell me what he
21 needs or what they need, or what they would like to have on board just as spares, they
22 will let me know. If we don't have it -- if I don't have it already on the terminal, then I
23 would get it and provide it to them.

1 **Mr. Kucharski:** Did -- do you know who actually did the repairs on board the vessel?

2 **WIT:** In a lot of cases, if it was welding, the engineers would do that. In the case --
3 mostly it was D-rings or roloc buttons, and occasionally maybe a deck socket up on the
4 main deck, but as far as I know, it's the engineers.

5 **Mr. Kucharski:** So I think you stated the procurement of the materials for them to do
6 the repairs, that's what you --

7 **WIT:** Correct.

8 **Mr. Kucharski:** Would you look at Exhibit 40, the -- it's the cargo securing manual for
9 the El Faro.

10 **WIT:** Okay.

11 **Mr. Kucharski:** Have you seen this manual before?

12 **WIT:** Yes.

13 **Mr. Kucharski:** Is this the manual for cargo securing that you use for the El Faro?

14 **WIT:** Looks correct, yes.

15 **Mr. Kucharski:** Would you look at Page 18, please? It's called Log for Maintenance of
16 Cargo Security Equipment. Have you ever seen that form before?

17 **WIT:** Not outside of this book, no.

18 **Mr. Kucharski:** Are you aware if the -- in your experience on the Tote ships, if they
19 ever double-lashed the container stacks?

20 **WIT:** We never have, at least not since April of 2008.

21 **Mr. Kucharski:** And with your vast experience in this operation, would you say that,
22 with the normal lashing gang for the containers, that they would be able to handle
23 double lashings if it was ordered?

1 **WIT:** Yes, they could. In fact, they're doing that on the Marlins, the new vessels that we
2 have now.

3 **Mr. Kucharski:** The double lashing on there?

4 **WIT:** Yes.

5 **Mr. Kucharski:** Would you please look at Exhibit 69, which is the final stow plan for the
6 El Faro. Please look at Page 6.

7 **WIT:** Okay.

8 **Tote Inc:** Is this Load Bay 8?

9 **Mr. Kucharski:** Correct, yes. Load Bay 008OD, it says. Can you tell me if that's a
10 homogeneous or stratified stack?

11 **WIT:** It's definitely not homogeneous, so it would be stratified.

12 **Mr. Kucharski:** Stratified. Okay. Thank you. Would you please look at Exhibit 42?

13 **WIT:** Okay.

14 **Mr. Kucharski:** And is this the manual that was used on the El Faro?

15 **Tote Inc:** Tell us which page you're looking at.

16 **Mr. Kucharski:** Just the manual in itself, if you will. Take your time to study it, please.
17 This question came up earlier, and –

18 **Tote Inc:** Page 1 is the general arrangement plan.

19 **Mr. Kucharski:** I'm sorry?

20 **Tote Inc:** Which page are we looking at?

21 **Mr. Kucharski:** Just look at the manual in general, but I'll pull up the page. And just so
22 you're aware, it says the Tote Lashing Manual. Can you, in your experience, tell us if

1 this is the lashing manual, when it says Tote lashing manual that was used for the
2 stevedore?

3 **WIT:** This is the cargo securing manual for the El Morro and the El Yunque. It is not
4 the cargo securing manual for the El Faro, although it would be similar.

5 **Mr. Kucharski:** They'd be similar? Okay. Were you -- are you aware of any differences
6 between the two?

7 **WIT:** Without having to check page by page, no.

8 **Mr. Kucharski:** Does Tote Maritime services Puerto Rico, Jacksonville office have a
9 copy of the El Faro's?

10 **WIT:** I have one --

11 **Tote Inc:** Could you clarify the company name again, please?

12 **Mr. Kucharski:** Tote Maritime Puerto Rico --

13 **WIT:** Yes, I have --

14 **Mr. Kucharski:** Jacksonville office, the office that you work in.

15 **WIT:** I have one. It's in my car right now.

16 **Mr. Kucharski:** So you do have one for the El Faro?

17 **WIT:** Yes.

18 **Mr. Kucharski:** If I were looking at a Portus time sheet, do you know what the
19 abbreviation UGT means?

20 **WIT:** UGT, that's -- that's Greenwich Mean Time difference, I believe.

21 **Mr. Kucharski:** I'm sorry. UGT?

1 **WIT:** Oh, UGT. It has to do with our guaranteed time -- guaranteed time. I am not, in
2 my role as marine operations, I really am unfamiliar with their -- with the Portus
3 personnel forms and hours.

4 **Mr. Kucharski:** Does it vary on what is the closeout operation, ro-ro or lo-lo, for each
5 call? Does it vary which is the last one?

6 **WIT:** Generally, ro-ro will be done an hour before sailing, and that's because we keep
7 the plant powered down during cargo operations with the ramp on. So once the ramp
8 comes off, they'll bring the plant up to where it could be ready to -- the ship could sail.
9 The cranes will work right up until departure. So, generally, ro-ro will be done before lo-
10 lo.

11 **Mr. Kucharski:** Are the lashers knocked off, or do they stand by from when the Ro-Ro
12 operation stops?

13 **WIT:** The lashers -- the ro-ro lashers -- although the ramp may be off, the ro-ro lashers
14 will stay on until everything is lashed properly to the satisfaction of the Chief Mate.

15 **Mr. Kucharski:** If the ramp is loaded, they come off in a separate gangway, or
16 something like that?

17 **WIT:** They'll go up the -- they'll climb up and go down the gangway.

18 **Mr. Kucharski:** And the -- so the lo-lo is generally -- the container operation is usually
19 the last operation?

20 **WIT:** Correct.

21 **Mr. Kucharski:** And all the lashers will remain aboard until that time, or they stay until
22 knocked off?

23 **WIT:** They'll stay until they're done doing their job.

1 **Mr. Kucharski:** Earlier you were talking about a wave and a trailer being damaged; is
2 that correct?

3 **WIT:** Correct.

4 **Mr. Kucharski:** Was that a -- was that cargo?

5 **WIT:** Yes.

6 **Mr. Kucharski:** So besides that one instance, are you aware of other instances where
7 cargo has been damaged on board the ship or lashes have been broken from wave
8 action or action of the vessel?

9 **WIT:** Early 2009 -- or late 2008, early 2009, and I don't know which vessel, at one time
10 -- this was soon after I came into the marine operations department -- up in one of the
11 vessels in two-A, there was a chassis that had a bundle of flat racks stowed on it due to
12 the action, I believe just -- they may have encountered something more than they
13 thought they were going to. It was during the wintertime. That flat rack -- that chassis
14 flat rack evidently broke free from its lashings and tipped over, landing on another
15 bundle of flat racks. No damage was done to the ship, but at that time the marine
16 operations department had determined that it might be best to -- or would be best to
17 heavy-weather lash Holds 2A and 3A ro-ro and down to two outboard cells or two
18 outboard wing cells, second deck and third deck, at all times, just because it's a -- it's --
19 up in 2A, the front of the ship gets the most movement. That would -- it would just be the
20 prudent thing to do. So since that time, probably, I'm thinking, late 2008, early 2009,
21 we've done heavy weather lashing on the ro-ro decks in 2A and 2B -- 2A and 3A, sorry,
22 and the two outboard cells going down port and starboard side has been conducted.

1 **Mr. Kucharski:** And does that heavy weather lashing in 2A and 3A, is that in the holds,
2 or is it second deck, tween deck, and then --

3 **WIT:** 2A is the fore hold of the second deck and the fore hold in the third deck.

4 **Mr. Kucharski:** So when you say "the hold," is it just the lowest deck, or is it all three
5 layers?

6 **WIT:** It's two layers. 4A -- on those ships, so you had two fructose tanks in 4A and no
7 other cargo. So there wasn't anything there to do anything different with.

8 **Mr. Kucharski:** Are you aware of any plan or diagram which has the locations for all
9 the fixed cargo security devices on the El Faro, such as buttons, D-rings, pad eyes,
10 clover leaves? Are you aware of any diagram that shows all those?

11 **WIT:** It's in the cargo securing manual.

12 **Mr. Kucharski:** Can you point that to us, please?

13 **WIT:** Start on page -- Appendix 40, start on Page 75.

14 **Mr. Kucharski:** Okay. And Page 75 on the cargo securing manual, the document I'm
15 looking at says C Hold, fourth tank deck top?

16 **WIT:** Exhibit 40?

17 **Mr. Kucharski:** Exhibit 40.

18 **WIT:** I may have misspoke. Exhibit 40, Page 75.

19 **Mr. Kucharski:** And you said Page 75?

20 **WIT:** Correct.

21 **Mr. Kucharski:** Okay. Page 75, I show at the top -- and this is Exhibit 40 -- at the top it
22 says ro-ro Section Deck Plans? Is that the one?

23 **WIT:** Yes.

1 **Mr. Kucharski:** Okay. So the button locations stow by stow, it shows throughout the
2 ship on that somewhere?

3 **WIT:** Yes. If you go through the pages, that's where the button --

4 **Mr. Kucharski:** If we look at Page 76, the following page --

5 **WIT:** Yes.

6 **Mr. Kucharski:** Okay. And if we look at the -- we're looking at, if you will, a view of -- it
7 says A Hold, and so the button locations on there would be where for the trailers?

8 **WIT:** That would be the crosses.

9 **Mr. Kucharski:** Crosses, great. And how about the D-ring locations? Looks like a plus
10 sign? Is that what you --

11 **WIT:** Yes, yes.

12 **Mr. Kucharski:** Great. And where would the D-rings be?

13 **WIT:** The D-rings do not appear to be marked from the -- the buttons.

14 **Mr. Kucharski:** They're not marked?

15 **WIT:** Correct.

16 **Mr. Kucharski:** Okay. And is there -- does the plan also indicate the clover leafs, if you
17 will, on the third deck?

18 **WIT:** It does not appear to, just the roloc buttons.

19 **Mr. Kucharski:** Okay. So the -- and is this the only plan or diagram that you're aware
20 of that shows any of the fixed --

21 **WIT:** Yes, sir.

22 **Mr. Kucharski:** And so it would just be the buttons that are depicted there?

1 **WIT:** Right. For the cargo -- cargo securing manual, what I -- what I would use. I do not
2 know if they appear anywhere else on the other diagrams.

3 **Mr. Kucharski:** After the El Faro sinking, did you receive any CargoMax training?

4 **WIT:** We -- for the new vessels, there's a new CargoMax version that Nick Walker from
5 Herbert Engineering came out to work with the new program.

6 **Mr. Kucharski:** Those are all my questions. Thank you. Those were very helpful on
7 the buttons. Thank you.

8 **CAPT Neubauer:** Mr. Roth-Roffy, did you have any questions?

9 **Mr. Roth-Roffy:** No, sir, not at this time.

10 **CAPT Neubauer:** Does Tote have any questions?

11 **Tote Inc:** Can we have a moment to confer?

12 **CAPT Neubauer:** Yes, sir. Would you like to take a five-minute recess?

13 **Tote Inc:** Sure.

14 **CAPT Neubauer:** The hearing is now in recess. We'll reconvene at 5:45.

15 *The hearing recessed at 1739, 20 February 2016*

16 *The hearing was called to order at 1748, 20 February 2016*

17 **CAPT Neubauer:** The hearing is now back in session. Tote, do you have any
18 questions?

19 **Tote Inc:** No questions, Captain.

20 **CAPT Neubauer:** Mr. Kucharski, do you have any questions?

21 **Mr. Kucharski:** I do. Mr. Matthews, just a couple quick follow on questions. Were you
22 aware any -- of any increase in the GM margins or anything that was asked for for
23 heavy weather over the .5 foot, 6 inches?

1 **WIT:** No.

2 **Mr. Kucharski:** So there was never any discussion in your seven and a half years
3 there about increasing that margin?

4 **WIT:** To increase the GM margin to above 5.0? None whatsoever.

5 **Mr. Kucharski:** Well, .50?

6 **WIT:** .50, correct, yeah. None whatsoever.

7 **Mr. Kucharski:** Earlier on, when we were looking at the picture of the list, you made a
8 statement that said -- where you said, "these are tender ships." What did you mean by
9 that?

10 **WIT:** By "tender," that means when we do get -- they are fully laden. A little bit of weight
11 shift can cause some movement in the ship one side or the other, they have a longer
12 roll period if they were at sea. Conversely, if they're real stiff, they get a snap roll to
13 them, to where, if they whip back and forth, they have a real short roll period. Tender
14 just means they're sensitive -- when they're fully laden, they have to move one 30-ton
15 tank that's forward on Bay 7 from the port side to the starboard side that would pull it
16 over a degree. So we just have to -- we have to know what we're doing in order to make
17 sure the ship departs level without adjusting the -- ballast, taking any water-- adjusting
18 the ramp tanks to compensate for the list.

19 **Mr. Kucharski:** Did that matter what state of the load you were in towards the end, or if
20 it was earlier? Did it matter when you said it was tender?

21 **WIT:** No more for what I look at and how it -- how I would consider it, it's more towards
22 the end when we're finishing cargo operations, because we like to sail with a zero-
23 degree list. And so if we're looking at -- if we can make a few tweaks in the plant, if that

1 time allows, we'll make a tweak in the plan to make it level. There is a -- the ramp tanks
2 that are on the El Faro, they could easily compensate for about a degree of list, but the -
3 - shift from one side to the other, but if I get too, you know, level with the cargo, that's
4 just that much less work for the crew to do.

5 **Mr. Kucharski:** I just want to understand. So it was more tender towards the end of the
6 load than it was at --

7 **WIT:** Correct. That's what -- I would be down there and notice it, during the cargo
8 operations, if it's ongoing with the cranes working back and forth and all the weight
9 going on and off, there's naturally going to be some movement of the vessel. It's at the
10 end of the day when I'm down there where I really pay close attention to it to just -- just
11 to get it as level as possible at the end of the day with cargo and not have to
12 compensate without moving water in the ramp tanks. There was no concern that it was
13 tender, it was just the nature of the vessel.

14 **Mr. Kucharski:** Did you have any experience loading out these vessels when they
15 were pure ro-ro?

16 **WIT:** No, sir, I did not.

17 **Mr. Kucharski:** Do you have any other experience with other ro-ro type vessels or
18 container vessels loading them?

19 **WIT:** On the ro-ro vessels that I worked in the early '80s, the *Comet*, the *Meteor*, and I
20 believe the *American Eagle*, we did. I was more on the cargo operations side of the
21 house to get them loaded properly and ...

22 **Mr. Kucharski:** Okay. Thank you very much for your answers.

23 **CAPT Neubauer:** Does Tote have any questions at this time?

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

2 **CAPT Neubauer:** Does ABS have any questions at this time?

3 **ABS:** No questions.

4 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

5 **Ms. Davidson:** No questions.

6 **CAPT Neubauer:** Does HEC have any questions?

7 **HEC:** Yes, I have a few questions. Good afternoon.

8 **WIT:** Hello.

9 **HEC:** Just a few questions to follow up on one particular item. You talked about reading
10 the observed drafts right at the point of -- before departure to check if you're -- you said
11 you're down in your marks. And is it your understanding that that's the criteria for
12 determining if a vessel is overloaded or loaded?

13 **WIT:** Correct.

14 **HEC:** Loaded is whether the plimsoll mark, essentially, or draft marks at sea is on the
15 load line. So you take the observed draft readings, you make correction for the salinity
16 of fresh water, adjust to it to where -- to a seawater density, and check that against the
17 system load line that you mentioned, the system-load line value of 30 feet and 3/8th's, I
18 think.

19 **WIT:** Right, we take those drafts -- we take the midship average drafts with the
20 immersion table. We would determine what the depth of the midships could be and
21 made sure we were always not exceeding that mark.

22 **HEC:** Is it your understanding that the available deadweight that shows up in
23 CargoMax is related to that midship draft, the plimsoll mark draft?

1 **WIT:** It should be close. With the nature of what we do, it was never an exact.

2 **HEC:** But in terms of what that means, the available deadweight --

3 **WIT:** Yes.

4 **HEC:** Is calculated in CargoMax is related to that plimsoll mark draft.

5 **WIT:** Correct.

6 **HEC:** Rather than a measurement of difference between some nominal full-load
7 displacement value?

8 **WIT:** Correct.

9 **HEC:** Okay. Just by recollection, when you took the observed drafts and compared
10 them to the plimsoll mark, in your recollection of a normal full load, how far away were
11 you from the plimsoll mark?

12 **WIT:** That would depend on the salinity. The plimsoll is always -- we could always see
13 it.

14 **HEC:** Right.

15 **WIT:** As to whether the plimsoll would be slightly submerged due to the salinity, I really
16 don't recall. It could've been slightly, but never more than what was allowed.

17 **HEC:** Right. So do you remember what the normals -- the adjustment in draft for the
18 salinity would be?

19 **WIT:** Well, it would depend on the salinity. We have a chart that goes from 1.000 to
20 1.025, starts at 32 and 3/8ths, and then it's -- in appropriate increments,
21 I believe, in pure, fresh water, can get down to 30 feet, 9 and a half inches, or
22 somewhere close to that

23 **HEC:** That's almost seven inches.

1 **WIT:** Seven inches, correct.

2 **HEC:** For an adjustment?

3 **WIT:** Yes.

4 **HEC:** So when you actually looked at the drafts, even in fresh water, the plimsoll mark
5 may have been --

6 **WIT:** It could be slightly submerged, yes.

7 **HEC:** Slightly submerged. And you mentioned also that the vessel had hog in normal
8 situation?

9 **WIT:** Correct.

10 **HEC:** Is that correct? Okay. So that also probably would affect the calculated draft at
11 the freeboard location or the midship location --

12 **WIT:** Correct.

13 **HEC:** and the observed. Okay. Thanks. We talked just a minute ago about that Exhibit
14 21, I think, showed the list at the dock -- excuse me, the list at starboard and just to
15 clarify, that showed, as informed, maybe about 4 and a half degree list of starboard
16 towards the container cranes going towards the pier, but that's not of any concern for
17 the at-sea condition, the sailing condition.

18 **WIT:** Correct.

19 **Q** It was -- my understanding -- or correct me if it's your understanding -- is that that's a
20 concern for loading operations, cargo operations, cargo gear, impact at the pier,
21 container may impact side of the ship, landing containers, those kinds of things are
22 impacted that list in port, but not the sailing stability.

23 **WIT:** That is correct, yes.

1 **HEC:** I think that's all the questions I had, thanks.

2 **CAPT Neubauer:** Are there any final questions for Mr. Matthews?

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

4 **ABS:** No, sir.

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

6 **CAPT Neubauer:** Mr. Matthews, I would like to obtain a copy of the SOP that you
7 testified about that contains the GM margins. Are you familiar with which SOP I'm
8 requesting, sir?

9 **Tote Inc:** We can provide that.

10 **CAPT Neubauer:** Thank you, Mr. King. Mr. Matthews, we are now complete with your
11 testimony for today. However, I anticipate that you may be recalled to provide additional
12 testimony at a later date. Therefore, I am not releasing you from your testimony at this
13 time, and you remain under oath. Please do not discuss your testimony or this case
14 with anyone other than your counsel, National Transportation Safety Board, or members
15 of this Coast Guard Marine Board Investigation. If you have any questions about this,
16 you may contact my legal adviser, Commander Jeff Bray. Sir, thank you for your
17 testimony. At this time, do the parties in interest have any concerns with Mr. Matthews'
18 testimony?

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

20 **ABS:** No, sir.

21 **HEC:** No, sir.

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

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 **CAPT Neubauer:** I have one announcement to make. Ms. Alyse Lisk, who was
2 scheduled to testify this afternoon, Tote Maritime Puerto Rico, will not testify during this
3 initial session of hearings, and we may reconsider her for the next hearing session.
4 This hearing is adjourned and will reconvene at 9:00 a.m. on February 22nd.

5 *The hearing adjourned at 1758, 20 February 2016.*