

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

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

2 Jacksonville, Florida held

3 16 February 2016

4 Volume 1

5 **CAPT Neubauer:** The hearing is now in session. Good morning ladies and gentlemen.

6 I'm Captain Jason Neubauer, United States Coast Guard, Chief of the Coast Guard

7 Investigations and analysis, Washington D.C. I'm the Chairman of the Coast Guard

8 Marine Board of Investigation and the presiding officer over these proceedings. The

9 Commandant of the Coast Guard has convened this board under the authority of Title

10 46, United States Code, Section 6301 and Title 46 Code of Federal Regulations Part IV

11 to investigate the circumstances surrounding the sinking of the SS El Faro with the loss

12 of 33 lives on October 1st, 2015 while transiting East of the Bahamas. I would like to

13 take this opportunity to express my condolences to the family and friends of the 33 crew

14 members who were lost at sea. I note that many of you are attending today's session

15 and more are watching on the live web stream. And we appreciate you being here

16 joining us. Other than myself, the members of this board include Commander Matt

17 Denning and Mr. Keith Fawcett. The legal counsel to this board is Commander Jeff

18 Bray. The Recorder is Lieutenant Commander Damian Yemma. Coast Guard

19 Technical Advisors to this board are Commander Mike Odom, Lieutenant Commander

20 Mike Venturella and Doctor Jeff Stettler. This board's media liaison is Ms. Alana

21 Ingram.

22 Upon completion of the investigation this marine board will submit its report of

23 findings, conclusions and recommendations to the Commandant of the United States

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1 Coast Guard. The National Transportation Safety Board (NTSB) is participating in this
2 hearing. Mr. Thomas Roth-Roffy, Investigator in Charge for the NTSB's El Faro
3 investigation is seated to my left. I would like to request the cooperation of all persons
4 present to minimize any disruptive influence on the proceedings in general and on the
5 witnesses in particular. Please also try to minimize entering or exiting the room during
6 witness testimony. Witnesses are appearing before the board to provide valuable
7 information that will assist this investigation. We request that all members of the public
8 be courteous to the witnesses and respect their right to privacy. I ask that you silence
9 cell phones at this time and please exit the hearing room to make or receive phone
10 calls. The members of the press are welcome, and an area has been set aside for your
11 use during the proceedings. The news media may question witnesses concerning their
12 testimony they have given after I have released them from these proceedings. I ask
13 that any such interviews be conducted outside the room. The investigation will
14 determine as closely as possible the factors that contributed to the incident so that
15 proper recommendations for the prevention of similar casualties may be made.
16 Whether there is evidence that any act of misconduct, inattention to duty, negligence or
17 willful violation of the law on the part of any licensed and credentialed person
18 contributed to this casualty and whether there is evidence that any Coast Guard
19 personnel or any representative or employee of any other Government agency or any
20 other person caused or contributed to the casualty. These hearings are planned for at
21 least two sessions. The first session will focus on the pre-accident historical events
22 relating to the loss of the SS El Faro and 33 crew members. The hearing will explore
23 the regulatory compliance record of the El Faro, oversight of regulatory compliance,

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1 crew member duties and qualifications, shore side operations, third party servicing of
2 critical ship's equipment and the operations of the vessel from the past, up to and
3 including the accident voyage. The hearing will also include a review of the U.S. Coast
4 Guard search and rescue (SAR), activities related to the response phase of the accident
5 after notification that the El Faro was missing. Subsequent hearing sessions will focus
6 on the final voyage of the SS El Faro including technical aspects related to vessel
7 stability and weather related factors such as forecast and storm effects.

8 The Coast Guard has designated parties in interest into this investigation. In
9 Coast Guard Marine casualty investigations a party in interest is an individual,
10 organization or other entity that under the existing evidence, or because of his or her
11 position may have been responsible for or contributed to the casualty. A party in
12 interest may also be an individual, organization or other entity having a direct interest in
13 the investigation in demonstrating the potential for contributing significantly to the
14 completeness of the investigation or otherwise enhancing the safety of life and property
15 at sea through participation as party in interest. All parties in interest have a statutory
16 right to employ counsel to represent them, to cross-examine witnesses and have
17 witnesses called on their behalf. Witnesses who are not designated as parties in
18 interest may be assisted by counsel for the purpose of advising them concerning their
19 rights. However, such counsel are not permitted to examine or cross-examine other
20 witnesses or otherwise participate in the investigation. I will now read the list of those
21 organizations and individuals whom I've previously designated as parties in interest.
22 After I read the name of each organization or individual I ask that lead counsel
23 announce their appearance on behalf of their client. Tote, Incorporated.

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1 **Tote Inc:** Luke Reid of K&L Gates on behalf Tote.

2 **CAPT Neubauer:** ABS.

3 **ABS:** Good morning, Gerry White, Hill Rivkins, LLP on behalf of American Bureau of
4 Shipping.

5 **CAPT Neubauer:** Herbert Engineering Corporation.

6 **HEC:** Spencer Schilling, Herbert Engineering.

7 **CAPT Neubauer:** Mrs. Teresa Davidson, as next of Kin for Captain Michael Davidson,
8 Master of the SS El Faro.

9 **Ms. Davidson:** William Bennett, Blank Rome on behalf of Ms. Teresa Davidson.

10 **CAPT Neubauer:** The marine board will place all witnesses under oath. When
11 testifying under oath, a witness is subject to the Federal Laws and penalties for perjury
12 for making false statements under Title 18, United States Code, Section 1001.

13 Penalties include, could include a fine of up to \$250,000 or imprisonment up to five
14 years or both. The sources of information to which this investigation will inquire are
15 many and varied. Since the date of the casualty the NTSB and Coast Guard have
16 conducted substantial evidence collection activities. And some of that previously
17 collected evidence will be considered during these hearings. Should any person have
18 or believe he or she has information not brought forth, but which might be of direct
19 significance that person is urged to bring that information to my attention by emailing
20 ELFARO@uscg.mil. Mr. Roth-Roffy will now say a few words on behalf of the NTSB.

21 **Mr. Roth-Roffy:** Good Morning. I am Thomas Roth-Roffy, Investigator in Charge for
22 the National Transportation Safety Board's investigation of this accident. The NTSB is
23 an independent Federal agency which under the independent safety board act of 1974

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1 is required to determine the cause or probable cause of this accident to which a report
2 of the facts, conditions, and circumstances relating to it and to make recommendations
3 for measures to prevent similar accidents. On behalf of the entire NTSB I offer our
4 condolences to the family and friends of the 33 crew members who lost their lives as a
5 result of this tragic accident. I know nothing can replace your loved ones. We hope our
6 work throughout the investigation will not only serve to answer some of your questions,
7 but will help also to prevent this from happening again. The NTSB has joined this
8 hearing to avoid duplicating a development of facts. Nevertheless, I do wish to point out
9 that this did not preclude the NTSB from developing additional information separately
10 from this proceeding if that becomes necessary. At the conclusion of these hearings
11 the NTSB will analyze the facts of this accident and determine a probable cause
12 independently of the Coast Guard. At a future date a separate report of the NTSB's
13 findings will be issued that will include our official determination of the probable cause of
14 this accident. If appropriate the NTSB will issue recommendations to correct safety
15 problems discovered during this investigation. These recommendations may be made
16 in advance of the report. Thank you.

17 **CAPT Neubauer:** The marine board will now take the oath.

18 **LCDR Yemma:** Please raise your right hand. [All board members did as directed]. Do
19 you swear and you will faithfully perform the duties incumbent upon you as a member of
20 this marine board of investigation and that you will examine and inquire into the matter
21 that is now before you without partiality, so help you God?

22 [All members said I do].

23 **LCDR Yemma:** Thank you, you may be seated.

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1 **CAPT Neubauer:** This concludes the opening statement. At this time I would like to
2 ask that everyone present stand for a moment of silence in respect to those persons
3 who have been lost at sea as a result of this casualty. [All persons stand list of the
4 names of crewmembers displayed].

5 **LCDR Yemma:** Thank you, you can be seated now please.

6 **CAPT Neubauer:** We will now take a 10 minute recess before presenting factual
7 exhibits and calling the first witness, Mr. Phil Morrell of Tote. The board is now in
8 recess.

9 *The hearing recessed at 0911, 16 February 2016*

10 *The hearing was called to order at 0920, 16 February 2016*

11 **CAPT Neubauer:** Lieutenant Commander Yemma.

12 **LCDR Yemma:** Good morning ladies and gentlemen. We're now going to show two
13 general exhibits. It's a presentation into background information on the vessel, the
14 company that were involved in this casualty. [Playing slide show]

15 **Voice from slide show:** United States Coast Guard, Commandant's Marine Board of
16 Investigation into the sinking of the El Faro and the loss of its crew. This presentation is
17 Coast Guard Exhibit 1 and is intended to provide a background of information at the
18 beginning of the first public hearing. This hearing was conducted with the full
19 participation of the National Transportation Safety Board. The first hearing session will
20 focus on the pre-accident historical events, regulatory compliance records, crew
21 members duties and qualifications, past operations of the vessel and the Coast Guard's
22 search and rescue operations. This slide details the purpose of this public hearing and
23 the investigation as a whole. The hearing and ongoing investigation will explore the

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1 reporting relationships between all Tote entities along with oversight of vessel
2 operations. This graphic represents a simplified organization chart of the Tote Maritime
3 Puerto Rico corporate organization with the hearing witnesses in gold boxes. We have
4 removed the additional pages associated with these organization charts. This slide
5 presents a simplified organization chart of the Tote Services Organization with the
6 hearing witnesses in gold boxes. In the course of the investigation other corporate
7 individuals were interviewed. This chart represents the organization in place at the
8 time. This slide shows general characteristics for the steam ship El Faro. This list is a
9 general arrangement of the significant machinery components for the El Faro. This is a
10 simplified view of the El Faro when looking at the ship's right or starboard side. The key
11 features of the vessel are labeled. The vessel has cargo holds below the watertight
12 deck. The watertight deck is represented by the red line. The El Faro is subject to the
13 two listed inspection programs. At the time of the accident voyage the following crew
14 positions were being filled on the vessel. In addition to the typical crew that operates
15 the vessel. There was a supervised labor force working on the converting the ship to
16 prepare it for Alaskan operations. Vessels such as the El Faro are issued a certificate
17 of inspection by the U.S. Coast Guard. The Seafarers and others aboard must have
18 proper credentials to work aboard the vessel. This slide presents a general overview of
19 the type of vessel the El Faro was at the time of the accident. She is described as a lo-
20 lo, ro-ro vessel. That being one that has cargo loaded such as containers and other
21 cargo that is driven on and off the vessel. This could be containers on wheeled trailers
22 or stand-alone vehicles like cars, trucks and miscellaneous trailers. At the time of the
23 accident voyage this was the load of the El Faro. The information on this slide was

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1 developed from the vessel's departure report from Jacksonville. This image shows the
2 path of the El Faro from it's departure Port of Jacksonville, Florida to it's last known
3 position at the end of the blue track line. Also indicated is the location where the main
4 wreckage of the El Faro was located. This image represents a close up version of the
5 previous slide. This image shows the vessel track history that was generated from data
6 contained from the global positioning system. The red triangle indicates the location of
7 the main wreckage. This image shows the last reported positions of the El Faro
8 indicated by the red circles. It also represents the El Faro wreckage indicated by the
9 red triangle. The blue line indicates the GPS derived track history of the El Faro. The
10 right end of the blue line indicates the location at which the GPS derived location
11 information ended. These two lists represent the major lifesaving and communication
12 equipment aboard the El Faro for emergency communications. This is a photo of the El
13 Yunque's starboard or right side life boat. The El Faro's boats were similar size, type
14 and construction. This vessel is propelled by fleming gear where the crew pushes and
15 pulls on a handle to propel the vessel. This vessel does not have an engine. The El
16 Faro port, or left side life boat did have a diesel engine as does the El Yunque. This
17 graphic is a simplified diagram of the storage and launching equipment for the two El
18 Faro life boats. This slide depicts the El Faro voyage data recorder mounted on top of
19 beam on the top side of the El Faro uppermost deck. The VDR records sensor
20 information and voice data log. The VDR was not located in the underwater search
21 after the accident that was conducted by the NTSB. This is a brief explanation of the
22 topic areas that will be discussed in subsequent public hearings. The time and place for

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1 those hearings has not been determined at this time. The fact finding stage of this
2 complex investigation is still in progress. Thank you for your attention.

3 United States Coast Guard, Commandant's Marine Board of Investigation into
4 the sinking of the El Faro and the loss of its crew. This presentation is Coast Guard
5 Exhibit 1 and is intended to provide background information at the beginning at the first
6 public hearing. According to the National Hurricane Center's tropical cyclone report
7 date January 12th, 2016, while Joaquin's formation is notable and that the cyclone did
8 not hit tropical origins which is rare for a major hurricane. Moderate North,
9 Northwesterly sheer prevented the depression from strengthening for about a day, but
10 the cyclone became a tropical storm at 8 p.m. local time on September 28th, which
11 centered about 295 nautical miles Northeast of San Salvador. A high pressure ridge
12 forced Joaquin to move slowly Southwest ward and over very warm waters near the
13 Bahamas. A 60 hour period of rapid intensification began at 2 a.m. local time on
14 September 29th. Joaquin became a hurricane at 2 a.m. local time on September 30th
15 and strengthened to a category 3 major hurricane 18 hours later about 90 nautical miles
16 East of San Salvador. This slide represents the correlation between hurricane
17 Joaquin's development and the El Faro's final voyage. For perspective, presented here
18 are the wind speeds for the adopted Saffir-Simpson hurricane wind scale. This is
19 provided for reference. El Faro's typical route from Jacksonville, Florida to San Juan,
20 Puerto Rico shown in a brown is the most direct and economical route to the East of the
21 Bahamas. During the time period for Tropical Storm Erika, the El Faro took a longer
22 more southerly route shown in green, passing through the Florida straits and transiting
23 East by Southeast through the Old Bahama channel. The red stars on this route are

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1 taken from El Faro's ships logs. The El Faro's final voyage is shown in magenta. All
2 three tracks are derived from the recorded nationwide automatic identification system
3 data. This graphic shows the route for Tropical Storm Erika. Hurricane Joaquin was a
4 category 4 major hurricane that reached peak intensity between the 1st and 2nd of
5 October. The storm traveled an unusual Southwesterly route and took a sharp turn
6 back to the Northeast. Damages to personal property throughout several islands in the
7 Bahamas, including South Long Island, Crooked Island, Ackins, Rum Cay, San
8 Salvador, Mayaguana and Exhuma have been directed attributed to Joaquin. The
9 Bahamas reported that those damages exceeded 60 million U.S. dollars. Other nations
10 including Turks and Caicos, Cuba, Hatti and Bermuda reported damages sustained
11 from flooding. 34 persons are known to have perished at sea in the storm. One
12 fisherman off the coast of Hatti and 33 persons aboard the SS El Faro.

13 **LCDR Yemma:** Thank you. So those were Exhibits 1 and 2 for the hearing, those will
14 be made available to the public and the media later today. Captain?

15 **CAPT Neubauer:** At this time we would like to call our first witness, Mr. Phil Morrell.
16 Could you please approach the witness stand and have a seat, sir.

17 **WIT:** [Did as directed].

18 **LCDR Yemma:** Good morning Mr. Morrell. If you would please remain standing and
19 raise your right hand, I'll swear you in, sir. Mr. Morrell, a false statement given to the
20 United States is punishable by a fine or imprisonment under 18 U.S.C. 1001, knowing
21 this do you solemnly swear that the testimony you're about to give will be the truth, the
22 whole truth and nothing but the truth, so help you God?

23 **WIT:** Yes, sir.

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1 **LCDR Yemma:** Thank you and you can be seated now, sir. And I have some
2 preliminary questions to ask you before we get started. Mr. Morrell, can you please
3 state your full name and spell your last name for the record?

4 **WIT:** Philip, P-H-I-L-I-P, last name is Morrell, M-O-R-R-E-L-L.

5 **LCDR Yemma:** And sir, could you get a little closer to the microphone so we can pick it
6 up. Thank you. And for the record also can the counsel please announce your name
7 and spell it for the record?

8 **Tote Inc:** Lauren Resnick, L-A-U-R-E-N R-E-S-N-I-C-K, good morning.

9 **LCDR Yemma:** Thank you. Mr. Morrell where are you currently employed?

10 **WIT:** Tote Services.

11 **LCDR Yemma:** And what's your position there?

12 **WIT:** Vice President of Marine Operations Commercial.

13 **LCDR Yemma:** Can you describe generally some of your responsibilities?

14 **WIT:** I'm primarily responsible for the Tote family – corporate owned vessels for the
15 Pacific Northwest and Jacksonville, Florida. Maintenance and repair primarily.

16 **LCDR Yemma:** And can you please describe some prior relative work experience, sir?

17 **WIT:** Prior to joining Tote Services I was with Totem Ocean Express, a sister company
18 for, I guess that would be 12 years in a similar role, but also managing terminal
19 operations in Alaska and Tacoma in equipment repair.

20 **LCDR Yemma:** Thank you. And what was your highest level of education completed?

21 **WIT:** I have a bachelor's degree from the University of Oregon.

22 **LCDR Yemma:** And do you hold any professional licensed or certifications?

23 **WIT:** No, sir.

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1 **LCDR Yemma:** Thank you very much. I'm going to pass the mic to Mr. Fawcett here
2 who will be questioning you, thank you.

3 **Mr. Fawcett:** Good morning Mr. Morrell.

4 **WIT:** Good morning.

5 **Mr. Fawcett:** The questions I'm about to ask you will examine the events leading up to
6 the time of the accident. If they don't cover that area I will specifically address that time
7 frame, okay? And we're going to explore broad topical areas. One of them is the
8 history of the El Faro and Tote. The other one will be looking at operations in general.
9 The next topic area, the broad topic will be suitability for a command and qualifications
10 for shipboard personnel. And the final topic area will be the impact of weather. In
11 general on the El Faro. For the most part prior to the actual date and time of the
12 accident. The way this will go is after we finish a broad topic area I will pass the
13 questions to my colleague, Commander Denning and any other Coast Guard member
14 then we'll shift to the National Transportation Safety Board, and then move to the
15 parties in interest. And then move to another topic area after the Captain has asked
16 any particular follow-up questions he may choose to ask. The other thing is we will be
17 refereeing to the exhibits that are located on the table in front of you. And please take
18 all the time you need to find a specific exhibit I refer to. And if I seem a little too fast to
19 get to the exhibit so you have a chance to look at it, please let me know you need a
20 moment to find what I'm talking about. So the first topic area that I would like to explore
21 is the history of the El Faro and Tote. And to set the time frame, what I would like you
22 to do is, looking at the start of the accident voyage, if you could talk about where you
23 were and what you were doing as the El Faro set out from Jacksonville.

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1 **WIT:** I believe she left on a Tuesday evening. I was in, I live in Seattle, Washington, I
2 was in Seattle, Tacoma, or Northwest office.

3 **Mr. Fawcett:** Excuse me Mr. Morrell, could you get a little closer to the mic?

4 **WIT:** Okay, sorry. So I was in Seattle, Washington, Seattle, Tacoma, Washington at
5 the time, that's where I live. That's where I'm domiciled. That's where I spend most of
6 my time, my primary office is in Tacoma. I was actually, on Tuesday that day I was in
7 budget meetings all day up in – at Tote Maritime Alaska's office, that day the Tuesday.

8 **Mr. Fawcett:** So since the accident, date and time, have you had a chance to review
9 the events surrounding the accident, voyage and any other information pertaining to
10 that accident?

11 **WIT:** I'm sorry.

12 **Mr. Fawcett:** In other words since the accident have you had a chance to review the
13 accident itself, the emails, any other information related to the vessel and the accident
14 voyage?

15 **WIT:** Yes.

16 **Mr. Fawcett:** Thank you. And then if you could for me, restate your title because you
17 mentioned your primary focus was on engineering operations I believe?

18 **WIT:** Vessel maintenance.

19 **Mr. Fawcett:** What's your official title?

20 **WIT:** Vice President Marine Operations, commercial.

21 **Mr. Fawcett:** Commercial?

22 **WIT:** Commercial.

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1 **Mr. Fawcett:** Do you have any experience with what I would classify as Deck
2 Operations? And when I talk about Deck Operations I'm talking about voyage planning,
3 anchoring procedures, shipboard maneuvering or any of those similar areas that are
4 Deck Operations?

5 **WIT:** No.

6 **Mr. Fawcett:** Have you, for your present position, have you had any specialized
7 training directly related to the position as Vice President of Operations for what you
8 normally do?

9 **WIT:** I don't quite understand the question.

10 **Mr. Fawcett:** Well the title, your position is operations. So have you had any
11 specialized training, I know you have a background with shipbuilding, ship construction,
12 ship repair, anything related to, for example oversight of marine operations?

13 **WIT:** No.

14 **Mr. Fawcett:** And then who do you report to within Tote?

15 **WIT:** Phil Greene, Admiral Phil Greene.

16 **Mr. Fawcett:** And could you explain who your direct reports are within the Tote
17 organization?

18 **WIT:** My direct reports, the Director of Marine Operations is Jim Fisker Andersen. And
19 then Tim Neeson is Support Engineer for the El Faro. Bill Weinbecker [sic] in port
20 engineer. We just added a young gentlemen whose name is Chris Rye, he's port
21 engineer for the Perla Del Caribe our new build. In Tacoma, Washington Daryl Scwiggs
22 [sic] who's a port engineer for the Midnight Sun. Bill Taylor who's the port engineer for
23 the North Star. And Cliff Hill who's the LNG, Orca LNG conversion technical manager.

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1 **Mr. Fawcett:** Is there a reporting relationship where Captain John Lawrence the
2 designated person reports to you in any fashion?

3 **WIT:** He reports to the port engineer on a day to day basis and then it sort of works it
4 way up to me if it's necessary. But the primary – his primary direct report on vessel
5 maintenance matters would be the port engineer.

6 **Mr. Fawcett:** And how about Mr. Lee Peterson, does he report to you?

7 **WIT:** No.

8 **Mr. Fawcett:** And who does he report to?

9 **WIT:** Lee Peterson I believe reports directly to Admiral Greene.

10 **Mr. Fawcett:** And what's Mr., at the time of the accident, what was Mr. Peterson's title?

11 **WIT:** He was Director of, I can't think of his exact title. Not – safety or, I can't exactly,
12 I'm sorry I can't think of his exact title.

13 **Mr. Fawcett:** Okay, so according to the organization chart, Mr. Peterson is Director of
14 Safety and Services. And Captain Lawrence falls under his organizational structure.
15 Why wouldn't they report to the Vice President of Operations?

16 **WIT:** Well, I believe you want to have safety reporting up through a different chain, not
17 to operations.

18 **Mr. Fawcett:** So what is your day to day job entail?

19 **WIT:** My day to day job is primary it involves, mostly in a technical, well in a
20 management function. I deal with budget, budget reviews, development of capital
21 expenditures. I spend an enormous amount of time on the LNG Orca conversion. Also
22 I was involved in the Marlin new construction program. The new build inspectors report

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1 to me so I was dealing with new build issues. Also, and as well as vessel matters with
2 the Puerto Rican vessels here at Tote Maritime Puerto Rico.

3 **Mr. Fawcett:** So if you broke it down for me approximately how much of your time do
4 you focus on the Puerto Rican trade vessels?

5 **WIT:** I would say probably about 25 percent.

6 **Mr. Fawcett:** And how much on the Alaska service vessels?

7 **WIT:** I would say probably about 25-30 percent.

8 **Mr. Fawcett:** And the new construction ships?

9 **WIT:** About the same. And the remaining on the LNG conversion. Tried to balance it,
10 but you know it swings. But it's sort of divided in that kind of a context.

11 **Mr. Fawcett:** So to clarify things, how does Tote Services relate to the rest of the Tote
12 organization? Could you explain that in simplified terms?

13 **WIT:** Well Tote Services provides ship management functions for what we call the
14 inter-company business, which is the Saltchuk owned vessel, which would be Tote
15 Maritime Puerto Rico, Tote Maritime Alaska. It also has a number of Government
16 contracts with MARAD, MSC, and a couple of other commercial operators where we
17 provide crew and – yeah, provide crew. Not technical management, but crew. So we're
18 a technical ship management and crewing operation business.

19 **Mr. Fawcett:** Okay. And then moving up, and maybe I'm wrong on this, but how does
20 that relate to Tote Maritime Puerto Rico? How does Tote Services relate to them?

21 **WIT:** Well we're a – we're, I guess we would call ourselves a sister company, but Tote
22 services provides the crew, the license and non-license crew. It has the ISM
23 requirements and the port engineering function and purchasing. Technical spares.

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1 **Mr. Fawcett:** In a very brief manner could you describe what Tote Maritime Puerto
2 Rico does?

3 **WIT:** Tote Maritime Puerto Rico provides containerized dry shipping, dry cargo
4 operations to San Juan, Puerto Rico and to Jacksonville from San Juan.

5 **Mr. Fawcett:** And what does Tote Incorporated do?

6 **WIT:** Tote Inc., is the oversight of Tote Maritime Puerto Rico, Tote Maritime Alaska and
7 Tote Services.

8 **Mr. Fawcett:** All right. So you report directly to Admiral Greene?

9 **WIT:** Yes, sir.

10 **Mr. Fawcett:** And then based on that organization who does Admiral Greene report to?

11 **WIT:** He reports to Anthony Chiarello.

12 **Mr. Fawcett:** Okay. Where would Mr. Nolan, Mr. Nolan fit in that organization?

13 **WIT:** Mr. Nolan is the President of Tote Maritime Puerto Rico and he reports directly to
14 Anthony Chiarello.

15 **Mr. Fawcett:** So when it comes to ships such as the El Faro, the Tote Maritime Puerto
16 Rico, how does it – how does it dictate the movement of the ship and the operations of
17 that vessel?

18 **WIT:** Well the Master is in charge of the voyage plan and voyage preparation. Tote
19 Maritime Puerto Rico provides or establishes like an itinerary of schedule for the vessel
20 when they arrive in Jacksonville and when they're to arrive in San Juan and that
21 program.

22 **Mr. Fawcett:** Okay. If you could continue to just try to speak to the mic. I know it's
23 difficult. So let's take a container, just any container and let's load it aboard the El Faro.

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1 How does it work, that container to get working between, linking between Tote Services
2 and Tote Maritime Puerto Rico to get that container to the dock in Puerto Rico?

3 **WIT:** I'm not involved in cargo operations. I can't really – I don't specifically understand
4 the question. But I'm not involved in cargo operations so I can't tell you exactly the
5 process of how our container gets booked and the transactions through the gate and to
6 the destination.

7 **Mr. Fawcett:** Right. We'll ask another witness later about those details. But just in the
8 most simplified terms. The cargo goes on the ship, it begins it's voyage, how does Tote
9 Maritime Puerto Rico influence the movement of the El Faro?

10 **WIT:** How does Tote Maritime Puerto Rico influence ----

11 **Mr. Fawcett:** Right, in other words it's got to leave the dock at a certain time, it's got to
12 meet a certain schedule. And what I'm looking for is the interaction that Tote Services
13 have to meet that schedule or whatever.

14 **WIT:** Well we work with Tote Maritime Puerto Rico. They have a customer schedule
15 for the customers when the vessels are to depart. When they're anticipated to arrive.
16 And we work our schedule around that so that the Master develops his voyage plan to
17 arrive in Jacksonville at a certain time in order to receive bunkers and stores so they
18 can steer their other vessel and turn their vessel in the desired time frame to try to –
19 well with the plan to depart and arrive back in San Juan on or about the posted
20 schedule.

21 **Mr. Fawcett:** You personally monitor the – whether or not the El Faro meets her
22 schedule?

23 **WIT:** No.

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1 **Mr. Fawcett:** I want to talk a little bit so that people can understand it, can you talk
2 about the, sort of the historic, going back the last several years how the trade has been
3 conducted for the Tote Service vessels that work between Jacksonville and San Juan?

4 **WIT:** Clarify?

5 **Mr. Fawcett:** In other words. For the last several years you've had Tote ships carrying
6 cargo back and forth between Jacksonville and San Juan. Can you talk about what
7 ships they were and how long they've been doing this?

8 **WIT:** I've only recently been involved with Tote Maritime Puerto Rico, prior name Sea
9 Star Line since I want to say 2013. Late 2012. All my time before that I was singly
10 directed and focused in the Alaska trade. But in late 2012 we were asked to participate
11 in the maintenance technical purchasing of the Puerto Rican vessels. And at the time
12 they had the El Yunque, the El Moro in that service. And the El Faro was laid up in
13 Baltimore.

14 **Mr. Fawcett:** So for a time the El Moro was on the run and she got laid up
15 approximately how long ago?

16 **WIT:** Well she was scrapped in May, well she arrived in Brownsville, Texas late mid-May
17 of 2014 I believe.

18 **Mr. Fawcett:** And when did the El Faro come into service?

19 **WIT:** May of 2014. Roughly mid-May of 2014.

20 **Mr. Fawcett:** So the El Faro and the El Yunque were both in the trade since 2013?

21 **WIT:** No, since '14.

22 **Mr. Fawcett:** 2014. Were there other vessels that operated moving Tote cargo
23 between Jacksonville and San Juan prior to the accident voyage?

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1 **WIT:** Not Tote owned vessels, no. There were four barges on charter.

2 **Mr. Fawcett:** Okay. When you say four barges on charter, they were towed by what
3 type of vessels?

4 **WIT:** Ocean going tugs.

5 **Mr. Fawcett:** And were they contracted? The tugs themselves?

6 **WIT:** Yes. There was a BIMCO charter agreement with the tugs.

7 **Mr. Fawcett:** And how many different – are you aware of how many different operating
8 companies for those tugs?

9 **WIT:** I believe there are four.

10 **Mr. Fawcett:** And did Tote own the barges that carried the cargo or were they owned
11 by the contract companies?

12 **WIT:** They were owned by others. Not necessarily owned by the tug company, but
13 they were owned by another operator.

14 **Mr. Fawcett:** A few years ago there was another company that carried cargo down to
15 San Juan, that was Horizon Line.

16 **WIT:** Oh, okay. I thought you were talking specifically ----

17 **Mr. Fawcett:** No, no, you're right. We're talking about tow, but there was another
18 company called Horizon Line.

19 **WIT:** Yes, sir.

20 **Mr. Fawcett:** When did they go out of business?

21 **WIT:** Umm I don't exactly know.

22 **Mr. Fawcett:** Since they went out of business has the volume of cargo that Tote has
23 carried down to San Juan increased?

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1 **WIT:** Yes.

2 **Mr. Fawcett:** And is that the reason that additional vessels and barges were used to
3 move cargo down to San Juan and back?

4 **WIT:** It's the reason why the four barges were chartered.

5 **Mr. Fawcett:** In a brief way if you can possibly do it, can you talk about the history
6 about the El Faro?

7 **WIT:** Only to the extent that I'm – time with Tote. I joined Tote in 2002 and the vessel
8 was trading in the Alaska trade and she was called the Northern Lights. And she was
9 on a regular trade between Tacoma, Washington and Anchorage, Alaska. In 2000 –
10 late or 2003 during the, I believe the Iraqi Freedom the Government, MSC wanted to
11 charter the vessel for military cargo and she left the Alaska trade and sailed on MSC
12 charters, I want to say until about 2005. So say 2 ½ to almost 3 years she was trading
13 specifically on MSC charter back and forth from Beaumont, Texas, Charleston, South
14 Carolina to Shuaiba carrying military armor and armored and non-armored and
15 retrograde cargos back and forth from Shuaiba to Kuwait, Shuaiba Kuwait to either
16 Charleston, South Carolina or Beaumont, Texas and Jacksonville. And then she was,
17 the owners in 2003 decided to have her converted for the Puerto Rican trade.

18 **Mr. Fawcett:** What year was that?

19 **WIT:** 2006.

20 **Mr. Fawcett:** All right. So from 2006 could you share with us the continued history of
21 the El Faro?

22 **WIT:** I had no operation, operational involvement with the vessel from 2006 until we
23 took her to dry dock in December of 2013 I believe.

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1 **Mr. Fawcett:** All right. Prior to that though she was laid up in the Port of Baltimore, is
2 that correct?

3 **WIT:** Yes.

4 **Mr. Fawcett:** So when she came out of layup, just in general terms, what took place in
5 the dry dock period in Baltimore?

6 **WIT:** I was a full ----

7 **Mr. Fawcett:** Excuse me Jacksonville.

8 **WIT:** Well we broke out the vessel and took her from – she sailed from Baltimore to
9 Grand Bahamas shipyard in Freeport and went through a regulatory dry docking.

10 Underwater haul inspection, all the regulatory inspections, all the regulatory items that –
11 load line survey, sea valves, all the required items. And she had a fully accredited dry
12 docking.

13 **Mr. Fawcett:** Are you aware of any additional work that was performed on the ship
14 before she went into the Jacksonville, San Juan trade?

15 **WIT:** Yes. We installed six 53 foot ISO containers to carry fructose.

16 **Mr. Fawcett:** Just for the public, fructose is?

17 **WIT:** Fructose is a corn syrup to be used to make soft drinks.

18 **Mr. Fawcett:** And these were carried in, when you mentioned ISO, I don't know what
19 the public understands what you mean.

20 **WIT:** A cylinder tank inside a container framing.

21 **Mr. Fawcett:** Would this be similar that would be carried on trucks on the highway?

22 **WIT:** Similar, yes.

23 **Mr. Fawcett:** So since ----

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1 **WIT:** Mostly, but it was a container, in a containerized structure so it can be carried like
2 on a ship or on a rail car. It's an intermodal piece of equipment.

3 **Mr. Fawcett:** In the very generalist of terms leading up to the accident, were the
4 operation of the El Faro and the El Yunque profitable?

5 **WIT:** I believe so, I don't really know. I'm not in finance.

6 **Mr. Fawcett:** So looking at the propulsion of the ships, they're steamed turbine
7 powered vessels, correct?

8 **WIT:** Yes.

9 **Mr. Fawcett:** And what type of fuel do they burn?

10 **WIT:** We burned black oil, heavy oil.

11 **Mr. Fawcett:** And is that unusual in this day and age?

12 **WIT:** Steam ships, well steam vessels are exempt from the ECA, the environmental
13 control area regulations until 2020. So they were allowed to burn heavy oil.

14 **Mr. Fawcett:** And you mentioned ECA, I don't think the public understands.

15 **WIT:** The environmental control area. It's a IMO, EPA designation for 200 miles off
16 shore of the United States, North America where you have to burn – transition to low
17 sulfur fuels.

18 **Mr. Fawcett:** Okay. So the new construction vessels and some existing vessels are
19 being – the new construction vessels are being built for a new type of fuel and the other
20 vessels are being converted to that same type of fuel. Could you explain why that's
21 being done?

22 **WIT:** It's – well they're doing that to comply with the North American environmental
23 control area as imposed by the United States Coast Guard and the EPA.

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1 **Mr. Fawcett:** Before the accident voyage, what were the future plans for the El Faro?

2 **WIT:** She was to be repositioned back to sail in the Alaska trade, from Tacoma to
3 Anchorage.

4 **Mr. Fawcett:** And we'll discuss this in more detail in other times, but she was going to
5 be shifted from the Caribbean operations to Alaska and there was some work going on
6 the vessel leading up to the accident time leading up to the accident time to prepare her
7 for Alaskan service. Could you very, just briefly touch on what kind of work was going
8 on?

9 **WIT:** Yes. They would primarily – we had to install some winches on deck and so they
10 had pulled some cable, mostly cable pulling and building of preparing to build
11 foundations for the new winches.

12 **Mr. Fawcett:** So what would have been different for the Alaska service for that vessel
13 versus how she typically operated down in the Caribbean?

14 **WIT:** The Alaska trade is not a lift on, lift off operation. It's – they're a pure roll on, roll
15 off vessels. So the Tote operation utilizes three shore side ramps perpendicular to the
16 vessel. In which it requires winches to lift up the ramps from the shore to the ship.

17 **Mr. Fawcett:** And there was some, just in very brief terms, because we'll talk more
18 about it later, there was some piping being installed. What was the purpose of that
19 piping?

20 **WIT:** That piping was ramp, so because it's a roll on, roll off operation and in Alaska
21 with the tremendous amount of ice and snow in the winter time the decks freeze and we
22 get a lot of snow and ice on the deck. It was a ramp deicing system that was previously

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1 installed that was partially removed when the vessel was converted in 2006. So it's just
2 reinstalling, or reconnecting an existing ramp deicing system.

3 **Mr. Fawcett:** So prior to shifting the El Faro to the Alaskan operations, in addition to
4 this on board repair work or conversion work, there was some other work that was going
5 to be conducted on the vessel. Could you elaborate on that?

6 **WIT:** I'm sorry, I missed it.

7 **Mr. Fawcett:** In other words before the El Faro, in the plans was to head to Alaska.
8 There was some other work that was going to be done on the vessel. Could you
9 describe what that work was in general?

10 **WIT:** Well we were going to take her to dry dock for a complete regulatory docking
11 inspection. Because her due date, her dry docking due date was in – while she was
12 required to be in service in the Alaska trade, so we were going to take her to dry dock
13 earlier. Her docking date was actually February 2016 by the rules, but we were taking
14 her to dry dock in early November to satisfy those requirements in advance.

15 **Mr. Fawcett:** And where was that dry docking going to take place?

16 **WIT:** Freeport, Grand Bahamas.

17 **Mr. Fawcett:** There's been some discussion leading up to this hearing about boiler
18 issues with the ship. And in very general terms was there going to be any boiler work
19 done after the accident voyage?

20 **WIT:** Are you referring to in dry dock?

21 **Mr. Fawcett:** Any boiler work at all.

22 **WIT:** Oh yes. Well when a vessel will go to dry dock we were going to do maintenance
23 work in the boilers. It was planned.

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1 **Mr. Fawcett:** So, I'm almost done with my questions. But as Vice President of
2 Operations, do you have any involvement with the actual movement of the ships or the
3 decisions made for the movement of the ships?

4 **WIT:** In terms of where they go from like to Alaska or back and forth? Or are you
5 talking within the trade?

6 **Mr. Fawcett:** In any case.

7 **WIT:** I guess it depends on what the questioning is and who's – I guess I can say the
8 answer is it depends what the topic is. I mean if they're asking me is this vessel – which
9 vessel would we take to Alaska or, they would ask me what I thought about it, but that
10 would be about it.

11 **Mr. Fawcett:** And what about for the particular voyages? In other words, regular
12 commercial trade voyages, do you have any input on the movement of the vessels?

13 **WIT:** Well the Captain makes the final decision when he's going to sail and his routing.
14 I don't know.

15 **Mr. Fawcett:** Okay, Mr. Morrell, thank you very much. You've been very helpful. I'll
16 pass my questions over to my colleague, Commander Denning.

17 **CDR Denning:** Good morning Mr. Morrell.

18 **WIT:** Morning.

19 **CDR Denning:** My first question, I want to go back to the questions about the basic
20 organization of Tote. You mentioned one thing that I want to clarify. Can you tell us
21 again, you said John Lawrence. You stated that he reports to, I think you said the
22 maintenance manager.

23 **WIT:** No he reports to Lee Peterson, the Director of Safety and Vessel Services.

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1 **CDR Denning:** Perfect, thank you. I was going to refer back – refer to Exhibit 47. If
2 you don't mind flipping to that real quick. I just want to make sure it's clear for the
3 record, page 9 is the Tote Services organization chart dated March 31st, 2015. I must
4 have misheard you, because I thought you said something different.

5 **WIT:** 47, what was that, sir?

6 **CDR Denning:** It's Exhibit 47, page 9.

7 **WIT:** Oh page 9. All right, I have that available.

8 **CDR Denning:** My next question, thank you, you clarified that issue, I misheard earlier.

9 **WIT:** Oh, okay.

10 **CDR Denning:** You mentioned that Tote Services handles ISM requirements, is that
11 correct?

12 **WIT:** Yes.

13 **CDR Denning:** Can you explain that in a little bit more detail what that entails, ISM
14 requirements from the management perspective?

15 **WIT:** ISM, it's the International Safety Management Program which is required, ship
16 managers, vessels operators to have a program in place for organizational structure
17 and directives to the vessel on how to manage navigation matters, maintenance
18 matters. Just sort of a procedural guidelines.

19 **CDR Denning:** So you said directives to the vessel. Can you tell me some of those
20 directives that have been issued to vessels in relation to ISM?

21 **WIT:** Well we have an operations – vessel operations manual which goes into a
22 number of different topics on navigation, a whole series of items pertaining to vessel
23 operations, navigation and their safety reporting. All sort of items.

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1 **CDR Denning:** Is – and in those vessel operation manuals, is weather identified
2 specifically?

3 **WIT:** Yes.

4 **CDR Denning:** And how is it addressed?

5 **WIT:** Weather's addressed that it's the Master's responsibility to prepare a voyage
6 plan, to be aware of and utilize all of the tools provided to him for voyage planning in
7 case of severe weather, or adverse weather. And items for preparing for sea in adverse
8 weather conditions.

9 **CDR Denning:** At this time I will pass to, is NTSB next?

10 **CAPT Neubauer:** Mr. Roth-Roffy?

11 **Mr. Roth-Roffy:** Good morning Mr. Morrell.

12 **WIT:** Good morning.

13 **Mr. Roth-Roffy:** Tom Roth-Roffy, National Transportation Safety Board. Do you have
14 any sense of the on time statistics for the vessels that were in the Puerto Rico trade,
15 specifically El Yunque and El Faro in terms of scheduled adherence?

16 **WIT:** I don't have a number in my mind.

17 **Mr. Roth-Roffy:** Just perhaps, just generally speaking, were they – would they
18 normally meet schedule?

19 **WIT:** I would say normally they do, yes, sir.

20 **Mr. Roth-Roffy:** Now did you have an occasion where a vessel perhaps had a
21 mechanical problem or technical issue that required them to have some delays in
22 getting underway that you can recall?

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1 **WIT:** We have – on occasion we have voyage repair matters which delays us from
2 getting underway at the anticipated time in which we postpone sailing to effect repairs.

3 **Mr. Roth-Roffy:** What about weather? Have you had any occasions where because of
4 adverse weather in the intended operating path of the vessel that you had to delay
5 departure or arriving of a vessel?

6 **WIT:** Yes.

7 **Mr. Roth-Roffy:** In general, what is the impact on vessel – I should say the cargo
8 operations if the vessel is delayed, how do you adjust for your routine weekly schedule
9 to Puerto Rico?

10 **WIT:** Well the Master will advise that he's not going to make the posted schedule time
11 and we notify Tote Maritime Puerto Rico so they can reorganize the shore operations
12 activities, tugs and pilots and stevedore.

13 **Mr. Roth-Roffy:** In terms of cargo movements, if you have several days of delays,
14 what sort of adjustments can be made to maintain the movement of the cargo? Do you
15 have other ships on standby with barges? What sort of contingency sort of plans do
16 you have of cargo movement?

17 **WIT:** No we don't have other vessels that we utilize, but we just – the vessels just
18 eventually get back on schedule. There's some time on the North bound voyage to get
19 back to schedule. So if we're late arriving in San Juan, we're late, that's just it. That's
20 just pure and simple. And then we, like I said generally speaking there's some schedule
21 time to – the return voyage speed is typically slower than the South bound voyage
22 speed, so there's some time to make that time up if it's necessary.

1 **Mr. Roth-Roffy:** And do you have a general idea of the percent of full, your vessels
2 departing Jacksonville, typically are they half full, 100 percent loaded?

3 **WIT:** I think the utilization is on the upper end, probably in the 90's, the 90 percentile.

4 **Mr. Roth-Roffy:** And how does that compare with the time period before the departure
5 of the Horizon Lines?

6 **WIT:** It's about the same.

7 **Mr. Roth-Roffy:** About the same. The – both the El Faro and the El Yunque were
8 older vessels around 40 years old. Can you describe the particular challenges facing
9 the operation of older vessels as related to perhaps newer vessels that Tote may be
10 operating? Are there any special challenges because the vessels were older?

11 **WIT:** Well Tote has always put maintenance as a top priority. We've always spent the
12 money required to do the maintenance. There's probably, you know more items to look
13 after and make sure that are in compliance just because of the age of the vessel, but
14 you know honestly it's about – vessel operations and wear and tear on vessels seem to
15 be about the same. Like I said the vessels have been maintained well over the years
16 and it's just a continuous operation to repair items which wear out or break or need
17 servicing. So I mean the Alaska vessels are newer, but you know they have equal or
18 similar type issues as far as required repairs and we just take care of that. So I mean
19 specifically, I would say, you know I would say the workload's similar. The vessels in
20 Alaska are motor vessels which require a lot of maintenance, engines, so. But a little bit
21 different work, but the work is in general it's a fair amount. But we do what we can.

22 **Mr. Roth-Roffy:** So in general can you say whether the two older steam vessels were
23 even more or less reliable than the other vessels that Tote operates?

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1 **WIT:** They were equally reliable.

2 **Mr. Roth-Roffy:** In terms of on-time performance, level of maintenance required?

3 **WIT:** From my perspective it just seems like, you know, there's always things to
4 maintain.

5 **Mr. Roth-Roffy:** Given that the two vessels, El Faro and the El Yunque are older
6 vessels, I believe that you mentioned that the environmental regulations would probably
7 be removed from service by 2020. In general are you – were you involved in financing
8 or recapitalization decision regarding the replacement of vessels in Tote fleet?

9 **WIT:** Well, to your first comment, in 2020 the steam vessels have to convert to a lighter
10 or to a lower sulfur fuel, they don't have to be taken out of service. So you can make
11 modifications to the boilers if you so desire. But they're not to be removed from service.
12 Was I involved in recapitalization for like the development of our new builds? Not so
13 much in the finance side of it, sir, but I was involved in the initial development and the
14 design and the specifications of the new vessels.

15 **Mr. Roth-Roffy:** And can you speak to why Tote Maritime would maintain these
16 vessels in service, 40 years of age? There's a particular reason that these were not
17 replaced as typical done by other steam ship operators to replace them with more
18 modern newer vessels. Do you have inside on the decision to continue to operate
19 these vessels?

20 **WIT:** No.

21 **Mr. Roth-Roffy:** The El Faro was going to be converted for the Alaskan trade. Was it
22 going to be entering service in the trade or was it going to be a standby vessel, or do
23 you know?

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1 **WIT:** Her role was to be a relief vessel for the Midnight Sun which was going to go be
2 repowered for LNG fuel.

3 **Mr. Roth-Roffy:** Do you know how long the El Faro was planned to be operated? Was
4 there any plan to remove the El Faro from service in the years to come?

5 **WIT:** The plan was for her to operate for approximately 14 to 16 weeks, I believe, and
6 then she would be laid up at the Tacoma lay berth facility and reutilized again in the – in
7 2017 for another 16 weeks.

8 **Mr. Roth-Roffy:** And beyond that do you have any idea what the ship was planned for?

9 **WIT:** There was no specific plans for her. There was some hope and opportunity that
10 she could be utilized in the Alaska trade for heavy bulk cargos if there was to be a gas
11 line developed in Alaska.

12 **Mr. Roth-Roffy:** Sir, that's all the questions I have for now. I pass to Mr. Kucharski.

13 **Mr. Kucharski:** Good morning Mr. Morrell.

14 **WIT:** Morning.

15 **Mr. Kucharski:** My name is Mike Kucharski and I'm the group chairman with NTSB in
16 the nautical operations group. I would like to go back to a little bit about what you
17 discussed your position, what it entails. As Vice President of Marine Operations
18 Commercial, is that correct?

19 **WIT:** Yes, sir.

20 **Mr. Kucharski:** Would it be fair to say, I just want to have this clear in my own mind
21 that you directed and coordinated operations of Tote ships?

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1 **WIT:** The operations is a broad term. No I would not say direct, I mean, primarily
2 maintenance and repair and regulatory compliance to make sure we're in compliance
3 with our ABS surveys, our Coast Guard inspections, in that area of the operations.

4 **Mr. Kucharski:** So then who would, in your organization handle the operations of the
5 vessel outside of these areas?

6 **WIT:** Well we have, if you look in our chart we have, we have this HR crewing matters
7 and there's ISM safety matters. And as whole that would be operations, technical
8 operations. So I would break it into different buckets depending on the area of what the
9 subject matter would be. If it's crewing it would be going to the HR department. If it's
10 ISM and safety it would go to the safety ISM, safety and operations.

11 **Mr. Kucharski:** So then what would be your interpretation of marine operations
12 specifically?

13 **WIT:** I would say, you know, the requisitioning of spare parts, again, making sure the
14 Port Engineers are attentive to the needs of the ship and the requirements of the Chief
15 Engineer and the Captain and the Mate, on maintenance items. We do our surveys,
16 we're scheduled – we have our – make sure that we are scheduled, how are dry
17 docking is properly scheduled in advance. We prepare the required budgets and capital
18 expenditures for improvements. In that focus.

19 **Mr. Kucharski:** Referring to your job description, it mentions a proficiency or proficient
20 knowledge of dry cargo, tank ships, VLCC's, ULCC's, diesel tankers, they're listed
21 under other skills and abilities. Can you tell us what skills and abilities you have in
22 those areas?

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1 **WIT:** I don't have any tanker experience, none. I have dry cargo which is what Tote
2 does, is a dry cargo operation. I have extensive passenger ship experience. And
3 shipbuilding repair experience. What was the others?

4 **Mr. Kucharski:** VLCC's, ULCC's.

5 **WIT:** I'm not involved in VLCC's or ULCC's. Tote does not operate nor own ULCC's
6 and VLCC's.

7 **Mr. Kucharski:** So would you say your operation before you came, or your skill sets
8 before you came to Tote were essentially shipyard type skill sets?

9 **WIT:** I was Marine Superintendent for Holland/American Line which I managed, I was
10 the dry dock Superintendent. I also had two vessels which I managed day to day as
11 well on top of that. So I was involved in very similar matters of what I'm doing today.
12 But yet I'm a Marine Superintendent respective.

13 **Mr. Kucharski:** You mentioned, it was about 2012, 2013, you got involvement with the
14 ships on the Puerto Rican trade?

15 **WIT:** Yes, sir.

16 **Mr. Kucharski:** You also mentioned that you came to work for Tote about 2002?

17 **WIT:** Yes, sir.

18 **Mr. Kucharski:** Was the El Faro converted from ro-ro services, called the Northern
19 Lights?

20 **WIT:** Yes she was the Northern Lights and she was pure ro-ro PONCE vessel.

21 **Mr. Kucharski:** And it was converted to ro-lo, or roll on, roll off, load on, load off?

22 **WIT:** Yes, sir.

23 **Mr. Kucharski:** And was that about 2005?

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1 **WIT:** I believe it was 6.

2 **Mr. Kucharski:** 6?

3 **WIT:** I believe so.

4 **Mr. Kucharski:** Were you involved in that at all?

5 **WIT:** No, sir.

6 **Mr. Kucharski:** I believe that you mentioned that the steam vessels were exempted
7 from ECA requirements?

8 **WIT:** Yes.

9 **Mr. Kucharski:** Was this of any economic benefit to Tote that they were exempt from
10 the ECA requirements?

11 **WIT:** Umm, could be. I mean other operators like the gentlemen in the office said that
12 Horizon Line, they operated steam vessels too, so I don't think there's any market
13 advantage. We operate steam vessels, Horizon Line operated steam vessels in the
14 trade, so it was the same. I don't think so.

15 **Mr. Kucharski:** You mentioned that to be exempt from the ECA requirements makes
16 you run heavy fuel, is that correct?

17 **WIT:** Well we didn't have to burn the 1 percent sulfur which has increased again to .1
18 percent, so no, we're exempt until 2020.

19 **Mr. Kucharski:** So did the ships burn a fuel that was higher in sulfur content?

20 **WIT:** They were burning HFO traditional fuels.

21 **Mr. Kucharski:** So was that like cheaper than the higher sulfur than the low sulfur?

22 **WIT:** I'm sorry, I lost you there.

23 **Mr. Kucharski:** Was it less expensive to use the low sulfur?

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1 **WIT:** Low sulfur is higher, it's more expensive.

2 **Mr. Kucharski:** Was there any economic benefits, as piggy backing on Mr. Roth-
3 Roffy's question about the ships, running 40 year old ships. Was there any other
4 economic benefits for running older ships?

5 **WIT:** I don't believe – I'm not aware of any.

6 **Mr. Kucharski:** Regulatory or anything like that?

7 **WIT:** Nothing, I mean, no. I mean we were governed by the rules, the vessel is under
8 the COI and classification standards, and no, I don't think so.

9 **Mr. Kucharski:** You talked about some of the other positons within Tote, within the
10 shore side positions if you will. Are you familiar with Don Matthews?

11 **WIT:** Yes, sir.

12 **Mr. Kucharski:** Can you tell us what his duties were? Were they related to ship
13 operations in any way?

14 **WIT:** Don Matthews works for Tote Maritime Puerto Rico and he is – he's involved in
15 the loading discharge matters and provides the stow plan to the Master.

16 **Mr. Kucharski:** Was he ever considered a Port Captain at Tote?

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

18 **Mr. Kucharski:** How about at Sea Star?

19 **WIT:** I believe, at Sea Star he might use that title, but I don't think of him as a Port
20 Captain. When I deal with Don or I know of Don it was more or less just cargo
21 operations. I never thought of him as a ----

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1 **Mr. Kucharski:** So your knowledge he didn't get involved with the weather or the
2 weather reports or anything of the vessel – fuel, fueling of the vessel or anything like
3 that?

4 **WIT:** Is – what's the question again?

5 **Mr. Kucharski:** So to your understanding he didn't get involved with the fueling of the
6 vessel, fuel requirements and or weather requirements of the vessel?

7 **WIT:** He did get involved – we would share our bunker requirements with Don because
8 he was also doing the vessel stability calculations. So we would consult with Don on
9 how much fuel we would need to take in order to meet his stability requirements with the
10 combination of cargo. So we would also include Don in any discussions about how
11 much bunkers or what we should have on the vessel.

12 **Mr. Kucharski:** Can you tell us who on the Tote vessels primarily calculate stability?

13 **WIT:** The Chief Mate and the Captain are ultimately responsible for stability.

14 **Mr. Kucharski:** And is there someone shore side that oversees them, the stability of
15 the vessels?

16 **WIT:** No, not oversees it. Don Matthews will provide a preliminary or a stow plan which
17 includes stability information which is given to the Master for review. And then they
18 make adjustments if it's not correct to distribute – to distribute the cargo in such a
19 fashion that it meets the trim and stability requirements.

20 **Mr. Kucharski:** And just briefly back to what you said earlier about your, as Vice
21 President of Marine Operations, your day to day work as what you general work through
22 is more of an engineering type matters and budgetary matters, is that correct?

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1 **WIT:** I would rely on my port engineers for engineering matters and to consult with
2 John Fisker-Andersen if there's – to advise me if there's something, but primarily just an
3 overview top level. But mostly on other matters primarily. Like you're talking about,
4 budgets and review or anything strategic or new business opportunities or whatever. A
5 lot of different things.

6 **Mr. Kucharski:** Thank you Captain.

7 **CAPT Neubauer:** Thank you. At this time we'll ask Tote if they have any questions?

8 **Tote Inc:** Captain Neubauer, we don't have any questions for Mr. Morrell.

9 **CAPT Neubauer:** Thank you. Does ABS have any questions for the witness?

10 **ABS:** ABS has no questions for the witness.

11 **CAPT Neubauer:** Thank you. Does Mrs. Davidson have any questions?

12 **Ms. Davidson:** No questions Captain Neubauer.

13 **CAPT Neubauer:** Thank you. Does HEC have any questions for the witness?

14 **HEC:** No questions.

15 **CAPT Neubauer:** Thank you. Good morning Mr. Morrell. I'm Captain Neubauer. I
16 have just a few follow-up questions.

17 **WIT:** Good morning.

18 **CAPT Neubauer:** Sir, in regards to the bunkering of El Faro, is it cheaper to bunker in
19 Puerto Rico than Jacksonville?

20 **WIT:** No normally, no.

21 **CAPT Neubauer:** Is there a preference by Tote to bunker in Puerto Rico versus
22 Jacksonville?

1 **WIT:** If there is it's just because of a purchasing strategy. We quote the market every
2 week. And normally, I would say 90 percent of the time Puerto Rico is more expensive.
3 But there are occasions, lately the oil market as you well know it's very – it's different,
4 changed a lot shall we say. And for some time there on occasion when you factor in the
5 barging costs and other associated costs it would be a little bit less or equal. And as a
6 prudent operator if it was less then we would have to consider it.

7 **CAPT Neubauer:** So if the market factors were that the price was cheaper in Puerto
8 Rico, would the vessel be loaded potentially less with fuel in Jacksonville to buy more in
9 Puerto Rico?

10 **WIT:** No. I mean the Chief Engineer tells us how much he wants to take on board. We
11 do not tell the ship how much fuel to take.

12 **CAPT Neubauer:** Sir, in your opinion would Tote have continued operating the Puerto
13 Rico vessels El Moro, El Faro and El Yunque if the environmental control area
14 regulation were not coming into place?

15 **WIT:** I don't know what the long term.

16 **CAPT Neubauer:** Do you know if the environmental control area laws and regulations,
17 did that – was that a factor when Tote decided to recapitalize its fleet?

18 **WIT:** I don't know exactly what the determining factors were for recapitalization.

19 **CAPT Neubauer:** Sir, can you describe any challenges TOTE faced as you
20 recapitalized your fleet and I'm specifically wondering about availability of shipyards,
21 any delays that you encountered during the – as you prepared the other vessels for
22 conversion and also as you built the new LNG ships?

23 **WIT:** Sir, I'm sorry, I didn't quite package that whole question. So what?

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1 **CAPT Neubauer:** Sir, I'm wondering if you – I would like to know about any challenges
2 that Tote faced as you attempted to recapitalize your fleet. Were there any delays, like
3 for instance that could have kept the El Faro in operation longer than planned? Were
4 there any shipyard delays or availability concerns?

5 **WIT:** Are you referring to the new builds?

6 **CAPT Neubauer:** Yes, sir. With the new build ships first.

7 **WIT:** They actually delivered the vessels earlier than under the contractual delivery
8 date. So I mean there was some anticipation the vessel might be delivered earlier, but
9 they, I'm not sure exactly what the issues, they had some issues at new build, but at the
10 end of the day they were delivered earlier than the contract delivery date.

11 **CAPT Neubauer:** Was that – was the earlier delivery driven at all by the sinking of the
12 El Faro or was that completely independent?

13 **WIT:** No. NASCO is a very well organized facility and they strive to get the vessels
14 completed ahead of schedule.

15 **CAPT Neubauer:** Sir, referring to the ISM management and oversight from Tote, who
16 specifically is responsible for overseeing the ISM programs and policies from the
17 company side, sir?

18 **WIT:** Captain John Lawrence.

19 **CAPT Neubauer:** Do you – does Captain Lawrence perform regular audits on the
20 Puerto Rico trade vessels, sir?

21 **WIT:** I'd say, if I recall we've completed audits in accordance with the requirements, if I
22 recall, what I've – in accordance with our standards I believe he's done that.

23 **CAPT Neubauer:** Does, just to confirm, does Mr. Lawrence report directly to you, sir?

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1 **WIT:** No, sir.

2 **CAPT Neubauer:** But does your marine operations branch oversee, is it responsible
3 for oversight ultimately of the ISM programs?

4 **WIT:** My department, oversight of ISM?

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

6 **WIT:** No, John Lawrence, he oversees the ISM.

7 **CAPT Neubauer:** Do you have any involvement in reviewing the audits or?

8 **WIT:** Oh yes. I mean I review – read the audits and if we have issues or observations
9 or corrective actions we correct them. The vessel will.

10 **CAPT Neubauer:** Do you specifically remember reviewing audits, ISM audits of the EI
11 Faro, sir?

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

13 **CAPT Neubauer:** Thank you, sir. At this time the board will recess for 10 minutes.
14 We'll adjourn for 10 minutes, thank you.

15 *The hearing recessed at 1038, 16 February 2016*

16 *The hearing was called to order at 1053, 16 February 2016*

17 **CAPT Neubauer:** The hearing is now back in session. Mr. Morrell I just have a couple
18 more questions to follow up on the last subject matter before we go to a new topic. Sir,
19 do you know why Tote decided to scrap the EI Moro?

20 **WIT:** The decision was made to scrap the EI Moro, it was based on some thickness
21 plate gage readings that I believe were that were, it would require a lot of steel
22 renewals, and I think it was just a cost benefit analysis that because of the age of the

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1 vessel and amount of steal that needed to be cropped and renewed it just didn't pencil
2 out.

3 **CAPT Neubauer:** Sir, you mentioned about the preliminary stow plan that's delivered
4 by Mr. Matthews to the crew of the vessels before they depart Jacksonville. Do you
5 know what's in the preliminary stow plan?

6 **WIT:** No. Well the only thing I know is it's just what Don knows of the cargo that's in
7 the yard or expecting to come in and how it would be stowed. But that's it. I've never
8 seen one. It's not in my area. I just have a general knowledge of what it is.

9 **CAPT Neubauer:** Do you know when the crew of the vessel before it departs
10 Jacksonville, when it typically receives the final stow plan?

11 **WIT:** It's presented to them after they've finished loading the vessel, well at least in
12 Tacoma the checkout, is when the stow plan is delivered to the vessel and they go
13 through the analysis and they review the trim and stability of the information they're
14 given and compare it with the book and then they sign off on it if it's acceptable.

15 **CAPT Neubauer:** Who signs off on the final ----

16 **WIT:** The Master signs off on it.

17 **CAPT Neubauer:** Do you know how long typically, or an estimate of how long the
18 Master and Chief Mate will have to review the final stow plan before departure, sir?

19 **WIT:** No, I don't know exactly that time frame.

20 **CAPT Neubauer:** Would there be a reasonable amount of time that you would require,
21 or you would think was reasonable to review the final stow plan before departure
22 report?

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1 **WIT:** I would expect it takes what it takes and until they're comfortable with it, until
2 they've done what they need to do.

3 **CAPT Neubauer:** Sir, just to clarify. Did you say as long as it takes?

4 **WIT:** Well yeah, I mean there's no rush. I mean there's no, like they don't set a clock
5 and say you have – they review the information and they go through the procedures and
6 do the calculations as they have to do. And when they're satisfied, that's it. There's no
7 time limit, there's no – it is what it is.

8 **CAPT Neubauer:** Sir, thank you. At this time we're going to go to a new topic and we'll
9 start off with Mr. Fawcett.

10 **Mr. Fawcett:** Thank you Captain. At this point we've talked about the historic – the
11 history of Tote and the history of the El Faro in general. And we would like to move on
12 to a new topic area and that is an overview of operations. So one question I had, before
13 the accident voyage that occurred in September, what was going on the West Coast
14 with regard to the Isla Bella the new ship. It had left San Diego and it proceeded up the
15 coast of California, what was going on there in general terms?

16 **WIT:** When the vessel went on sea trials the last week of August and during the
17 maneuvering hard over and steering tests, there was a spike in temperature on the after
18 thrust bearing, thrust bearing and there was some material taken out of the strainer and
19 it was determined that the bearing was damaged.

20 **Mr. Fawcett:** So the vessel was going up the coast of California and it was going to go
21 to a yard in the San Francisco area, is that correct?

22 **WIT:** Yes, sir, it went to BAE Systems in San Francisco.

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1 **Mr. Fawcett:** And they were going to haul the ship out onto the dry dock, is that
2 correct?

3 **WIT:** She was dry docked and they proceeded to – we removed [in audible]
4 interferences in the temp shaft and propeller and the tail shaft to – we knew they – well
5 there's two bearings in that design, there's a forward and an aft steering, two bearings,
6 both of them needed to be replaced.

7 **Mr. Fawcett:** And approximately what date was the Isla Bella put back into the water?

8 **WIT:** I was out of town, I don't an exact date. It was, I don't know an exact date. It was
9 second, third week of September is all I know. But I was out of town, I was not present
10 at the time.

11 **Mr. Fawcett:** Okay, out of town for business?

12 **WIT:** Yes, sir.

13 **Mr. Fawcett:** Where were you?

14 **WIT:** I was in Singapore.

15 **Mr. Fawcett:** Turning our attention to the operation of Tote vessels. Who oversees the
16 movement of the tug and barge trade that runs from back and forth from Jacksonville to
17 San Juan?

18 **WIT:** Are you referring from a commercial aspect, or?

19 **Mr. Fawcett:** From the management of the movement of the vessels so they meet their
20 schedules, so they're properly loaded and so forth.

21 **WIT:** Again, the loading of the barges are performed by Tote Maritime Puerto Rico
22 shore side operations, Don Matthews and Ronald Rodriguez. They do the stowing of
23 the barges with their stevedore, PORTUS. Tote Services Port Engineers, Tim Neeson,

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1 Jim Fisker-Andersen we would do any repairs that are required to the barges like hand
2 railings, number of hand railings that got damaged or twisted, our container sockets that
3 got damaged, but that's – we would maintain that part, but the operations, loading,
4 stowing and schedule was Tote Maritime Puerto Rico.

5 **Mr. Fawcett:** Okay. As far as the movement of the vessels themselves as they depart
6 port and proceed to their destinations, who manages that for Tote?

7 **WIT:** Are we talking about the vessels or barges?

8 **Mr. Fawcett:** The vessels towing the barges. I'm considering them a single unit.

9 **WIT:** Okay.

10 **Mr. Fawcett:** Tug and tow.

11 **WIT:** Okay, so I'm sorry. So the question again was?

12 **Mr. Fawcett:** Who manages and oversees that operation?

13 **WIT:** Well the tugs are responsible for their own maintenance, their own – they would
14 organize the fuel, so the tugs themselves are managed by their operators. We would –
15 they did their crewing, they did their maintenance, they just requested how much fuel
16 they would want and we made arrangements for the tugs to fuel in Jacksonville or in
17 San Juan wherever they needed to take fuel. But as far as the operations of the tugs
18 themselves, that was managed by the tug operators.

19 **Mr. Fawcett:** And just for clarification, earlier and throughout this – your testimony,
20 you've mentioned Sea Star Line. Could you clarify whether Sea Star Line has ceased
21 existing and we're now talking about Tote Maritime Puerto Rico? I know there's been a
22 change.

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1 **WIT:** Yes, sir, I'm sorry, so you're correct. So Sea Star Lines changed in late
2 November, they officially became Tote Maritime Puerto Rico.

3 **Mr. Fawcett:** And on the organization chart that we've discussed, it lists Port
4 Engineers, Mr. Weinbecker, Mr. Neeson as Sea Star Line. Could you explain why
5 they're not listed as Tote Services employees?

6 **WIT:** You say that's in our organizational chart?

7 **Mr. Fawcett:** Yes.

8 **WIT:** I think that refers to the vessels that they were looking after, versus there's other
9 gentlemen there who are domiciled in Tacoma, Washington, they have the Tote
10 Maritime Alaska fleet. So they're – maybe we should take a look at it, because I just
11 can't recall exactly what you're ----

12 **Mr. Fawcett:** That would be Exhibit 47, sir. I believe it's the last page.

13 **WIT:** I think to answer your question, they are Port Engineers for what was Sea Star
14 Line, so now that should be updated to say Tote Maritime Puerto Rico.

15 **Mr. Fawcett:** But they work for Tote Services?

16 **WIT:** They're Tote Services. It just indicates the assets that they're looking under, as I
17 read it.

18 **Mr. Fawcett:** Okay. So the tugs and barges that are out there carrying your cargo,
19 how are they tracked as they move out onto the sea to conduct their voyages?

20 **WIT:** Well they send in a noon report, their position report every day noon. But again,
21 they're managed, they're not a part of the Tote Services ISM plan. They're not a part of
22 our operation, they're not our employees. They're simply – it's a charter, so the owner

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1 operator of the tug manages that whole portfolio and they send us a noon report on
2 position, fuel consumed, fuel onboard, those typical noon report items.

3 **Mr. Fawcett:** So how do you assess the adequacy of the operations they're conducting
4 for you while they're under contract?

5 **WIT:** Adequacy meaning?

6 **Mr. Fawcett:** How those vessels are operated.

7 **WIT:** Well, I mean there's an intended voyage schedule, so it's managed against their
8 when they arrive and depart either Jacksonville or San Juan and sometimes there's
9 congestion in San Juan and they have to be held out or there's other operations going
10 on in Jacksonville. So I guess the adequacy is that, you know they did the best they
11 can to perform on the schedules that was given to them.

12 **Mr. Fawcett:** Are there any speed restrictions on the barges that are towed by those
13 vessels?

14 **WIT:** I believe that they don't want them going faster than 10 knots because of some
15 potential pounding damage. But that was it. I think they typically sail roughly 11 or
16 under knots.

17 **Mr. Fawcett:** And how do you ensure they're not being towed at more than knots?

18 **WIT:** Well I mean we expect the Master to provide us an honest noon report which
19 indicates the speed and miles traveled.

20 **Mr. Fawcett:** And who would review those reports to make sure they're in compliance
21 with your company's standards?

22 **WIT:** Well it wasn't our standards. It was the barge – the barge owner I think did not
23 want the barges to go excessive, like over 10 knots or routinely over 10 knots. So I

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1 think they sailed at or about 9, slightly under 10 knots at top speed or slower. But we
2 would look at the noon report. The Port Engineers would look at that. I looked at the
3 noon report. But I don't think there was ever a case they were routinely going faster
4 than 10 knots that I can recall.

5 **Mr. Fawcett:** So who is within the Tote organization a Port Captain?

6 **WIT:** Umm, we have one Port Captain at Tote Services, but I believe she is, that title
7 goes with a Government contract. So I don't believe that she has Tote ship Port
8 Captain responsibilities over the commercial fleet.

9 **Mr. Fawcett:** And I think that Mr. Kucharski was asking a line of questions about your
10 title having the operations designation in it, and who would be the nautical, the person
11 that has oversight within the company for nautical operations?

12 **WIT:** Well if they are nautical related questions, in our program and the way it's laid out
13 in our ISM book, is that they should go up through John, Captain Lawrence if there are
14 nautical related questions.

15 **Mr. Fawcett:** Okay. But not for questions, just for routine day to day operations. Not
16 like when a question arises, but to assure that the nautical operations are being carried
17 out the way you expect them to be. Who has the oversight for that function?

18 **WIT:** Are you referring to like nautical department deck maintenance, or?

19 **Mr. Fawcett:** Anything related to the operation such as voyage planning, anchoring,
20 maneuvering, pilot Master exchanges, the route ships are taking at sea?

21 **WIT:** Well in our – that's managed on board by the Captain. And from those area like
22 voyage planning, anchoring, the detail that's all managed on board by the Captain. He
23 has total responsibility for all of that work. We have a requirement that if there's a

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1 change of course or a different course than normally taken the Master needs to notify
2 the office and that's in accordance with our ISM. And that's just to advise our
3 customers that, or Tote Maritime Puerto Rico that the vessel had a taken a different
4 voyage which add some time. And usually the Master's doing this for weather
5 avoidance or for a safer ride. So the expected on time arrival would be not probably
6 what is posted so they could reschedule tugs and pilots and stevedores.

7 **Mr. Fawcett:** And you mentioned changes of course?

8 **WIT:** Not changes of course, but a different route. A complete change just as you saw
9 on the power point. There's a couple different routes that you can take and the Master
10 ultimately decides which route he is taking based on his voyage plan. The normal one
11 is what we call the Atlantic trip voyage, but sometimes there's two other options they
12 can take, whether it's Providence Channel or Grand Bahamas channel for navigation
13 that they need to notify us because it's a different route than normal. And it's only
14 because of to advise for the stevedore and shore operations activities, say in San Juan
15 or in Jacksonville on the return voyage.

16 **Mr. Fawcett:** Could you repeat that last part? It's only to be what?

17 **WIT:** Well it's – they notify the office for us to communicate to Tote Maritime Puerto
18 Rico that the Stevedore operations could be delayed or could be potentially changed
19 from what they originally anticipated as a start time or the arrival time.

20 **Mr. Fawcett:** So for the El Faro and the El Yunque, what are the Tote expectations as
21 to how those ships are operated by the Master?

22 **WIT:** Well the safety is first, that's our first top line goal in our organization. And it's
23 also our requirement in our ISM guide the Master is responsible for the safety of the

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1 vessel and the crew. And he has the ultimate responsibility for voyage planning. So
2 that's our – that's the beginning, he sets the voyage, he sets the plan.

3 **Mr. Fawcett:** Is that all of your expectations?

4 **WIT:** I don't know, I'm sure there are others, but I'm just trying to understand the full
5 question that you're ----

6 **Mr. Fawcett:** From a Tote perspective, looking at the El Faro, how do you expect them
7 to stand their watches on the ship for example to mitigate effects of fatigue?

8 **WIT:** Well we have STCW rest hours and there's a requirement for hours worked and
9 hours rest, rest hours. So the department head, Chief Mate manages the deck
10 department and manages the crew work hours.

11 **Mr. Fawcett:** How do you ensure that those hours are being complied with?

12 **WIT:** They have – they maintain a log book of hours. So they're managing that on
13 board and we audit that on occasion during our internal audits.

14 **Mr. Fawcett:** And we'll go into this in more detail, but do you know how many audits
15 have been performed aboard the El Faro in the last say, since 2014?

16 **WIT:** No.

17 **Mr. Fawcett:** So who ashore directly monitors the departure and arrival messages?

18 **WIT:** Port Engineer.

19 **Mr. Fawcett:** Is that spelled out somewhere?

20 **WIT:** No, I mean the noon reports are sent to a large group of people. He reviews
21 them, I read them, Jim Fisker-Andersen reads them. I think it goes to practically
22 everybody in the organization.

23 **Mr. Fawcett:** And who monitors the noon reports?

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1 **WIT:** Jim Fisker-Andersen monitors them, I look at them. Each Port Engineer reviews
2 them, reads them.

3 **Mr. Fawcett:** Is there some sort of like duty assignment that says this particular person
4 will monitor those particular reports on a particular day?

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

6 **Mr. Fawcett:** So in other words if it was Christmas day could I tell who was going to
7 monitor those reports?

8 **WIT:** I don't think you would see that. I'm not aware that's actually to that level of
9 detail, no.

10 **Mr. Fawcett:** Okay. So you've mentioned some other routes that the vessel could
11 take, the El Faro could take in route to San Juan. And you mentioned a couple different
12 routes. Do they need to ask permission to take those routes?

13 **WIT:** No.

14 **Mr. Fawcett:** Okay. I would like if you would draw your attention to Exhibit 51, page 1.
15 Okay, what you're looking at is an excel spreadsheet with data blacked out for the El
16 Faro on one of her voyages. In there at the bottom of that you'll see a note about the
17 voyage plan. Do you see it, sir?

18 **WIT:** Yes.

19 **Mr. Fawcett:** Could you read that aloud?

20 **WIT:** Master has reviewed and signed the voyage plan, yes.

21 **Mr. Fawcett:** What route is that ship going to take?

22 **WIT:** It does not say.

23 **Mr. Fawcett:** How do you know what route that ship is going to take?

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1 **WIT:** Specifically I do not know.

2 **Mr. Fawcett:** Okay. So the El Faro is going to set out on a voyage and you don't know
3 from that document what route the ship will take?

4 **WIT:** Not on this particular document, it doesn't say.

5 **Mr. Fawcett:** Have you ever seen it where it says what route the vessel's going to
6 take?

7 **WIT:** Not on this departure report or noon report, no.

8 **Mr. Fawcett:** Is there some other way that you would be able to understand what route
9 the vessel is going to take?

10 **WIT:** The Master, well, again in our ISM Plan he's to notify the office if he's, I see what
11 you're saying, taking a route that's – a different route then the norm – so the normal
12 route is what we call the Atlantic route as I understand it. Which is – and anything
13 different to that he has to notify the office, like ----

14 **Mr. Fawcett:** Where would it say that?

15 **WIT:** Well it doesn't say that, I can't see that here.

16 **Mr. Fawcett:** No, I mean where would it say that the ship normally takes the Atlantic
17 route and if the Captain's going to deviate from that route he should notify or must notify
18 your office?

19 **WIT:** I don't – I'm not aware if that's written any place.

20 **Mr. Fawcett:** Okay. Once the ship has left port and it's far at sea, how often do you
21 know where the ship is?

22 **WIT:** Well each day they send in the noon report.

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1 **Mr. Fawcett:** I'm going to ask Lieutenant Commander Yemma to display Exhibit 2,
2 page 4. And what I've done here, sir, is I've circled the clarification noon reports that a
3 ship would give, and in this particular case, this would be August voyage where the
4 vessel deviated through the old Bahama Channel in route to San Juan. So what you
5 see is stars representing the noon report of the El Faro. And in this particular case how
6 do you know where the ship is between those points?

7 **WIT:** I don't think we do. At least I'm not aware of it. That's not something I am aware
8 of.

9 **Mr. Fawcett:** Thank you. Is there anyone else that you're aware of that may actually
10 know where the ship is between those noon positions through some kind of computer
11 tracking system or some alternate means of communication?

12 **WIT:** I do not know.

13 **Mr. Fawcett:** And you mentioned that, and I just want to clarify this, that the Captain
14 would keep you advised of, did you say a change of course?

15 **WIT:** Yes.

16 **Mr. Fawcett:** And do you know how significant a change of course he needs to notify
17 you?

18 **WIT:** It's described in the ISM. I don't have that off the top of my head. I can't exactly
19 recall what it says. But when they do change course from their initial voyage plan,
20 whichever route they have decided, they need to – and he sends his departure report
21 what plan he's – if he's taking a different – if he's changing a major course change in his
22 route then he will have to notify the office.

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1 **Mr. Fawcett:** All right, Commander Yemma is handing you the operations manual of
2 vessels. And if you will turn to 025, which is that manual, page 218. There's several
3 references to weather in that manual, but I want to focus your attention on the adverse
4 weather section. Could you read that aloud, the section on adverse weather?

5 **WIT:** The Master should be very careful that the vessel is handled during periods of
6 adverse weather. Before encountering heavy weather the Master should take proper
7 precautions to safely stow and secure all the vessel's equipment to prevent any damage
8 to the equipment or vessel. The Master shall take whatever actions necessary to
9 prevent excessive damage to the vessel from heavy weather. The Master shall advise
10 HQ office of speed reduction and or course changes due to heavy weather.

11 **Mr. Fawcett:** And below that there's another section, I'm not going to ask you to read it,
12 but could you read the title of that? I believe it's related to ballasting.

13 **WIT:** Additional ballasting in heavy weather.

14 **Mr. Fawcett:** Thank you. And there's another one regarding weather routing?

15 **WIT:** Yes, sir.

16 **Mr. Fawcett:** Do you see that, sir?

17 **WIT:** Yeah.

18 **Mr. Fawcett:** Can you read the first couple of lines of that please?

19 **WIT:** The information provided by the weather routing service is given as advice to the
20 Master and does not relieve the Master of any his responsibilities. The Master has the
21 final decision on which route the vessel will follow. Since weather routing services
22 provide valuable information it is strongly recommended that the Master pay particular
23 attention to the guidance.

1 **Mr. Fawcett:** Was the El Faro, did she have weather routing services available?

2 **WIT:** She has Bon Voyage weather and I don't – it has weather updating, I don't
3 believe it's a weather routing. It's weather – it's a weather reporting system, applied
4 weather.

5 **Mr. Fawcett:** Did that paragraph of the operations manual for vessels, does that apply
6 to the ships such as El Faro and El Yunque or other ships in your fleet?

7 **WIT:** No, right here, vessels supplied with applied weather tech, Bon Voyage services
8 shall adhere to the following instructions. So archiving weather data. So the El Faro
9 had applied weather, Bon Voyage weather information coming to her and that's what
10 the primary tool along with other weather services that they had to plan the voyage.

11 **Mr. Fawcett:** Okay. Just to verify, the applied weather Bon Voyage system has a
12 feature where you can get weather avoidance recommendations, is that correct?

13 **WIT:** I'm not very familiar with the program.

14 **Mr. Fawcett:** Okay.

15 **WIT:** I just know we have it.

16 **Mr. Fawcett:** Did the El Faro have it?

17 **WIT:** Yes, sir.

18 **Mr. Fawcett:** No I mean the recommendations for avoidance?

19 **WIT:** Well if they had Bon Voyage, I'm not exactly – are you saying it's an option?

20 **Mr. Fawcett:** Right.

21 **WIT:** Oh, I'm not familiar, sir, sorry. I know it has Bon Voyage, but I don't know to what
22 extent all of the features that they have. If it's something they wanted they – if it was
23 something that was useful to them they would have given it.

1 **Mr. Fawcett:** Do you know if Government contract ships that you operate have access
2 to weather routing services?

3 **WIT:** I'm not involved with Government operations, sir.

4 **Mr. Fawcett:** So I've asked you to focus your attention on three areas, one adverse
5 weather, one related to ballasting and weather, and another one related to adverse
6 weather routing recommendations. What other tools does the Master have or what
7 other plans does the company have to protect ships at sea from a stand point of
8 something similar to that manual that you've just been reading?

9 **WIT:** Well in addition to Bon Voyage they have access to NOAA weather through
10 SATCOM. They have weather jets and you can also get – they get – they had a
11 weather fax machine, but they preferred to use, get the weather fax information by the
12 email phone from the server because it's a better quality on the reception. So they were
13 getting – they had weather from like NOAA and on SAT-C, SATCOM, they got weather
14 from the weather fax service sent to the vessel via an email form and then weather
15 texts.

16 **Mr. Fawcett:** How about written plans such as that, that will promote and ensure the
17 safe operation of the vessel? Are there other documents that we're not aware of?

18 **WIT:** I'm not aware, I'm not familiar, sir, no.

19 **Mr. Fawcett:** Okay. So the Tote hurricane plan, I've seen one that has approximately
20 22 pages. Are you familiar with that document?

21 **WIT:** I've seen it, I've read it.

22 **Mr. Fawcett:** Can you talk about what's contained in the hurricane plan?

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1 **WIT:** Not off the top of my head, no. I mean I've seen it, I've read it, but I haven't
2 studied it recently. But, no.

3 **Mr. Fawcett:** Can you generally characterize what it's intended use is? Like why would
4 I use the Tote hurricane plan?

5 **WIT:** To protect the vessel from adverse weather, securing for sea for watertight
6 spaces. Those are probably, those are the type of items that are in that plan.

7 **Mr. Fawcett:** And that would be the Tote hurricane plan?

8 **WIT:** Well, you just asked me why would we, I don't know if that's in the Tote hurricane
9 plan, no.

10 **Mr. Fawcett:** Do you know if there's a specific plan for the Alaskan vessels? You know
11 the weather in Alaska is a series of hurricane almost force winds one after another at
12 times. Those vessels operate in heavy weather often.

13 **WIT:** Yes.

14 **Mr. Fawcett:** Is there a specific heavy weather plan for the Alaskan vessels?

15 **WIT:** No. It's the same, same ISM plan for all Tote vessels.

16 **Mr. Fawcett:** To amplify the contents of that plan, Tote sends out OPS memos. Could
17 you describe briefly what's contained in the OPS memos?

18 **WIT:** OPS memo contain new information on a variety of subjects that have not been
19 formalized into the ISM plan.

20 **Mr. Fawcett:** So could you cite an example of what one of those OPS memos might
21 contain?

22 **WIT:** Not off the top of my head. I mean I read them, but I just don't like an example in
23 my mind exactly what it was.

1 **Mr. Fawcett:** On August 20th, there was a safety alert put out. That's different from an
2 OPS memo.

3 **WIT:** But it was sent in an OPS memo form. Wasn't it? It was an OPS memo.

4 **Mr. Fawcett:** Well, could you just basically talk about what a safety alert is? A Tote
5 safety alert.

6 **WIT:** That was sent out by John Lawrence to all of the vessels about a safety alert. I
7 can't recall specifically what that contained.

8 **Mr. Fawcett:** We'll discuss that more in length, but it related to Hurricane Danny out in
9 the Caribbean and does that jog your memory on just the general content?

10 **WIT:** Yes, he sent out a particular on Hurricane Danny based on some weather
11 information he received.

12 **Mr. Fawcett:** And you typically, does Tote typically send out safety alerts for hurricane
13 events?

14 **WIT:** I think that was sent out because that was the first hurricane of the season. So I
15 think the reason behind that one was to bring it to the attention that it's hurricane
16 season and for the shipboard personnel to be prepared for hurricane season. It was an
17 awareness that this is the weather – it's becoming hurricane season and to be vigilant
18 on hurricane issues.

19 **Mr. Fawcett:** Is there a policy that would say that at the beginning of the hurricane
20 season a safety alert would be sent out?

21 **WIT:** I don't believe there's a policy for that.

22 **Mr. Fawcett:** Was there a safety alert, to your knowledge, sent out for Hurricane
23 Joaquin?

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1 **WIT:** No, I don't believe there was.

2 **Mr. Fawcett:** Okay. Thank you very much, Mr. Morrell. I'll turn my questions over to
3 Commander Denning.

4 **CDR Denning:** Mr. Fawcett asked you a question about providing nautical support,
5 nautical operation support the Masters and your response was that John Lawrence is
6 the person within the Tote organization that performs that function. Who performs that
7 function when he's on vacation?

8 **WIT:** Umm, I do not know.

9 **CDR Denning:** Is there anyone else within the Tote management structure with a
10 nautical operations background besides Mr. Lawrence?

11 **WIT:** Yes, we have in our – John Lawrence has a direct report, his Port Captain on the
12 Government side can be filled in as a backup in the role when he's on vacation.
13 Admiral Greene also has a nautical background and could add value there if it's
14 absolutely necessary.

15 **CDR Denning:** Who is the person on the – that does the work for the Government
16 ships you said?

17 **WIT:** Yes.

18 **CDR Denning:** Does this individual typically fill in for John Lawrence on the
19 commercial ships?

20 **WIT:** I don't know if it's typical. You know, I don't know if you describe the word as
21 typical, but she's available if something was to come in or needed advice and John was
22 out of the office on business or vacation that she would fulfill that, I believe.

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1 **CDR Denning:** Are you aware of specifically what functions John Lawrence provides?
2 What advice he provides, what support he provides to, just an overall decision making
3 process for the Masters?

4 **WIT:** No. I mean I'm not sure exactly what John provides to the Masters.

5 **CDR Denning:** I want to have you turn real quick in your exhibits to Exhibit 004, page
6 101. I'll give you a moment to turn to that.

7 **WIT:** You said 004?

8 **CDR Denning:** 004, it might be the other binder.

9 **WIT:** Okay.

10 **CDR Denning:** Page 101.

11 **WIT:** Okay.

12 **CDR Denning:** So Mr. Fawcett asked you a question about whether Masters are
13 required to ask permission from the Tote organization versus simply a notification that
14 they're going to take an alternate route. I would like you to read for us about 2/3 of the
15 way down, there's a line that has some asterisks and says question. And I would like
16 you to read for us that next paragraph.

17 **WIT:** That paragraph or the next one?

18 **CDR Denning:** Actually let me quantify this, this email a little bit more. This is an
19 email, September 30th, 2015, 1022 a.m. is how it's labeled at the top. And it's signed at
20 the bottom Mike Davidson, Master, SS El Faro.

21 **Tote Inc:** Excuse me, Commander Denning.

22 **CDR Denning:** Yes.

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1 **Tote Inc:** Could we just cite the record, we're having difficulty locating the exhibit that
2 you're talking about.

3 **CDR Denning:** Oh certainly. It's Exhibit 4. I'll give everyone time to find it. They're all
4 labeled in the bottom right hand corner as well. So we're looking at page 101 of Exhibit
5 4.

6 **Tote Inc:** That page is blank, sir.

7 **Ms. Davidson:** Mine says it's intentionally left blank.

8 **CDR Denning:** I'm looking at my electronic version, so we'll clarify this.

9 **CAPT Neubauer:** I recommend we take a 5 minute recess to find the exhibit and we'll
10 reconvene.

11 *The hearing recessed at 1133, 16 February 2016*

12 *The hearing was called to order at 1300, 16 February 2016.*

13 **CAPT Neubauer:** Good afternoon. This hearing is now back in session. Mr. Morrell
14 you're reminded that you remain under oath. And if all parties that are speaking into the
15 microphone, just a reminder to please speak closer to your microphone to help the court
16 reporters track the progress of the hearing. And also we have straightened out the
17 exhibit issue from earlier. So I apologize to the parties and the witness for that. And
18 hopefully everybody has the exhibit for the testimony. So at this time I will pass the
19 questioning back to Commander Denning.

20 **CDR Denning:** Thank you Captain. So to re-acclimate everyone to the topic we were
21 discussing before lunch, earlier this morning there was a question asked regarding
22 whether the Masters have to ask for permission to take an alternate route besides the
23 most direct and economical route between Jacksonville and San Juan. So I'm drawing

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1 everyone's attention to Exhibit 4, page 101. That is an email from the El Faro Master,
2 Captain Davidson on the 30th of September, the time stamp at the top of that particular
3 email is 10:22 a.m. Does everyone have that in front of them, all of the parties? So Mr.
4 Morrell, if you could, we're not going to go through the contents of the entire email,
5 there's just a few questions I have on that particular topic of asking permission to alter
6 course, take a different route. If you could read for us just the paragraph underneath
7 where Captain Davidson has some asterisks and then the word "question".

8 **WIT:** Just the one paragraph?

9 **CDR Denning:** Just the one, that one paragraph.

10 **WIT:** I would like to transit the old Bahama Channel on our return North bound leg to
11 Jacksonville. This route adds approximately 160 nautical miles to the route for a total of
12 1,261 nautical miles. We need to make around 21 knots for the scheduled 10:05, 10:45
13 arrival time at Jacksonville pilot station.

14 **CDR Denning:** Right. So just to make sure everyone, you know for the audience who
15 can't see it, after that first sentence, I would like to transit old Bahama Channel on our
16 return North bound leg to Jacksonville, Florida? So my question for you Mr. Morrell is,
17 did you receive this email?

18 **WIT:** Yes, I'm tagged on it.

19 **CDR Denning:** Do you recall what your thoughts were when you received the email?

20 **WIT:** Well he does not need permission to ask to, he only has to advise us if he's
21 making a change of course. It's more or less a one way conversation. He's the Master
22 in charge of the vessel with determining the voyage plan. He's advising us of his

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1 intentions. There's no need for him to ask permission. It's just – that's my take when I
2 read this.

3 **CDR Denning:** So your understanding is that he doesn't need to ask permission? But
4 in this email it says question, I would like to transit old Bahama Channel on the return
5 trip, question mark. I'm trying to understand why the Master of the vessel might ask
6 permission to Tote management if it's your understanding that he's not required to.

7 **WIT:** I don't know why he was asking permission. I mean it's very clear in our ISM
8 policies that he does not need to ask permission. I don't know why he is asking.

9 **CDR Denning:** Can you point to, in your ISM policy, your safety management system,
10 where it says what you're telling us it says that he does not need to ask permission?

11 **WIT:** It's in the operations manual where he, I don't know the paragraph subpart, but he
12 has to notify the office that he's changing or making course change, or changing his
13 course to advise the head office. That's essentially what that paragraph says.

14 **CDR Denning:** Slightly different topic. Back to stability. Captain Neubauer asked you
15 a little while ago before lunch how much time you thought was necessary or appropriate
16 for the Chief Mate and the Master to review the stability information before getting
17 underway. I think your answer was as much time as it takes that there was no pressure
18 to leave the dock. My question is how much does it cost in general for a vessel to
19 remain at the dock, direct costs, indirect costs, is it costly to delay a vessel sailing?

20 **WIT:** I don't know exactly how much it costs. I mean honestly. I mean it depends what
21 you throw into that cost, but I don't know exactly what that cost is off the, I mean just –
22 you have your fixed costs and your variable costs so it's hard. What number, but I don't
23 know exactly sitting here today what that exact number is.

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1 **CDR Denning:** Could you approximate for us? Is it, you know in the hundred dollar
2 range, or the thousand dollar range, ten thousand dollar range?

3 **WIT:** Are you talking about by the hour?

4 **CDR Denning:** Sure.

5 **WIT:** I really don't know.

6 **CDR Denning:** Any approximation? At this time Captain I'll pass it to our NTSB
7 colleagues unless you have any follow on questions?

8 **CAPT Neubauer:** No. Mr. Roth-Roffy?

9 **Mr. Roth-Roffy:** Good afternoon sir. Tom Roth-Roffy, NTSB. Just a follow-up to
10 Commander Denning's question about why the Captain would ask for permission to
11 divert. I have another question. Why would the Director of Marine Services take it as a
12 request and then grant the request as being authorized? I'm sorry, advises it, you know
13 it was appropriate for the Master to request permission to divert.

14 **WIT:** So Jim Fisker-Andersen is the Director of Marine Operations and Marine
15 Services, but it's just common courtesy that he's just respectfully answering the Captain
16 and it's just acknowledging that he sent this message. Simply that. He's – I see what
17 he wrote here, but it's not necessary for him to provide this information other than noted
18 or thank you. Really that's all that's required.

19 **Mr. Roth-Roffy:** Okay, thank you.

20 **Mr. Kucharski:** Good afternoon again Mr. Morrell. Just a few clarifying questions. You
21 stated that the Master would notify the office or the Master would notify us of a change
22 to the voyage plan or course change?

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1 **WIT:** Well course – route change I should, not necessary a course change, but a
2 routing change.

3 **Mr. Kucharski:** When you say us, and you say the office, who specifically?

4 **WIT:** Well he would notify, I think if you look at this email here this is an appropriate list
5 of people that he sent it to. Captain Lawrence and Patty Finsterbusch [sic], she was
6 John Lawrence's assistant. And a number of Tote Maritime Puerto Rico office terminal
7 ops people for their awareness that the vessel is changing – is not going on its normal
8 regular route I guess we should say. And is going through – he is requesting or
9 requesting to go a different route back to Jacksonville. As he indicates here, you know,
10 so I think that's ----

11 **Mr. Kucharski:** Is that process for the people that should be notified, is that memorized
12 somewhere where we could go?

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

14 **Mr. Kucharski:** And what exactly did you or Mr. Fisker-Andersen monitor on the noon
15 slips, you said you monitored the noon slips and the arrival and departure messages?
16 What do you monitor on them?

17 **WIT:** What do we – I mean I look at typically the operating characteristics, the vessel
18 speed, distant miles covered, distance to go, the fuel consumption, that's what I look at.
19 You know I see the coordinates, but I mostly focus on the vessel performance aspects.

20 **Mr. Kucharski:** For what purpose then you monitor, you look at to see these number?
21 What does it mean to you?

22 **WIT:** You know how the vessel is operating. I mean, just – I do the math just to see if
23 that's about right, is it normal.

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1 **Mr. Kucharski:** So on the departure messages where they give other information,
2 cargo information anything like that, do you look at the information, the bunkers what
3 they have on board?

4 **WIT:** Yeah I see if they have bunkers on board and I look at the tonnage.

5 **Mr. Kucharski:** When the Isla Bella left San Diego, was she provided with weather
6 routing information, or weather routing service?

7 **WIT:** I think when she – about a day or so after she left we implemented. She had Bon
8 Voyage when she left, yes.

9 **Mr. Kucharski:** Bon Voyage in and of itself, you say that's a weather routing service?

10 **WIT:** No, no, no. But she had Bon Voyage. But part way, I don't think it was actually
11 on when the Isla Bella departed San Diego. I want to say it was implemented a day out
12 or two, we implemented a vessel routing system on that vessel.

13 **Mr. Kucharski:** Was that the same routing service from AWT?

14 **WIT:** A?

15 **Mr. Kucharski:** I'm sorry I didn't hear you.

16 **WIT:** I didn't know what AWT meant.

17 **Mr. Kucharski:** Applied weather technologies, the manufacturer.

18 **WIT:** No, it's a different one, it's Jeppesen.

19 **Mr. Kucharski:** So is that what you're saying they were provided routing service from
20 Jeppesen?

21 **WIT:** Jeppesen does that, yes. And we have that fleet wide.

22 **Mr. Kucharski:** The Port Captain you mentioned for the Government ships.

23 **WIT:** Yes.

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1 **Mr. Kucharski:** Could you elaborate a little bit on the Port Captain's experience? I
2 think you mentioned that the Port Captain could fill in for Captain Lawrence, is that
3 correct?

4 **WIT:** I made a mistake there. Actually it's Patty Finsterbusch [sic], she was John
5 Lawrence's assistance that would cover in his absence.

6 **Mr. Kucharski:** And what is her background?

7 **WIT:** She was a Maritime graduate. Oh Patty Finsterbusch [sic]? She's from King
8 Point, a graduate.

9 **Mr. Kucharski:** Deck engine?

10 **WIT:** I believe engine.

11 **Mr. Kucharski:** She was going to fill in for Captain Lawrence on the nautical type
12 issues?

13 **WIT:** I believe so.

14 **Mr. Kucharski:** I would like you to maybe clarify for me, or directly, I'm a little bit
15 confused when I look at the operations manual vessel, this large book here, okay. And
16 that's part of the safety management system?

17 **WIT:** Yes.

18 **Mr. Kucharski:** And it says Tote Services on it, correct?

19 **WIT:** Yes.

20 **Mr. Kucharski:** Is that TSI, same thing, Tote Services?

21 **WIT:** Tote Services.

22 **Mr. Kucharski:** Okay. Then there's another company called Tote Maritime?

23 **WIT:** Tote Maritime Puerto Rico.

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1 **Mr. Kucharski:** Okay. Is Tote Maritime a part of this safety management system also?

2 **WIT:** The safety management system covers the vessels, not, I don't believe it covers
3 Tote Maritime Puerto Rico. It's for the vessels.

4 **Mr. Kucharski:** Okay. The manual covers for the vessels, but it also is part of Tote
5 Services? Is back and forth between the two?

6 **WIT:** Back and forth between Tote Maritime Puerto Rico and Tote Services?

7 **Mr. Kucharski:** No, Tote Services and the vessels.

8 **WIT:** Yes.

9 **Mr. Kucharski:** Yes. Okay. But Tote Maritime is not part of this safety management
10 system?

11 **WIT:** No, because the safety management system applied to the vessels.

12 **Mr. Kucharski:** I just want to clarify this. When I had asked you about the stability of
13 the vessels who monitors the stability of the vessel, you mentioned that that's calculated
14 by the Tote Maritime people?

15 **WIT:** Well it's – the stow plans are developed by Tote Maritime Puerto Rico, but the
16 ultimate review and signing off of the stability is on the Master. For the Master.

17 **Mr. Kucharski:** Who actually calculates the stability and hands it to the Master before
18 the ship sails?

19 **WIT:** I don't know exactly.

20 **Mr. Kucharski:** Okay. So when I went back, and I would just like to clarify it again to
21 make sure I have this clear in my mind, the Tote Maritime people calculate the stability
22 for the vessel?

23 **WIT:** They use a program called – for that.

1 **Mr. Kucharski:** And they have the oversight of stability overall for the vessel?

2 **WIT:** No the Captain has the oversight overall for the vessel.

3 **Mr. Kucharski:** Okay, thank you.

4 **CAPT Neubauer:** Tote do you have any questions for Mr. Morrell?

5 **Tote Inc:** I do, just briefly. Mr. Fawcett asked you about a hurricane preparation plan.

6 When you were referring to a hurricane preparation plan was that for the vessel or was
7 that for onshore operations?

8 **WIT:** The hurricane preparation plan is for terminal operations for securing the cranes
9 and other terminal equipment.

10 **CAPT Neubauer:** Are there any further questions from Tote?

11 **Tote Inc:** No, thank you.

12 **CAPT Neubauer:** Thank you. Yes, Mr. Kucharski.

13 **Mr. Kucharski:** One more please Mr. Morrell. Earlier I believe you mentioned that the
14 older vessels were, like your old ships, the PONCE class vessels, El Faro, El Yunque,
15 were they equally reliable as the newer vessels?

16 **WIT:** Yes.

17 **Mr. Kucharski:** How did you measure that? On what basis did you draw that
18 conclusion?

19 **WIT:** I would base that on voyage performance. And what I mean by that is the arrival
20 and departure schedules, frequencies.

21 **Mr. Kucharski:** How about cost of maintenance? Or the maintenance itself.

22 Reliability, does that factor in at all?

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1 **WIT:** Well again, so the question was are they as reliable. Yeah, they're as reliable.

2 But I'm trying to tie the question to maintenance cost.

3 **Mr. Kucharski:** Sorry. Let me rephrase that. So is maintenance also a reliability
4 measure or the lack of maintenance or less maintenance, more maintenance?

5 **WIT:** Yeah, we measure maintenance.

6 **Mr. Kucharski:** I'm sorry.

7 **WIT:** Yeah, maintenance is extremely important to us.

8 **Mr. Kucharski:** So would you say that, is it just down time or keeping schedule that
9 you say the older vessels are equally as reliable?

10 **WIT:** Down time being?

11 **Mr. Kucharski:** Is it just keeping schedule that – I'm just trying to ----

12 **WIT:** No, I mean, again, they're just as reliable on their performance, on their
13 scheduled performance as the new vessels are in Alaska. I would say there's no
14 significant difference between – the anticipated arrival times or scheduled, posted
15 scheduled times performance I would say they're very comparable of one another.

16 **Mr. Kucharski:** Thank you.

17 **CAPT Neubauer:** ABS do you have any questions for Mr. Morrell?

18 **ABS:** ABS has no questions.

19 **CAPT Neubauer:** Mrs. Davidson, do you have any questions for Mr. Morrell?

20 **Ms. Davidson:** No questions.

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

22 **HEC:** No questions.

1 **CAPT Neubauer:** Thank you. At this time Mr. Fawcett will present a new line of
2 questioning.

3 **Mr. Fawcett:** Thank you Captain. Mr. Morrell, so far we've talked about the history of
4 Tote, the history of the El Faro and sort of covered the broad topic of operations. The
5 next area we're going to move into, I fully recognize is somewhat sensitive. We're going
6 to be talking about the suitability of command for the person fulfilling the role of Master
7 of the ship. And we'll be using a number of exhibits throughout this particular portion of
8 the testimony. So it may take a little while for you to find them and just take as much
9 time as you need. So I would like to turn your attention to the following questions. The
10 first one is were you aware that the selection process for the new crews for the new
11 construction ships was causing contention aboard the El Faro and the El Yunque?

12 **WIT:** I couldn't tell you. I don't understand contention.

13 **Mr. Fawcett:** Well there was a strong desire to get the new ships. To get a crewing
14 position on the new ships. And there was some degree of concern among crew
15 members as to was going to be selected versus who wasn't going to be selected. Were
16 you aware of that?

17 **WIT:** I'm not aware of any, as you define the word contention on the ships, no.

18 **Mr. Fawcett:** Were potential candidates that were selected for the new ships asked to
19 sign non-disclosure agreements?

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

21 **Mr. Fawcett:** Looking at the day that the El Faro sank, what was the future
22 employment plans for Captain Davidson?

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1 **WIT:** The plan for Captain Davidson would be to remain with the company and either
2 sail on the El Faro or the El Yunque. But there was no formalized discussions that I'm
3 aware of that we've had with Captain Davidson or where he would – but naturally I think
4 he would just stay with the El Faro.

5 **Mr. Fawcett:** Okay. I would like to turn your attention if you will please to Exhibit 5,
6 page 47. Have you found that, sir?

7 **WIT:** Yes, sir.

8 **Mr. Fawcett:** Okay. The bottom of that portion of an email that – it's part of an email's
9 chain on August 4th and it was late in the day, in the afternoon. Could you read the
10 bottom paragraph? It starts with "on 8/4/14".

11 **WIT:** The whole paragraph?

12 **Mr. Fawcett:** Yeah, could you read it aloud?

13 **CAPT Neubauer:** Mr. Fawcett, can you clarify who the email was from or to?

14 **Mr. Fawcett:** Thank you, sir. It was from Tim Nolan to Phil Greene. But down at the
15 bottom there's a discussion that I believe you might have written, is that correct?

16 **WIT:** That I wrote?

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

18 **WIT:** No, sir, it's not from me.

19 **Mr. Fawcett:** Okay, could you read that aloud? And I will make the correction, it's Phil
20 Greene.

21 **WIT:** After through assessment of Captain Davidson I'm pleased to inform you that
22 Captain Davidson will be offered a position of Master on Marlin 496. Captain Davidson
23 will be assuming Master of the El Faro on Tuesday, so it affords us to meet with Captain

1 Davidson face to face to convey our desires for him to sail as Master on 496. Will you
2 be available on Tuesday to kindly join me so we can deliver the positive news together?
3 Following delivery of the positive news, Phil Morrell and I intend to stay behind in order
4 to provide Captain Davidson feedback gathered from the operational team during the
5 interview process. I think it will serve as constructive insight for Captain Davidson to
6 further enhance his operational effectiveness as he moves towards our new maritime
7 team.

8 **Mr. Fawcett:** Okay. So on August 4th it appears that Captain Davidson was going to
9 be given command of one of the new ships. Does that seem so from that email?

10 **WIT:** Yes.

11 **Mr. Fawcett:** And do you know why he wasn't going to be given command of one of
12 the new ships?

13 **WIT:** After this email the crewing department advised Mr. Greene, Admiral Greene of
14 an incident that took place on the El Faro in San Juan some previous weeks with a crew
15 member ashore. Then I was asked to go down and talk to the Chief Mate and the
16 Captain about that. And Captain Davidson requested the Chief Mate to go to the front
17 gate to find out what was going on with his crew member. And the follow through, in my
18 judgement going back to Phil Greene wasn't executed correctly and they really never
19 spoke to the gentlemen and I just recommended to Phil Greene that we -- that there's
20 just some administrative issues there that I think we just need to stick with the course
21 that was originally determined where with some outside candidates and for continuous
22 improvement.

23 **Mr. Fawcett:** Do you recall which Chief Mate that was?

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1 **WIT:** It was Ray Thompson[sic].

2 **Mr. Fawcett:** So are you aware that at any time that Captain Davidson might have
3 been – might have known that he was going to command of the new ship?

4 **WIT:** I'm not aware of that, no.

5 **Mr. Fawcett:** Changing course just a little bit. How often were the Masters of the EI
6 Faro and the EI Yunque evaluated for competency?

7 **WIT:** There's an annual review process.

8 **Mr. Fawcett:** How about the Chief Engineers on those ships?

9 **WIT:** It's annual.

10 **Mr. Fawcett:** And what was there – what was the criteria that you use, not you
11 personally, but that Tote used to evaluate that competency?

12 **WIT:** There's a – the evaluation contains a list of questions that the Port Engineer who
13 is filling out the evaluation form answers or provides input to.

14 **Mr. Fawcett:** Okay. So the Port Engineer conducted the evaluation of these senior
15 officers?

16 **WIT:** Yes, sir.

17 **Mr. Fawcett:** And do you know who would have conducted the evaluation on Captain
18 Davidson?

19 **WIT:** It was the Port Engineer.

20 **Mr. Fawcett:** Can you say which one?

21 **WIT:** I'm not exactly certain which one did it.

22 **Mr. Fawcett:** Okay. So we've been able to take a look at the personnel files and we
23 did not find a completed evaluation for Captain Davidson since he sailed as Third Mate

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1 in 2013 on one of your vessels. Do you know if there's another place we would find an
2 evaluation of Captain Davidson?

3 **WIT:** I don't know how to answer that question, no. I don't know.

4 **Mr. Fawcett:** All right. So when would the annual evaluation take place?

5 **WIT:** I'm not exactly sure what exactly month of the year it takes place, but I don't
6 know. I want to say it's in the first quarter I believe it is.

7 **Mr. Fawcett:** Excuse me?

8 **WIT:** First quarter.

9 **Mr. Fawcett:** All right. Does senior management review that evaluation to determine
10 the competency of the Master?

11 **WIT:** Well after it goes from Tim Neeson it goes to the Director of Ship Management for
12 review. And then Jim Fisker-Andersen and if he has any comments he will send it, or
13 he usually agrees with the mates modifications and then send it to me for review, or to
14 read. And then it goes to the HR department.

15 **Mr. Fawcett:** Okay. So if you turn your attention to Exhibit 52. This is the only
16 evaluation that we found. And I didn't classify it as an evaluation because it was only
17 signed by Mr. Neeson. And there was no – Captain Davidson didn't sign nor did some
18 higher authority above the level of Port Engineer. Does that look like the Tote
19 evaluation form?

20 **WIT:** Yes, this is the form that I'm familiar with.

21 **Mr. Fawcett:** And can you give me the date of that form?

22 **WIT:** The date that Tim Neeson signed it?

23 **Mr. Fawcett:** Correct.

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1 **WIT:** October 2nd, 2014.

2 **Mr. Fawcett:** And what were the evaluation ratings, 5 being highest and 1 being the
3 lowest, what were the evaluations for Captain Davidson?

4 **WIT:** He received 5's.

5 **Mr. Fawcett:** In all categories?

6 **WIT:** Well, it appears that cooperation with technical manager is not filled in.

7 **Mr. Fawcett:** And then I know, you haven't seen this form before have you?

8 **WIT:** I've seen the form.

9 **Mr. Fawcett:** This completed form?

10 **WIT:** I can't recall. I mean, I can't recall. I've seen Captain Davidson's evaluations, but
11 I don't know if this one or another one. I don't know.

12 **Mr. Fawcett:** Okay. We have not seen any other one. But this one has some
13 comments in it from the Port Engineer. It says, Captain Davidson handles all aspects of
14 the Master's position with professionalism. He handles a diversified and unpredictable
15 crew quite well. And it's signed by the Port Engineer.

16 **WIT:** Yes, sir.

17 **Mr. Fawcett:** Do you see any reference there to his nautical operations expertise?

18 **WIT:** Oh, all aspects of being at Master's position.

19 **Mr. Fawcett:** Okay.

20 **WIT:** I'm sorry, I was looking through the – reading.

21 **Mr. Fawcett:** Looking at the Port Engineer, the job of Port Engineer, in particular Mr.
22 Neeson, what's his background?

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1 **WIT:** Uh, Tim Neeson is a graduate of Cal Maritime, he's a licensed Chief Engineer,
2 sailed extensively with Horizon Lines and he was also a Port Engineer for Horizon Line
3 for many years prior to coming to Tote.

4 **Mr. Fawcett:** Okay. So other than the contents of that form, is there some other
5 criteria that he used to evaluate the effectiveness and the competency of Captain
6 Davidson?

7 **WIT:** He's, you know our Port Engineers are with the vessel from the time it arrives to
8 the time departs every week. So he sees Captain Davidson every week for 26 weeks a
9 year. And spend some time on the vessel and has a very good working relationship
10 with the vessel and the Captain. So he's – and with his extensive background as a
11 licensed Chief Engineer and sailing, I think he has good input.

12 **Mr. Fawcett:** Does anybody else participate in the evaluation of Captain Davidson?

13 **WIT:** If Port Engineer fills out the form then it goes to Jim Fisker-Andersen who's a
14 Director of Marine Operations for just review and concurrence or further comments if
15 necessary.

16 **Mr. Fawcett:** The El Faro spends most of her time out of sight of the Port of
17 Jacksonville, over the horizon at sea. And most of those operations that Captain
18 Davidson performs are deck operations, conducting safety meetings for effectiveness,
19 orientation of personnel, anchoring, maneuvering, storm avoidance, voyage planning.

20 Is Mr. Neeson capable of evaluating those functions?

21 **WIT:** I believe so.

22 **Mr. Fawcett:** And how would he do that?

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1 **WIT:** Well I mean in his background and experience. But John Lawrence also has
2 input on evaluations as well that he's compliant with the ISM, policies and rules of the
3 company.

4 **Mr. Fawcett:** And is that a formal part of the process that Captain Lawrence is involved
5 in with the evaluation of Masters?

6 **WIT:** No, I mean, Port Engineer fills out the form, but John Lawrence is – can see from
7 the, you know following through on OPS memos and different things that go on from the
8 ISM perspective that the Masters are responding to.

9 **Mr. Fawcett:** Does Mr. Neeson ever evaluate drills or safety meetings?

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

11 **Mr. Fawcett:** Would he ever have oversight of how, for example like the Polish riding
12 crew was oriented from a safety perspective when they're on board the vessel?

13 **WIT:** Well Tim Neeson would ensure the project manager that we had on board the
14 ship, which was an additional licensed Chief Engineer that was part of our safety
15 program for orientating when we have contractors on the vessel. The Second Officer
16 also ensures that they know where the boat stations are and their life jackets and all of
17 the safety procedures when they're on the vessel.

18 **Mr. Fawcett:** And just for the record. Who conducts the evaluation of the Second
19 Officer?

20 **WIT:** Chief Mate.

21 **Mr. Fawcett:** So turning our attention to Captain Davidson, what was his level of
22 competency?

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1 **WIT:** Captain Davidson was licensed by the United States Coast Guard as a Master
2 Mariner. He had competency.

3 **Mr. Fawcett:** What were the strengths and weaknesses of his command?

4 **WIT:** I don't know. I don't sail on the vessel so I can't answer that question, I don't
5 know.

6 **Mr. Fawcett:** Could you take into account the strengths and weaknesses of Captain
7 Davidson when you evaluated him for movement up to the Marlin Class ships?

8 **WIT:** There was a collective process of different people in the room with all sorts of
9 backgrounds and expertise that were evaluating that.

10 **Mr. Fawcett:** I would like to turn your attention if I could to Exhibit 5, page 4.

11 **WIT:** Yes, sir.

12 **Mr. Fawcett:** Did you have a chance to look that over, sir? You have, sir?

13 **WIT:** Sorry.

14 **Mr. Fawcett:** You've had a chance to look ----

15 **WIT:** Yeah, I've scanned it, I've read it.

16 **Mr. Fawcett:** Okay. There's some comments from Melissa Clark on that email that
17 was dated May 26th, 2015 about Captain Davidson. And I realize this is from a time
18 frame before the accident voyage, but one of the comments in there is paragraph 4.
19 And in there they say, "dwindling confidence in his abilities as a leader overall". And
20 you know I asked you about the evaluation process and I said that we had an
21 opportunity to look at his personnel file. But we didn't see any notes about like any
22 remedial steps to perhaps help Captain Davidson rise to your expectations within the

1 Tote organization. Were there any discussions that took place about that trying to
2 rectify that situation?

3 **WIT:** Well I'm not on this email. It wasn't sent to me and I don't believe I've ever seen
4 this email before. So I don't know, I don't know how Melissa Clark would get this
5 information or where she got it from and why it wasn't – I'm not familiar with this.

6 **Mr. Fawcett:** Okay, thank you.

7 **CAPT Neubauer:** Are there any further questions Mr. Fawcett?

8 **Mr. Fawcett:** Yes, yes, sir. Turn your attention if you will to page 38 in that same
9 exhibit. And there's some information on the bottom of page 39 that talks about some
10 welding repairs that were done.

11 **WIT:** Yes, sir.

12 **Mr. Fawcett:** Were you aware of those?

13 **WIT:** I was aware of it when it was brought to my attention by Jim Fisker-Andersen
14 after the fact.

15 **Mr. Fawcett:** Could you just basically talk about those?

16 **WIT:** Well I'm not familiar with the exact extension of repairs other than we had ABS on
17 board the vessel for some other survey and it was noted by the surveyor that something
18 – a couple of things needed to be dealt with which the Master indicated that he would
19 take care of or have it taken care of. And then when Class came back on the vessel it
20 was noted that it hadn't been taken care of. And so Jim passed it on to me that – what
21 had occurred.

22 **Mr. Fawcett:** And then on page 38 there's a discussion about verbal warnings versus
23 written warnings for Captain Davidson for that some event.

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1 **WIT:** Yes.

2 **Mr. Fawcett:** Is that correct?

3 **WIT:** Yes, Jim Fisker-Andersen gave him a verbal warning.

4 **Mr. Fawcett:** And nothing was documented in the record, like in his personnel record
5 about the event, or the unauthorized repairs? It don't say unauthorized.

6 **WIT:** No, it was just, you know he offered to ensure that these would get done and you
7 know the Captain's day got busier or something and he as an oversight he didn't get it
8 done. But nonetheless when we say we're going to do something we need to do it.
9 Especially when it comes to regulatory items. So – but Jim had full intentions, but in his
10 busy, different things he didn't ever see the Captain again as he was probably getting
11 ready for sailing. But he did give him a verbal warning over the phone. And I believe,
12 you know, so.

13 **Mr. Fawcett:** Talking about the role of Master, I would you to take a look if you would at
14 Exhibit 48. That should be the standing orders.

15 **WIT:** Yes, sir.

16 **Mr. Fawcett:** For Captain Lofffield and they're dated 2012 I believe.

17 **WIT:** Umm huh.

18 **Mr. Fawcett:** So the standing orders, are you familiar with what they're supposed to
19 represent?

20 **WIT:** Standing orders are – the bridge standing orders are what the Captain provides
21 on the bridge for the watch standing officers to – or instructions, nautical instructions or
22 in port instructions, but mostly key events, key details to focus on. And for him to be
23 made aware of.

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1 **Mr. Fawcett:** Okay. So those are Captain Lofffield's from 2012. Who evaluates those
2 orders for effectiveness?

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

4 **Mr. Fawcett:** Looking at, we talked about the role of Master. I want to talk for a
5 moment about the role of Chief Mates. What's your understanding of the role of Chief
6 Mates aboard the Tote ships?

7 **WIT:** Chief Mate is responsible for safety and maintenance of deck department items.
8 And the deck department watch officers report to the Chief Mate. He does their
9 evaluations.

10 **Mr. Fawcett:** Do they review and evaluate the stability of the ship?

11 **WIT:** The Chief Mate? Yes.

12 **Mr. Fawcett:** The securement of cargo?

13 **WIT:** Yes.

14 **Mr. Fawcett:** The watertight integrity of the ship?

15 **WIT:** Yes.

16 **Mr. Fawcett:** So it looks like there have been a number of Chief Mates on board the El
17 Faro prior to the accident. Could you explain why that might have been that way?

18 **WIT:** Well both Chief Mates became Masters on the first Marlin 495. And they needed
19 to go to required training and go to the vessel for preparation for delivery and sea trials.

20 **Mr. Fawcett:** So would you say that – at what point did it stop being a regular rotation
21 of Chief Mates and become where more Chief Mates had sort of cycled through the El
22 Faro?

23 **WIT:** I don't have an exact date, I don't know. I mean its – I'm not certain.

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1 **Mr. Fawcett:** If you will look at Exhibit 5, page 36. There's a discussion about having a
2 Chief Mate come aboard the ship. That Chief Mate was the Third and Second Mate
3 aboard the El Yunque and had some experience on other vessels. And you were
4 bringing him aboard the El Faro, is that correct? Based on the contents of that email.

5 **WIT:** Yes.

6 **Mr. Fawcett:** And could you take a good look at the last paragraph and read that for
7 us?

8 **WIT:** I would like to offer Chief Mate El Faro position to him immediately so he can
9 prepare to return to work as early as next week. We can brief him on the divide and
10 conquer plan with regards to crew, operations, etc. before he joins.

11 **Mr. Fawcett:** What did that mean by the divide and conquer plan?

12 **WIT:** I have no idea.

13 **CAPT Neubauer:** Mr. Fawcett can you clarify who that email was to and from?

14 **Mr. Fawcett:** Yes, sir. That was referring to Chief Mate Steven Shultz, just for the
15 record. Thank you, sir. Oh, I'm sorry. That was from Melissa Clark the crewing
16 manager to yourself and Mr. Kondracki. Mr. Kondracki, what role does he fill?

17 **WIT:** At the time he – at the time he was the Director of Labor and Relations, HR.

18 **Mr. Fawcett:** So it appears that Mr. Shultz, prior to the accident voyage, he was on the
19 accident voyage, he had sailed the short hitch on the El Faro and then was aboard the
20 ship for approximately 12 days before the accident voyage. There have been other
21 Mates that had moved through there, Mr. Stith was one of them and other individuals.
22 How did they get familiar with the stability and cargo operations for the El Faro in
23 particular? Not as a ship in general, but that ship in particular.

1 **WIT:** I don't know. I'm not certain.

2 **Mr. Fawcett:** Do you know how long Captain Stith was aboard as Chief Mate?

3 **WIT:** I can't recall exactly.

4 **Mr. Fawcett:** And if you'll look at Exhibit 5, page 14.

5 **WIT:** Yes.

6 **Mr. Fawcett:** If you would take a moment to look that over, sir. This email is from
7 yourself to Mr. Fisker-Andersen and its subject is regarding the Master candidate, the
8 date is July 8, 2015. What were the comments that Mr. Fisker-Andersen made back to
9 you about Captain Davidson?

10 **WIT:** Umm, in general Jim was, we prefer to say, it's just our preference that
11 somebody's more, what we call active, just more around on the ship on deck during
12 cargo operations and other items. And Captain Davidson, according to Jim he's not
13 regularly on deck, so that was a preference, he just preferred to see somebody, what
14 we call the term more active.

15 **Mr. Fawcett:** And as a Master what do you expect for them to be involved with for deck
16 operations?

17 **WIT:** Well the deck operations, the Chief Mate's responsible in the deck operation for
18 cargo and securement, so it's not really the Master, but he has overall command. It's
19 just a preference, it's just a trait that we – it's just, I don't know, as Port Engineers it's
20 just, when you're working with people they have a good role, he just likes to work with
21 people all over the place, whether it's on deck or in the engine room or whatever. I think
22 that's what Jim's comment is.

23 **Mr. Fawcett:** So do you know why this email exchange took place?

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1 **WIT:** This was in regards to – there was a discussion to interview Captain Davidson for
2 a position on 496.

3 **Mr. Fawcett:** So did you receive direction about his potential interview as a candidate
4 to the new ships to take a look at that?

5 **WIT:** Yes, it was decided that he would be interviewed.

6 **Mr. Fawcett:** And did someone tell you to conduct that new look at Captain Davidson
7 as a candidate?

8 **WIT:** Well it was a collective process, I'm not the only one. There's many – over a half
9 of a dozen of us that were involved in this process. So it was an upper management
10 decision to interview Captain Davidson.

11 **Mr. Fawcett:** So do you recall if you were instructed by Admiral Greene to take another
12 look at Captain Davidson?

13 **WIT:** Yes.

14 **Mr. Fawcett:** And did he get that direction from Mr. Nolan?

15 **WIT:** Yes, request, not direction I would say.

16 **Mr. Fawcett:** That's all I have now. Thank you very much.

17 **CAPT Neubauer:** Commander Denning?

18 **CDR Denning:** No further questions from me Captain.

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

20 **Mr. Roth-Roffy:** Just one or two follow on questions. You mentioned some of the crew
21 members that required training for the vessels. I'm just curious about your company
22 training program, if you have one could you describe it please?

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1 **WIT:** I'm not in the HR crewing department, so I'm not exactly sure what they have all
2 sequenced and all lined up for that.

3 **Mr. Roth-Roffy:** And regarding your performance evaluation plan. There was a
4 question about what the cycle was for evaluations of Masters. Is there a particular
5 company instruction that describes the performance evaluation plan for Tote Services?

6 **WIT:** It just should be done annually.

7 **Mr. Roth-Roffy:** And what instruction would that be that this be done annually?

8 **WIT:** I can't recall the document, but it's just something that I'm just generally aware of
9 that we evaluate senior officers annually.

10 **Mr. Roth-Roffy:** In the one performance evaluation for Captain Davidson that was
11 discussed previously only had been filled out by the Port Engineer. Do you have any
12 understanding of why that particular document was not moved up the line for additional
13 comments from his seniors?

14 **WIT:** I do not know.

15 **Mr. Roth-Roffy:** Thank you.

16 **Mr. Kucharski:** Mr. Morrell, can you tell us what the evaluation process, the different
17 steps of positions on the Marlin Class vessels, what the actual process was?

18 **WIT:** For what?

19 **Mr. Kucharski:** The positions, the officers on the Marlin Class vessels.

20 **WIT:** Yes, sir.

21 **Mr. Kucharski:** Was ever chosen.

22 **WIT:** Okay, so I must be focused on something. What was the question?

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1 **Mr. Kucharski:** Can you tell us what the components were for the evaluation process
2 for the people that were chosen for the Marlin Class vessels?

3 **WIT:** No, I can't recall exactly. But that was ----

4 **Mr. Kucharski:** Who would be able to answer that for us?

5 **WIT:** I believe that would be Labor Relations crewing department.

6 **Mr. Kucharski:** I'm sorry.

7 **WIT:** Crewing and Labor Relations.

8 **Mr. Kucharski:** Labor Relations. And you stated that the training program, any type of
9 training requirements would also be HR?

10 **WIT:** Yeah, well we – being the vessel being LNG fuel vessels there's specialized
11 required training that's required by the Coast Guard that the crew members – and we
12 had to get the people through the required training prior to and that's what I was
13 referring to. In addition to the other required training.

14 **Mr. Kucharski:** Did that also include training for vessels besides the LNG vessels?

15 **WIT:** Well there's certain requirements that you need, license endorsements, or follow
16 up training like STCW requirements and training. But those specifically there was a
17 host of LNG, basic LNG training classes that had to be performed.

18 **Mr. Kucharski:** Okay. Besides license or Coast Guard requirements or STCW, is
19 there training over and above that Tote offers for its personnel?

20 **WIT:** I'm not certain.

21 **Mr. Kucharski:** And that would be asked of HR I guess?

22 **WIT:** I think so.

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1 **Mr. Kucharski:** Thank you. Can you tell us if there was any evaluation made of the
2 Masters competency in handling the ship in heavy weather? That's your fleet, not just
3 for the Puerto Rico line. You mentioned that you work on the Alaska ---

4 **WIT:** Yes, sir.

5 **Mr. Kucharski:** Was there an evaluation process for the Masters in their heavy
6 weather handling of ships?

7 **WIT:** I'm not familiar with one.

8 **Mr. Kucharski:** I believe when we questioned you previously, you said that Captain
9 Davidson was going to take the El Faro to the Alaska trade, was that correct?

10 **WIT:** Yes.

11 **Mr. Kucharski:** And what did you base the decision, corporately to have him take the
12 ship to the Alaska trade from the Puerto Rico trade?

13 **WIT:** Well there was some, as I understand it, not being in the HR world, but my limited
14 knowledge is that there's -- it's a vessel he's -- he's assigned to that vessel until he will
15 be with that vessel. I believe it's a union, an union agreement, in the union contract. It's
16 a permanent position I understand.

17 **Mr. Kucharski:** Was his Alaska experience prior to his joining the El Faro, was his
18 Alaska experience -- did that factor into his decision to have him take the El Faro up to
19 Alaska?

20 **WIT:** No. Because he did not sail in the same Alaska trade. He sailed in Alaska on
21 tankers in Prince Willian Sound which is different. So, no.

22 **Mr. Kucharski:** Okay, thank you.

23 **CAPT Neubauer:** Tote, do you have any questions for Mr. Morrell?

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1 **Tote Inc:** No.

2 **CAPT Neubauer:** ABS do you have any questions?

3 **ABS:** No questions.

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

5 **Ms. Davidson:** No questions at this time.

6 **CAPT Neubauer:** And HEC?

7 **HEC:** We have no questions.

8 **CAPT Neubauer:** Mr. Morrell I just have one follow up question. Do you ever
9 remember reviewing a completed – a completed evaluation for Captain Davidson during
10 his time as Master on the El Faro?

11 **WIT:** I can't clearly recall.

12 **CAPT Neubauer:** Does anybody have any follow up questions on this topic? At this
13 time we're going to transition to a new line of questioning. Mr. Fawcett?

14 **Mr. Fawcett:** You okay to go, sir?

15 **WIT:** I'm not sure, to be honest with you.

16 **CAPT Neubauer:** Actually we've been proceeding for about an hour. Let's take a 10
17 minute recess.

18 **WIT:** Thank you, thank you very much.

19 *The hearing recessed at 1356, 16 February 2016*

20 *The hearing was called to order at 1409, 16 February 2016*

21 **CAPT Neubauer:** Good afternoon the hearing is now back in session. Mr. Fawcett will
22 you open with a line of questioning.

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1 **Mr. Fawcett:** Thank you, thank you very much Captain. At this point we would like to
2 move on to a new topic area. And that topic area is the impact of weather. In general in
3 the relation to the El Faro. And in we're going to be talking about the time before the
4 accident voyage, but we may also may cover some portions of the accident voyage.
5 We've had the opportunity to look through thousands upon thousands of emails. And
6 from those thousands upon thousands of emails we've sifted out a considerable number
7 of emails related to Tropical Storm Erika and Hurricane Danny. And based on the best
8 available information at my disposal there are only a handful of emails talking about the
9 implications of Hurricane Juan, uh Joaquin on the El Faro. Do you have any idea why
10 there's the scarcity of emails related to Joaquin?

11 **WIT:** No.

12 **Mr. Fawcett:** I have an example of an email exchange that took place related to the
13 voyage of the El Faro on a late August deviation voyage where they used the Old
14 Bahama Channel, went down the coast of Florida an over the top of Cuba. So if you
15 could take a moment and turn to Exhibit 4, page 56. Okay, so at the top of that page
16 just to make sure I'm on the right one, it says original message. Is that correct?

17 **WIT:** Yep.

18 **Mr. Fawcett:** Okay. So what we have is – the first question I have, I'm a little confused
19 because I've looked at a tremendous number of emails. The "to" line, and I don't want
20 you to say the address, but what is that entity? In other words I've seen messages
21 where they're directed at the Master of the El Faro, the Chief Engineer, maybe the crew
22 back and forth in an email string, but I'm not quite sure what that address is.

23 **WIT:** I don't know either. Are you referring to the Captain@vessel.com?

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1 **Mr. Fawcett:** I wasn't going to say it.

2 **WIT:** I'm sorry. I don't know. I just saw it for the first time.

3 **Mr. Fawcett:** Okay. I just hadn't seen that in Tote communications and ----

4 **WIT:** I have no idea.

5 **Mr. Fawcett:** Okay.

6 **WIT:** I didn't even know about it until you mentioned it.

7 **Mr. Fawcett:** Okay. So August 26th, 2015 this message is from you, I'm assuming it's
8 to the Master of the El Faro, is that correct?

9 **WIT:** Yes.

10 **Mr. Fawcett:** And would you read what you wrote to him?

11 **WIT:** Are you tracking for an on time arrival if weather is not an issue?

12 **Mr. Fawcett:** And this is related to, you mentioned before that you monitored noon
13 position?

14 **WIT:** It was, I believe it was based on the email below, wasn't it?

15 **Mr. Fawcett:** Yeah, there's a, I think another email that we'll talk about in a minute.

16 **WIT:** Okay.

17 **Mr. Fawcett:** So on August 26th Captain Davidson responded to you. And just for the
18 record he used the ship's typical call sign, Captain. with the call sign of the vessel?
19 That's at the bottom of that same page.

20 **WIT:** No I see that. I, I – no go ahead.

21 **Mr. Fawcett:** So he was sending you a message, correct?

22 **WIT:** Yes.

1 **Mr. Fawcett:** So in the message, and what I'm trying to do is just understand why
2 these emails were flowing back and forth for Erika and Danny and I see so few
3 messages going back and forth for Joaquin and leading up to the accident. In this one
4 he says he's tracking a direct route to San Juan using the Old Bahama Channel. And
5 he's talking about some issues with the port closure for the Port of San Juan. And also
6 he's also talking about not making the best speed. Would you talk about why that might
7 now be?

8 **WIT:** Well he's talking about a weeping economizer too in the port boiler.

9 **Mr. Fawcett:** Okay. And what's the result of that for the El Faro?

10 **WIT:** Well I'm not a boiler expert, but the – he says he's taking the edge off of the boiler
11 to avoid possible bypassing it. So the economizer just gives you extra utilization of the
12 waste heat for steam pressure, that's all I'm aware of. So that's it, that's all I know.

13 **Mr. Fawcett:** Okay. And I know you're not a deck operations person, but you've been
14 involved with a lot of marine engineering. What did this mean to you in operational
15 terms when he made this statement, "taking the edge off the boiler"?

16 **WIT:** I don't know exactly what he means by it, but I think he's not pushing it, he's not,
17 he's not going as fast or as hard as he could perhaps. I don't know.

18 **Mr. Fawcett:** Okay. In your response, you know in your question up above, your
19 concern was on time arrival. Were there any other concerns you had related to the
20 tropical weather out there?

21 **WIT:** No. I just, you know wanted to know if, I just said are you tracking for an on time
22 arrival if the weather's not an issue. Just, again you know if he's not going to be on time

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1 for whatever reason it is we just need to notify port operations so they can reschedule
2 tugs and pilots and labor. That's the only – that's the reason behind my question.

3 **CAPT Neubauer:** Mr. Morrell, could you talk a little closer to the microphone?

4 **WIT:** Oh, sorry.

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

6 **Mr. Fawcett:** During that voyage was there any time, this is the voyage where Erika
7 and Danny, remnants of Danny were out there. Did you have any concern for the
8 vessel and it's crew at that point from a Tote manager point of view?

9 **WIT:** No.

10 **Mr. Fawcett:** And why didn't you have any concerns?

11 **WIT:** Well we have good officers and a good operation. It's normal course of business
12 managing weather.

13 **Mr. Fawcett:** So when that voyage was complete, the El Faro got into San Juan later
14 than expected. And there was reason that was the closure of the port, correct?

15 **WIT:** I don't know. I guess so, I don't know. I can't recall.

16 **Mr. Fawcett:** And the other reason might have been that she took a longer route.

17 **WIT:** Okay.

18 **Mr. Fawcett:** Were you aware of any discussions with Captain Davidson about the fact
19 that he did take the longer route to reach his destination of San Juan?

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

21 **Mr. Fawcett:** If you'll turn your attention please to Exhibit 4, and that's pages 58 and
22 59. Okay, once again this is from the El Faro to John Lawrence, Captain Lawrence,
23 copy Fisker-Andersen, Ms. Finsterbusch, and yourself. The subject is Erika, August

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1 26th in the evening 2015. So once again to set the stage Erika was out there moving
2 through the Caribbean on a westerly, not a westerly course, but towards some westerly
3 direction. So he's passing on to Captain Lawrence a detailed list of what the activities
4 were taking place with regard to the El Faro for that voyage. And what are some of the
5 precautions that he indicates he was taking?

6 **WIT:** It's the last paragraph it looks to me. Securing of cargo, additional storm lashing
7 as needed. All departments have been instructed to secure their areas.

8 **Mr. Fawcett:** Okay. Is that typical for a message that you would expect to receive for
9 times when there's tropical weather or adverse weather out on the El Faro's route?

10 **WIT:** I don't know. It seems appropriate but I don't know what he did.

11 **Mr. Fawcett:** Okay. If you'll turn to that same exhibit, but just on the right side of the
12 page 39. Captain John Lawrence sends a message to the Captain of the El Faro and in
13 there he talks about Erika. He says, "Erika, good day Captain, I realize that you have
14 been in various communications with Jim Fisker-Andersen and Sea Star Lines, SSL,
15 regarding plans and operations in preparation for Erika. And I've been copied in the
16 same. However, to ensure we are all on the same page and nothing is missed, in the
17 risk assessments and action area, please send me a detailed email with your
18 preparedness and avoidance plans, or slash avoidance plans and up daily until all clear.
19 Thanks and regards". What would be those risk assessments?

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

21 **Mr. Fawcett:** Did you receive, to your knowledge, any type of message or send any
22 message to Captain Davidson regarding Hurricane Joaquin?

23 **WIT:** Not to my knowledge.

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1 **Mr. Fawcett:** And just to circle back on a discussion, Mr. Fisker-Andersen responded
2 to an email that Captain Davidson sent on September 30th where he basically said the
3 return voyage was authorized. And you characterize that the Captain didn't need to get
4 permission and so forth. Do you know why he used the word "authorized" vice another
5 courtesy as you said?

6 **WIT:** I do not know. I think Jim is just trying to be very professional in acknowledging
7 the Captain's request by using that term. But again, just noted would have been fine,
8 okay. I think Jim is just trying to be highly professional in his reply.

9 **Mr. Fawcett:** And why did Jim Fisker-Andersen, Mr. Fisker-Andersen, why did he reply
10 to that message?

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

12 **Mr. Fawcett:** Where was Captain Lawrence at the time?

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

14 **Mr. Fawcett:** Do you know if Captain Lawrence was on vacation prior to the accident
15 voyage?

16 **WIT:** I do not know.

17 **Mr. Fawcett:** If you'll take a look at Exhibit 101 in that same, or excuse me, Exhibit 4,
18 page 101. You're copied on that ----

19 **WIT:** Yes, sir.

20 **Mr. Fawcett:** Response from Mr. Fisker-Andersen, correct?

21 **WIT:** Yes.

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1 **Mr. Fawcett:** Okay. Down in the body of the text Captain Davidson is basically
2 requesting authorization to make a return voyage through the Old Bahama Channel as
3 a result of the potential for Joaquin, correct?

4 **WIT:** Yes.

5 **Mr. Fawcett:** In there he uses the words “erratic” and “unpredictable” in his discussion
6 of the behavior of Joaquin.

7 **WIT:** I’m sorry, sir, I can’t find that.

8 **Mr. Fawcett:** Well it says ----

9 **WIT:** Erratic and I don’t see.

10 **Mr. Fawcett:** The first main paragraph tracking erratically. And then further down ----

11 **WIT:** Oh, I’m sorry, yeah I see it now.

12 **Mr. Fawcett:** And the further down he talks about unpredictable, is that correct? Oh
13 correction on my part, sir, uncertainty.

14 **WIT:** Okay I see that. I see uncertainty, yeah.

15 **Mr. Fawcett:** Okay. Did that raise any concern when you read that message? About
16 the course of Joaquin?

17 **WIT:** I don’t recall, I don’t know.

18 **Mr. Fawcett:** Okay. So the El Faro’s out at sea. How is the position, we talked about
19 the noon reports and we talked about the departure and arrival message, is there any
20 other way that vessel’s track is monitored ashore?

21 **WIT:** Not that I’m aware of, I’m not sure. I don’t know.

1 **Mr. Fawcett:** Turning a little bit in focus. The El Faro was fitted with an anemometer.
2 That is a device used to measure the wind velocity and direction. Do you know if the El
3 Faro's anemometer was properly working?

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

5 **Mr. Fawcett:** And revisiting that last question that I asked about that message earlier,
6 do you remember seeing that message?

7 **WIT:** This one?

8 **Mr. Fawcett:** Yeah that one.

9 **WIT:** As I mentioned that particular day I was in meetings all day in Federal Way,
10 Washington. I remember seeing Jim's reply, that I remember. But the rest of it I can't
11 recall if it was in my – where it was in my inbox or message because I was consumed.

12 **Mr. Fawcett:** So if the – circling back on the anemometer, I'm not sure whether the
13 vessel had a properly working anemometer or it didn't. But do you know how an
14 anemometer is used by a ship at sea to navigate in relation to a hurricane?

15 **WIT:** No, sir.

16 **Mr. Fawcett:** Do you recall if there was any kind of, you have a maintenance tracking
17 system, you monitor that?

18 **WIT:** We – the ship is required to make requisitions for anything they need or what
19 needs to be serviced and repaired. I look at it, but I don't recall specifically something
20 on the anemometer.

21 **Mr. Fawcett:** That particular device, who would ensure that it was properly working on
22 the vessel?

23 **WIT:** That would be the Chief Mate and the Captain, Second Officer.

1 **Mr. Fawcett:** Anybody – I'm sorry.

2 **WIT:** Or the Second Officer in charge of navigation, yeah, safety.

3 **Mr. Fawcett:** And who shore side would evaluate whether that was properly working?

4 **WIT:** Well the process is if it's – if they need something to be repaired they simply just
5 have to make a requisition in our requisitioning procurement data base system. And the
6 repairs are organized by the Port Engineer. So if it's not identified by my crew, I don't
7 think the Port Engineer would know.

8 **Mr. Fawcett:** Do you know if something like the ship's GPS system, the global
9 positioning system on the bridge is in your maintenance monitoring system?

10 **WIT:** I believe it's serviced and it's tied into all of our navigation system. So it would
11 come – that would – that again that would be a request from the vessel, would come via
12 our system, which is exported on a regular basis to shore, that service is required for
13 whatever piece of equipment or navigation equipment there is.

14 **Mr. Fawcett:** How about other weather instruments on board the ship? Are you
15 familiar with, for example a barometer or the barograph if they were fitted?

16 **WIT:** I know what they are, I believe they have them, but I'm not exactly sure. I mean
17 measuring the temperature of the water for example, is that what you're referring to?

18 **Mr. Fawcett:** No, I'm just saying like weather instruments, are they included in your
19 monitoring system for preventative maintenance for example?

20 **WIT:** Yes. I mean, again it's up to requisition, repairs or service, tech service. Like
21 they request service for radars, radio and gyros, anything they want, they just send in a
22 requisition and we provide service.

1 **Mr. Fawcett:** So staying with the weather subject. Within the Tote organization in
2 Jacksonville, is there somebody that's officially designated to monitor weather?

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

4 **Mr. Fawcett:** Do you have – prior to the accident day, did you have any computer
5 programs ashore to monitor weather so that you could provide support to your vessels
6 at sea?

7 **WIT:** I don't know if people have it or not. I don't know, I don't.

8 **Mr. Fawcett:** For the accident voyage, when did you get your first notification? When
9 did you get your first notification that something was amiss?

10 **WIT:** I received a text message about, well for me on the West Coast it was about 5:30,
11 5 O'clock, 5:30 in the morning that the Captain called the marine safety response center
12 and the call was taken by John Lawrence, Captain Lawrence. It didn't say what it was,
13 it just said a call from El Faro taken by John Lawrence, the text message.

14 **Mr. Fawcett:** And so leading up to the date and time of the actual sinking of the El
15 Faro, had you actually turned your attention at any time to the hurricane out there in the
16 Caribbean and any thoughts of the safety of the El Faro as she was on her voyages?

17 **WIT:** I'm not sure if I understand the question.

18 **Mr. Fawcett:** In other words, you know there's a hurricane out there. At any time
19 before the actual accident, did you think about the El Faro and the El Yunque and how
20 they were managing to navigate properly or safety issues related to that vessel?

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

22 **Mr. Fawcett:** So I really, the next questions I would just like to talk in generalities. We'll
23 explore those in greater detail with other people. But I want to just revisit the safety

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1 management system and find out what you feel are your direct responsibilities for that
2 system.

3 **WIT:** Is that a question?

4 **Mr. Fawcett:** What are your direct responsibilities for the – within the safety
5 management system?

6 **WIT:** For the vessel to understand the safety management system and be familiar with
7 it and to utilize it as it's designed.

8 **Mr. Fawcett:** Are you involved in any way with the internal audit process?

9 **WIT:** No.

10 **Mr. Fawcett:** Have you had safety management training to give audits?

11 **WIT:** Yes.

12 **Mr. Fawcett:** And could you talk about that briefly?

13 **WIT:** I'm a certified internal auditor.

14 **Mr. Fawcett:** And have you conducted any audits at Tote?

15 **WIT:** No.

16 **Mr. Fawcett:** And then have you ever been audited and what would be the results of
17 that audit?

18 **WIT:** We've had internal audits and external audits. And they go through a series of
19 questions and criteria and documenting information and some observations and some
20 corrective actions and we manage those and we correct them.

21 **Mr. Fawcett:** So have you developed or approved any corrective actions as a results of
22 audits?

23 **WIT:** Yes.

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1 **Mr. Fawcett:** Any for the El Faro?

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

3 **Mr. Fawcett:** So for the hurricane voyage, the accident voyage, as the El Faro said
4 from Jacksonville on the bottom of that message there's a note, precautions observed
5 for Joaquin. What kind of precautions might those be?

6 **WIT:** I think the Master was indicating that he was aware of it and he was preparing for
7 adverse weather conditions.

8 **Mr. Fawcett:** Is there a detailed checklist what those precautions are, or what would be
9 construed as precautions?

10 **WIT:** Well our ISM for heavy weather.

11 **Mr. Fawcett:** Heavy weather?

12 **WIT:** Well there's – in our ISM there's a section on preparing for heavy weather and
13 securement.

14 **Mr. Fawcett:** So I know Tote uses a process of kind of distributing information rapidly
15 and I believe that's called flash meetings.

16 **WIT:** Flash meetings are primarily a weekly financial flash of the week and the month.
17 And there's some commentary.

18 **Mr. Fawcett:** Do they discuss the movement of vessels?

19 **WIT:** Not routinely, no.

20 **Mr. Fawcett:** So if you would, turn to Exhibit 4, page 35. Have you had a chance to
21 look at it, sir?

22 **WIT:** Yes.

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1 **Mr. Fawcett:** All right. So this is an email dated 8-23-2015 in the morning, it's from Mr.
2 Fisker-Andersen to Phil Greene, Admiral Greene and Mr. Morrell, that's yourself and
3 Captain John Lawrence. And in there is he directing that at you or is he directing that
4 Admiral Greene?

5 **WIT:** He's replying to Admiral Greene.

6 **Mr. Fawcett:** Okay. So Mr. Fisker-Andersen says in there, EF and EY, which I assume
7 is El Faro and El Yunque are both receiving applied weather updates for avoidance
8 recommendations. Our most direct day to day involvement will be when land fall is near
9 a ship call day, JAX is not a port of safe refuge as defined by the U.S. Coast Guard.
10 SSL has a hurricane plan for terminal. We will sail short to get out of town or delay
11 arrival as necessary to avoid the storm. What I'm trying to understand is where the idea
12 that they have weather avoidance recommendations, where that comes from?

13 **WIT:** I'm not familiar with exactly with the applied weather system as it's delivered to
14 the vessels, so I don't know, you know what your – what that is. I'm not familiar with the
15 program intimately.

16 **Mr. Fawcett:** Then Admiral Greene sends an email out, what we just talked about was
17 in response to Admiral Greene. But he sends one out and he says, what is the heavy
18 weather avoidance plan for both ships? So I don't see anything in there about what the
19 Captain intended to do. Captain Davidson's intentions were. Were you able to talk to
20 Captain Davidson in some means and find out what his plan was for this particular
21 storm?

22 **WIT:** I did not, no.

1 **Mr. Fawcett:** Turning our attention to the assessment of risks and consequences for
2 your operations. Could you talk about the company quarterly safety meetings, who
3 attends those, what those are about?

4 **WIT:** They're every month, obviously monthly. The Port Engineers, the meeting is run
5 by Captain John Lawrence and the safety department, his department. Vessel
6 managers, Port Engineers attend that meeting. The discussion is ----

7 **Mr. Fawcett:** Do you normally attend those?

8 **WIT:** The best I can, but I do travel frequently and I have other meetings going on. But
9 it's Jim Fisker-Andersen or myself will attend and the Port Engineers, so the department
10 is covered at those meetings.

11 **Mr. Fawcett:** Okay. We're checking for an exhibit. But as we look for that, are you
12 aware of the El Faro, the El Faro departed San Juan in mid-March and they had an
13 engineering issue as they left port, are you familiar with that?

14 **WIT:** Not exactly, no.

15 **Mr. Fawcett:** Related to loss of propulsion.

16 **WIT:** No.

17 **Mr. Fawcett:** Okay. So the way I understand, she departed port on around the 14th of
18 March and there was basically a human error and the human error led to the closing of
19 a particular valve. And as a result of it the ship lost propulsion.

20 **WIT:** Okay. I know what you're talking about. The oiler closed the wrong valve and I
21 think the Chief Engineer, they didn't lose propulsion it was managed, so they wouldn't
22 have any damage if I recall. It was lube oil pressure was falling, so they slowed down,
23 secured the plant until they could correct the valve lineup on there. It was a saltwater

1 cooler I believe that you close or open – close the lube oil supply if I recall that, if that's
2 the situation you're talking about.

3 **Mr. Fawcett:** Yes, sir.

4 **WIT:** Yeah. So I don't think it was a loss of propulsion, it was a managed, in other
5 words the Chief Engineer saw the lube oil pressures declining on, was it a bearing, I'm
6 not exactly – can't recall exactly what it was. But he – they secured the plant to prevent
7 damage to machinery until they could go down and get the proper valves lined up in a
8 proper order to restore lube oil pressure and resume underway as I recall the message.

9 **Mr. Fawcett:** Okay. Taking that event as an example, is it a typical policy for Tote to
10 conduct an investigation of following whatever this event was to find out corrective
11 action or cause of it?

12 **WIT:** That would be, I would category that as a near miss. And near misses are highly
13 encouraged that we report those. And that would be something that's discussed at the
14 monthly safety meeting fleet wide.

15 **Mr. Fawcett:** Okay. And those safety meetings, I believe you said are chaired by
16 Captain John Lawrence.

17 **WIT:** Yes, sir.

18 **Mr. Fawcett:** And who has input into the content of those safety meetings?

19 **WIT:** Well his department. I think they put together the itinerary, or the subject matter
20 they're going to talk about. They usually list a few items like whether it's in crew injuries
21 or someone got hurt on the vessel, slipped or fell or cut themselves or what have you.
22 Those items are discussed, near misses are discussed. But John Lawrence's
23 department put together an agenda of items which is – they go through.

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1 **Mr. Fawcett:** Are they attended usually by the highest levels within Tote Services such
2 as Admiral Greene?

3 **WIT:** I believe if Admiral Greene is available he will attend.

4 **Mr. Fawcett:** And I would like to turn your attention to Exhibit 61, page 7. And item 14.
5 So it says ----

6 **WIT:** Okay.

7 **Mr. Fawcett:** On 3/14/15 on the El Faro upon debarking the San Juan pilot the bridge
8 was notified the oiler in lieu of opening the saltwater cooling water to the main engine,
9 lube oil coolers, the oiler closed the lube oil outlet valve on the cooler. Causal factor
10 route cause analysis, not knowing the oiler changed any valves, the engineers changed
11 over the discharge strainer figuring that was the issue with no flow. While having the
12 shaft stopped the oiler secured the lube oil outlet valve dumping the gravity tank. The
13 Engineer opened the valves, filled the gravity tank restoring lube oil pressure. Lube oil
14 pressure back to normal, continued underway. Lessons learned, suggested
15 improvements, better communication skills between the oil and the Engineer on watch
16 enforcing that the oiler repeat back the order and report back when the task has been
17 completed. Properly secure the valves so they cannot be inadvertently closed. Does
18 that entry for the safety meeting shared with the company adequately cover the loss of
19 propulsion in close proximity to navigation hazards?

20 **WIT:** This is what we call a near miss reporting and it addresses what occurred and
21 any corrective action. I don't know if I understand your – is this adequately?

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1 **Mr. Fawcett:** Well in other words the thing that catches my eye is upon debarking the
2 San Juan pilot, the vessel was relatively close to shore when this occurred. So what I'm
3 saying is does it capture the potential consequences for that loss of propulsion?

4 **WIT:** I don't know. I'm not certain.

5 **Mr. Fawcett:** And then if you would turn to page 11 in the same exhibit. And this is the
6 December 8th, 2015 safety newsletter. Admiral Greene was present, Captain John
7 Lawrence was there, Mr. Kondracki, Finsterbusch, host of other individuals. If you leaf
8 through that document do you see anything related to the loss of the El Faro with the
9 exception of the memorial page in terms of an examination of any events at your
10 disposal related to the accident that would improve the safety of operations?

11 **WIT:** I'm sorry the question was anything about the El Faro?

12 **Mr. Fawcett:** Well in other words the El Faro we know from communications that there
13 was perhaps a scuttle or a hatch that opened during the last phase or last stage of the
14 voyage. Anything related to, I'm not talking about that in particular, but any lesson that
15 you might have learned that you could share at the safety meeting to enhance the
16 safety of your vessels operations?

17 **WIT:** I don't see it in here.

18 **Mr. Fawcett:** Okay. Thank you very much. After this, and I don't know if you can
19 speak to this, but since this accident have you put any steps in place to enhance or
20 ensure safety of the operations of your vessels?

21 **WIT:** We have a fleet wide vessel routing system installed on all of the vessels, the
22 Jeppesen program, which is a weather – a weather routing, voyage routing program.
23 It's 24 hour monitored. Our Captains provide Jeppesen with their voyage plan, what

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1 they intend to do including their speed, their drafts. And Jeppesen comes back with a
2 complete detailed proposal on what's the best routing to take, sea state conditions, wind
3 directions, anticipated wave heights. But that's on all the vessels, we've implemented
4 that a couple of months ago. It's full enactive. Fleet wide.

5 **Mr. Fawcett:** Thank you very much, Mr. Morrell. I appreciate your candor in answering
6 my questions and I turn it over to Commander Denning.

7 **CDR Denning:** Thank you, I don't have any follow on questions on this topic.

8 **CAPT Neubauer:** Mr. Roth-Roffy?

9 **Mr. Roth-Roffy:** Good afternoon Mr. Morrell. Aboard the El Faro and other ships
10 there's quite a number of instruments that are used by the crew to assess the operating
11 parameters of various systems aboard the vessel such as the anemometer, it was
12 already discussed. There were other pressure and temperature gauges, my question,
13 sir, does Tote have a program to validate the calibration of these various instruments?

14 **WIT:** Umm, like annual service for example?

15 **Mr. Roth-Roffy:** Well annual service or periodic assessment of the accuracy of
16 instruments?

17 **WIT:** I'm not certain, I'm not a deck officer. I don't know.

18 **Mr. Roth-Roffy:** I'm sorry?

19 **WIT:** I don't know. I can't recall.

20 **Mr. Roth-Roffy:** Okay. But who would have that information if anybody?

21 **WIT:** I'm not certain. Perhaps Jim Fisker-Andersen. I don't know.

22 **Mr. Roth-Roffy:** I guess we can address that person. And you just mentioned about
23 the Jeppesen system for weather routing recently installed in the past few months. Can

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1 you describe who was involved in that decision to fit these – that weather routing
2 system on the vessels?

3 **WIT:** I took the – well it was brought to my attention that we, you know we should – well
4 on the voyage of the Isla Bella there was – we noticed that there was a tropical storm off
5 the coast of Baja and we, you know looked around and came up with this program and I
6 organized it with Jeppesen reached out to them and put the program on the ship via
7 satellite and through email and the website. Captain – Admiral Greene has been driving
8 the initiative as well to get it fleet wide. John Lawrence and Lee Peterson all know
9 about it. So it's sort of a corporate decision that this is what we're going to do and
10 implement this fleet wide.

11 **Mr. Roth-Roffy:** And this decision was related to the El Faro accident?

12 **WIT:** Yes.

13 **Mr. Roth-Roffy:** So it was determined by management that there was some
14 deficiencies in ----

15 **WIT:** I wouldn't say deficiency, I just think there's, you know new technology is
16 available out there and we might as well – it's a good program, it's a very good program.
17 I spent quite a bit of time with Jeppesen in my office going over all the various systems
18 that they can assist us with.

19 **Mr. Roth-Roffy:** And so before the accident of the El Faro was there a similar system
20 available to the other ships or to the El Faro that had the same capabilities of the
21 Jeppesen system?

22 **WIT:** Umm, you know we used applied weather, the Bon Voyage system which is a
23 very good system. I've just recently had a Master coming down from the Alaska trade

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1 and sail on the El Yunque for a few weeks and he was very, very impressed with that
2 system. We don't utilize the Bon Voyage system on the Alaska ships, but they use
3 something else. But he was very impressed with that system and what he told me. So I
4 think we had good information and good weather forecasting information provided to the
5 vessels.

6 **Mr. Roth-Roffy:** But did they have the weather routing information available similar to
7 what they currently have with the Jeppesen system?

8 **WIT:** No.

9 **Mr. Roth-Roffy:** And can you say what the cost per vessel of this weather routing
10 system is with the new Jeppesen system?

11 **WIT:** It's a monthly fee, \$750 a ship.

12 **Mr. Roth-Roffy:** \$750 a ship?

13 **WIT:** Per ship, per month.

14 **Mr. Roth-Roffy:** Thank you very much.

15 **Mr. Kucharski:** Mr. Morrell, just to put this to bed, is there any reason why that the
16 weather routing wasn't used on the El Faro?

17 **WIT:** I do not know. It – the company was, they were in this trade for 25 plus years
18 with great success. We had very good Masters, we had good weather information.

19 **Mr. Kucharski:** And you were involved with the process to procure it subsequent to the
20 El Faro loss?

21 **WIT:** Yes, sir.

22 **Mr. Kucharski:** Why was it you got involved now in a nautical type issue, weather
23 where in the past that was the Master's responsibility and you didn't get involved with it?

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1 **WIT:** Just, I don't know the answer to that question other than it just – I did it.

2 **Mr. Kucharski:** Who, previous to the loss of the El Faro procured the BVS system for
3 the vessel?

4 **WIT:** It was provided before my time in this trade, I don't know.

5 **Mr. Kucharski:** And who's responsibility then was it while you were here at Tote to
6 keep it active on the ship?

7 **WIT:** We pay an annual subscription for it, so we renew it every year. So Tote Services
8 sends Applied Weather a blanket PO every year for both vessels to renew the
9 subscription.

10 **Mr. Kucharski:** So there's no one – is it someone in accounting then that just gets the
11 bill and approves it?

12 **WIT:** Well Tote Services initiates the purchase order, you know we know it's coming
13 up, it's on our list – it's our list of annual things, no different than you know a blanket PO
14 for tugs and pilots and different things which we have in our system. Just automatic
15 things you need every day for vessel operations. It's just one of those everyday things
16 that we have that we just put on the list to renew every year, it's an automatic. And so
17 we issued a new PO every year for them and simple it goes to accounts payable and
18 gets paid. It's done.

19 **Mr. Kucharski:** After the loss of the El Faro, was there any discussion about the El
20 Yunque's departure? The hurricane was still out there. Was there any discussion
21 about the departure of the El Yunque, or delaying it or anything like that?

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

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1 **Mr. Kucharski:** Along the lines of the anemometer and the wind vane, was that
2 captured in the planned maintenance system of the vessel?

3 **WIT:** I don't – I mean it should be, but I don't know if it was or not. I mean, again, if
4 they're – if it's not reading correctly, if they need to get it repaired, it's a very simple
5 process and task. They just send in a requisition for – to have it serviced, calibrated,
6 repaired, replaced, whatever's necessary, just send in a requisition to the Port
7 Engineer and it gets approved and service is provided and that's it. I mean the Port
8 Engineer does not know if it's not working. He's not sailing on the vessel. So we need
9 to, the expectation is, is that the Chief Mate, Second Officer, Captain, send in a
10 requisition to the office.

11 **Mr. Kucharski:** Are there many items in the planned maintenance system?

12 **WIT:** Yes.

13 **Mr. Kucharski:** Is there reason such as requisitioning that the planned maintenance
14 system ----

15 **WIT:** Well I mean is it on our planned maintenance to – you know, I see what you're –
16 I'm sorry I understand your question a little bit different now. So versus just normal
17 wear and tear maintenance versus is it, let me go back. I'm not – I don't recall exactly if
18 it's in the planned maintenance system or not.

19 **Mr. Kucharski:** You mentioned like radars, other bridge equipment is in the planned
20 maintenance?

21 **WIT:** Well no, it's just, I mean it's regularly looked at serviced as required. I think it's – I
22 don't think it's in our planned maintenance system because it's something that's
23 serviced, calibrated, we have service technicians on the vessel on a regular basis to

1 look after that equipment. Anytime anything is needed on navigation equipment it's
2 maintained.

3 **Mr. Kucharski:** Do you know if any of the navigation equipment is covered in the
4 planned maintenance system?

5 **WIT:** I can't recall.

6 **Mr. Kucharski:** We received a list of bridge equipment for the El Yunque. Does a list
7 of bridge equipment exist for the El Faro?

8 **WIT:** I don't know. I would suspect so but I don't know.

9 **Mr. Kucharski:** Who would know that?

10 **WIT:** I would have to ask our Port Engineers perhaps, would know that.

11 **Mr. Kucharski:** I'm sorry?

12 **WIT:** Maybe the Port Engineers.

13 **Mr. Kucharski:** Captain may I asked, revisit topic that was covered?

14 **CAPT Neubauer:** Yes, sir. This is the opportunity.

15 **Mr. Kucharski:** You were asked earlier about the strengths and weaknesses of
16 Captain Davidson and you said, I believe your answer was I don't know I didn't sail with
17 him. Is that correct?

18 **WIT:** Well I don't know. I don't know if I said – I don't know if I said because I don't sail
19 with, I'm not – I don't know what his strengths and weaknesses are.

20 **Mr. Kucharski:** Okay. Well then do you know what his strengths and weaknesses
21 were?

22 **WIT:** No, I've never had any issues with Captain Davidson.

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1 **Mr. Kucharski:** And you were directly involved with the selection process for the new
2 Marlin class vessels, yes?

3 **WIT:** I was one of half of a dozen people on.

4 **Mr. Kucharski:** Thank you.

5 **CAPT Neubauer:** Tote do you have any questions for Mr. Morrell?

6 **Tote Inc:** No questions.

7 **CAPT Neubauer:** ABS do you have any questions?

8 **ABS:** No questions.

9 **CAPT Neubauer:** Mrs. Davidson do you have any questions?

10 **Ms. Davidson:** No questions.

11 **CAPT Neubauer:** HEC?

12 **HEC:** No questions.

13 **CAPT Neubauer:** Thank you. Mr. Morrell I would like to draw attention back to MBI
14 Exhibit 4, page 101.

15 **WIT:** Yes, sir.

16 **CAPT Neubauer:** This was the email that was originally sent by Captain Davidson that
17 discussed his plan to skirt South of the hurricane by 65 miles and then his request also
18 to take a diverted back – the diverted route back to Jacksonville. I think you had
19 previously stated that you read Mr. Fisker-Andersen's email back to Captain Davidson,
20 is that correct, sir?

21 **WIT:** I said what?

22 **CAPT Neubauer:** You had said previously that you had read ----

23 **WIT:** Oh I had read, yes, sir, okay.

1 **CAPT Neubauer:** And I note that, that email response from Mr. Fisker-Andersen was
2 sent over 5 hours after the original email was sent by Captain Davidson.

3 **WIT:** Okay, I see that.

4 **CAPT Neubauer:** When you had the chance to read Mr. Fisker-Andersen's email did
5 you – had you been tracking any changes to the forecast for Hurricane Joaquin?

6 **WIT:** No, as I recall, as I stated earlier, on this particular day I was involved in an all
7 day finance budget meeting in Federal Way, Washington. And so this is Eastern
8 Standard Time, so that would be 7:20 in the morning for me. So I don't – I don't – I was
9 preoccupied with a whole bunch of other things that day.

10 **CAPT Neubauer:** When you read the response that authorized the diverted route, did
11 you say that your opinion was that was not required?

12 **WIT:** Well it's clear in our manuals that he doesn't need our permission, he just has to
13 advise us. It's a one-way conversation. He's the ultimate commander of the vessel, in
14 charge of the vessel making the decisions and we support those decisions. And he's
15 just, he's – Jim is just graciously responding to him in a professional manner.

16 **CAPT Neubauer:** Do you know if there was any attempt by the company to clarify this
17 response to ensure that Captain Davidson knew that he had the authority to make the
18 route changes without permission during this voyage, or upcoming voyage?

19 **WIT:** Well I'm not certain about that. I do know that the manual is quite clear that he
20 does – it's not required that he gets our permission, so.

21 **CAPT Neubauer:** Sir. Are there any other follow-up questions for Mr. Morrell? Uh
22 Tote.

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1 **Tote Inc:** Mr. Morrell are you aware when Mr. Fisker-Andersen sent this email whether
2 he was traveling or not?

3 **WIT:** I'm not certain. I don't know.

4 **CAPT Neubauer:** Any other follow-up questions?

5 **Tote Inc:** No further questions.

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

7 **Mr. Roth-Roffy:** Good afternoon again, sir. It was reported during the accident voyage
8 that the El Faro suffered a loss of the main unit. Has management, engineering group
9 considered the significance of that expression from the Captain that he had lost the
10 main unit? And secondly, has Tote made any assessments on perhaps what could
11 have been the causes of the loss of a main unit?

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

13 **Mr. Roth-Roffy:** Do you know who might have that information, sir?

14 **WIT:** No.

15 **Mr. Roth-Roffy:** Would it perhaps be within the engineering function? It sounds like an
16 engineering thing, losing the main unit.

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

18 **Mr. Roth-Roffy:** Okay, thank you very much.

19 **CAPT Neubauer:** Are there any other follow-up questions at this time?

20 **Ms. Davidson:** Captain I have one question. Mr. Morrell can you turn to Exhibit 4,
21 page 101.

22 **WIT:** Yes, sir.

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1 **Ms. Davidson:** Can you read into the record two paragraphs after Captain describes
2 where the hurricane is located, starting with I have monitored? Can you read those two
3 paragraphs into the record please?

4 **WIT:** I have monitored Hurricane Joaquin tracking erratically for the better part of a
5 week. Sometimes after 9/30 0200 she began a South Westerly track early this morning.
6 I adjusted our direct normal route in a more South Easterly direction towards San Juan,
7 Puerto Rico which will put us 65 plus minus nautical miles South of the eye. Joaquin
8 appears to be tracking now as forecasted and I anticipate us being on the backside of
9 her by 10/01 0800.

10 **Ms. Davidson:** Continue on.

11 **WIT:** Presently conditions are favorable and we're making good speed. All
12 departments have been duly notified as before. I have indicated a later than normal
13 arrival time in San Juan, Puerto Rico. Anticipating some loss in speed throughout the
14 night. I will update the ETA tomorrow morning during our regular pre-arrival report to
15 San Juan Port, etc.

16 **Ms. Davidson:** And you'll agree with me that Captain Davidson's assessment of the
17 storm was based upon forecast he was receiving through the equipment that was
18 available to him on the bridge, correct?

19 **WIT:** Yes.

20 **Ms. Davidson:** Thank you.

21 **CAPT Neubauer:** Thank you. Are there any other follow-up questions for Mr. Morrell?

22 **ABS:** No questions.

23 **CAPT Neubauer:** Mr. Kucharski.

1 **Mr. Kucharski:** Yes, Mr. Morrell, sorry, what was your answer to that question?

2 **WIT:** The answer was it was based on information provided by the weather information
3 that's received on board the vessel.

4 **Mr. Kucharski:** And did you consider the distance of 65 miles, when you looked that
5 over?

6 **WIT:** Did I consider it?

7 **Mr. Kucharski:** Yes.

8 **WIT:** As I mentioned earlier I didn't get this message until later in the day. But ----

9 **Mr. Kucharski:** You mentioned earlier that you liaised with Don Matthews, this is the
10 very beginning I asked you about Don Matthews and his position and he got involved
11 with operations, ship operations and you talked about bunker requirements.

12 **WIT:** Yes.

13 **Mr. Kucharski:** Or leading, do you have a certain amount of bunkers to meet to
14 stability requirements?

15 **WIT:** We have a target.

16 **Mr. Kucharski:** What is that target?

17 **WIT:** The target is we have 8500 barrels on board for departure Jacksonville.

18 **Mr. Kucharski:** And is that for a direct trip to San Juan without any diversion, weather
19 routing going Bahamas Channel?

20 **WIT:** It's a stability calculation. Our ISM manual requires us to have whatever the
21 round trip voyage is plus 25%.

22 **Mr. Kucharski:** And is that a requirement or just be able to get to port with the [in
23 bunkers aboard, or is it a requirement for GM?

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1 **WIT:** What the 8500?

2 **Mr. Kucharski:** Is it a requirement of ISM?

3 **WIT:** It's for – it's whatever voyage the vessel is sailing on, whatever, whether it's
4 Jacksonville, San Juan, or whatever, you have to have sufficient bunkers plus 25%.

5 **Mr. Kucharski:** Okay and sufficient bunkers, I'll ask it again, is that just for getting to
6 port or is it for making stability requirements?

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

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

9 **WIT:** I'm not sure.

10 **Mr. Kucharski:** You're not sure. Okay, but he did – you need to have that 8500 on
11 board for stability requirements?

12 **WIT:** Correct.

13 **Mr. Kucharski:** And that was stability requirements to arrive at San Juan, is that a
14 direct trip or, again, routing?

15 **WIT:** I'm not certain, that's not my area.

16 **Mr. Kucharski:** Any question?

17 **CAPT Neubauer:** Yes, we're about to wrap up, so any final questions?

18 **Mr. Kucharski:** Mr. Morrell, sorry, you mentioned about Captain Davidson not knowing
19 his exact strengths and weaknesses, but we would just like a clarification, weren't you
20 instrumental in the decision to give him command of the new vessel at first?

21 **WIT:** I wouldn't say I was instrumental, I was a part of a group of over a half of a dozen
22 people involved.

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1 **Mr. Kucharski:** And would you say that the only reason he was not given command of
2 the new vessel was because of the events in Puerto Rico?

3 **WIT:** It was just determined that we want continuous improvement and we had very
4 good candidates and that was the decision that we thought was the right one.

5 **Mr. Kucharski:** I'm sorry, I couldn't hear that.

6 **WIT:** Well again we had very good candidates and we were looking for continuous
7 improvement.

8 **Mr. Kucharski:** Were there any other factors besides the incident in Puerto Rico that
9 he was not chosen?

10 **WIT:** I'm not aware of any.

11 **Mr. Kucharski:** Thank you.

12 **CAPT Neubauer:** Are there any final questions for Mr. Morrell?

13 **Tote Inc:** No further questions, Captain.

14 **CAPT Neubauer:** Are there any concerns from the parties in interest we need to
15 address regarding the testimony we just heard?

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

17 **ABS:** No, sir.

18 **HEC:** No, sir.

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

20 **CAPT Neubauer:** Mr. Morrell, we are now complete with your testimony for today.

21 However I anticipate that you may be recalled to provide additional testimony at a later
22 date. Therefore I am not releasing you from your testimony at this time and you remain
23 under oath. Please do not discuss your testimony or this case with anyone other than

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1 your counsel, the National Transportation Safety Board or members of this Coast Guard
2 Marine Board Investigation. If you have any questions about this, you may contact my
3 legal advisor, Commander Jeff Bray. At this time the hearing is adjourned for the day.
4 Thank you.

5 *The hearing adjourned at 1511, 16 February 2016.*

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