

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 18 May 2016

4 Volume 13

5 **CAPT Neubauer:** Good morning. The hearing will come to order. Today is May 18th,
6 2016 and the time is 0900. We're continuing at the Prime F. Osborn Convention Center
7 in Jacksonville, Florida. I am Captain Jason Neubauer, of the United States Coast
8 Guard, Chief of the Coast Guard Office of Investigations and analysis, Washington D.C.
9 I'm the Chairman of the Coast Guard Marine Board of Investigation and the presiding
10 officer over these proceedings. The Commandant of the Coast Guard has convened
11 this board under the authority of Title 46, United States Code, Section 6301 and Title 46
12 Code of Federal Regulations Part IV to investigate the circumstances surrounding the
13 sinking of the SS El Faro with the loss of 33 lives on October 1st, 2015 while transiting
14 East of the Bahamas. I am conducting the investigation under the rules in 46 C.F.R.
15 Part IV. The investigation will determine as closely as possible the factors that
16 contributed to the incident so that proper recommendations for the prevention of similar
17 casualties may be made. Whether there is evidence that any act of misconduct,
18 inattention to duty, negligence or willful violation of the law on the part of any licensed or
19 certificated person contributed to the casualty, and whether there is evidence that any
20 Coast Guard personnel or any representative or employee of any other Government
21 agency or any other person cause or contributed to the casualty. I have previously
22 determined that the following organizations or individuals are parties in interest to the
23 investigation. Tote Incorporated, ABS, Herbert Engineering Corporation and Mrs.

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

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

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

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

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 person have or believe that he or she has information not brought forward, but which
2 might be of direct significance, that person is urged to bring that information to my
3 attention by emailing elfaro@uscg.mil. The Coast Guard relies on strong partnerships
4 to execute its missions. And this Marine Board of Investigation is no exception. The
5 NTSB, provided a representative for this hearing. Mr. Tom Roth-Roffy, also seated to
6 my left is the Investigator in Charge for the NTSB investigation. Mr. Roth-Roffy, would
7 you like to make a brief statement?

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

17 **CAPT Neubauer:** Thank you. We will now call our first witnesses of the day. Mr. Jerry
18 Hale and Mr. Richard Brown with AWT.

19 **** Note for the record: Mr. Richard Brown will be labeled as WIT 1. Mr. Jerry Hale
20 will be labeled WIT 2: ****

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

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

3 **WIT 1:** I do.

4 **WIT 2:** I do.

5 **LCDR Yemma:** Thank you, sir.

6 **LCDR Yemma:** So gentlemen I have some preliminary questions to ask before we get
7 into the questions from the board. And I would like Mr. Brown if you could answer first
8 and then Mr. Hale if you could after that. So could you please Mr. Brown state your full
9 name for the record?

10 **WIT 1:** Richard Allen Brown, B-R-O-W-N.

11 **LCDR Yemma:** Okay. And Mr. Brown where are you currently employed and what is
12 your position?

13 **WIT 1:** Employed in Sunnyvale, California and I'm Vice President of Operations at
14 Applied Weather Technology.

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

16 **WIT 1:** Overseeing the operations of all the ship routing that we do for the clients of
17 ours.

18 **LCDR Yemma:** Okay. And can you describe for the board some of your prior relevant
19 work experience?

20 **WIT 1:** I worked 27 years at a company called Ocean Routes that then became
21 Weather News Incorporated when they merged. I also worked 3 years at AMI which is
22 Aerospace and Marine. These were all in the weather routing business.

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

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

1 **WIT 1:** Bachelors of Science in Meteorology.

2 **LCDR Yemma:** Thank you, sir. And Mr. Hale can you state your name and spell your
3 last for the record?

4 **WIT 2:** Jerry Timothy Hale, H-A-L-E.

5 **LCDR Yemma:** And your place of employment and position there?

6 **WIT 2:** I also work at Applied Weather Technology in Sunnyvale, California. And I am
7 an Assistant Manager in the technical support, customer service department.

8 **LCDR Yemma:** And what are some of your general responsibilities in that position?

9 **WIT 2:** I'm responsible for support by email and phone for all of our software products
10 and services, web services.

11 **LCDR Yemma:** And can you also describe some of your prior relevant work experience
12 please?

13 **WIT 2:** I worked for 6 years also at WNI, Weather News Incorporated and I was
14 Sunnyvale, California as well.

15 **LCDR Yemma:** And your highest level education completed?

16 **WIT 2:** I have a BS in business management.

17 **LCDR Yemma:** Thank you gentlemen. Lieutenant Comerford will have questions for
18 you now.

19 **LT Comerford:** Good morning Mr. Hale and Mr. Brown. All of my questions are related
20 to the time frame prior to the loss of the crew in the El Faro unless otherwise noted. Mr.
21 Hale and Mr. Brown we will explore these broad topic areas this morning: background
22 about Applied Weather Technology and the services that it offers, functions of the Bon
23 Voyage System and the weather forecasting available during Joaquin, Applied Weather

1 Technology's available weather routing services. After we finish the initial Coast Guard
2 questions for each broad topic the NTSB and the parties in interest will conduct
3 questions in that area before we move on to the other broad topics. Please let me know
4 if you would like to take a break at any point during your testimony. Each question I will
5 present will be directed to both of you unless otherwise noted. However, in the interest
6 of clarity for the court reporter to the best of your ability please have one person
7 respond to each question. If you would like to transition between each other during a
8 question please make the transition clear for the court reporter. For the remainder of
9 this line of questioning I will refer to Applied Weather Technology as AWT. First topic
10 area I would like to explore is some background about AWT and the services it offers.
11 Can you describe AWT as a company?

12 **WIT 1:** AWT is a weather routing company for marine shipping companies, mostly
13 commercial. Some – we do some for yachts and liner or cruise vessels and things like
14 that. But the majority of our business is for commercial shipping. And it's really divided
15 into two topics. One is shore assisted routing where we actually have a team of
16 meteorologist and mariners that give recommendations to a ship at sea to be both safe
17 and efficient. And we also have our on board system that we provide the weather data
18 to them and then the Captain can make the decisions on board. We also, just to
19 expand a little bit more, we also have a fleet management system that actually helps the
20 shore staff manage their fleets.

21 **LT Comerford:** How long has AWT been providing weather routing and forecasting
22 services?

23 **WIT 1:** I believe it started in 1996.

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 **LT Comerford:** Does AWT employ meteorologists and in that regard how many
2 roughly?

3 **WIT 1:** Yes we do. And I would estimate about 50 to 60.

4 **LT Comerford:** Could you describe the function that the various meteorologists
5 perform in AWT?

6 **WIT 1:** Well for the shore side assistance what we do is we review the tracks at least
7 every day and look at their track and the weather currents and look at all the, you know
8 variabilities of what kind of ship is it, the age of the ship, the cargo it's carrying, the
9 stability, those types of things. And specific client's requirements. And then give a
10 recommendation to the Captain on what's the best route.

11 **LT Comerford:** Does AWT have any meteorologists performing forecasting functions?

12 **WIT 1:** It's truly applied weather. We're basically are taking the governmental forecast
13 and then applying it to the ships. So we don't really do specific forecasting.

14 **LT Comerford:** Are there also physical oceanographers employed with AWT as well
15 and if so roughly how many?

16 **WIT 1:** We have one.

17 **LT Comerford:** In general you – as of September 2015 describe the services that AWT
18 offered merchant vessels and which of those services integrate weather forecasting?

19 **WIT 1:** Could you repeat that one more time?

20 **LT Comerford:** Certainly. The first question is as of September 2015, September of
21 2015, could you describe the services that AWT offers merchant vessels?

22 **WIT 1:** Well we provide multiple different types of services. We do tracking type
23 services where we either use GMDSS poling or AIS tracking via satellite. We also do

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 monitoring services where we collect the noon reports from the ships and provide
2 performance analysis. We then do – we also provide you know weather routing
3 services where we give recommendations. And it's not just necessarily the course, but
4 also could be the speed depending on what type of service it is. You know for a liner
5 company they have a specific arrival time and they want to manage the fuel
6 consumption so they want us to adjust the speeds or recommend a speed that would
7 minimize the fuel consumption. And you know within all that we have all sorts of flavors
8 of you know, we can send graphics to the ship and things like that.

9 **LT Comerford:** Could you describe how you send graphics to the ships in general?

10 **WIT 1:** Generally it's through email.

11 **LT Comerford:** And for those graphics is there a specific type of software or hardware
12 that the user is required to have to view those products?

13 **WIT 1:** No. It would just be like you know an image either PDF or PMG type.

14 **LT Comerford:** And does AWT have any software that they provide to their customers
15 for the forecasting or for viewing weather in addition to that service?

16 **WIT 1:** Yeah we have the Bon Voyage System.

17 **LT Comerford:** Was the El Faro a prescriber of the Bon Voyage System and the
18 weather products provided by Applied Weather?

19 **WIT 1:** We were providing the Bon Voyage System only.

20 **LT Comerford:** Could you provide a description of what the Bon Voyage System is and
21 what it provides to the user?

22 **WIT 1:** Bon Voyage is you know an application that they would install on a computer on
23 board the ship. We send the data through two means. If they have VSAT on board we

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 can send it through basically the internet. And if they don't we send it by email
2 packages. And the system – basically they can update the data either you know once a
3 day, twice, three, or four times a day. So it's their choice they can control how often
4 they down load the data. They can control what parameters they get. And then once
5 the data's on board and they've processed it then they can input tracks into the system
6 to evaluate the effects of the weather and currents. They can put in multiple tracks and
7 compare them and they can even do some optimizations to see what the system might
8 say is the most efficient way to get across the ocean and safest.

9 **LT Comerford:** Now when you discuss optimization could you describe that in a bit
10 more detail please?

11 **WIT 1:** Yeah it's – actually there's multiple versions of it. We have what we call a
12 leased time, you also have fixed arrival so that would be more looking at how it could
13 control the speed to minimize fuel consumption. We also have a dual speed version
14 where it looks at outside the ECA zones and inside the ECA zones and recommends
15 the speed differences to minimize fuel consumption. And the user can put in constraints
16 so they evaluate and say on the head or quarter beam after, aft of beam of following
17 parameters limits on the wave heights or winds to – so when they optimize it, it will try to
18 avoid those conditions.

19 **LT Comerford:** As of September 2015 what was the most recent version of Bon
20 Voyage that was available to customers?

21 **WIT 2:** I believe it was 7100.

22 **LT Comerford:** Do you know if that version would have been available to the El Faro?

1 **WIT 2:** It was available to – when you say available, the software, the download link
2 was accessible. But I can't say whether or not that it was made directly available to the
3 ship. The BVS versions are provided depending on the needs of the – each company
4 and also the types of changes that are made in the product that are there buyable after
5 they go through the vending process and what not.

6 **LT Comerford:** In general could you describe the weather and marine forecasting
7 products that customers may access with the Bon Voyage System?

8 **WIT 2:** Bon Voyage or the short name we call it is BVS, BVS provides an analysis tab
9 and a forecast extending out to potentially 16 days, surface pressure, wind, waves,
10 swell, surface currents. There's a 3 day forecast for surface currents. And then it also
11 provides additional details such as weather bulletins for the region that is of weather
12 data is being collected by the ship. And additional information includes piracy,
13 precipitation, sea surface temperatures, air temperature and what not. So quite a range
14 of oceanographic and atmospheric data.

15 **LT Comerford:** In general how are these products generated? In other words, does
16 AWT run its own models for specifically hurricane forecasting in house?

17 **WIT 1:** The only model that we're running in house is the wave model. And so what
18 we're doing on there is we actually take the incepts 16 day GFS model and we super
19 impose the hurricane center's forecast within it. So we modify the pressure and the
20 winds and then we run our wave model to get the waves more accurate around the
21 cyclones. And we do that, you know every 6 hours.

22 **LT Comerford:** What times, you said already 6 hours, is that a regular schedule and
23 what times are those?

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

1 **WIT 1:** Yeah, well the Government runs the model at basically at 06, 12 and 18. And
2 then you know it takes a few hours for the models to generate the forecast. And then
3 once we get access to it then we download the data and then we start processing. We
4 also enhance it with – we add in fronts into the data. So it’s available at 3, 9, 15, and 21
5 I believe it is.

6 **LT Comerford:** About how long does it take – you said they run the models at 06, 12,
7 so on and so on.

8 **WIT 1:** Yeah.

9 **LT Comerford:** How long does it normally take to get access to that data?

10 **WIT 1:** It’s a 9 hour process. That’s what we recommend. We usually can get it done
11 in about 8 ½, but just to ensure when they actually try to download that they actually get
12 the data we tell them to do it at those times.

13 **LT Comerford:** And for clarification in the weather forecast for BVS where does the –
14 where’s the source of the tropical cyclone current position forecast track and intensity of
15 information coming from?

16 **WIT 1:** The – it’s coming from the Hurricane Center. I mean we’re taking that data,
17 we’re putting it into our stuff. But it’s the forecast from the Hurricane Center.

18 **LT Comerford:** Other than the National – National Hurricane Center could you discuss
19 the other data sources that are used for AWT’s forecasting?

20 **WIT 1:** Well we use the – in other parts of the world we use the other Government
21 agencies that have control for that region for hurricanes or typhoons. So it’s JMA, who’s
22 the other officials, joint typhoon warning center. I would have to look it up. But I mean

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 we basically – whatever the Government agency that's controlling that area we use that
2 official forecast in our models. Weather data.

3 **LT Comerford:** For the United States area specifically the Atlantic what specific data
4 are you polling for your applied weather? You mentioned GFS, National ----

5 **WIT 1:** Yeah we use the GFS model from the Government and then we also use the
6 Hurricane Center.

7 **LT Comerford:** Are there any others?

8 **WIT 1:** No.

9 **LT Comerford:** For the users in the BVS system is there a way for them to learn about
10 or read about this – these data sources that AWT uses?

11 **WIT 1:** I believe it's inside the manual where they can see where all of the sources are.

12 **LT Comerford:** Is there a quality control or a quality assurance performed in – by the
13 time forecasters on the weather data provide – let me reword. Is there any quality
14 control or quality assurance performed on the forecasting data sent to ships?

15 **WIT 2:** When the model is run and the information is taken care of I would also mention
16 that these are meteorologist as well that are preparing this data for our BVS users.

17 They – when they finalize that data there's a process before the data is published or put
18 out to the server that delivers that data to run the data through several versions of the
19 program. We have some users that are using BVS 6 still, an earlier version as well as
20 BVS 7. We have some additional web products as well. And a web page that we
21 provide access to, to our shore based clients. And so that weather – the weather data
22 is checked on there as well as the – that would include surface pressure, winds, waves,

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 swell, tropical storm tracks etc. to ensure that they appear properly. And then we push
2 the publish button basically, essentially to make that data available at that point.

3 **LT Comerford:** When they do the checks on, you mentioned BVS system 6, do they
4 have to have a specific package for their weather that's custom tailored to 6 or will the
5 weather product email be viewable in 6 or 7?

6 **WIT 2:** The data is 90 percent identical. There is a difference between BVS 6 data and
7 BVS 7 data in that the tropical storm track is displayed – the format of the actual tropical
8 file is a different format. And that was for enhancements in BVS 7 for the display of that
9 track. But if a user is trying to process that data there is a notice that comes on the
10 screen that says that the data is not valid for that system. Although it displays most of
11 the data displays properly. But the one – provide them with the fact that they're not
12 processing the data that's valid for the version that they have.

13 **WIT 1:** And also I would just like to add with BVS 7 we have the additional parameters,
14 humidity, air temperature, seas that were not available on the 6 version.

15 **LT Comerford:** How long has version 7 been released to the customer?

16 **WIT 2:** I would say about 2 years.

17 **WIT 1:** I think it was 2013.

18 **LT Comerford:** After the data comes in and the models are complete and you're ready
19 to finalize the product, how long does it take from the time – from that time to prepare
20 the packages, the data packages to send to the users?

21 **WIT 2:** The process – once the data is finalized the sending of the data works in two
22 different ways depending on, as Richard mentioned earlier, whether they're receiving
23 data by broadband or by email. The broadband option, BVS has a setting within the

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 program that looks for new data at X number of minutes, default set has every 60
2 minutes, so if there's a new data set available then it would automatically collect it. For
3 email the user has the option to select any hour of delivery and up to 4 deliveries a day.
4 And so they submit that schedule, it resides on our server with the delivery times and so
5 that data is delivered at that specific time. For example someone requesting data at
6 0900 Zulu would receive that data usually between 9:05 and 9:15. It can take anywhere
7 from 5 to 15 minutes depending on the amount of users. We have multiple servers
8 running to deliver the data and we're sending it out to about 3000 users on the BVS
9 server.

10 **LT Comerford:** Stepping back for a minute, are you able to confirm which version of
11 BVS the El Faro had? I know you said it was available to them, but.

12 **WIT 2:** Yeah, they were provided with – we sent a CD of BVS 70078, 7.0.0.78. And it
13 was confirmed to our server that that version was on board because we received a
14 request for data and that request contains pertinent information regarding the call sign
15 to identify the specific vessel as well as an email as an identifier or security identifier on
16 our system. And then it also has the version number as well. So our system updated to
17 show that version.

18 **LT Comerford:** So you discussed that the email user, a user receiving email weather
19 packages can indicate what times they can receive weather. Is there a recommended
20 schedule for receiving emails as it would apply to tropical cyclones or hurricanes?

21 **WIT 2:** The BVS interface, the request interface contains various information on what
22 items they're requesting and it's a multistep process. And one of the last steps before
23 sending or submitting to email, that request file there's a schedule page or tab. And that

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

1 schedule tab gives information indicating what times. There's a drop down in 4 slots
2 that allow them to select the time. And right above that is a recommendation that shows
3 that the availability for the best times for availability are at 03, 09, 15 and 21 Z. And
4 then over to the right of that there is an option, a check box to request tropicals 4 times
5 a day and it mentions there that those are tropical are usually updated and available at
6 04, 10, 16, and 22 Z. So one hour after. But the data I might mention is – the tropical
7 data as it comes in is a little bit after the time that our model data is ready and able to be
8 distributed. So that's why we made that data additionally available. If that option is
9 selected the tropical data will out in a separate email that is anywhere from 5 to 10 K in
10 size. And it contains similarly an RKW file which is, you might say a Zip file specifically
11 designed for BVS. When it's double clicked or opened it automatically updates the
12 chart with the new forecast information that's available in that file.

13 **LT Comerford:** Would you define tropical data that you were discussing?

14 **WIT 2:** So tropical data would be any tropical system, tropical storm track that we've
15 identified and through the National Weather Service or the hurricane center and those
16 tracks are input into one single file with multiple – with data for each specific storm
17 track. And then that data is displayed on the chart graphically as well as if you right
18 click on the storm track you have an option in a popup menu that gives you a specific
19 table data as well as the tropical bulletin in text format.

20 **LT Comerford:** That drop down menu or selection menu is that to view tropical
21 reports?

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

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 **LT Comerford:** So you discussed that there's some time delay or latency between
2 when the models initiate, they run and the products are available to the users. I'm going
3 to run down a generic scenario to get a perspective of that scenario, or that situation.
4 I'm going to look at the 1500 Zulu BVS weather package arbitrarily. If we were to look
5 at the National Hurricane Center's forecast for track and intensity, which – which
6 forecast would that correspond to when you're looking at the 1500 Zulu BVS email
7 package?

8 **WIT 2:** So if the data, the tropical storm that you were reviewing in the 15 Z delivery
9 that would be from the 10 Z tropical storm data that became available and was
10 distributed as a separate message to the users that requested it. But is then included in
11 the next model data that becomes published.

12 **LT Comerford:** So would you say that the position of the storm, the forecasted track
13 and intensity would be relative to 5 hours prior to the weather package that's emailed to
14 the user?

15 **WIT 2:** So the age of that tropical storm track would be 4 to 5 hours, that is correct.

16 **LT Comerford:** Can you discuss how AWT provides information or trains the user on
17 the latency of these weather products for their customers?

18 **WIT 2:** So within the manual there's a description of the data delivery times and
19 availability and that includes the tropical storm data describing that – the files for tropical
20 data and the most up to date files become available just after the model data. So if it's
21 desired to receive that file it can be requested. And then also AWT provides a video
22 tutorial installer. This is a CD that we send along with the installation CD. Once that
23 program is installed it's a flashed based video construction program. And there are

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 about 20 – 20 modules that describe the weather products, how to request data and
2 other information including the tropical storm and other model data.

3 **LT Comerford:** Does AWT provide any specific training to its users about how to –
4 how to run the BVS application and the latency of the weather products?

5 **WIT 2:** Usually the training is provided near port at one of our local offices. If we're
6 visiting a client and a ship is in town then we may happen to visit them and provide
7 some support. But usually our requests is that if there's some travel that's necessary is
8 the client willing to cover the costs for travel to be able to provide that support. In most
9 cases I would say almost all of our users are confident with the capabilities of the video
10 training to be able to receive sufficient understanding of the program.

11 **WIT 1:** We also on request when they have an officer's meeting sometimes we go and
12 do a like an hour, hour and a half training session for the company if they want that.

13 **WIT 2:** One thing I would also mention is that in some of the clients that we provide
14 BVS to they – their technical team that does the installation they are also trained to use
15 the program. In those cases we might provide the shore side with some video
16 conferencing training or some additional support if they request it. And then they go on
17 board and provide that support.

18 **LT Comerford:** So in general the in person training would be upon request and the –
19 for the company or the ship, correct?

20 **WIT 1:** Yes.

21 **LT Comerford:** Earlier you had discussed the – in the setup of the delivery for the
22 weather the tropical updates. Do you know if the El Faro was receiving those tropical
23 updates?

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

1 **WIT 2:** The weather – the delivery schedule that the El Faro had for quite some time
2 was 3, 9, 15, and 21 Z and that was for the main model data. They were not receiving
3 the tropical updates.

4 **LT Comerford:** Do those tropical updates cost anything extra to the user?

5 **WIT 2:** There's no – for AW – for the – the agreement with AWT to provide data does
6 not contain any stipulations regarding the amount of data that's collected. In other
7 words once an account is active they can collect data as often as they deem necessary
8 or desire. And that the only concern maybe communications costs that would be
9 incurred by a vessel and collecting additional data.

10 **LT Comerford:** For clarification do the tropical updates provide an update to the
11 current position of a tropical cyclone with the updated track line, forecast track line and
12 intensity?

13 **WIT 2:** Yes. All the data would be updated including intensity, movement, and
14 modifications to the storm track.

15 **LT Comerford:** And what time does that update, or in regards to the National
16 Hurricane Center products, what time does that update the forecasting track and
17 intensity to with regards to that weather package?

18 **WIT 2:** I'm sorry can you repeat that?

19 **LT Comerford:** Certainly. To reword, you stated that the tropical updates generally are
20 sent 1 hour following the normal email, correct?

21 **WIT 2:** Yes.

22 **LT Comerford:** What would be the corresponding National Hurricane Center's report
23 that corresponds to that data package? How many hours before would that data be

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 incorporating the current position, forecast track and intensity of the National Hurricane
2 Center product?

3 **WIT 2:** If you're asking the exact or hour of the release of that bulletin or that data, I'm
4 not specifically aware. But it ----

5 **WIT 1:** Basically the hurricane center puts out the, you know forecast at 3, 9, 15, and
6 21. And we take it, you know a little time to actually process it and then make it
7 available to our clients.

8 **LT Comerford:** So just continuing with that 1500 hypothetical situation we were talking
9 about, the following tropical update would be sent at 1600 Zulu, approximately, that
10 would incorporate, or can you confirm if that would incorporate the 1500 Zulu National
11 Hurricane Center's forecast and product?

12 **WIT 1:** Correct.

13 **LT Comerford:** You had discussed the technical support that you provide to the users.
14 Do you have any records that the El Faro requested any technical support or training for
15 the Bon Voyage System?

16 **WIT 2:** I – in my review of messages that we had received I didn't encounter any of that
17 it had requested specifically for training or support in regards to the program. But the
18 program had been on for several years. Although it was upgraded it's my
19 understanding that there was knowledge of the use of the program. At any rate we
20 didn't have any communication in regards to need for training by the – request by the
21 ship.

22 **LT Comerford:** That concludes my first topic area. I now turn it over to the board for
23 further questions.

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

1 **CAPT Neubauer:** Mr. Richards.

2 **Mr. Richards:** Good morning.

3 **WIT 1:** Morning.

4 **WIT 2:** Morning.

5 **Mr. Richards:** I would like to clarify just a few things. You indicated that the earliest
6 times that AWT will make, will send emails to customers containing these main, as you
7 put it Mr. Hale, BVS files are 3Z, 9Z, 15Z, and 21Z, is this correct? And these are the
8 same times that nominally that the National Hurricane Center will release their tropical
9 cyclone forecast tracks, is that correct?

10 **WIT 1:** Yeah. Yes.

11 **Mr. Richards:** Okay. Why do you – why do you make a tropical update – the tropical
12 update email an option available to users? Why does this exist for the customers?

13 **WIT 1:** Well what we do is we're ingesting these – the say in the 15Z we're taking the
14 9Z output from the hurricane center and ingesting that into the winds and waves. But
15 potentially there could be some changes in the track so we want them to immediately to
16 have the information that tells if the track's changing. So that's why we make the,
17 separately the hurricane latest bulletins. Is that the underlying winds and waves still will
18 represent what we sent as the main data package. But the track will be updated.

19 **Mr. Richards:** Thank you.

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

21 **Mr. Roth-Roffy:** Good morning, sir. Tom Roth-Roffy, NTSB. Just a few questions, sir,
22 to follow up on some of the topics already discussed. You mentioned you have 3000

1 customers on the server. Is that an indication of how many customers you have that
2 you are providing service to?

3 **WIT 1:** Well we also have an OEM branded version of BVS that goes to a company
4 called CHARCO [sic] and they have about 1800 users. But it goes – most of it goes
5 through their servers. So total is about 5500 ships are using our on board system.

6 **Mr. Roth-Roffy:** What percentage of those customers are also subscribers to your
7 weather routing service?

8 **WIT 1:** A rough guess would be maybe 25 to 30 percent.

9 **Mr. Roth-Roffy:** In early on about your company description you mentioned you had I
10 believe 50 to 60 meteorologists. But before that you mentioned you had meteorologist
11 and barriers or something like that.

12 **WIT 1:** Yeah.

13 **Mr. Roth-Roffy:** I forget the word you used. Could you describe their functions?

14 **WIT 1:** Well basically they're all being route analysts. So it's a combination of people
15 who have weather backgrounds or a maritime background. And they're basically
16 reviewing each vessel and seeing where they're going, what kind of cargo they're
17 carrying, stability of the ship. And then updating the forecast and recommendation as
18 needed.

19 **Mr. Roth-Roffy:** But that 50 to 60 number includes those people with a marine
20 background?

21 **WIT 1:** Well yeah I would say so, yeah.

22 **Mr. Roth-Roffy:** So of those 50 to 60 how many have a marine background?

23 **WIT 1:** I'm not really sure, but maybe 25 percent.

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

1 **Mr. Roth-Roffy:** You were asked about the training that the vessel, the ship El Faro
2 had requested and you indicated that you had no record to indicate that they had ever
3 requested or had been provided training, is that correct?

4 **WIT 2:** I should mention that that's an indication of the upgrade to BVS 7. I don't – I
5 don't have a record of going back to when they were using BVS 6, which was on board
6 for several years. If that may have taken place or not at that time. But BVS 7 there was
7 an indication – not an indication that additional training was needed.

8 **Mr. Roth-Roffy:** And when was that version 7 installed on board the El Faro?

9 **WIT 2:** Sorry I wrote a note. On June 12th, 2015 the vessel sent us a new – a request
10 for BVS with new keys. The keys are hardware, they're MAC ID's that are translated
11 into a 7 digit code that BVS uses. That was on the bridge computer. It may have been
12 a little bit more recent than that if the Captain was also using BVS on his – in his office
13 in his system as well. But that was an indication that at least as of June 12th, 2015 they
14 had BVS 7.

15 **Mr. Roth-Roffy:** From the operator's perspective were there significant differences
16 between version 6 and version 7 that perhaps would require training for them to
17 efficiently use it?

18 **WIT 2:** The features of the program were essentially the same. In other words the
19 optimization feature, the display of weather, the graphic – the user interface had
20 changed somewhat and became a little you might say a little more professional or
21 simple in that table and text titles were given for the products in an upper bar, or upper
22 menu of the program as opposed to graphical images depicting what type of weather
23 product. For example pressure, wind, wind sock we had changed that. So there was a

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 little bit of familiarity need in getting used to the new program, but all the functions were
2 the same. Just a few minor things were changed and how they were accessed. A lot
3 more right menu options were added to simplify the access to that information. But the
4 basic programming was – interface was pretty much the same.

5 **Mr. Roth-Roffy:** And regarding training, again you mentioned that the El Faro you
6 didn't have any indication they received training on version 7. What about version 6,
7 any records to indicate version 6 training provided?

8 **WIT 2:** I'm not aware of that occurring. But our email records, our email archives didn't
9 go back that far before we had an archive in the system to be able to maintain that
10 information.

11 **Mr. Roth-Roffy:** And how about for Tote as a company, do you have any records to
12 indicate that they had for their other vessels in the fleet receive training in your system,
13 BVS?

14 **WIT 2:** I know that option was available and I know that the salesman that provided the
15 support for Tote made himself available as he was in the area where the ships were
16 available. But specific instances of on board training I'm not aware of. I can't say.

17 **Mr. Roth-Roffy:** How long has the company Tote been a customer of yours?

18 **WIT 2:** I don't have the exact information, but I know that the El Faro was a user back
19 into 2011 and probably prior to that. There is some information that indicated they were
20 receiving BVS data at that time.

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

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

1 **CAPT Neubauer:** Good morning, sir. I just have a couple follow up questions. I think
2 you mentioned earlier on that you also provide a fleet management service separate.
3 And I was just wondering if Tote is provided with the fleet management service?

4 **WIT 2:** The fleet management service is called a Fleet DSS and I am not aware if they
5 are using the product or not. It usually comes with an agreement to provide AIS data
6 along with to add value to the Fleet DSS program. And I'm not aware if they're currently
7 using it.

8 **WIT 1:** I'm not aware either. But likely they're probably not because like Jerry said
9 normally Fleet DSS goes along with if we're doing weather routing support or we're
10 doing some sort of tracking so that they can actually view the ships on the screen. And
11 we weren't doing any tracking.

12 **CAPT Neubauer:** In regards to the on demand, or the tropical updates you mentioned,
13 is that an on demand service or once you've signed do you just continuously receive
14 this?

15 **WIT 2:** For tropical updates the user configures within the program if they want to
16 receive those by selecting a check box to add those additional file deliveries. When the
17 user selects that then those tropical emails would continue to be received until a change
18 is made to the schedule to eliminate that from delivery.

19 **CAPT Neubauer:** I believe you mentioned that you also assessed the vessel stability
20 and I'm wondering how that occurs. Do you receive like CargoMax reports from vessels
21 to assist you in doing those assessments? I'm just wondering how that process works.

22 **WIT 1:** Well on the weather routing side what we actually do is we ask for the GM from
23 the ship, we also ask for their roll period. And then within our internal system we have,

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 using IMO formulas we can do a resonance alerts, or parametric rolling alerts. And then
2 we help – that helps us make decisions on potentially what routes we would
3 recommend. And that feature's also available on board the BVS system. So if the
4 Captain puts in the roll period it will give him advice on potential, you know resonance in
5 synchronous and parametric roll.

6 **CAPT Neubauer:** And the Captain could also enter like GM into his BVS unit?

7 **WIT 1:** If he puts in GM and draft it'll calculate a roll period, if he doesn't put in the roll
8 period.

9 **CAPT Neubauer:** Thank you. Mr. Richards.

10 **Mr. Richards:** With regard to the National Hurricane Center product that's used to
11 depict the tropical cyclone current position and forecast track in the BVS data that's
12 emailed to the customer, what specific National Hurricane Center product is used to
13 develop that track? Do you know?

14 **WIT 1:** You mean at the Hurricane Center?

15 **Mr. Richards:** The product that the National Hurricane Center publishes.

16 **WIT 1:** Yeah, I mean they're running, I believe like 20 different models and then they do
17 some sort of consensus model from there. I'm not sure exactly. But they're looking at
18 many different outputs before they publish an official bulletin.

19 **Mr. Richards:** Oh I'm sorry. I mean with regard to the product that they publish to the
20 public that AWT uses to develop the track that's presented to the customers in BVS. To
21 what specific National Hurricane Center product does AWT use to construct that track
22 for the customer?

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

1 **WIT 1:** There are bulletins and I don't know the labeling of the bulletin, but basically
2 they put out the forecast and they basically, we pick it up off the – off of the internet.

3 **Mr. Richards:** Okay. And we've established that nominally these bulletins are
4 available at 3Z, 9Z, 15Z, 21Z, roughly nominally the same times that BVS will email, in
5 the case of an email user, email the file to the user. Are you aware of what time those
6 bulletins are actually made available to the public from the National Hurricane Center?
7 And any differences in the published time?

8 **WIT 1:** I'm not aware. I assume it's very close to the official time.

9 **Mr. Richards:** Okay. Thank you.

10 **CAPT Neubauer:** Lieutenant Comerford.

11 **LT Comerford:** A quick follow up question. For the products from the National
12 Hurricane Center, do you incorporate the intermediate advisories in your forecasting
13 model or updates?

14 **WIT 1:** When you say intermediate, you mean – I'm not sure. Could you clarify?

15 **LT Comerford:** The National Hurricane Center in general follows the synoptic weather
16 schedule just discussed. In certain events they start issuing a public intermediate
17 advisory on their website. Does that intermediate advisory get incorporated into the
18 BVS weather package?

19 **WIT 1:** The bulletins are made available. So especially if they have the broadband and
20 whenever they're downloading any new bulletins would get sent to the ship.

21 **LT Comerford:** Would that strictly – would it strictly be the bulletins made available or
22 would that data be incorporated into the model for the weather package?

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

1 **WIT 2:** So there's – there are two processes that take place. And each time a tropical
2 bulletin is made available to AWT we take that data and the data team, meteorologist
3 that are preparing data for the main model and for any additional information coming,
4 take that data and they create the tropical storm track, graphical display for BVS. Then
5 they also push that same bulletin information as text format into the BVS program to
6 display up on the right clicking of the tropical storm track. It's using tropical – so the
7 data as it becomes available to us it's immediately made into a graphical track and then
8 the bulletin information is submitted into the package. So anyone requesting data
9 thereafter would receive that update. For example a user requesting main model at 16
10 or 17Z, although they would be receiving at 17Z a data set that's 2 hours older from the
11 time that we initially published it they would have update to date other information
12 including that latest tropical as well as any bulletins or other information that's come in
13 and become available to our system.

14 **LT Comerford:** If you would I would like to turn to Exhibit 159. That's going to be page
15 12. It might be in another binder. It might be in a previous binder.

16 **WIT 2:** Yeah we have 176.

17 **CAPT Neubauer:** I believe we're also going to display that on the screen if you need to
18 see.

19 **WIT 1:** Okay.

20 **LT Comerford:** This exhibit displays the intermediate advisory that was published
21 online from the National Hurricane Center. In the intermediate advisory this was issued
22 halfway between the normal synoptic period. So at 0 – this one was issued at I believe
23 09 – correction, 1200 Zulu on Wednesday, September 30th. On that product it indicates

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 the position of the storm Southwest – Southeast and a track line that, to describe it,
2 jumps Northwest and then follows back to the Southwest. To your knowledge would
3 this track line be used in BVS's model data? And perhaps for clarification, if you look to
4 the previous page, page 11 is the normal public advisory, the – 0900 advisory. And it
5 shows this same track line with a previous position at that time. So my question is
6 would that intermediate advisory that shows, I'll say an irregular – irregularity in the
7 track line be ingested into BVS's data?

8 **WIT 2:** And going off of procedural requirements that we have, the – each file or each
9 bulletin, tropical bulletin that we receive would be put into the system. So that would be
10 made available.

11 **LT Comerford:** How would you, if you were looking at this intermediate advisory on
12 page 12, how would you interpret the forecasted track being portrayed in this exhibit?
13 Let me reword that, sorry. Let me reword that. So on page 12 of Exhibit 159 the
14 intermediate advisory, would your interpretation be that the track line is a forecasted – is
15 an updated forecasted track line by the – in this exhibit?

16 **WIT 2:** And you're asking, this is page 12 in comparison to page 11, is that correct?

17 **LT Comerford:** Correct.

18 **WIT 2:** Yes I do assume so.

19 **LT Comerford:** Thank you. That's all I have.

20 **CAPT Neubauer:** Commander Denning.

21 **CDR Denning:** Sir, just to continue on that same theme and hopefully – I hopefully
22 clarify your understanding of the question a little bit. What we learned from the National
23 Weather Service yesterday was when they issued their intermediate advisory, they

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 update the position only and do not update the track forecast. So if you look closely, I
2 know it's difficult going from one imagine to the other, but what Lieutenant Comerford
3 was trying to explain is page 11 has a forecasted track line based on that position at 5
4 a.m. Eastern Time, 9 a.m. Zulu. Looking at the intermediate advisory on page 12 the
5 position is updated but the track line on that particular image is not. So the question is
6 does BVS use the track line from the 5 a.m. Eastern, 9 a.m. forecast from the National
7 Weather Service, or does it essentially recalculate the track line from the new position?

8 **WIT 2:** What would happen is if we received this bulletin update then we would insert
9 the new track line within the program that would be available. If that was not the case
10 for example if the user collected the BVS data with a track, let's say that was similar to
11 page 11 and not 12, then they would see that information with the DR position or with a
12 calculated position that's provided according to the points that we had, previously had
13 on for that track.

14 **CDR Denning:** So is it true then that the updated BVS track line would be a similar
15 shape to this track line, but off set by the same distance as the new position? In a
16 sense parallel.

17 **WIT 2:** So if the – that is correct. If they were using the previous forecast, they view
18 that information, then the only difference would be that the updated position would not
19 be displayed because that wasn't available at that time for that forecast.

20 **CDR Denning:** The updated position. I'm not sure what you mean.

21 **WIT 2:** The change in the position that was indicated in page 12.

22 **CDR Denning:** So page 12 is 3 hours later. It's the updated position in BVS track line
23 forecast, would it – it would incorporate that position, correct? And how would the track

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 line be represented in the BVS? How would the forecasted track line be represented in
2 BVS?

3 **WIT 1:** Basically we wouldn't make any changes to it. So it would be from the latest
4 bulletin that we have.

5 **CDR Denning:** And so specifically what I'm trying to get at is in this image, image 12, if
6 you were to look at it closely you would see the position, the current position of the
7 hurricane and then the next position is to the Northwest.

8 **WIT 1:** Right.

9 **CDR Denning:** But that is not the forecasted track. Because the forecast was actually
10 3 hours earlier.

11 **WIT 1:** Right.

12 **CDR Denning:** So the forecast still had it tracking the South, Southwesterly direction.
13 Would your forecast show a South, Southwesterly direction or a Northwest as this
14 depicts?

15 **WIT 1:** No it would be as depicted here.

16 **CDR Denning:** Okay. Thank you. That – I understand.

17 **CAPT Neubauer:** At this time I would like to go to the parties in interest for any
18 questions. Tote?

19 **Tote Inc:** No questions, sir.

20 **CAPT Neubauer:** ABS?

21 **ABS:** No questions, sir.

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

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 **Ms. Davidson:** Yes I have some questions. Mr. Brown you were talking about the
2 processing of the data from the National Hurricane Center. Am I correct that if there is
3 an observation made by – well let me give you a foundation. Yesterday Mr. Franklin
4 from the National Weather Hurricane Center advised the panel that it takes 3 hours from
5 its observation to come to a forecast and issue their product. So if they make an
6 observation at 0600 and it takes them 3 hours to process and push it out to the public,
7 your company will then download that a little past 9 O'clock and then you would not
8 push that information out to a customer until the next time which is 1500, correct?

9 **WIT 1:** Well we – that's correct.

10 **Ms. Davidson:** So ----

11 **WIT 1:** In the main model data. But if they want to download the tropical they'd pick it
12 up within an hour.

13 **Ms. Davidson:** Right. On the main – on your main service you're pushing out
14 information that's 9 hours old?

15 **WIT 1:** Correct.

16 **Ms. Davidson:** No further questions.

17 **CAPT Neubauer:** Herbert Engineering?

18 **HEC:** No questions.

19 **CAPT Neubauer:** Mr. Fawcett do you have a follow up question?

20 **Mr. Fawcett:** Yes, sir, thank you Captain. Good morning gentlemen.

21 **WIT 1:** Good morning.

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

1 **Mr. Fawcett:** Mr. Roth-Roffy asked you a question about the mariners that work for you
2 in the group with the meteorologist. Could you talk a little bit about what you seek in the
3 background for those mariners that support your operations?

4 **WIT 1:** I mean they were just part of the team. So I'm not sure I understand the
5 question.

6 **Mr. Fawcett:** Well are they licensed merchant mariners, deck officers?

7 **WIT 1:** They went to like SUNY Maritime, places like that. And were at sea for a period
8 of time and now they're on shore. I don't know if their licenses are up to date or not.

9 **Mr. Fawcett:** So can you provide tailor made forecast and not weather routing, but can
10 you – can a client say my ship, my vessel I would like a tailor made forecast specifically
11 for my vessel while that vessel is being tracked on the waterways, the ocean?

12 **WIT 1:** I mean basically that's what we do. What we – when we send a message to the
13 ship we actually are basically dead reckoning the ship every 6 hours for the remainder
14 of the voyage. And then we will sample the weather, currents, winds, swell and provide
15 that in the forecast. So we'll give them an example, you know what their forecast is
16 going to be along that track.

17 **Mr. Fawcett:** Okay. So I can put my next question in the proper context, section 10.8.4
18 of Tote's operations manual talks about weather routing and that's Exhibit 025 page
19 218. And I'll just read it for you.

20 **WIT 1:** Okay.

21 **Mr. Fawcett:** It says since weather routing services provide valuable information it is
22 strongly recommended that the Master pay attention to their guidance. So that's from
23 the operations manual for the Tote vessels. Commander Denning and Lieutenant

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 Comerford asked you questions about the irregularities as they described it in the
2 forecast for that little jump where the Joaquin made the little wiggle. If there were
3 weather service – weather routing services available would your meteorologists and
4 your mariners look at that forecast in specific and try to evaluate that inconsistency or
5 the latency in reports so they could adjust the weather routing for the ship?

6 **WIT 1:** Anytime we feel the forecast isn't verifying we reevaluate. We tend to – our
7 general policy for routing around a cyclone is to take the gale radius and add 50 miles
8 and keep the ship outside that radius.

9 **Mr. Fawcett:** Okay. So my colleagues might ask you more questions about that later,
10 but I'm talking specifically to that irregularity as it was described. In that particular
11 sequence of forecasts would you meteorologist gather around it with your mariners on
12 duty analyze that and put their analysis skills into the weather routing service they
13 provide?

14 **WIT 1:** Generally speaking we're going to go with what the hurricane outputs. We
15 apply the weather, we're not running any hurricane models or anything like that. So it's
16 tough for us to second guess what the hurricane center's putting out.

17 **Mr. Fawcett:** Okay. So just for clarity, your weather routing service would then
18 incorporate that irregularity into the weather routing service, is that correct?

19 **WIT 1:** Yes.

20 **Mr. Fawcett:** Talking about you were able to call up and find out when the ship got its
21 BVS update by looking at your server or your information processing equipment. If the
22 El Faro wanted to access this type of weather update or these kind of products using

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 just the pure internet from a laptop such as this instead of using INMARSAT could they
2 do that?

3 **WIT 1:** I would assume so, yeah.

4 **Mr. Fawcett:** Would your server have an archive of any time the El Faro or the El
5 Yunque for example pinged the server for requests no matter where it came from?

6 **WIT 2:** Now the request that we were speaking of are the BVS data requests, is that
7 correct? Because ----

8 **Mr. Fawcett:** Associated with that package, sir.

9 **WIT 2:** Yes. We have a record. Both vessels were collecting data by email and we do
10 have email records of the delivery times that data was collected by both of those
11 vessels.

12 **Mr. Fawcett:** So that's based on a call sign?

13 **WIT 2:** It's based on call sign and email delivery address as well.

14 **WIT 1:** The Captain sends in a schedule then it's, you know we deliver the packages at
15 those times. In this case they were requesting the weather every 6 hours at 3 – 3, 9,
16 15, and 21Z.

17 **WIT 2:** I would also mention that the authorization protocol for the BVS server only
18 allows a valid address to request data. So for example if the El Yunque were to request
19 data it would have to come from an email address that we have on our system as valid
20 for that account. So we can see as well though what requests were made for data or
21 changes over a given period of time as well as the outgoing data and what addresses
22 that data was delivered to.

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

1 **Mr. Fawcett:** Thank you. Was Tote or any – Tote – there's Tote Maritime, there's
2 Totem Ocean Express, was Tote a customer of your shore based product?

3 **WIT 1:** No.

4 **Mr. Fawcett:** I would just like to bring up Exhibit 181. Is that your – it'll be on the
5 screen there, sir. Is that your product or is that somebody else's?

6 **WIT 1:** Yeah, that is, yes.

7 **Mr. Fawcett:** Okay. Just as a note for the record this was an attachment to an email
8 that was sent from Mr. Rodriguez to another entity within Tote. We'll talk about that
9 later. But that is an AWT shore based product?

10 **WIT 1:** Yes.

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

12 **CAPT Neubauer:** At this time I would like to take a break. The hearing will recess and
13 reconvene at 1025.

14 *The hearing recessed at 1017, 18 May 2016*

15 *The hearing was called to order at 1029, 18 May 2016*

16 **CAPT Neubauer:** The hearing is now back in session. We just have a couple
17 additional follow up questions from the first round. Commander Denning's going to lead
18 off.

19 **CDR Denning:** Sir, a few – we have a few more questions about timing. It's not
20 completely clear to me yet so I'm going to travel down that road again if you could bear
21 with me. At first when Lieutenant Comerford starting talking about the timing of reports
22 and how you take National Weather Service data and provide it to your clients you

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 mentioned – you said the word it's a 9 hour process. I would like to start if you can go
2 into a little bit more detail on what you meant by a 9 hour process.

3 **WIT 1:** Well I mean we'll just take 0Z and then the product will be available at 9Z.

4 Basically that's when the Government starts actually running the model. It takes them I
5 believe 2 or 3 hours to run the model. And then they make it available to the public.

6 And then we have to download the – all the data. It's a 15 day forecast. And then we
7 do our enhancements so we add fronts globally. I believe out 3 days. So that takes

8 some time. And then we as I mentioned we super impose the hurricane and typhoon,
9 all the warnings – all the tropicals around the world. We super impose, we take the

10 pressure and the gale radius and everything and we super impose that into the

11 numerical model. And then we run our own wave model which takes I believe an hour,

12 hour and a half. And then we – once that's done then we start packaging it up available

13 for our clients. So approximately 9 hours to do all of that.

14 **CDR Denning:** So I think I heard two different things so I need to clarify it. You said
15 that National Weather Service models are available to the public 9 hours later. Does
16 that include ----

17 **WIT 1:** No, no, no, no ----

18 **CDR Denning:** The AWT?

19 **WIT:** No, no. It's available I believe in 2 or 3 hours. That's the first few hours is just
20 doing that. Then they make it available to us. That's when we do our processing with
21 the enhancements to the tropical, the fronts and make it available to our customers.

22 **CDR Denning:** Okay. So I think it'll help if we – I understand, thank you. If we go back
23 to – go back to Exhibit 159 again and we can pick any time. Let's pick one early on in

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 this storm's life. So the 5 a.m. Eastern Daylight Time National Weather Service
2 forecast. 5 a.m. Eastern Daylight Time is your 9 O'clock Zulu. Because it's 4 hours –
3 time zone, 4 time zones away. So it would be 9 a.m., 0900 Zulu report from National
4 Weather Service is available to your client when? If you could walk us through just this
5 particular report. And first of all it's a 5 a.m. report. When does AWT actually receive
6 that – what data does that include from National Weather Service that they've analyzed
7 and when do you receive it and when does the mariner receive it? We really want to
8 understand the age of the information by the time it reaches the end user is what is very
9 important to us.

10 **WIT 1:** I believe the 9Z would be available in our 15Z output.

11 **WIT 2:** That would also go out an extratropical email at 10Z.

12 **CDR Denning:** So 9Z is available at 15Z, output – that's only 6 hours.

13 **WIT 1:** Well, yeah. That – one would be incorporate in our global model and that's with
14 the one we adjust the winds and waves for.

15 **CDR Denning:** So how does that corroborate with the 9 hour process.

16 **WIT 1:** Because the 9 hours is from when the base time of the global model, not of the
17 hurricanes. You know it's really a – we're sending out the 0Z GFS model data at 9Z.
18 Part of that process is we take the latest hurricane forecast or typhoon forecast and we
19 ingest that into the model. And that would be the 9Z one. So the delay on the
20 hurricanes is actually a little bit less than what the model run is, the base data of the
21 model run.

22 **CDR Denning:** Okay. So my next question then is if the – if a ship has their settings,
23 and I'm going to back up a little bit. You talked about the settings on a ship and you

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 said you talked about the schedule tab and it gives information it allows them to select a
2 time. Is that just during the initial setup of the system?

3 **WIT 1:** No they can adjust their download areas and frequencies at any time. And you
4 know many ships do like around the world type trades and they'll change their areas
5 multiple times to have it more coordinated to where they are in the world rather than
6 downloading a whole worlds worth of data which cost more money for them. And so but
7 if you're in an area where you're, just say the North Atlantic then you might just set it up
8 once, you know get the whole North Atlantic and just go with that.

9 **CDR Denning:** I think Lieutenant Comerford is going to go into a little bit more details
10 on the settings later, so I'll hold that topic for now. And I guess I want to ask how could
11 a ship – it seems as though the settings on El Faro were at the exact times of the
12 National Weather Service reports that – the labels on their reports despite the fact that it
13 takes a little while for them to get to the ship. How could a ship set – have their settings
14 to minimize the delay in data and ensure they have the most recent information as soon
15 as they receive an update?

16 **WIT 1:** They would additionally not just to the global model data they would click on the
17 tropical option and then that would send it out within an hour.

18 **CDR Denning:** But instead of a 3Z, 9Z, 15Z, and 21Z could they say instead of a 3Z I
19 want it to start at 5 Zulu?

20 **WIT 1:** Well no it would be the other way around. They would do it at, you know 4, 10,
21 16 and 22. But then the global model data is an hour older then. But it's an option they
22 could do, absolutely.

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 **CDR Denning:** Would it reduce – would it increase the accuracy for the end user in
2 terms of timeliness?

3 **WIT 1:** Well if they did either of those options it would improve it. If they click the
4 tropical box they would get it by – at an appropriate time or they could do the global
5 model data and just one hour later and they would get – include that bulletin.

6 **WIT 2:** I think one thing that we need to – we would consider or we would maybe
7 postulate is the real desire or the need of the user. For example we have some U.S.
8 West Coast users and one of the most important things for them is the Alaska bulletin
9 and that's not output until I believe it's at 12 and 0Z. So the most important thing for
10 them is to receive that bulletin as up to date as possible. So they collect their data at
11 12Z. So I think that's one of the reasons why we've offered some variations in
12 scheduling. It depends on the need of the user and as Rich has mentioned that data as
13 they collect it, because the process for us to run the main model and enhance the data
14 according to that tropical that we currently have that's a process that takes some time.
15 So if we were to wait another hour to receive that latest tropical bulletin it could take a
16 couple of hours for us to run that model data and enhance it with specific information.
17 So it's more – it seems more practical for us to provide that tropical file as an additional
18 item of availability and not delay the model further. And then the user has the option to
19 select how they want to receive data. If they want everything, the most up to date as
20 possible they could collect the main model at 3Z for example and then at 4Z have the
21 check box selected for the additional delivery of that tropical data set.

22 **CDR Denning:** So I guess what I'm getting at is, you know a 0 Zulu National Weather
23 Service product, you have it packaged up and ready to go at – by 0900, correct?

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

1 **WIT 1:** That's the GFS model, the global ----

2 **CDR Denning:** Right. So if the setting is at – is for 0900 they will have that information
3 as quickly as they possibly could?

4 **WIT 1:** Correct.

5 **CDR Denning:** And there's no way to improve – there's no way for an end user to
6 improve that? In other words it's a good setting to stay on that?

7 **WIT 1:** Yes. Also that specific one, 0900 GMT is also the high com current models only
8 run once a day. And that's the first time it will be available. So most of our users
9 actually select the data time at 09Z so that they can get the latest information on
10 currents and weather.

11 **CDR Denning:** I understand. Just a few follow ups then on different – different topics
12 that you mentioned. You mentioned the GFS model. And what factors go into your
13 consideration of which model to use? We learned a lot yesterday from National
14 Weather Service about the various models and the accuracy of one over the other and I
15 know there's a wide array of accuracy. What factors do you consider as far as which
16 models to use?

17 **WIT 1:** You know we basically made the decision that we'll go with the Governmental
18 agencies for cyclones and we're using the GFS model for our basis. We do
19 occasionally we'll look at the ECWF model and if we see discrepancies we always try to
20 error, you know we might take other hurricane centers or typhoon center warnings into
21 account when we're recommending, but what we provide to our end users is consistent
22 with what the Government agencies will put out.

1 **CDR Denning:** And do you ever – have you ever analyzed accuracy of one over the
2 other and try to, you know reconsider, you know considered other models?

3 **WIT 1:** Yes, yes we have. We have access to both, both of those models.

4 **CDR Denning:** Captain Neubauer asked you a few questions about how vessels can
5 provide you their – some of their stability information, you provide them additional
6 updates and just for clarification that's available on either version whether a ship is
7 subscribing to the track advisories, you called it the shore based – shore assisted
8 routing versus the on board weather information? That's available – that process is
9 available for both, is that correct?

10 **WIT 1:** Yeah. The Captain would input it on – into the R system on board and do his
11 own thing or on the shore side when every initial recommendation we send out we ask
12 them for these types of information. They report it back to us, we put it into our systems
13 and then along the track it will show alerts saying hey you might have parametric rolling
14 at this point and time so it can help us try to keep the vessels out of harm.

15 **CDR Denning:** So along that vein if we were able to obtain for you the roll period or
16 even run a few hypothetical roll periods and drafts could you enter – could we enter that
17 or you enter that into your software and tell us – predict along the route that the El Faro
18 took when they might have experienced parametric rolling?

19 **WIT 1:** Yeah, potentially yes.

20 **CDR Denning:** We may follow up on that with you later after the hearing. And then my
21 final question Mr. Roth-Roffy asked you about some percentages about your clients
22 who subscribe to the shore assisted routing and you said 25 to 30 percent. Does that
23 include – is there a variance as far as vessel types? Does that include some of your

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 yachts and if you were to eliminate some of your smaller vessels and focus on deep
2 draft would that percentage change?

3 **WIT 1:** Most of that cross over would be on the commercial side, you know container
4 ships that we're providing you know both weather routing and shore assisted or you
5 know tankers, bunkers, those type of vessels.

6 **CDR Denning:** So the 25 to 30 percent ----

7 **WIT 1:** Is, yes.

8 **CDR Denning:** Would be for deep draft traffic?

9 **WIT 1:** I mean we do, you know cruise ships and yachts and things, but those are a
10 very small percentage. We do you know 4,500 voyage a year on the shore assisted
11 routing and that might be, single digit type thing, you know a hand full. It's very small.
12 Mainly commercial.

13 **CDR Denning:** Thank you. That concludes all of my follow ups on the first round.
14 Thank you very much.

15 **CAPT Neubauer:** All right at this time we'll begin a new line of questioning. Lieutenant
16 Comerford.

17 **LT Comerford:** Thank you Captain. The second topic I would like to explore is the
18 different functions of BVS and the weather forecasting available during Joaquin. For
19 this line of questioning I will primarily refer to Exhibit 172. That is the screen shots of
20 the Bon Voyage System. Whenever I indicate a page I will do a generic description.
21 First I would like to turn to page 1 of the exhibit. This exhibit shows the vessel setup op
22 menu for BVS. There's different parameters that are put in it including the name of the
23 ship, the length, some fuel rate consumption performance factors, but what I would like

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 to look at is the vessel type in the upper right hand corner. When you do select it
2 there's many options of different vessels. First question is how do those types of
3 vessels effect the programming or the parametric roll factors of the program?

4 **WIT 1:** The main purpose for the different ship types is to determine which speed down
5 and algorithms we use. Or even our consumption curves that we use. Because we do
6 things that, you know we deal with many different clients and some if they only use the
7 Bon Voyage System we don't have a fuel consumption so we use similar ship type data
8 based on the size and everything and power and be able to come up with a reasonable
9 guess on consumption. And same thing with the speed down if we don't have specific
10 data for that ship then we use a generic curve based on other ship types of the same
11 size. What was the second part of the question?

12 **LT Comerford:** Does that have any impact on the parametric roll factors that are ----

13 **WIT 1:** Well it does in that we use the – the IMO has a formula. We use that formula
14 for the parametric roll and synchronous roll. And it is based on the, not ship type, but it
15 is based on the size of the ship.

16 **LT Comerford:** Different ships have very – ships have different shapes and sizes.
17 Other than the generic vessel type descriptions in a pull down menu, does AWT have a
18 description or profile or assistance in choosing the vessel type most appropriate to a
19 vessel?

20 **WIT 1:** Yeah. I mean we basically are looking at the Lloyds data and take their ship
21 type and then – or map it to one of our ship types. And then that's what we're using for
22 the basis of our speed and consumption curves.

1 **LT Comerford:** Next I would like to turn your attention to page 12 of the exhibit. This
2 screen shot is a close up of the snapshot tool bar in BVS. For resident alert and
3 threshold parameters on the top, going one at a time could you describe what
4 parametric roll means in BVS?

5 **WIT 1:** Well parametric rolls is basically when the frequency of the waves and the
6 length of the ship are in sync. Basically we're looking at I think encounter period and
7 the roll period of the ship. And when they're in sync then potentially you're going to
8 have that. And the thresholds are basically – we basically have what we call two levels.
9 So to say if you put four meters it will start firing at 50 percent of that. So it will start
10 firing at 2 meters. It will have along the track a small I believe it will be a red circle. And
11 then if it's 4 meters or above it will be a darker bigger red symbol of that time when we
12 think there might be parametric rolling.

13 **LT Comerford:** And when you state meters can you clarify what you're referring to with
14 the ----

15 **WIT 1:** Sea – sea heights or swell.

16 **LT Comerford:** And how about for a synchronous roll?

17 **WIT 1:** Same sort of thing where you know when the roll period and encounter period
18 are in sync. Potentially you're going to have serious rolls. And when that happens you
19 go from maybe 5 to 10 degree rolls to like 30 or 40 degree rolls. And so once again you
20 can put in the threshold and it will alert you when potentially you might have that
21 occurring.

22 **LT Comerford:** And define in terms of broaching?

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

1 **WIT 1:** Broaching is basically when, you know or a ship may, very large waves it will
2 accelerate down the wave and actually could end up going sideways and potentially this
3 – potential for capsizing.

4 **LT Comerford:** Does AWT provide guidance or training or support to vessels in
5 determining these factors?

6 **WIT 1:** We have a quick reference guide on this. And we also especially for the
7 broaching it's once again it's a formula through the IMO and so we default that one
8 based on the size they put into the setup. But parametric and synchronous rolling they
9 can put in whatever values they want to.

10 **WIT 2:** I would further mention that the quick reference guide, called the residence
11 quick reference guide and it's available from the programs help menu and it provides
12 two pages of very detailed information describing each type of resonance, roll
13 resonance phenomena and also a description of how to enter the specific information
14 for each vessel.

15 **LT Comerford:** I would like to turn to page 13 of the exhibit. This is simply, for this
16 purpose of the exhibit it's a screen shot of the interface for Bon Voyage. Just in general
17 would you take a moment to discuss the different aspects of the program? What's
18 available to the user's interface?

19 **WIT 2:** So from the currently displayed interface, both panels, the side panel and the
20 lower panel have been opened. So there's much more information available than just
21 the chart details. What you see above in gray and green with red filled into some of the
22 fields those are the weather – the specific display for weather items. When you click
23 along the BVS track and then you go to the far right there are some forward and reverse

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 controls to step through each of the weather tiles. And as you do that and the vessel
2 moves DR's along the track the information above is displayed in red. Whereas if you
3 start to move the mouse around the chart at that specific display time the data would be
4 displayed in black and it would be corresponding to the specific position of the mouse at
5 the time. Over on the left you have four different display items available. It's currently
6 showing the snapshot. I would imagine that there would be additional information
7 displayed there if we had input the GM and roll period, the two items just above the rose
8 diagram in white. The draft is usually input in the route input table and then it displays
9 here. It shows in black because it's not editable on this specific location. Down below
10 the diagram are several tables. They're columns in lighter blue. There's a description
11 of height, height period, wave length, etc. and those are in dark blue so that describes
12 the row or the – yes the row. And then the darker blue columns are BVS calculated
13 information. And the white fields are made available so that the user can input variations
14 to the BVS calculated information and then see an output as the rose diagram is
15 effected by the variation for the time being. Once the user clicks time step forward it
16 resets that information and both of those columns will show the calculated data as
17 opposed to user input data. Also in the upper column is a tools options, data display
18 option and route input option. And the route input is where the specific way points
19 would be entered in for a specific track. Down below it's currently displaying a track list
20 and that's the section that has two white tracks as well as a gray, the gray track or the
21 light blue track is the track that is currently selected. So it's actively displayed. It
22 becomes a little bit bolder when it's selected. The graphic track on the chart is more
23 emboldened and then the blue coloring on that row is also displayed to indicate which

1 track is selected. And in the case of this track list displayed there are three tracks that
2 would either be for comparison purposes or they could be tracks from a previous
3 voyage that may not have been closed. One of the things you'll see as well is over on
4 the far right in the lower corner are some legends that give a description of the graphical
5 colors for the filled contours or sea height. And in the case of, for example if air
6 temperature or sea temperature were also turned on there would be a description of
7 how those colors could be interpreted.

8 **LT Comerford:** When this screen capture was made it was immediately following
9 importing an email data package. After that point before further manipulation is there
10 any information on this display that indicates the currency of the data that is being
11 displayed?

12 **WIT 2:** The – actually when a forecast that is an older data set is processed there is a
13 dialogue that comes up that says the forecast is too old. But also once you click off of
14 that and your review this, so if there's someone else ready to come in and review it,
15 they have a way of knowing the validity of the forecast or when that period is by looking
16 up in the upper right section. There – you see a series of dashes first, I'll explain all the
17 upper panel there, or all the upper bar. There's a series of dashes which indicates the
18 distance of the mouse from the current position of the ship. That's currently showing
19 dashes because when the screen shot was taken it was probably moved off of the
20 chart. So it might show 300 nautical miles or 1000 miles or whatnot corresponding to
21 the mouse. Thereafter is the position, the last position of the mouse. And then in red is
22 the base time. So when you process a forecast file that area becomes a progress bar
23 that moves along as the data is unpacked and distributed into the weather folders.

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 Once it finishes then it shows the forecast base time. And if that time is old it will show
2 in red. And if it's more than 24 hours old it becomes red. And then it's white when it's
3 more recent. And then to the right of that is the valid time or the time stamp in which the
4 user is actually looking at weather data on the chart.

5 **LT Comerford:** When looking at a tropical cyclone event what indicates the current
6 track position data that's incorporated into this package? Is there an indication on that
7 display that tells you what the current position of the tropic storm for this data package?

8 **WIT 2:** Once the – once the package is processed then the tropical storm is updated
9 with the tropic storm data that's within that weather file. Whether it be a main weather
10 model or the separate tropical storm email. And then the position is displayed
11 depending on of the upper right white section, whatever the user is showing as the
12 current time or the display time. There are some controls – I should mention as well
13 whenever data is processed the BVS automatically displays the current time. In other
14 words the computer displayed the windows operating systems current time. From there
15 they can step forward or backward in the forecast to view information. So what
16 happens is the vessel in whatever position it might be currently would display on the
17 vessel's sailing track as well as the storm track would display a storm icon that is
18 representative of the density of the track or the density of the storm in that position. But
19 that also displays corresponding to the now time when it's first processed and the time
20 stamps that the user is stepping through. It would move accordingly in 6 hour intervals.

21 **LT Comerford:** Is there an indication of when the track presented to the user was
22 publicized by the National Hurricane Center? In other words the age of that forecast?

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

1 **WIT 2:** That information is available by right clicking on the storm track and then
2 selecting view tropical storm report. And then the text information shows the bulletin
3 output time as well as the table and the details in table format.

4 **LT Comerford:** Can you describe what the, in the upper right hand corner there's a T9
5 or I think you refer to it as the Tau 9, can you describe what that indicates?

6 **WIT 2:** The Tau, that time stamp is how much in the future from the analysis time of
7 that specific forecast. So if I download a file for example and process that data and it
8 shows 0Z as the base time as the zero time, it would be Tau zero, and as I step forward
9 and advance into the future then I would see for example T3, 6, 9, 12, depending on my
10 stepping ahead 3 hours, 6 hours, 9 hours, 12 hours, etc.

11 **LT Comerford:** Is this information covered in depth in your user manual or video
12 training you make available to your user?

13 **WIT 2:** There is information that discusses and gives an explanation of these details.

14 **LT Comerford:** Real briefly I would like to shift to page 15 of the exhibit. This page
15 shows the marine bulletins. And I have shown one marine bulletin to include a
16 superimposed image of the tail end of that message. So you can see the complete
17 message. Can you list what other marine bulletins might be available to a user in the
18 Atlantic for – which would give information regarding a tropical cyclone?

19 **WIT 2:** Well you – you can actually see from this image the items that are available at
20 this time. There obviously at times bulletins that are not updated, but the ones that I
21 see here are bulletins that are frequently updated. And for example the last – the last
22 four items on the list in the upper area just above where it says NWATL Gulf of Mexico
23 Caribbean the last four items show USA North Atlantic high seas, that would be one

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 bulletin as well as USA tropical weather Atlantic. The next item is a specific name of a
2 tropic cyclone warning. And then the last item is tropical cyclone discussion as well.

3 **LT Comerford:** In general does Applied Weather do post storm model performance
4 evaluation? Specifically, let me be more specific. If you have a hurricane, following a
5 hurricane, does AWT follow up with a post storm analysis on your model performance?

6 **WIT 1:** On the forecast? Or, I mean we usually do have a historical track for all
7 cyclones globally. But we don't normally do a post mortem on any – on the forecast.
8 Because actually we're using the hurricane center's output.

9 **LT Comerford:** Following the sinking of the El Faro did AWT do any review or analysis
10 the data that was sent to the El Faro?

11 **WIT 1:** Yes.

12 **LT Comerford:** Can you describe some of the findings of that analysis?

13 **WIT 1:** Well since we were just a weather data provider what we did was we checked
14 the download logs to validate that the ship was getting his weather packages and then
15 we looked at those weather packages to see that they were getting the updated
16 information.

17 **LT Comerford:** Did you analyze the products for – let me reword. Did you analyze that
18 these products matched up with the National Hurricane Center products in accordance
19 with your company's procedures that you discussed earlier

20 **WIT 1:** Yes.

21 **LT Comerford:** Did you find any irregularities?

22 **WIT 1:** At that time no.

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 **LT Comerford:** I would like to turn your attention to Exhibit 172 again for pages 16 and
2 18. 17 will work too, but I'm just – for how the binder's set up. But page 16 is the 0300
3 forecast and that was provided to the El Faro. And page 18 was the 0900 forecast send
4 on 30 September of 2015 to the El Faro. Do you notice through quick inspection any
5 irregularities between those two track line forecasts?

6 **WIT 1:** They're the same.

7 **LT Comerford:** Was that found by AWT in their follow up analysis?

8 **WIT 1:** Additionally no, but later on we were able to find that.

9 **LT Comerford:** Did AWT determine what caused this redundancy in the product?

10 **WIT 1:** I believe it was the late processing of the cyclone forecast.

11 **LT Comerford:** If you look at I believe it's page 27 as well it shows the 0300 tropical
12 update that was sent to the El Faro. Did that have the redundant information that was
13 sent? The one that would be in between the 03 and 0900 email pack you sent to the El
14 Faro?

15 **Tote Inc:** Excuse me, sir. Could you repeat the page number that you're referring to?

16 **LT Comerford:** Absolutely, sorry. This would be page 27.

17 **HEC:** And the Exhibit number again please?

18 **LT Comerford:** Absolutely, this is the same Exhibit 172.

19 **WIT 1:** I mean the underlying model data was up to date, the winds, the waves, the
20 pressure were all up to date. The storm track was out of date.

21 **LT Comerford:** So for that 0900 email package that was sent on 30 September, how
22 old would that make that data that was sent to the El Faro?

23 **CAPT Neubauer:** Can you clarify, you mean the storm track data?

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 **LT Comerford:** Yes Captain. That's affirmative.

2 **WIT 1:** Yeah the storm track data would have been what the four plus six, so like ten
3 hours. But as I mentioned the winds and waves and everything were up to date.

4 **LT Comerford:** Did this sort of anomaly occur again through the remaining email
5 packages that were sent to the El Faro?

6 **WIT 1:** Not that I'm aware of.

7 **LT Comerford:** That concludes this line of questioning for me. Captain.

8 **CAPT Neubauer:** Mr. Richards.

9 **Mr. Richards:** No questions at this time.

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

11 **Mr. Roth-Roffy:** Tom Roth-Roffy, NTSB. Just for clarity you mentioned that the – your
12 company uses the GFS model but you also use the National Hurricane Center forecast.
13 Could you again describe what the GFS model is used for in your products?

14 **WIT 1:** GFS model is the base forecast. So when you're looking at the, you know the
15 big picture all the winds and waves and pressure and everything are coming out of that
16 output. And it's a global model that they run. The hurricane center runs just tropical
17 models. So what we are doing is ingesting that tropical model into the global model to
18 try to match up the winds and waves. And then we run our own wave model to make it
19 all available to our clients.

20 **Mr. Roth-Roffy:** And there – when we first started talking about Exhibit 172 the vessel
21 set up, is that information archived and available that would indicate the settings in the
22 vessel setup for the El Faro as perhaps a configuration file?

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

1 **WIT 2:** We do not store the on board configuration that the vessel has. We do receive
2 some information from them when they request data for validation of their account. But
3 that's call sign and IMO and the email address.

4 **Mr. Roth-Roffy:** And again just for clarity you mentioned the storm track was out of
5 date by 10 hours, what was the reason for that? I didn't quite catch.

6 **WIT 1:** And I'm not 100 percent sure, but I believe that it was processed late. So it
7 didn't get in until the next package.

8 **Mr. Roth-Roffy:** Processed late by whom?

9 **WIT 1:** By AWT.

10 **Mr. Roth-Roffy:** And what was the reason for the late processing?

11 **WIT 1:** I'm not aware of a reason.

12 **WIT 2:** As we check the data we have the understanding that we were able to use the
13 storm track to update our model data. So the enhanced wind and waves were along the
14 track, showed the low pressure system in the global model moving along the storm
15 track properly. But for some reason an anomaly that we have not reproduced or
16 identified that tropical storm file was not updated and it – instead what went out was the
17 tropical text file that was from the previous tropical storm forecast, not forecast but outlet
18 file that we had generated.

19 **Mr. Roth-Roffy:** Okay, thank you. That's all I have. Captain.

20 **CAPT Neubauer:** At this time I would like to go the parties in interest. Tote do you
21 have any questions?

22 **Tote Inc:** Just a few questions, sir. Just to be clear so the – so we understand,
23 because I think it's still a little unclear to us, the data that BVS is providing with respect

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 to location, track and intensity of the hurricane, is that essentially identical to what the
2 National Hurricane Center is giving you on a 6 hourly forecast?

3 **WIT 1:** Yes.

4 **Tote Inc:** Okay. So if – is that also true with respect to any tropical updates?

5 **WIT 1:** Yes.

6 **Tote Inc:** And it's also true with regard to any intermediate advisories that the hurricane
7 center would put out?

8 **WIT 1:** Yes.

9 **Tote Inc:** So if you overlaid the track lines for these storms, the forecasted track lines it
10 should line up accurately with the National Hurricane Center, is that correct?

11 **WIT 2:** I would mention that we output the tropical storms four times a day one hour
12 after the model. So in an example, or for example the intermediate data that's supplied
13 if a user were to collect the main model data that would be including the text information
14 that the National Hurricane Center sent us. But the most up to date data that we have
15 from the National Hurricane Center as we create the tropical file would be the data that
16 we would use for the tropical storm track that would be output to the users.

17 **Tote Inc:** Okay. So but if one looked at the National Hurricane Center track for a
18 particular advisory that should line up with what – it should match what BVS is providing
19 with regard to the data that's sent to the ship, is that correct?

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

21 **Tote Inc:** And I think you said not all of the – your subscribers subscribe to the weather
22 routing services, is that correct?

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

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 **Tote Inc:** What percentage?

2 **WIT 1:** I said the overlap was maybe you know 25 percent or ----

3 **Tote Inc:** So 25 percent of your subscribers subscribe to the weather routing features?

4 **WIT 1:** And the on board system at the same time.

5 **WIT 2:** When we speak of weather routing features the features, the word I guess I'm
6 confused with because if we're talking about actually inputting a route and verifying that
7 information along the storm track we suppose that all the user are doing that. But in
8 providing specific services from our meteorological team that's the 20 to 30 percent that
9 we're – that receive that additional service.

10 **Tote Inc:** And Tote was one of the subscribers that didn't subscribe to that is that
11 correct?

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

13 **Tote Inc:** Thank you.

14 **CAPT Neubauer:** ABS?

15 **ABS:** No questions.

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

17 **Ms. Davidson:** No questions.

18 **CAPT Neubauer:** Herbert Engineering?

19 **HEC:** No questions.

20 **CAPT Neubauer:** Sir, I have a question on that weather routing service that was just
21 mentioned. Does Tote subscribe to that service now?

22 **WIT 1:** I don't believe so, but I'm not 100 percent sure.

23 **CAPT Neubauer:** Can we get that information from you later?

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

1 **WIT 1:** Yes.

2 **CAPT Neubauer:** At this time we would like to take a short break and we'll return for
3 the last round of questioning which will be shorter. We'll – the hearing is recessed and
4 reconvene at 1125.

5 *The hearing recessed at 1117, 18 May 2016*

6 *The hearing was called to order at 1129, 18 May 2016*

7 **CAPT Neubauer:** The hearing is now back in session. We have one clarifying
8 question that Tote wants to ask.

9 **Tote Inc:** Sir, you indicated that the – your customer base 25, approximately 25
10 percent of those customers used weather routing service. Of those 25 percent what
11 percent would you estimate are trans-ocean type shipping operation?

12 **WIT 1:** About 70 percent.

13 **Tote Inc:** So about 70 percent of the 25 percent are trans-ocean shippers?

14 **WIT 1:** Yes.

15 **Tote Inc:** Thank you.

16 **CAPT Neubauer:** We also have an additional clarifying question on the forecasting
17 times. Commander Denning.

18 **CDR Denning:** Or Captain may I suggest getting through the last round of questioning
19 and then I'll revisit that if that's okay.

20 **CAPT Neubauer:** Okay. Lieutenant Comerford please proceed with the next line.

21 **LT Comerford:** Thank you Captain. This final topic area will focus on primarily AWT's
22 available weather routing services. Can you describe how vessels receive their weather
23 routing services from AWT?

1 **WIT 1:** Most of it's done by email. However some have a combination of BVS and the
2 weather, shore side weather routing. And then we'll also send an actual BVS track from
3 shore to the ship so they can display it within their system.

4 **LT Comerford:** Is that email primarily textual in basis?

5 **WIT 1:** For the majority of the clients yes. But some also get some graphical images of
6 the forecast from their track.

7 **LT Comerford:** What would be discussed in the weather routing package, the email
8 that's sent?

9 **WIT 1:** Normally it has a synoptic forecast so kind of where the highs and low pressure
10 systems are moving. And then we give a specific forecast for each say either 6 or 12
11 hourly time step for the next 3 to 5 days of the winds and seas and swells. And
12 sometimes a few other parameters if like humidity or significant wave height or
13 something they want included. And sometimes we add periods in it, if it's critical from
14 the client. Then we provide a recommendation and then a reasoning for the
15 recommendation.

16 **LT Comerford:** For clarification the generic weather information that's included, would
17 that include current and forecasted track information for a tropical cyclone?

18 **WIT 1:** Yes.

19 **LT Comerford:** Is there an indicated periodicity or frequency of these weather routing
20 emails, or how does that work?

21 **WIT 1:** It varies on the client and the situation. Specifically go around a typhoon or a
22 hurricane we send at least a daily message. And with each new warning we actually
23 run a little program that we've developed called TROP SERVE that evaluates the

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 forecast and the ship. And it determines if, you know if the ship's getting closer to the
2 center or the forecast changes which ships need to be looked at again and we'll update
3 the ship as often as need be to make sure that they are safe.

4 **LT Comerford:** Yesterday with the National Hurricane Center there was some
5 discussion about rapid intensification events for tropical cyclones. If a customer were
6 subscribing to your routing service and a tropical cyclone or weather system in general
7 were rapidly changing, if they were getting routing on a daily basis is there anything that
8 triggers additional weather routing update without getting prompted?

9 **WIT 1:** Yeah, that's all part of the verification process. If they were saying it was a
10 tropical storm and then all of a sudden it was, you know much more intense and the
11 radius is expanded then we would be updating. Or if the track's changed significantly
12 then we update them. So we look at all those different things. And also it evaluates if
13 they're getting closer to the center or you know they're getting further away, those type
14 of things. It evaluates all that.

15 **LT Comerford:** You describe earlier a fairly broad customer base, everything from
16 yachts to large commercial ships. Does the customer indicate parameters for their
17 routing services specific to sea state, wind, other conditions?

18 **WIT 1:** Yes. Not all, but many clients will specifically give us thresholds that they want
19 to avoid. You know if they're carrying steel coils or things like that they want to stay
20 under 4 meters, those types of things.

21 **LT Comerford:** When they don't prescribe parameters are there a set of standard
22 parameters that AWT goes by for those recommendations?

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

1 **WIT 1:** Yeah, I mean we try to minimize the exposure to heavy weather so maybe say
2 7 meters and keep them at no more than a gale force wind. Keep them out of storms.

3 **LT Comerford:** And for clarification can you describe a gale force wind?

4 **WIT 1:** You know we wouldn't want to say above force 8, Beaufort scale, which is about
5 35 knots.

6 **LT Comerford:** And for the weather routing services does AWT rely heavily on your
7 data sources like the National Hurricane Center for those recommendations?

8 **WIT 1:** Yes. I mean the basis is, you know we look at the weather and we look at
9 current and make our determination on – to help us evaluate what the best course
10 would be, is and just the shortest distance.

11 **LT Comerford:** Do you prescribe on a monthly basis or is there a single route option
12 for AWT? What flavors of the routing service?

13 **WIT 1:** It varies. From many of our clients do a monthly based fee where we might
14 provide them the on board system and do it like AIS tracking and trans ocean legs and
15 those type of things. And others, especially on the chartering side the voyages or ships
16 are in and out of their service so they subscribe and just send us an email saying route
17 this ship. So it varies in the prices by the route.

18 **LT Comerford:** To initiate a one time request for a single voyage does that have to be
19 done before the voyage or can it be initiated at any time during the voyage?

20 **WIT 1:** It can be done at any time.

21 **LT Comerford:** After initiating a weather routing request how long does it take AWT to
22 provide its first recommendation?

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

1 **WIT 1:** Ideally we try to get it back out within an hour. If the ship's already underway, if
2 it's you know lots of times we're getting request days in advance and we usually start
3 sending something two days in advance so they can do their planning.

4 **LT Comerford:** To your – did the El Faro prescribe to a routing service for their final
5 voyage in September of 2015?

6 **WIT 1:** No.

7 **LT Comerford:** Without prescribing to the weather routing service are there tools
8 available in BVS to make determinations on best route?

9 **WIT 1:** Yeah, the Captain can put in his own track, his intended track. He can also do
10 an optimization to evaluate what the best track might be.

11 **LT Comerford:** And does that optimization in BVS specifically include parameters for
12 fuel consumption or best time?

13 **WIT 1:** Yes they can do a least time, least fuel type optimizations.

14 **LT Comerford:** When you mentioned putting in track lines in BVS are you able to view,
15 simultaneously two different routes to compare weather on multiple routes?

16 **WIT 1:** Yeah you can put in, I think it's almost unlimited, but you could easily put in 10
17 different tracks and evaluate the weather, currents, times, weather effects and
18 everything along those tracks.

19 **WIT 2:** I would just mention that as an example we were looking earlier at page 27 in
20 172, and down below is the track list. You can see there, although those are particularly
21 as exactly comparative there's an ETA column in about the middle that displays
22 expected time of arrival for each of those tracks so the user can get an idea of several

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 items of information along the track including speed down and other down. Weather
2 and current speed for example.

3 **WIT 1:** They could also fix that arrival time and then it would tell them what speed to
4 make that arrival time along that track.

5 **LT Comerford:** For one time voyage for a commercial customer, how much would a
6 weather routing package service be? Cost, sorry.

7 **WIT 1:** Cost. It varies based on the departure and arrival ports. But it ranges from
8 approximately \$300 to say \$1,200. Three day voyage versus a 40 day voyage.

9 **LT Comerford:** So it's entirely relative to the length of the voyage?

10 **WIT 1:** Yeah basically.

11 **LT Comerford:** Captain I turn to the panel.

12 **CAPT Neubauer:** Commander Denning.

13 **CDR Denning:** All right, sir. So back to this timing question, and please bear with me,
14 because even after the last line it was still a little bit unclear to me and I know Mr. Reid
15 asked a few follow on questions. So at any time Mr. Reid if we want to – if you're still
16 unclear and I'm still unclear maybe we can work together to try to understand how this
17 works. So I'm going to try to ask it in a different way and maybe this will help all of us
18 understand it. If I'm standing on the bridge of the El Faro and I receive, let's take a, you
19 know a 9, a 0900 Zulu data package from BVS, let's start with which National Weather
20 Service advisory does that 0900 Zulu data package from BVS include?

21 **WIT 1:** Are you talking the model data or the hurricane forecast?

22 **CDR Denning:** Let's take one then the other. I would like to hear the answer to both.

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

1 **WIT 1:** Okay. So from the GFS model would be the 09Z data run. And then the
2 hurricane would be – basically the one that comes out at ----

3 **CDR Denning:** So they come out at -----

4 **WIT 1:** 3Z. At 3Z.

5 **CDR Denning:** So the 0900 Zulu data package I receive on board the vessel includes
6 the 0300 Zulu, so we're about 6 hours old report if I were to go to the internet to the
7 National Weather Service website and pull up an advisory it would be the advisory that
8 came out for this 6 hour prior time stamp?

9 **WIT 1:** Yeah.

10 **CDR Denning:** Which would include data from a couple hours prior to that, is that
11 accurate?

12 **WIT 1:** Yes I believe so.

13 **CDR Denning:** So then if I'm also standing on board the vessel and I receive a data
14 package through the SAT-C system with up to date, as up to date as it can be
15 information directly from the National Weather Service I could receive at the same time
16 the – if I'm looking at – if I'm receiving the 0900 Zulu data package from BVS, I could
17 receive a 0900 Zulu data package, not data package, but textual -----

18 **WIT 1:** Yeah.

19 **CDR Denning:** From – directly from the National Weather Service.

20 **WIT 1:** Correct.

21 **CDR Denning:** And now that 0300 Zulu advisory from the National Weather Service
22 that on board a ship I receive 6 hours later, when is that available as a data package
23 from applied weather technology?

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

1 **WIT 1:** At 10Z.

2 **CDR Denning:** You just said I could receive it at 9Z.

3 **WIT 1:** It would be part – the textual forecast would be available at 10Z.

4 **CDR Denning:** Okay. What about the rest of it?

5 **WIT 1:** The rest would then be incorporated in the following forecast at 15Z.

6 **CDR Denning:** So what did I receive at 9 – at 0900 Zulu you said I received 0300 Zulu
7 information.

8 **WIT 1:** Right.

9 **CDR Denning:** How is that possible if said it's not available till 10Z?

10 **WIT 1:** The 9Z one, I'm sorry, I misunderstood your question. The 9Z would be
11 available at 10Z.

12 **CDR Denning:** Okay.

13 **WIT 1:** The 03 is available at 04.

14 **CDR Denning:** Okay. Now that's the right – that's the answer I'm looking for.

15 **WIT 1:** Okay.

16 **CDR Denning:** So 0400 ----

17 **WIT 1:** I'm sorry I misunderstood your question.

18 **CDR Denning:** Okay. So at 0400 I'm standing on board the vessel, at 0400 Zulu
19 applied weather technology data package at 0400, you, your people have it, the data
20 from the 0300 National Weather Service, correct?

21 **WIT 1:** Yes.

1 **CDR Denning:** So if I were to adjust my settings on board the ship to instead of
2 receiving the information at 0900 if I changed my settings to receive it at 0400 would I
3 receive that data?

4 **WIT 2:** At 0400 you would receive the tropical storm data that was available at 0300 as
5 we were finishing out output for the main model. But then the problem is that data is
6 coming from earlier.

7 **WIT 1:** You would be getting the old model output.

8 **CDR Denning:** Okay. So when – what's the soonest that I could receive the 0300
9 model output?

10 **WIT 2:** If your biggest – if your biggest concern was receiving tropical storm update you
11 could receive the full model data at 4Z. So we're talking about eliminating the additional
12 tropical deliveries. You could receive that data at 0400 instead of 0300. So your data
13 would be delayed one hour, but our AWT processes would include or push into the
14 package that new tropical forecast file.

15 **CDR Denning:** So do I understand it correctly though that some data would be
16 available at 0400 that's only a few hours old, but if my settings are at 0900 I'm waiting
17 an extra 5 hours to receive that information?

18 **WIT 1:** No. I mean our process – you'll get the most up to date information if you take
19 the model data at 9Z and you've clicked on the tropical data and you get that at 10Z.
20 That's the way you're going to get the most up to date information for everything.

21 **CDR Denning:** Right. Or for the previous time period I would receive one at 3Z and
22 one at 4Z? I would receive the tropical updates.

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

1 **WIT 1:** Yeah you would want to turn on the tropical option and then you get the latest
2 on the tropicals and then obviously it's more important that the winds and waves are as
3 up to date as possible and you don't want to wait that extra hour to get the latest winds
4 and waves.

5 **CDR Denning:** So I think it's as clear to me, and I would ask my weather experts on
6 the panel if they have additional questions.

7 **Mr. Richards:** Captain I have another question.

8 **CAPT Neubauer:** Mr. Richards.

9 **Mr. Richards:** Okay. So if we can just go back to the, not the model data, but
10 specifically the cyclone track forecast information you get from the National Hurricane
11 Center.

12 **WIT 1:** Right.

13 **Mr. Richards:** In order for a user to avoid the inherent 6 hour latency when that
14 information is provided in the main BVS file, there are certain options a user can take to
15 mitigate that latency. One of which being requesting that data an hour later or
16 requesting special tropical cyclone updates. Just to confirm, did the El Faro do this on
17 the dates leading up to – or for the subscription that they had?

18 **WIT 1:** No.

19 **Mr. Richards:** Is that something that needs to be set up at the Captain level or can this
20 be done at the company level, Tote and Sea Star?

21 **WIT 1:** It usually is – the schedules are developed by the Captains on board the ship.
22 So every ship could be different.

23 **Mr. Richards:** Thank you.

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

1 **WIT 2:** I would also mention that if there are stipulations by shore management to
2 follow certain guidelines that we would make notes on the vessel accounts and make
3 sure that's occurring. An example of that is, and this is on the other side the spectrum,
4 but there is one company that only wants their users to collect data once a day because
5 of the communication costs that are involved with their ships. So they asked specifically
6 for that. If the ship were to come in and ask for additional data we don't restrict it. But
7 we remind them when it's noticed that they're not following stipulations that their office
8 requires it, you know something else. So in other words we don't side on the side of
9 restriction, but we have notes in place that help us to guide the ship when there's a
10 certain expectation. But in this case there were no limitations or additional requests.
11 But we certainly would process a request and in our response for example if Tote had
12 asked for anything specific then we would send them a response back and include the
13 vessel. But in most cases the data cannot be changed by a user that does not have
14 their email set up in the account.

15 **Mr. Richards:** What is a one time weather delivery?

16 **WIT 2:** So BVS has two email request options and the first is a scheduled delivery and
17 that sets our server for ongoing deliveries with specific frequency and data parameters.
18 A one time delivery is a request for a single data set that does not affect the print
19 configuration of daily messages that they're receiving or whatever periodic message
20 that they're receiving, the forecast updates. So if the user sends in an immediate data
21 request they receive within 15 minutes a response from our server with the data that's
22 available at that time.

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

1 **WIT 1:** This goes in line with many of clients that are only downloading once a day. But
2 if something's changing out there and they can see that then they'll probably do an
3 immediate just to get an update to see what's going on.

4 **Mr. Richards:** Is the one time weather delivery request another way to negate the 6
5 hour latency for the current position and tracking information for tropical cyclones if
6 made at an appropriate time?

7 **WIT 1:** Well if you did that it is going to increase your communications cost because
8 you're downloading the global model again versus just the tropical information.

9 **Mr. Richards:** Okay, thank you.

10 **CAPT Neubauer:** Sir, one follow up question. Did Tote have any restrictions or notes
11 in the service that were applicable to El Faro?

12 **WIT 2:** There were no restrictions at all to the vessel account.

13 **CAPT Neubauer:** At this time I would like to go to the parties in interest for a final
14 round. Tote do you have any questions?

15 **Tote Inc:** No questions, sir.

16 **CAPT Neubauer:** ABS?

17 **ABS:** No questions, sir.

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

19 **Ms. Davidson:** Yes I have a few Captain, thank you. Mr. Brown, Mr. Hale you had
20 mentioned about the tropicals that were being issued at 0400. Am I correct that those
21 tropical's are based on the 0300 packages that were issued by the National Hurricane
22 Center?

23 **WIT 1:** Yes.

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 **Ms. Davidson:** And those are available off of SAT-C, correct?

2 **WIT 1:** Yes.

3 **Ms. Davidson:** So the Captain on the El Faro had access to SAT-C so he was actually
4 receiving the information at 0300 which was an hour before you would have provided
5 that service to him, correct?

6 **WIT 1:** Yes.

7 **Ms. Davidson:** If you could turn to Exhibit 172 page 16. Which is entitled weather
8 package 30 September 2015, 0300Z. Just let me know when you get there. Good?
9 Okay. Based upon your testimony today that package is based upon the National
10 Hurricane Center's observations that were taken at 1800 the following day, correct?

11 **WIT 1:** Yes.

12 **Ms. Davidson:** And that 1800 observation is a 3 hour processing period, they release it
13 and then you guys set up your package?

14 **WIT 1:** Correct.

15 **Ms. Davidson:** Correct? The prior day, prior day. So on 29 September, 1800 there's
16 an observation and then based upon those observations you issue this weather
17 package 9 hours later, correct?

18 **WIT 1:** Yes.

19 **Ms. Davidson:** And then if we go to slide 18 this was the slide that the panel had
20 shown you which is 30 September 2015, 0900Z which raised some concerns about an
21 anomaly that occurred, correct?

22 **WIT 1:** Yes.

23 **Ms. Davidson:** So the 0900 is the same as the 0300, correct? For whatever reason.

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

1 **WIT 1:** Yeah, yeah.

2 **Ms. Davidson:** And then the next package that you send out is going to be ----

3 **WIT 1:** But it's only this – only this storm – the track display on top of the map. Not the
4 underlying winds and waves.

5 **Ms. Davidson:** Understood.

6 **WIT 1:** They were updated.

7 **Ms. Davidson:** Understood. But the storm track is the same?

8 **WIT 1:** Yeah, correct.

9 **Ms. Davidson:** So if we turn to page 20 that package is 30 September 2015 at 1500,
10 correct?

11 **WIT 1:** Yes.

12 **Ms. Davidson:** So that now has new information, correct?

13 **WIT 1:** Yes.

14 **Ms. Davidson:** So would you agree with me that it wasn't until 30 September 2015 at
15 1500 that the Captain received additional weather data that he had not received since
16 the National Hurricane Center did their observation 21 hours before?

17 **WIT 1:** No that's not correct.

18 **Ms. Davidson:** Why not?

19 **WIT 1:** Because the underlying winds and waves are based on the latest forecast. And
20 it was included in that ----

21 **Ms. Davidson:** Winds and waves but not the track of the storm.

22 **WIT 1:** Correct. But all of the underlying winds and waves and pressure will show you
23 the track.

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 **Ms. Davidson:** But on a visual basis it was 21 hours delay in him getting updated
2 information on the track of Joaquin, correct?

3 **WIT 1:** On that track line, yes.

4 **Ms. Davidson:** No further questions.

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

6 **Mr. Roth-Roffy:** Tom Roth-Roffy, NTSB. Just a couple quick questions for you, sir.

7 The delivery of a data package is – to the ship, do you know of how many email
8 address would receive those packages? We've heard that both the Captain and the
9 bridge had a BVS computer. Were they independently delivered data packages or not?

10 **WIT 2:** From my recollection there was only the Captain's email address was receiving
11 the data. And I assume that it was being delivered to both. But I would have to double
12 check that to verify that.

13 **Mr. Roth-Roffy:** And you mentioned something about some companies had concerns
14 about transmission cost of the data. You mentioned the tropical update was 15K I
15 believe file size. Can you tell us what the file size of the other – the full data package
16 would be?

17 **WIT 2:** The average data size for the Atlantic is anywhere from 75 to 150K in size.

18 **Mr. Roth-Roffy:** That includes the graphical elements and the complete package?

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

20 **Mr. Roth-Roffy:** Around the time of the accident did you have any of you clients
21 operating vessels in that area to which you were providing weather routing service?

22 **WIT 1:** You know specifically, I'm sorry, specifically near the Bahamas?

23 **Mr. Roth-Roffy:** Correct in the area of Hurricane Joaquin?

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

1 **WIT 1:** Nothing really close by, no.

2 **Mr. Roth-Roffy:** Thank you that's all I had. Captain.

3 **CAPT Neubauer:** Herbert Engineering did you have any questions during the last
4 round?

5 **HEC:** Thank you, no.

6 **CAPT Neubauer:** Sir, I just want to clarify on the average size of the data packages,
7 that's 75 to 150 kilobytes? That seems small to me.

8 **WIT 2:** It's fairly small, but over the last, well up until recently over the last several
9 years there's been kind of a ceiling that our clients have requested that it not go over
10 350K. So we've been able to compress the data to keep it below that unless they're
11 asking for significantly larger size data. As an example the Pacific – the North Pacific
12 full data set is about 250 to 300K.

13 **CAPT Neubauer:** Thank you. Mr. Richards.

14 **Mr. Richards:** Is there a user manual that's included with the software package that
15 the user can use?

16 **WIT 2:** There is a manual that is installed along with the software and it's in a support
17 folder called Docs. And the manual as well as several of the quick reference guides
18 accessible through the help menu clicking on the specific support document will open
19 that document in PDF and then if PDF is not available there's also a word document
20 that's available in the same folder.

21 **Mr. Richards:** Last question. Are all the latencies that we've discussed today and the
22 mitigation procedures, are these all discussed in that user's manual that's provided?

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

1 **WIT 2:** That's correct. We have a section that's called data availability and it discusses
2 the model time and the output time as well as the tropical data availability.

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

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

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

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

14 **ABS:** No, sir.

15 **HEC:** No, sir.

16 **CAPT Neubauer:** The hearing will now recess and reconvene at 1 O'clock.

17 *The hearing recessed at 1201, 18 May 2016*

18 *The hearing was called to order at 1302, 18 May 2016*

19 **CAPT Neubauer:** The hearing is now back in session. The board will now hear
20 testimony from Mr. Jim Wagstaff, Tote Maritime Puerto Rico.

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

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

3 **WIT:** Yes, sir.

4 **LCDR Yemma:** You can be seated please. And sir, if you could press the little button
5 on your mic there to turn it on. Thank you. Can you start by stating your full name and
6 spelling your last name for the record please?

7 **WIT:** It's Jimmy Wagstaff, W-A-G-S-T-A-F-F.

8 **LCDR Yemma:** And Mr. Wagstaff where are you currently employed and what is your
9 position?

10 **WIT:** I'm currently employed at Tote Maritime Puerto Rico and a Vice President of
11 operations.

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

13 **WIT:** My responsibilities are all land based. They are administrative manager for four
14 divisions. First being terminal operations, the in gating and out gating of equipment.
15 Matching the bookings to the cargos. Then there's the next division is equipment, fleet
16 and equipment maintenance. So we in that division we're ordering equipment, doing
17 repairs, making sure that those types of things are done. The third one is inland
18 trucking. So we are making sure we know where the trucks are at, where they're going,
19 if they're making their appointments, when are they coming back. And the last one is
20 risk and safety. So cargo claims.

21 **LCDR Yemma:** Thank you. Can you also describe some of your prior relevant work
22 experience please?

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

1 **WIT:** I started in 1998 with Tote. I had come from a background of refrigeration. I have
2 about 12 years of refrigeration experience. I started with the company in that capacity.
3 And then I moved up through the maintenance and repair divisions and terminal
4 operations. And then on to the current position I hold. So it's about a 15, 16 year
5 progression.

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

7 **WIT:** I have a high school diploma. I've taken a certificate in refrigeration, air
8 conditioning, heating and solar energy. And then I have a master technician
9 certification in refrigeration.

10 **LCDR Yemma:** Thank you, sir. Mr. Fawcett will have some questions for you now.

11 **WIT:** Thank you.

12 **Mr. Fawcett:** Good afternoon Mr. Wagstaff.

13 **WIT:** Good afternoon.

14 **Mr. Fawcett:** My name is Keith Fawcett with the U.S. Coast Guard, nice to see you
15 again, sir.

16 **WIT:** Yes, sir, nice to see you.

17 **Mr. Fawcett:** So all my questions unless I denote otherwise will speak specifically to
18 the time frame before the El Faro was lost on October 1st, 2015. We'll discuss some
19 broad topics. The first will be your experience as Vice President of Operations. And
20 any other subsequent positions or previous positions you might have held that relate to
21 this accident for Tote Maritime Puerto Rico or its other entities. The other area will be
22 your role in vessel crewing. And the final topic area that we'll cover will be any post
23 accident examination of events related to the loss of the El Faro. So if you would like to

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 take a break at any time please let us know. And if you would like us to clarify anything
2 that we say from up here or give you time to look at exhibits please let us know also.

3 **WIT:** Yes, sir.

4 **Mr. Fawcett:** So looking at your experience working for Tote Maritime, the first
5 question is if you could set the stage for us as the El Faro was getting ready to leave
6 Jacksonville in late September, the week previously – previous to the accident voyage,
7 in general terms, you don't have to go into specifics, where were you and what were
8 you doing?

9 **WIT:** I'm sorry I didn't cover it when I was talking about my duties. But a lot of my
10 duties for the last year have included project work getting ready for the Isla Bella and
11 the Perla, the new vessels. Which included remodeling the terminal in Jacksonville,
12 construction work there. A terminal operating system that was put in. Building a new
13 office building. Rebuilding the dock in Puerto Rico and then we had purchased three
14 cranes from Savannah Port Authority and which required those three cranes – required
15 to be lowered to get under the Talmadge Bridge in Savannah. And so we bought those,
16 brought those down and reassembled those in Puerto Rico and then commissioned
17 them. A lot of the work that I was doing was focused on that construction work and
18 those – assembly and disassembly of those cranes. And so the week prior to that a lot
19 of my focus was on those cranes. We had reassembled them and we were under the
20 commissioning process putting new wire ropes, those types of things. So I was directly
21 responsible for that crane project. And I had a team of engineers that were working with
22 me and construction folks and iron workers that were working with me in Puerto Rico.

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 So to get back to your question I was – I was a lot of my focus was on the construction
2 pieces of our company.

3 **Mr. Fawcett:** Okay. During that week leading up to the accident were you in
4 Jacksonville working or were you outside that area?

5 **WIT:** I was in Jacksonville for a number of days. I think I went to – I went to San Juan
6 on the 30th.

7 **Mr. Fawcett:** Okay. So your routine day to day operations could you give us sort of a,
8 briefly, paint us a picture of a – prior to this time frame where all these ongoing projects
9 were going on related to the Isla Bella, could you give us an idea of your day to day
10 activities when you're working?

11 **WIT:** Those vary from day to day, but I have managers that work in each one of those
12 disciplines I described. Those managers are tenured folks and subject matter experts in
13 those areas. So in a lot of senses those – my day would be spent reviewing what
14 they're doing. Getting an understanding of the progress that we're making. We may
15 have come up with some plans that we may have had in work. It would be just the
16 management of those guys from an administrative perspective.

17 **Mr. Fawcett:** So you named basically four divisions that operate for you and then the
18 other side projects you were working on. Related to the El Faro it seems to me there
19 would be one division, that would be terminal division, terminal operations. Who would
20 in that particular division who would report directly to you?

21 **WIT:** Ronald Rodriguez.

22 **Mr. Fawcett:** Could you step it down a couple levels like who might work for Ronald
23 Rodriguez so we understood that?

1 **WIT:** Ronald Rodriguez would have Don Matthews that would work for him. There's a
2 young man Rocky Oetjen and C.C. Williams, sorry I'm drawing a blank. C.C. is the
3 guy's first name, he's a terminal guy that's out on the terminal. And then he has a
4 number of office employees that are doing the trouble tickets from the drivers that are
5 coming in over the scales. So if there's an issue on the scales, the driver has a bad
6 booking number or wrong equipment size, I think there's 4 or 5 of those folks that are
7 working directly for him.

8 **Mr. Fawcett:** And how about Ronald Rodriguez, does he work for you?

9 **WIT:** He works directly for me.

10 **Mr. Fawcett:** Okay. Where does he fit in the hierarchy of the people working for you in
11 relation to Don Matthews?

12 **WIT:** Don Matthews works for him so it's myself then Don, excuse me, it's myself and
13 then Ronald and then Don.

14 **Mr. Fawcett:** And then if you could explain who you report to within Tote Maritime and
15 that – if you could just briefly just characterize that working relationship?

16 **WIT:** I work directly for Tim Nolan. My relationship with him if very positive. It's
17 focused on safety. It's focused on the reliability of our business. Do the right thing.
18 There's metrics and daily tasks that are given. A lot of questions are asked, what are
19 we doing, how are we doing it, how is the projects coming along. Those are the types
20 of things that we're constantly communicating on.

21 **Mr. Fawcett:** So in the beginning you elaborated on your career as you begin to work
22 for Tote. Could you go to say the time frame 2011, 2012 and walk me through the
23 different jobs you had after that part – that part in time up to the present time?

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

1 **WIT:** Yes, sir. I was the AVP of terminal Ops. I got the opportunity to move into the VP
2 of Operations. My role was always has been a land based, excuse me, a land based
3 operational person. Phil Morrell was given the task for ship – ship management and
4 those type technical tasks. We would at that time in 2011, Phil would report in to, if I'm
5 not mistaken it was Peter Keller. Before him it was a guy name Steve Hastings. And so
6 the two of us – I would report from the land side of what was going on, how our
7 business was going and Phil would report from the – from the marine side.

8 **Mr. Fawcett:** In that time frame you mentioned AVP, what does that mean?

9 **WIT:** Assistant Vice President.

10 **Mr. Fawcett:** So there used to be a position Assistant Vice President for terminal
11 operations. Does that position exist?

12 **WIT:** No, sir.

13 **Mr. Fawcett:** Why did that cease to exist?

14 **WIT:** Umm I don't know.

15 **Mr. Fawcett:** Was it tied into some type of reorganization or restructuring of the
16 operations?

17 **WIT:** Yes, sir.

18 **Mr. Fawcett:** Did you, back in the time when the AVP position existed for terminal
19 operations, did you have any engagement with marine operations that existed in
20 Jacksonville or San Juan?

21 **WIT:** Very little. It existed, my task have always been terminal related. There wasn't a
22 whole lot of interaction other than when the ships are coming and when the ships are

1 going so that we could be prepared from a terminal level to make sure that we're ready
2 to receive those, cargo is ready to put on, those types of functions.

3 **Mr. Fawcett:** So back in that time frame who communicated to you as to what the
4 vessels were doing with regard to arrival in port, delays, was it a marine operations
5 manager or did you receive this information directly from a ship?

6 **WIT:** No it was a marine operations manager.

7 **Mr. Fawcett:** And who would those people have been?

8 **WIT:** Just prior to – before 2011 there was an operations manager that was there, Jim
9 Coleman and his group.

10 **Mr. Fawcett:** And how did that work? In other words you're the Assistant Vice
11 President for terminal operations, ships are being loaded, cargos coming on at the last
12 minute. How did you engage the marine operations team shore side to promote the
13 safe and efficient loading of the ship?

14 **WIT:** It's similar – it was similar – it's similar today as it was then. We had a team that
15 was on site. I didn't have direct responsibility for those tasks. And so they would
16 communicate with the team that was on the terminals. Whether it – there was – our
17 terminal manager at that time if I remember correctly is Bob McMahon. And Bob would
18 communicate directly with those guys. I never did get involved with a lot of the day in
19 day out. They kept me informed and everything.

20 **Mr. Fawcett:** All right. So looking at the present time frame the replacement through
21 restructuring or reorganization for the marine operations managers that you interacted
22 with who would that person be, or person?

23 **WIT:** Currently, Jim Fisker-Anderson.

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

1 **Mr. Fawcett:** Okay. So would Jim Fisker-Anderson perform the same duties and
2 functions that the marine operations group performed back at that time?

3 **WIT:** To my knowledge, yes.

4 **Mr. Fawcett:** Does that operation run as efficiently between the terminal and the ship
5 now as it did prior to the restructuring?

6 **WIT:** I would say it does, yes.

7 **Mr. Fawcett:** Has an assessment been conducted to make sure that there was no
8 quality of operations lost as a result of that restructuring?

9 **WIT:** I wouldn't say that there's an assessment done, but I would tell you is that we
10 have a ISO program inside of our organization. And that is audited internally and
11 externally. And there's no deficiencies that have been reported. That was – we're
12 talking about 2011, from a general stand point I think that's the same. Could I tell you
13 the specifics of what is – what is the same, what is not the same and what works or
14 what doesn't work any better I couldn't do that. But what I do rely on is our systems that
15 are in place and they're not giving me any evidence that there's any issues there.

16 **Mr. Fawcett:** Okay. So prior to the accident voyage as Vice President of Operations at
17 Tote Maritime you were engaged in a number of side projects and you elaborated on
18 cranes being positioned, a variety of issues. Do you know if Mr. Fisker-Anderson who
19 would be comparable individual to a marine operations manager in your view, do you
20 know if he was dedicating himself exclusively to the marine operations of the El Faro?

21 **WIT:** I wouldn't, sir.

22 **Mr. Fawcett:** Do you know if he was working on any other projects?

23 **WIT:** I wouldn't, sir.

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

1 **Mr. Fawcett:** Now Mr. Fisker-Anderson works for Tote Services. And you work for
2 Tote Maritime Puerto Rico. How do you – how do you engage and mess your
3 operations so that the work that's being done related to the terminal and the ship,
4 marine operations, scheduling are effective and safe?

5 **WIT:** We have all of those personnel are in the same building, in the same area. They
6 are constant communication on a daily basis. There are emails back and forth. We
7 promote that in our organization, communication, safety. So from that perspective I
8 think those guys sitting beside each other creates – the type of atmosphere that we try
9 to promote speaks for itself.

10 **Mr. Fawcett:** So the El Faro is a Tote Maritime asset, correct?

11 **WIT:** Yes.

12 **Mr. Fawcett:** How are you kept apprised about the general condition, reliability, or any
13 issues that the El Faro may have that may affect your cargo operations?

14 **WIT:** My team receives notifications. I'm copied on a lot of those. If there's things that
15 are going to affect cargo operation.

16 **Mr. Fawcett:** So would you know if there were, for example boiler issues or boiler
17 repairs?

18 **WIT:** I may have got copied on an email. But it's not something that I would personally
19 be managing. That's what we have Tote Services for. We depend on them to handle
20 those types of problems.

21 **Mr. Fawcett:** So the El Yunque in the summer of 2015 had an issue effecting her
22 davits. Did that impact the ship's schedule in such a way that it would impact terminal
23 operations for loading the ship?

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

1 **WIT:** I don't recall if it did or not.

2 **Mr. Fawcett:** Were you aware of that issue with the El Yunque's life boat davits?

3 **WIT:** I was copied on emails.

4 **Mr. Fawcett:** Yesterday we heard testimony that several years ago the El Morro had,
5 pardon me, an issue with the – some holes in the watertight deck that compromised
6 watertight integrity, in some manner. Were you aware of that at the time?

7 **WIT:** I was not.

8 **Mr. Fawcett:** Do you recall if that affected the ship's schedule in any way?

9 **WIT:** I do not.

10 **Mr. Fawcett:** So from your understanding could you describe what you consider a Tote
11 Maritime Puerto Rico assets?

12 **Tote Inc:** You want him to describe the assets?

13 **Mr. Fawcett:** Yeah just in general terms what are they? You mentioned cranes. You
14 own cranes?

15 **WIT:** Yes.

16 **Mr. Fawcett:** Okay. Other assets that may be owned by Tote Maritime?

17 **WIT:** Containers, refrigerated containers. Vehicles and the vessels, those two vessels.

18 **Mr. Fawcett:** Meaning the El Faro and the El Yunque?

19 **WIT:** Meaning the El Faro and the El Yunque, yes, sir.

20 **Mr. Fawcett:** And now the new ships?

21 **WIT:** Those are owned by Tote ship holdings.

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

1 **Mr. Fawcett:** So you mentioned safety. Within your organization, meaning Tote
2 Maritime, how is safety – how is safety of operations evaluated and ensured that the
3 operations were being conducted safely?

4 **WIT:** We have, like I stated, we have over the last 2 years been working on a safety
5 management program through the ISO. We also have required that our stevedores and
6 employees, and our employees before any meeting will have a safety minute. We'll talk
7 about where the respirator, excuse me the AED is at, you know the exits, the first aid
8 kits. We also require that our stevedores do a what we call a gangway talk, and so prior
9 to that morning we ask those guys to talk about what took place on the last operation or
10 if it's a terminal operation what happened the day before, if there were any near misses.
11 Those are the types of things we have. We have a safety summit each year where we
12 bring all the vendors in and talk about the safety performance, the near misses from an
13 overall perspective, the lessons learned. Those are the types of things that we do.

14 **Mr. Fawcett:** And looking – looking at the Tote Maritime organization ----

15 **WIT:** Yeah there was a – we also have – I have a staff meeting on Wednesday's and
16 we go over – that's a safety component, it's the very first thing we go over with all my
17 staff also.

18 **Mr. Fawcett:** Thank you. So looking at Tote Maritime Puerto Rico who is the person I
19 could go to that was the safety authority? In other words who is ultimately responsible
20 for safety within the Tote Maritime Puerto Rico organization?

21 **WIT:** Within the Tote org – the Tote organization of Tote Maritime organization would
22 ultimately would be Tim Nolan, our President.

23 **Mr. Fawcett:** Does he get involved with day to day activities related to safety?

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

1 **WIT:** No.

2 **Mr. Fawcett:** Is he or anyone else at Tote been involved with safety investigations or
3 any kind of event that took place within the scope of Tote Maritime Puerto Rico?

4 **WIT:** Any of those investigations would have been conducted and managed by the risk
5 manager.

6 **Mr. Fawcett:** Who is?

7 **WIT:** Becky Roberts.

8 **Mr. Fawcett:** She's in the Jacksonville office?

9 **WIT:** Yes, sir.

10 **Mr. Fawcett:** So Tote Maritime Puerto Rico and Tote Services are located in the same
11 office park? They're in the same building?

12 **WIT:** Same office park.

13 **Mr. Fawcett:** So what's the – describe if you would the back and forth between those
14 two companies and how that is achieved to promote effectiveness?

15 **WIT:** I don't understand what you're asking me.

16 **Mr. Fawcett:** Well you own the El Faro and Tote Services manages it. So how are
17 those two offices engaged to ensure the safety of the vessel?

18 **WIT:** Well we are – we are dependent on them based on their experience. We allow
19 them to continue to do that based on their experience. They have a great track record.
20 They employ seasoned professionals. We have an open dialogue if we need to speak
21 about something. But that's about the extent of it.

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

1 **Mr. Fawcett:** Can you talk about the, in this past year 2015 Tote engaged tug and
2 barge operators to move Tote cargo back and forth between Jacksonville and San
3 Juan? Can you talk about it in some detail please?

4 **WIT:** Help me understand what you are asking?

5 **Mr. Fawcett:** In other words your cargo, your customer's cargo is being moved on Tote
6 barges, charter barges with tug boats that have been chartered by Tote. Could you
7 please explain how that process works in terms of scheduling the barges and
8 movement of the cargo?

9 **WIT:** Sure. Our scheduling of the barges was a commercial decision. We would set a
10 schedule we want to be in Jacksonville on one day and San Juan 7 days later. That
11 schedule would then be published. Tote would, Tote Services would manage the tugs
12 and the barges from a marine perspective. My team would continue to work the cargo
13 and the arrivals and departures very similar to the way they do the vessels.

14 **Mr. Fawcett:** In one case one of the barges was susceptible to speed damage so Tote
15 Services put a speed restriction on the vessel not to exceed 10 knots under tow. Were
16 you aware of that?

17 **WIT:** I was aware of it after the fact.

18 **Mr. Fawcett:** And did that impact cargo movement, cargo scheduling for that barge?

19 **WIT:** My memory, I don't believe it did. That was, if I recollect my conversation with
20 Jim Fisker-Anderson it was the barges and tugs were only capable of doing that speed
21 Northbound not exceeding 10 knots. And I don't recall it ever being a problem.

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

1 **Mr. Fawcett:** Has Tote Maritime to your knowledge ever managed the movement of
2 ships, for example to delay arrival, to speed up so that they could minimize or reduce
3 overtime or any other type of ship management as far as course, speed, route?

4 **WIT:** If that took place that would be Tote Maritime requesting that through Tote
5 Services. And if it was doable Tote Services would take care of that making sure that –
6 reporting back that it could happen. To my knowledge that's the way that was handled.

7 **Mr. Fawcett:** Okay. So if it was holiday in San Juan for example and there would be
8 overtime or increased costs associated with the port call, would you communicate that
9 to Tote or they reflect back to you how they met your expectations in terms of managing
10 the arrival of a ship?

11 **WIT:** If I understand your question correctly – can you repeat it? I want to make sure I
12 get it right.

13 **Mr. Fawcett:** Yeah, in other words – in other words there are reasons that a ship may
14 schedule or change its arrival or departure, which with regard to cargo or costs. So you
15 would communicate this to Tote Services, how would they tell you they met your
16 expectations? That we delivered your message, would they tell you for example we
17 asked the ship to slow down to time their arrival or manage the course and speed of the
18 ship in any other way?

19 **WIT:** They would – they would be communicating with my team, Mr. Fawcett. I don't
20 know that they would be communicating directly with me.

21 **Mr. Fawcett:** So have you done any examinations on the actual complex of dynamic
22 loading of a vessel or unloading of a vessel to see that the stability of a ship or any
23 other factors effecting shipboard safety have not been compromised by that operation?

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

1 **WIT:** No, sir, I personally have not.

2 **Mr. Fawcett:** Has Tote Maritime?

3 **WIT:** I couldn't tell you if there was anybody in Tote Maritime that has.

4 **Mr. Fawcett:** Has there ever been a third party audit to determine if, from an external
5 third party if your operations are becoming, you know being conducted safely and
6 efficiently?

7 **WIT:** My understanding is that Tote Services does have an audit system. We have an
8 audit system at Tote Maritime Puerto Rico also. We rely on those feedbacks. We have
9 quarterly internal audits and there were no deficiencies noted.

10 **Mr. Fawcett:** Do you know if they looked at the stability of a vessel in terms of the
11 terminal operation? Or did they look solely on the land side operation?

12 **WIT:** I couldn't tell you, I don't know.

13 **Mr. Fawcett:** If you would turn your attention to Coast Guard Exhibit 178, page 3. And
14 we'll also look at page 20. So if you've glanced at page 3 and then kind of look at the
15 email chain on page 20, it's in red at the bottom of the page.

16 **WIT:** Which one would you prefer me to look at first?

17 **Mr. Fawcett:** Well just familiarize yourself. So in early March there were some cracks
18 that were discovered in the under deck structure of one of the contracted barges. And
19 later on it was discovered that a survey had been postponed to conduct an assessment
20 of those cracks. Those cracks were discovered in March. And ultimately – ultimately
21 on May 27th there was a discussion between your – Mr. Nolan, yourself and it was about
22 the survey inspection of the barge and the fact that they needed to be repaired. So it

1 was about 3 months that took place. Do you have any knowledge of that – those
2 repairs to the Elizabeth?

3 **WIT:** I couldn't talk specifically to those repairs. I was copied on a lot of emails. I was
4 in and out of the office. The specifics of what took place would have to go to Jim Fisk-
5 Anderson.

6 **Mr. Fawcett:** Okay. So you weren't aware of the date where the cracks were
7 discovered in March of 2015?

8 **WIT:** I was aware, I was copied of an email. But I didn't get involved with it. Like I say
9 from an informational perspective they just kept me in the loop.

10 **Mr. Fawcett:** Did that have an impact on cargo operations?

11 **WIT:** To my memory it did in March.

12 **Mr. Fawcett:** In March it had?

13 **WIT:** Actually in March and if my memory serves me correct it had impact in both.

14 **Mr. Fawcett:** So it had an impact on the discovery, some impact and then during the
15 repair process later in May, is that correct?

16 **WIT:** I can't speak to the discovery. What I can speak to is the repair process that took
17 the barge out of service when a sailing was scheduled.

18 **Mr. Fawcett:** And do you know why that several month delay took place before the
19 problems were discovered and the problems were actually repaired?

20 **WIT:** I do not. But I don't – I think there were repairs done back in March also. I think
21 there was a – I don't think that things were put off. I think the repairs were done and
22 additional issues were found in May.

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

1 **Mr. Fawcett:** And would this be something that would come up, like Tote has what are
2 called flash meetings, is that correct?

3 **WIT:** Yes, sir.

4 **Mr. Fawcett:** Could you elaborate on what those are?

5 **WIT:** A flash meeting is a review, it's the senior managers of the company which will
6 review our safety. You know that's the first thing we go over is the safety and the near
7 misses for the week. We'll review the financials for the prior week of what we thought
8 the costs were going to be and what are variances and what were those variances. And
9 then a round table of discussion of the different groups and is there anything that the
10 rest of the management team needs to know.

11 **Mr. Fawcett:** Is a component of those meetings safety related issues?

12 **WIT:** It is.

13 **Mr. Fawcett:** Would that incident have been discussed? In other words the fact that
14 one of the barges had cracks in the under deck structure?

15 **WIT:** I'm sure it was.

16 **Mr. Fawcett:** Do you recall if in March of 2015 there was a flash meeting that had
17 content relating to the loss of propulsion for the El Faro coming out of San Juan?

18 **WIT:** I don't recall that specifically, no.

19 **Mr. Fawcett:** So if you would, as far as terminal operations and the movement of
20 cargo, could you elaborate a little bit more on like Ms. Lisk I believe – what's her official
21 title?

22 **WIT:** Vice President of I think customer service or cargo services.

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

1 **Mr. Fawcett:** Okay. Does she actually assemble the customer's cargo so that you can
2 put it aboard the ship?

3 **WIT:** Her team – her team takes bookings. Those bookings are then transferred into
4 the terminal operating system. That equipment goes out as assigned to a particular
5 customer. The customer takes it out under a particular booking, loads it, brings it back
6 in and then the information is all merged together at a terminal level.

7 **Mr. Fawcett:** So how do you get involved in an interaction with Ms. Lisk about the
8 cargo that she arranges so to speak to be put on the vessel at the terminal?

9 **WIT:** From a day to day basis we're – our offices are beside each other. Our teams do
10 the work. So if there are issues that we need to resolve or discuss we're talking about
11 that daily. Do I interact with her all day, no. It's just on an as needed basis.

12 **Mr. Fawcett:** How's the cargo – how are the cargo bookings for a particular voyage
13 transmitted to your terminal?

14 **WIT:** EDI.

15 **Mr. Fawcett:** Which would be?

16 **WIT:** Electronic data exchange.

17 **Mr. Fawcett:** All right. So do some of those cargo items have priority over other
18 cargo?

19 **WIT:** Yes, sir.

20 **Mr. Fawcett:** How do you manage that at the terminal level?

21 **WIT:** There's a code put on it as a P1 or a P2. And my team manages that – those –
22 that cargo that's arriving that's labeled that way.

1 **Mr. Fawcett:** If you will draw your attention to Coast Guard Exhibit 178 page 39. This
2 is an email dated August 7th, 2015 at 8:15 p.m. from Ms. Lisk to Tim Nolan and to you.
3 Now I'm a little – could you explain what those email addresses are for you and Mr.
4 Nolan? I have not seen them. Don't read them out loud, just – are those older emails
5 or different emails?

6 **WIT:** They're an older email.

7 **Mr. Fawcett:** Okay. So it would go to some kind of distribution list?

8 **WIT:** No that was our – that was our email, individual emails at that time.

9 **Mr. Fawcett:** Okay. So another thing that's been going on, at the same time you – of
10 these other projects, Tote was rebranding itself, is that correct?

11 **WIT:** Correct.

12 **Mr. Fawcett:** And that would result in a whole suite of changes throughout the
13 company, but in addition it would be email addresses and so forth, correct?

14 **WIT:** Correct.

15 **Mr. Fawcett:** So this email, because I'm not a cargo specialist, there's a discussion
16 about the – a particular ship voyage and they talk about P2's loaded by mistake and
17 RO-RO's and so forth. Are you aware of this particular loading evolution?

18 **WIT:** I don't know that I could speak to this particular loading evolution, but I could
19 speak to what happened.

20 **Mr. Fawcett:** That would be helpful, sir.

21 **WIT:** Okay. So this is part of our terminal operating system. And so as the cargo
22 comes into the terminal it's labeled either in our system as a P1 or a P2. That cargo is
23 then segregated in areas of the terminal to ensure you pull the first cargo that's P1. And

1 you load, the team would load what was – could safely be loaded on the vessel. So if
2 you ran – if you had enough space for all the P1's to safely load and you could load a
3 few more P2's then you would grab some of that stack of P2's. And so what took place
4 after reading this it sounds like that took place is my team loaded P2's, there were more
5 P1's left on the terminal and we wanted to make sure that those P1's got on the vessel
6 and the P2's got left behind.

7 **Mr. Fawcett:** Okay. So you mention in your overview, brief overview I believe at the
8 beginning of your testimony that the terminal operating system, was that an
9 enhancement or a change related to the Isla Bella and the arrival of the new ships? Or
10 were you using a terminal operating system or some other scheme that had been in
11 place for a while?

12 **WIT:** We had – that was a new one that was added in August, early August.

13 **Mr. Fawcett:** By the time the El Faro sailed had all the shake down bugs been, you
14 know resolved within the system so that the El Faro's loading was in conformance with
15 your expectations of the terminal system?

16 **WIT:** To my knowledge it was.

17 **Mr. Fawcett:** Okay. What were some of the problems that were caused by the terminal
18 operating system that was put in? In other words this was in August, early August
19 voyage that had a problem. Were there other voyages that had problems?

20 **WIT:** I wouldn't say that this was a terminal operating system issue. This was a not
21 following instructions, not segregating cargos on the terminal properly, not paying
22 attention to what's supposed to be loaded, what's labeled a P1 versus a P2. I don't
23 know this is related to the terminal operating system. To my knowledge there's been no

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 cargo loading issues with the terminal operating system. Our issues have been with the
2 gate and making sure that we had the trucking community cycle through there quick
3 enough.

4 **Mr. Fawcett:** But you used the term loaded. Now the truckers don't load the ship. And
5 by loaded I – do I understand you to say that the cargo was put on the ship in error?

6 **WIT:** Correct.

7 **Mr. Fawcett:** Okay. Is that the trucker?

8 **WIT:** No.

9 **Mr. Fawcett:** Or was that the terminal?

10 **WIT:** No I was trying to separate the difference between – you asked me what was the
11 issues with the terminal operating system. And the issues that I understood that were
12 going on with the terminal operating system were the trucks coming in and out of the
13 terminal. It wasn't related to loading or unloading the vessel.

14 **Mr. Fawcett:** Okay. Thank you for that clarification. I have that now. So how did this
15 happen on this particular day? How would the wrong cargo be placed on board the
16 vessel?

17 **WIT:** That's a question that I don't know that I could answer. I gave you a stab at what
18 I think took place. The specifics of what took place that day would have to talk with the
19 labor that put it on.

20 **Mr. Fawcett:** And do you know if the ship was delayed on that particular sailing as a
21 result of that?

22 **WIT:** No, sir, I don't.

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

1 **Mr. Fawcett:** Was there an after action Tote mandated review of the operations that
2 took place so that would not occur again?

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

4 **Mr. Fawcett:** Is there a process to do that? Like when you detect an error that effects
5 or could comprise the safety of the ship, the loading of a ship, is there a process at Tote
6 where someone checks the box, says we have an error in loading and as a result of that
7 we trigger insight into what went wrong so that corrective action could be taken so it
8 would not reoccur?

9 **WIT:** We have an ISO program. Was this – was corrective actions done on this? I
10 don't know.

11 **Mr. Fawcett:** Would the ISO program to your knowledge require that?

12 **WIT:** It should.

13 **Mr. Fawcett:** I would like you to turn your attention to Coast Guard Exhibit 178 page
14 86. And that would be the red 86 at the bottom of the page. This is a calendar
15 appointment. And it speaks – it's dated September 30th and it's a calendar appointment
16 it appears for you and it says write expectations to Ronald. Who would Ronald be?

17 **WIT:** Ronald Rodriguez.

18 **Mr. Fawcett:** And what would be the – why would you be writing him about your
19 expectations?

20 **WIT:** I don't recall. I would have to look at prior emails for this particular time.

21 **Mr. Fawcett:** Do you log – your employees take vacations, Mr. Matthews, Mr.
22 Rodriguez? Do you log when they're on duty and not on duty?

23 **WIT:** We have a system that they log their time in if they're off.

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

1 **Mr. Fawcett:** And what are your expectations as Vice President of Operations or
2 employees with that responsibility for the loading of the ship for their presence at the
3 terminal?

4 **WIT:** They need to be there.

5 **Mr. Fawcett:** Could you elaborate? I mean, you know people have to eat, there's other
6 things that come up. Are they expected to be there for the entire loading operation? Do
7 they work shift? Do they go home at night?

8 **WIT:** On this vessel the loading operation was a typical shift. So I would expect that
9 that team or that person would be there, yes.

10 **Mr. Fawcett:** Turning your attention to U.S. Coast Guard Exhibit 183. And I did ask
11 you about that email from Mr. Lisk, it was actually from Mr. Nolan to you and Ms. Lisk
12 about the problems with the reefers on that particular voyage that you referenced
13 earlier. And I ask you if the vessel was delayed. And you said you didn't realize that.

14 **WIT:** I don't recall if it was.

15 **Mr. Fawcett:** So I've asked you to turn your attention to Coast Guard Exhibit 183. Do
16 you recognize that document? And I don't want you to really expose any information on
17 that, but do you know what that is?

18 **WIT:** Yes, sir.

19 **Mr. Fawcett:** Could you briefly talk about what that is and what use that document is to
20 Tote Maritime?

21 **WIT:** That document, or this document is a percentage depiction – depiction of our
22 reliability as a company.

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

1 **Mr. Fawcett:** And it covers a number of areas as we go down through and it's got
2 some areas that I won't describe, but they're related to financial. But it also talks about
3 arrival and departure statistics for vessels and for your tug and barge traffic, correct?

4 **WIT:** Correct, yes, sir.

5 **Mr. Fawcett:** Could you elaborate if you would how the departure time is established
6 for the El Faro?

7 **WIT:** For the El Faro, for all the vessels our departure time is a set schedule. And
8 we're attempting to leave at 1900 the day of the sail whether it be a Tuesday out of
9 Jacksonville or Friday. And our metric is within 2 hours of that sailing time, scheduled
10 sailing time.

11 **Mr. Fawcett:** So to elaborate if a vessel leaves the dock within 2 hours of sailing time
12 in essence they would score 100 percent reliability?

13 **WIT:** Yes, sir.

14 **Mr. Fawcett:** And you track this week to week?

15 **WIT:** Yes, sir.

16 **Mr. Fawcett:** So is it just out of Jacksonville that document you're looking at, or does it
17 include the reliability for departures from San Juan?

18 **WIT:** I think – this document is redacted so I'm not sure, because we do report both.

19 **Mr. Fawcett:** You do report both in your weekly ----

20 **WIT:** Yes, sir.

21 **Mr. Fawcett:** Okay.

22 **WIT:** And we roll it up into one.

23 **Mr. Fawcett:** Okay, thank you. Down at the bottom of those columns ----

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

1 **WIT:** And we report that. This is on our intranet.

2 **Mr. Fawcett:** Correct. So this is within your company. Do you ever advertise those
3 statistics to your customers?

4 **WIT:** Our organization does.

5 **Mr. Fawcett:** Okay.

6 **WIT:** To our trade Lane.

7 **Mr. Fawcett:** To your trade what?

8 **WIT:** Trade Lane, Puerto Rico trade Lane.

9 **Mr. Fawcett:** And what's that?

10 **WIT:** Jacksonville to Puerto Rico.

11 **Mr. Fawcett:** Okay. When you say trade link you're saying that your Jacksonville to
12 Puerto Rico run you report those statistics in some manner to your customers?

13 **WIT:** Right. That's the only – lane we're in. Our sister company is in the Alaska run.

14 **Mr. Fawcett:** And do you publish those to promote the fact that you're reliable?

15 **WIT:** Reliability, yes, sir.

16 **Mr. Fawcett:** Okay. If you'll note those statistics your departures fall on average below
17 100 percentile. As you move across the week to week. How would a ship departure
18 earn a 50 percent reliability for departure?

19 **WIT:** So that – this report must be an accumulation of the two vessels. So two of the
20 vessels didn't depart on time out of two ports. So I would report a Northbound
21 departure of both vessels out of San Juan and a Southbound departure out of
22 Jacksonville.

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

1 **Mr. Fawcett:** Okay. So if your departure reliability was 25 percent could you
2 elaborate on what that would be?

3 **WIT:** That would mean 3 vessels out of the 4 didn't leave on time.

4 **Mr. Fawcett:** Okay. So your arrival percentage statistics are relatively high. Just
5 glancing across there your arrival statistics would be generally 100 percent.

6 **WIT:** Generally, yes, sir.

7 **Mr. Fawcett:** How would you accomplish that if your departure is at 25, 50, 75 percent,
8 how do you make your arrivals up in the 100 percentile range?

9 **WIT:** From my perspective it's just making sure that we are most efficiently getting
10 them out of the terminal as best we can. The vessels are – my team's having them
11 depart the best they can. And then it's the arrival time in Puerto Rico, it's the amount of
12 time that they have to make it there.

13 **Mr. Fawcett:** Do you analyze those statistics as a company and see how you can
14 improve your departure reliability?

15 **WIT:** Yes, sir.

16 **Mr. Fawcett:** How do you do that?

17 **WIT:** From a terminal perspective we're looking at what cargos are coming in late. If
18 there was truck issues. And that's typically where are issues are is the trucking
19 community. Trying to get the containers into the terminal.

20 **Mr. Fawcett:** And then who would be responsible for the performance of the Tote
21 vessels? You have these fluctuating statistics that's, they're your asset but they're
22 moving your cargo. So who do you turn to, to physically improve the performance of the
23 vessels at sea? If they're going to make up time or whatever.

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

1 **WIT:** Yeah, if it was from our perspective these issues were terminal issues. And so
2 we weren't focused on the vessels making up time. We're focused on – departure is not
3 a vessel issue. So we're focused on terminal issues. Why is the cargo not getting
4 picked up from the facility on time? Is there a breakdown on a trailer? Those are the
5 types of things we would be focusing on.

6 **Mr. Fawcett:** So on the terminal side who supervises the safety of loading operations
7 with respect to either the tug and barges or the El Faro or the El Yunque?

8 **WIT:** That would be the team, would be Ronald in Jacksonville.

9 **Mr. Fawcett:** Is the bottom – is the totals reflected on that document there, does that
10 somehow tie to a performance incentive for management?

11 **WIT:** Yes, sir.

12 **Mr. Fawcett:** And how would that tie to that performance incentive?

13 **WIT:** From an on time perspective.

14 **Mr. Fawcett:** And is there a percentage that would have to be met in a given year so
15 that there would be a performance incentive delivered?

16 **WIT:** Yes, sir.

17 **Mr. Fawcett:** Can you disclose that?

18 **WIT:** 98 percent. But I'll note that's not our focus. Our focus is making sure that that
19 cargo is loaded safely and that our organization is operating safely. That is our main
20 objective.

21 **Mr. Fawcett:** So in your office have you ever looked at a desktop product, computer
22 product that shows the position of significant weather that may affect the operations of
23 Tote vessels or assets?

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

1 **WIT:** I have. Yes, sir.

2 **Mr. Fawcett:** And what would those products be?

3 **WIT:** Weather underground. I've looked at that. I've looked at NOAA, the National
4 Hurricane. I've looked Weather dot com.

5 **Mr. Fawcett:** Have your terminal personnel ever forwarded you applied weather
6 technology weather products that they might have received for hurricanes, tropical
7 storms?

8 **WIT:** They may have.

9 **Mr. Fawcett:** Have you ever looked at your desktop computer application to find a
10 location of vessels that Tote operates?

11 **WIT:** I didn't until after October 1st.

12 **Mr. Fawcett:** Did you receive weather information from the Florida office of emergency
13 management on your computer in the form of emails so that you could manage the
14 protection of cranes and other fixed assets of Tote?

15 **WIT:** Yes, sir.

16 **Mr. Fawcett:** And when did you start doing that?

17 **WIT:** I was a copy to the distribution group from the risk management of our company.
18 So I'm on copy of those emails. There's a distribution group that gets that. I don't know
19 when I started receiving it.

20 **Mr. Fawcett:** Are you involved with – once you receive those – in other words if you
21 receive something such as a Florida Department of Emergency Management alert, who
22 is responsible? Do you notify someone to protect your assets like cranes or other fixed
23 assets? Or does someone else within your company do that?

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

1 **WIT:** It could be both. Having direct responsibility for the cranes I did forward a number
2 of those emails down to Puerto Rico and the folks that were doing the commissioning
3 for us.

4 **Mr. Fawcett:** So if a ship like the El Faro or the El Yunque is tied up in one of your
5 ports, at that point since they're moored do they fall under the responsibility of, you
6 know once you receive those alerts for you to let them know or take some kind of action
7 to protect those assets, the ships?

8 **WIT:** We would have Tote Services doing that.

9 **Mr. Fawcett:** Is that part of your hurricane plan for Tote Maritime Puerto Rico?

10 **WIT:** Our – to my knowledge our hurricane plan is all land based. I don't know that it's
11 – I don't recall if it has any communication with the ships or to the ships.

12 **Mr. Fawcett:** So if your ship is at a dock in close proximity to your assets like cranes
13 how do you ensure that those ships are being safely taken care of with respect to the
14 weather that may influence them?

15 **WIT:** To my knowledge we would, the Tote Service would adhere to all of the Coast
16 Guard regulations that are sent out and manage that properly.

17 **Mr. Fawcett:** Would they communicate to you that those vessels are secure and
18 protected from any adverse weather?

19 **WIT:** I'm sure they would communicate to the team.

20 **Mr. Fawcett:** To the team at Tote Maritime?

21 **WIT:** At Tote Maritime.

22 **Mr. Fawcett:** If you'll turn your attention briefly to Coast Guard Exhibit 180. What that
23 is, is it's an interoffice memorandum between Totem Ocean Trailer Express dated

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 4/16/2015 and one of the – while you may not have knowledge of this document, there
2 is something mentioned on the second page and they talk about the negative aspects of
3 the El Faro being put into service in Alaska. And I'm not talking about anything except
4 the voiding of container spaces due to the extreme winter weather. Have you ever done
5 that for the El Faro on the Puerto Rico run where you've voided particular spaces to
6 protect the cargo?

7 **WIT:** I have not. The team may have. My team may have. I don't have knowledge of
8 it Mr. Fawcett.

9 **Mr. Fawcett:** Do you know any instances where the El Faro or El Yunque that cargo
10 has been damaged by sea shipping aboard?

11 **WIT:** No, sir, I don't.

12 **Mr. Fawcett:** Would that go to risk management or?

13 **WIT:** It would go to risk management.

14 **Mr. Fawcett:** That's all I have for you, sir, for now. I'll turn the questions over to the
15 board. Thank you very much, sir.

16 **WIT:** Yes, sir.

17 **CAPT Neubauer:** Commander Denning.

18 **CDR Denning:** Sir, just a few follow on questions. Mr. Fawcett spoke with you about
19 scheduling, you mentioned you were copied on some emails when vessels would be
20 delayed for any reason. If you could think back you know over you know the past few
21 years for example, for all the vessels on this particular route, how often do you recall
22 receiving emails for delays? Is it common for a vessel to be delayed for any reason?

23 **WIT:** No it's not real common.

1 **CDR Denning:** And specific to engine do you recall any engineering reasons that may
2 have occurred?

3 **WIT:** I don't recall any of them specifically or what the time frames were. I would have
4 likely got copied, but I honestly don't pay a whole lot of attention to them. We've got a
5 quality group that takes care of it. I let them do their job and I do mine.

6 **CDR Denning:** This quality group, who ----

7 **WIT:** It's Tote Services.

8 **CDR Denning:** Who would be somebody in that quality group?

9 **WIT:** No, no, a quality organization is probably a better way to say that.

10 **CDR Denning:** Okay.

11 **WIT:** I have a lot of confidence in their abilities.

12 **CDR Denning:** So it's not a particular ----

13 **WIT:** No, sir.

14 **CDR Denning:** Division within Tote Services?

15 **WIT:** No, sir.

16 **CDR Denning:** And what I'm getting at is you know we've heard some testimony about
17 boiler tubes for example and when boiler tubes need to be plugged, you know it's
18 necessary to slow the vessel a bit so that it's not overburdening the boilers because it
19 has less tubes to work on. And so I'm trying to understand your recollection of emails
20 that, you know or any correspondence, not just emails, but any discussions on vessel –
21 whether it's the El Faro or the El Yunque having to you know proceed at a slower speed
22 than normal to accommodate for not overburdening the boilers. Do any of those
23 discussions or emails sound familiar?

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

1 **WIT:** My discussions on them would have been from a notification standpoint. Hey
2 here's what's going on. Be prepared from a terminal perspective. I don't know that I
3 would have been copied on any repair procedures or anything like that. Because that's
4 just not what I do.

5 **CDR Denning:** And I'm not asking in terms of the repair procedures I'm just asking do
6 you have recollection of either ship having that happen often?

7 **WIT:** No.

8 **CDR Denning:** And when is the most recent recollection in your mind for the El Faro
9 specifically regarding boiler tubes or other engineering issues and speed restrictions?

10 **WIT:** There were some boiler tube issues in 2015, but I couldn't tell you what ship they
11 were associated with.

12 **CDR Denning:** Do you recall when in 2015?

13 **WIT:** No. No, sir.

14 **CDR Denning:** Thank you. But actually to clarify that was in – was that in emails or
15 just discussion?

16 **WIT:** Those were emails.

17 **CDR Denning:** Those were emails. Thank you.

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

19 **Mr. Roth-Roffy:** Good afternoon, sir,

20 **WIT:** Good afternoon.

21 **Mr. Roth-Roffy:** Tom Roth-Roffy, NTSB. In a couple of responses to questions you've
22 mentioned ISO. I would like to delve a little bit deeper into what that means to you and
23 to the company. So could you be more specific what you mean by ISO?

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

1 **WIT:** From my perspective it's a series of procedures that are put in place for
2 consistency. Those procedures are then – for consistency of our delivered product,
3 service that we give. Are then audited to see if our employees and our systems are
4 working correctly so that the product that we provide to the industry is a quality product.

5 **Mr. Roth-Roffy:** So in your understanding ISO, is that I-S-O? Which stands for
6 International Organization for Standardization?

7 **WIT:** Yes, sir.

8 **Mr. Roth-Roffy:** And do you know which particular standard that the company is
9 working under?

10 **WIT:** 9001, 14001 and at the time I think it was 28000 for security that we were served
11 in.

12 **Mr. Roth-Roffy:** Okay. So is the company – you mentioned that the company for the
13 past few years has been working on the ISO system. Does that mean that it's still a
14 work in progress or is the company currently certified under 9000 ----

15 **WIT:** It's certified under – it's certified under 9000 and 14001 and has been certified.
16 We had been going through and ensuring that all those processes were up to date.
17 That those – that the – we knew that the name change would be coming, we were
18 preparing for that. Just making sure that when I had taken it over I wanted to make sure
19 that we had a very robust audit. And so that's why we were focused on it so hard.

20 **Mr. Roth-Roffy:** And who within Tote Maritime Puerto Rico is the manager of the ISO
21 certification process and maintenance of that standard for certification?

22 **WIT:** It's under my team, risk management and Becky Roberts. However, I'm
23 responsible, or is the designated person for that.

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

1 **Mr. Roth-Roffy:** And do you have the name of the company that you are certifying
2 organization?

3 **WIT:** I'm drawing a blank, I'll have to get it for you.

4 **Mr. Roth-Roffy:** I would like to revisit the role of your company, Tote Maritime Puerto
5 Rico relative to the other sister company Tote Services. What is the role of Tote
6 Maritime as the vessel owner in terms of relationships with TSI? I know you have other
7 functions as terminal manager and cargo loading, but relative to the specific relationship
8 with the ownership of the vessel.

9 **WIT:** From my perspective it's a communication to our leadership. We are – we
10 depend on and have given those tasks over to TSI, Tote Services and I'm the
11 communication tool to our leadership.

12 **Mr. Roth-Roffy:** And you mentioned the new vessels are actually owned by a different
13 company. Is that also a sister company?

14 **WIT:** Yes, sir.

15 **Mr. Roth-Roffy:** I think you called Holt ship holding.

16 **WIT:** Ship holdings, yes, sir.

17 **Mr. Roth-Roffy:** So how has your role changed now with the new ships relative to the
18 other ships?

19 **WIT:** It hasn't.

20 **Mr. Roth-Roffy:** Is there also a similar organization Holt ship holdings?

21 **WIT:** Tote Ship holdings is the holding company for the vessels and we lease them
22 from them. It's a leasing company. I'm sure I'm saying that correctly.

23 **Mr. Roth-Roffy:** That's all I have. Thank you.

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

1 **WIT:** Thank you.

2 **CAPT Neubauer:** Good afternoon, sir.

3 **WIT:** Good afternoon.

4 **CAPT Neubauer:** Mr. Wagstaff I'm curious about some of your duties in the time
5 period immediately leading up to the accident voyage. Specifically the week before, like
6 late September. Can you give an estimate of how long you were spending on like
7 terminal duties in comparison to the other hats you were wearing including the Isla Bella
8 work? Can you estimate it?

9 **WIT:** It would be difficult to do because it changed. From a terminal perspective we let
10 the team do it. I didn't have to get involved in a lot of it. I would say about 10 percent
11 maybe.

12 **CAPT Neubauer:** Was that typically less than you would normally be involved with
13 terminal Ops if you didn't have the other duties including the extra LNG vessel duties?

14 **WIT:** I don't know if I can answer that. It's so different every week, every day.

15 **CAPT Neubauer:** Understand, thank you, sir. I would like to go to the parties in
16 interest at this time. Tote do you have any questions?

17 **Tote Inc:** Sir, may I suggest a break at this point?

18 **CAPT Neubauer:** Yes. The hearing will recess and reconvene at 2:25.

19 *The hearing recessed at 1415, 18 May 2016*

20 *The hearing was called to order at 1429, 18 May 2016*

21 **CAPT Neubauer:** The hearing is now back in session. We'll go to the parties in
22 interest and Tote.

23 **Tote Inc:** So I have a few clean up questions for Mr. Wagstaff.

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

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

2 **Tote Inc:** Mr. Wagstaff I would like you to refer to Exhibit, Coast Guard Exhibit 183

3 which is the on time or the performance chart that you were asked about.

4 **WIT:** Yes, sir.

5 **Tote Inc:** Can you explain for the board how a vessel can depart Jacksonville 2 hours

6 late and arrive on time in Jacksonville?

7 **WIT:** Yeah there's an additional 2 hours on a departure and the arrival built in. So

8 there's additional time built into the schedule.

9 **Tote Inc:** How much in total?

10 **WIT:** Four hours total.

11 **Tote Inc:** So that means that there's a 4 hour buffer?

12 **WIT:** Yes, sir.

13 **Tote Inc:** Additionally there was an exhibit that we looked at that referred to cargo

14 categorized as P1 and P2, do you recall that?

15 **WIT:** Yes, sir.

16 **Tote Inc:** What is P1 and P2 have to do with?

17 **WIT:** It's customer priorities.

18 **Tote Inc:** Does it have anything to do with safety?

19 **WIT:** No, sir, not at all.

20 **Tote Inc:** What do you mean by customer priorities?

21 **WIT:** A P1 would be a customer that you want to make sure it gets on. P2 is one if you

22 have space available you put it on. It's just – it's a priority so that terminal personnel

23 know how to manage the cargo on the terminal.

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 **Tote Inc:** Okay. In terms of a third party organization that certified Tote Maritime
2 Puerto Rico under ISO do you recall the name of the organization?

3 **WIT:** QMS Global.

4 **Tote Inc:** Thanks. You were also asked about the office arrangement at Tote Maritime
5 Puerto Rico and Tote Services Inc, do you recall that?

6 **WIT:** Yes, sir.

7 **Tote Inc:** Do they share the same offices in Jacksonville?

8 **WIT:** The corporate offices are not shared, they're across the – in the same office park
9 but they're two different buildings. However, there are Port Engineers that are in our
10 office at the terminal.

11 **Tote Inc:** Okay. So the Port Engineers for the vessels are in the terminal facility?

12 **WIT:** Correct, yes, sir.

13 **Tote Inc:** That's all I have. Thank you.

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

15 **ABS:** No questions.

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

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

18 **CAPT Neubauer:** Herbert Engineering?

19 **HEC:** No questions, thank you.

20 **CAPT Neubauer:** Sir, I just have one follow up question on the QMS Global issue.
21 You said they do external audits under ISO, is that correct?

22 **WIT:** Yes, sir.

23 **CAPT Neubauer:** And that's at the terminal operations?

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

1 **WIT:** It's the terminal operations, the company as a whole from a booking perspective.
2 All of the processes.

3 **CAPT Neubauer:** And do you remember the last time that audit was completed?

4 **WIT:** I don't recall. It hasn't been long ago though.

5 **CAPT Neubauer:** Do you know how often those audits are completed?

6 **WIT:** Those audits are completed internally at least once a year. And then externally
7 they come in I think our certification is 3 years. But they'll come in yearly and do a spot
8 check.

9 **CAPT Neubauer:** Would we be able to obtain a copy of the last major audit?

10 **WIT:** Yes, sir.

11 **CAPT Neubauer:** Thank you. At this time we're going to start the last line of
12 questioning. Mr. Fawcett.

13 **Mr. Fawcett:** Mr. Wagstaff in the interest of time we're going to consolidate our two last
14 topic areas which are the crewing decisions related to the Marlin ships and the post-
15 accident evaluation of operations. So the question about P1 cargo before we begin.
16 What impact does P1 cargo have related to the loading operations for the ship if P1
17 cargo arrives at the gate close to sailing time? How does that impact the loading?

18 **WIT:** It wouldn't. That piece of cargo would go on one of the last pieces on if it could
19 safely be put on. If it could not safely be put on – to be put on it would not go.

20 **Mr. Fawcett:** And who makes that determination?

21 **WIT:** That would be, the original determination would start with the – with Don Matthew
22 or with Ron Rodriguez.

23 **Mr. Fawcett:** Do they notify you?

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

1 **WIT:** No not normally they don't.

2 **Mr. Fawcett:** Do they follow some procedure or protocol for the management of the
3 priority cargos?

4 **WIT:** It's – their procedure is laid out from a safety perspective. And so their normal
5 process is followed on a daily basis – on a daily loading basis.

6 **Mr. Fawcett:** Could we get a copy of that, you know you say it's based on safety, could
7 we get a copy of that procedure or policy?

8 **WIT:** Sure.

9 **Mr. Fawcett:** Do you know the name of that policy?

10 **WIT:** I don't know it off the top of my ----

11 **Mr. Fawcett:** And was that in existence at the time of the accident voyage?

12 **WIT:** Yes, yes it was. There were parameters that were in the ISO.

13 **Mr. Fawcett:** Thank you.

14 **WIT:** Program.

15 **Mr. Fawcett:** So moving on to the Marlins. You can refer to it if you like, it's page 12 of
16 Exhibit 178. I'll read it, it's a very short document. It's from Peter Keller dated
17 Wednesday May 20th, 2015. And it's to yourself and others and the subject is Marlin
18 crew. And it say Ben and I have some concerns about some of the Marlin crewing.
19 When are you guys available to talk, regards, Pete. So after you were ----

20 **WIT:** Mr. Fawcett I'm not following you. Where – is it on page 1?

21 **Mr. Fawcett:** Page 12.

22 **WIT:** Oh sorry.

23 **Mr. Fawcett:** In Exhibit 178.

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

1 **WIT:** I'm sorry, my apologies.

2 **Mr. Fawcett:** That's the general contents of the email.

3 **WIT:** Okay. Yes, sir.

4 **Mr. Fawcett:** Okay. When you received that email in the interest of time could you
5 explain in as much detail as needed what happened next as far as you were
6 concerned? And I will ask you some questions about that.

7 **WIT:** As far as I was concerned I don't remember doing anything with this.

8 **Mr. Fawcett:** Okay. Were you made part of the interview team or the selection team
9 for the Marlin Class ships?

10 **WIT:** I was out of professional courtesy. I was, as I stated before doing all these other
11 projects, and so I didn't engage that very often.

12 **Mr. Fawcett:** Okay. Was Mr. Nolan afforded the same professional courtesy?

13 **WIT:** Yes, sir. To my knowledge he was.

14 **Mr. Fawcett:** And why would that be a professional courtesy?

15 **WIT:** Umm that's a good question. I think we're, you know we're organizations are –
16 are as I talked about earlier communicate well. And I think just from a courtesy
17 perspective that's uh – it's not – I wouldn't think it would be unusual.

18 **Mr. Fawcett:** Did you participate in interviews?

19 **WIT:** I did one.

20 **Mr. Fawcett:** For who?

21 **WIT:** Mr. Davidson.

22 **Mr. Fawcett:** Talk about that please.

23 **WIT:** In what respect?

1 **Mr. Fawcett:** The interview for Captain Davidson. In other words where did it take
2 place and when did it take place?

3 **WIT:** I don't remember the date, but it took place at Tote Services' office. I walked
4 over, I listened, I didn't have a lot to say. I couldn't evaluate Mr. Davidson from a
5 technical perspective. He, you know was questioned by others. I think I was asked if I
6 had any questions. I don't believe I had any questions. And that was the extent of that
7 interview.

8 **Mr. Fawcett:** And who else was there?

9 **WIT:** Phil Greene was there. I think Phil Morrell was there. Jim Fisker-Anderson, I'm
10 sorry Mick Kondracki, I don't remember who else was there. That's the ones I recall.

11 **Mr. Fawcett:** Okay. So do you recall, if you would take a moment to think about it,
12 what were the topics discussed with Captain Davidson to determine if he was suitable
13 for command of the new ship?

14 **WIT:** Mr. Fawcett I don't recall what the specific topics were.

15 **Mr. Fawcett:** In your pre-meetings, if there were any related to that interview, you know
16 the candidate is waiting outside and you might be gathering together, do you know if
17 you assessed his evaluation to determine what his previous evaluations might have
18 been or suitability for command?

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

20 **Mr. Fawcett:** Was there any discussions leading up to that interview related to Captain
21 Davidson's performance of his duties?

22 **WIT:** That – no, I don't remember any of that that day.

23 **Mr. Fawcett:** Okay. So do you recall in general how long that interview lasted?

1 **WIT:** Umm I don't think it took more than an hour.

2 **Mr. Fawcett:** Okay. At the conclusion of the interview the subject of the interview
3 leaves the room, did you deliberate on the value of the candidate for the Marlin Class
4 ships? Did you conduct – was it done at some other time? Could you tell me how that
5 happened?

6 **WIT:** I think if my memory serves me correctly had a phone call afterwards. I had left,
7 like I said I had a lot going on in other areas. I walked back to my office. There was a
8 conference call, that conversation took place. In general it was positive. I don't
9 remember having any – anybody having any negative views. I asked – I was asked
10 what was my opinion and I said from my opinion and from my perspective I can only talk
11 to his professionalism the way he treated me as a person. I can't evaluate his seaman
12 skills. And that was pretty much the way it was left.

13 **Mr. Fawcett:** Would this have been in the May time frame?

14 **WIT:** It would have been in the time frame he had his interview.

15 **Mr. Fawcett:** Would that have been late spring?

16 **WIT:** I don't recall the exact dates.

17 **Mr. Fawcett:** Since the courtesy was extended to you to participate in the interview, did
18 someone extend the courtesy to you to tell you the results of his selection or non-
19 selection for that job?

20 **WIT:** I think when we wrapped up that call there was a general consensus that he was
21 going to be offered the job.

22 **Mr. Fawcett:** Do you know what happened next?

23 **WIT:** I do not.

1 **Mr. Fawcett:** Are you aware of the fact that Captain Davidson was ultimately not
2 offered the job as Master for one of the new ships?

3 **WIT:** I was made aware of that, but I honestly don't know if I was made aware of that
4 before or after the accident.

5 **Mr. Fawcett:** Okay. As a professional courtesy were you extended the opportunity to
6 re-interview Captain Davidson in the July time frame?

7 **WIT:** I was not part of it if there was one. I'm not aware of one.

8 **Mr. Fawcett:** And at the beginning of August of 2015 did you know the status of
9 Captain Davidson as to whether or not he was going to be given a new ship, continue
10 on as Master of one of the older ships?

11 **WIT:** Like I stated I don't – I knew – I knew, but I don't remember if was before or after
12 the accident.

13 **Mr. Fawcett:** Were notes made of that meeting, the original meeting?

14 **WIT:** I think Mick Kondracki made notes of that original meeting.

15 **Mr. Fawcett:** At the start of the meeting did anybody say to you that they were going to
16 use the same baseline of questions for each candidate so that they could ensure
17 fairness between the candidates to make sure that nobody could grieve the potential
18 promotion activity or the movement to one of the new ships?

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

20 **Mr. Fawcett:** Who led the interviews?

21 **WIT:** It was Mr. Greene. For that particular one anyway.

22 **Mr. Fawcett:** And you didn't ----

23 **WIT:** That's the only one I attended so that's the only one I could talk to.

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

1 **Mr. Fawcett:** And you didn't participate in interviews for any of the other senior officers
2 to include Chief Engineers?

3 **WIT:** No, sir. I was traveling quite a bit.

4 **Mr. Fawcett:** Is that back and forth to San Juan?

5 **WIT:** Yes, sir.

6 **Mr. Fawcett:** So now we'd like to move on to a new topic and that's the post
7 examination of the events surrounding the loss of the El Faro and related operations.
8 Do you know, and this after the accident time date, so we've moved into a new time
9 frame which could be at any time. So do you know if SALCHUCK or Tote
10 commissioned a third party investigation or assessment about the activities and events
11 that – relating to the loss of the El Faro?

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

13 **Mr. Fawcett:** So turn your attention if you would, sir, to Coast Guard Exhibit 178, 178
14 and page 96. While you look for that, sir, that was 178 page 96, this is an email from
15 you to Ronald Rodriguez, October 3rd, 2015. In that you ask in the first line, also need
16 to know if we have any influence over departure and route.

17 **WIT:** Right.

18 **Mr. Fawcett:** As Vice President of Operations for Tote Maritime Puerto Rico why
19 wouldn't you know that as a matter of corporate knowledge? In other words why
20 wouldn't you understand the influences that Tote Maritime would have over the route,
21 departure or anything else?

22 **WIT:** I think I meant that as a question. Did anybody in my group try to ask or question
23 that. I know from my organization that is controlled by Tote Services and for the crews

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

1 – and the crews. We don't. But I didn't believe that it was out of line to ask that
2 question just to make sure.

3 **Mr. Fawcett:** Okay. Looking in the fairly recent past when we talked to Captain Hearn
4 we were talking about the 2011, 12 and 13 time frame prior to the restructuring and
5 reorganization of the company, he said that there was a marine operations group that
6 were involved with, shore side that were involved with the supporting the operations of
7 the ship and helping them manage the voyage. Were you familiar with that back in that
8 time frame?

9 **WIT:** In 2011 there were – there was a marine manager, but it was from my
10 understanding it was more technical. It wasn't to help or to manage the routing of the
11 vessels. It's not my understanding of it.

12 **Mr. Fawcett:** So now talking about Mr. Matthews, in some testimony we've heard him
13 called Port Captain. Where does that term come from?

14 **WIT:** I honestly don't know.

15 **Mr. Fawcett:** Have you heard him refer to that – to that title?

16 **WIT:** I've heard him referred to in that title.

17 **Mr. Fawcett:** Can you talk about as one of his supervisors his capabilities and his
18 execution of his duties?

19 **WIT:** He doesn't work directly for me. So I would probably need to defer that to Mr.
20 Rodriguez.

21 **Mr. Fawcett:** At some level are you involved with the evaluation of his performance?

22 **WIT:** Only as a review of what's written – written down.

23 **Mr. Fawcett:** And how do you do that?

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

1 **WIT:** It's electronic.

2 **Mr. Fawcett:** How do you second line supervisor evaluate whatever evaluation Mr.

3 Rodriguez would give of Mr. Matthews, what's your process?

4 **WIT:** Read it.

5 **Mr. Fawcett:** What if you don't agree with it?

6 **WIT:** Then I would have a conversation with Mr. Rodriguez. But you've got to – but

7 from my perspective there's a lot of the technical side of it that I wouldn't be able to

8 question.

9 **Mr. Fawcett:** So has the evaluation for Mr. Matthews done – been done within

10 compliance with Tote's corporate policy?

11 **WIT:** To my knowledge they have, yes.

12 **Mr. Fawcett:** In terms of frequency and thoroughness?

13 **WIT:** Yes.

14 **Mr. Fawcett:** So that you would – if I looked at Mr. Matthews evaluations they're to be

15 conducted how often?

16 **WIT:** Annually.

17 **Mr. Fawcett:** And Mr. Rodriguez signs them and you sign them.

18 **WIT:** Mr. Rodriguez signs them, I don't have to sign them. I'm sorry, they are in our

19 system electronically so they come through so I see them. But I don't think I sign them.

20 I only sign Mr. Rodriguez's electronically.

21 **Mr. Fawcett:** Is there some way you ensure that they're done?

22 **WIT:** Yes. Our system will tell me what is outstanding, what hasn't been completed.

23 So a conversation has to take place with the employee and once that conversation

1 takes place an electronic approval is completed and then it goes back to the employee
2 to review those comments. And then that employee will sign it at that point,
3 electronically sign it and it's completed. So it comes off my screen as needed to be
4 completed.

5 **Mr. Fawcett:** Okay. So looking at Mr. Matthews work schedule, when does he
6 normally work? What's his routine?

7 **WIT:** His normal routine to my knowledge is the vessels and then normal – he works
8 the vessels and then he works the normal work week 8 to 5.

9 **Mr. Fawcett:** And on top of that he works the vessels, is that correct?

10 **WIT:** He'll take off. My understanding is he'll take off a Wednesday and go golf.

11 **Mr. Fawcett:** And does he have to seek approval from you? Or who does he get
12 approval from?

13 **WIT:** Mr. Rodriguez.

14 **Mr. Fawcett:** So what would be the formal process to make sure that Mr. Matthews not
15 only knows how to do his job but is considered competent to do his job? Is there like –
16 is there a checklist, is there a procedure when he – if he was a new employee how
17 would he come up to speed and meet you expectations?

18 **WIT:** From my perspective Mr. Fawcett he is, Mr. Matthew and Mr. Rodriguez have
19 been with our organization for many years before I became into this position. The
20 people prior to my arriving had assisted them with their training. They do from what I
21 understand an excellent job each week. There's not a lot of feedback from the vessels
22 of things they're doing wrong. There's not feedback from the PORTUS. There's not
23 any feedback coming from anybody that indicates that they weren't doing their job.

1 **Mr. Fawcett:** So how, in the year 2015 if you could estimate how many times would Mr.
2 Matthews not be there for the loading of one of the ships?

3 **WIT:** I don't know that I could tell you that. I don't keep track of his schedule.

4 **Mr. Fawcett:** You don't have some kind of office calendar that would show if Mr.
5 Matthews was going to be relieved by Mr. Rodriguez?

6 **WIT:** I don't.

7 **Mr. Fawcett:** How would you know that?

8 **WIT:** As I stated I don't.

9 **Mr. Fawcett:** So you don't have any knowledge in the terminal if Mr. Matthews is going
10 to be relieved by Mr. Rodriguez?

11 **WIT:** Personally no.

12 **Mr. Fawcett:** Okay. If you would, shifting gears, Mr. Rodriguez is a relief for Mr.
13 Matthews when Mr. Matthews is not available, is that correct?

14 **WIT:** Correct.

15 **Mr. Fawcett:** How do you know that Mr. Rodriguez is capable and qualified to perform
16 the duties that Mr. Matthews would do?

17 **WIT:** For the same reasons. Mr. Rodriguez has worked for us in three different ports.
18 He has ran Port Everglades for a number of years. He did all the work required there.
19 And loading vessels, working the CargoMax. Then he moved to Puerto Rico, did the
20 same there. And since he's moved – since he's moved back to Jacksonville he does it
21 from time to time. So from an experience on the job training, those types of things I
22 have no reason to believe that he's not as skilled, very skilled at that function.

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

1 **Mr. Fawcett:** So were the new terminal operating system that you described, were both
2 Mr. Matthews and Mr. Rodriguez trained how to use that system effectively?

3 **WIT:** To my knowledge Mr. Rodriguez was trained to some degree. I don't think Mr.
4 Matthews was. But the two systems CargoMax and the terminal operating systems are
5 totally separate systems.

6 **Mr. Fawcett:** Understand. How were they trained for CargoMax?

7 **WIT:** As I stated before that was before my time. There was a lot of on the job training
8 that I saw. However, there were individuals prior to me that I couldn't tell you what they
9 – how they got trained. But from my perspective they have been doing it for a very long
10 time. We weren't getting any negative feedback from the vessel, from the Stevedores,
11 from anyone. So I felt like they were doing a very good job.

12 **Mr. Fawcett:** And both could perform that job equally as effectively?

13 **WIT:** In my eyes, yes.

14 **Mr. Fawcett:** So turn your attention to the evaluations that were conducted for Mr.
15 Rodriguez. Did you conduct those evaluations?

16 **WIT:** I did.

17 **Mr. Fawcett:** Were they in compliance with the company policies?

18 **WIT:** Yes.

19 **Mr. Fawcett:** So you were conducting annual performance reviews?

20 **WIT:** Yes, sir.

21 **Mr. Fawcett:** Can you recall the last performance review you conducted for Mr.
22 Rodriguez?

23 **WIT:** Yes, sir.

1 **Mr. Fawcett:** Can you talk about it?

2 **WIT:** So – in what sense?

3 **Mr. Fawcett:** In general terms.

4 **WIT:** I think from a technical perspective I think he is very capable. We always have
5 room and have things that we can improve upon. The one thing that I have worked with
6 Mr. Rodriguez for a number of years is communication and his understanding of the
7 English language and his communication skills. And sometimes I find that those are
8 lacking so those are probably the most areas that I work the most on with him.

9 **Mr. Fawcett:** Did you have any discipline issues with Mr. Rodriguez?

10 **WIT:** In what sense?

11 **Mr. Fawcett:** Any.

12 **WIT:** You know Ronald and I have been together for a very long time. He worked the
13 terminals in all these different locations. The type of issues that I had were clerical and
14 that would be take off to go to a Doctor's appointment and not record it in the time
15 system. Those types of things. So from a discipline perspective, not the extent of
16 discipline.

17 **Mr. Fawcett:** So I turn your attention to Coast Guard Exhibit 178 page 80.

18 **WIT:** Yep. I got it.

19 **Mr. Fawcett:** Could you speak about that? What you're looking at is an email string,
20 September 23rd, 2015. What were you referring to? The company President, Mr. Nolan
21 and you were having a dialogue in discourse. Was this about Mr. Rodriguez?

22 **WIT:** It is, yes, sir.

23 **Mr. Fawcett:** And what was that discourse about?

1 **WIT:** One of them, there was two items. One of them was the Doctor's appointment I
2 was telling you about just earlier. The second was the terminal operating system they
3 had – Ronald and his team had created a manning chart of how many folks were
4 supposed to be there from a labor perspective each day and the PORTUS, the labor
5 group had only showed up one guy between 7 and 8 and the trucking community, trucks
6 had started to back up at the gate because that guy couldn't keep up with the amount of
7 trucks coming in. And my comments to – were to Mr. Rodriguez was he had addressed
8 it, but when he addressed it he had talked to PORTUS and asked them to talk to me.
9 And my point to Mr. Rodriguez I appreciate that you took care of it, but you're
10 responsible to talk to me. You're responsible to make sure that I am up to speed on
11 what's going on. So that was the second – the second thing that's in this email string
12 that we were talking about.

13 **Mr. Fawcett:** So when you mention a Doctor's appointment, are we talking about a
14 clerical error where information is not input into some type of time keeping or record
15 keeping? Or are we talking about an absence from the yard, which is the area he
16 supervises that you didn't know about or a time he was away where he wasn't approved
17 or authorized in advance to leave?

18 **WIT:** Yeah it was not inputted into the system.

19 **Mr. Fawcett:** So during the loading your expectation is Mr. Rodriguez is there the
20 entire time?

21 **WIT:** If Mr. Rodriguez is doing the CargoMax absolutely yes.

22 **Mr. Fawcett:** Looking at the CargoMax operations, and just because you brought that
23 up, has anybody looked to see that CargoMax is taken care of correctly from a shore

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 side perspective? In other words routinely that the numbers input into CargoMax are
2 correct and valid for the individual voyage that's coming up?

3 **WIT:** I'm not aware if they are.

4 **Mr. Fawcett:** If a ship is in the river heading out to sea and the CargoMax is update
5 from ashore, there's errors discovered, does somebody look at that and say how do we
6 correct that in the future? Does it come to your attention? How is the process improved
7 so that it doesn't happen again?

8 **WIT:** If it's –if it's given to – if incorrect information, my understanding is if it was given
9 to – if incorrect information is given to the vessel the ship's crew checks that
10 information. And that feedback loop would go through TSI or terminal – Tote Services
11 back to Ronald and that group. I'm sure if it was serious enough I would get involved.

12 **Mr. Fawcett:** Is there a bench mark where you would say this is a serious cargo error
13 and management needs to be notified so that a more detailed look can be taken to
14 effectively improve the operations?

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

16 **Mr. Fawcett:** When you evaluate Mr. Rodriguez or Mr. – or when Mr. Rodriguez
17 evaluates Mr. Matthews, is part of your evaluation the efficiency of operation of the
18 CargoMax system and the error free loading of a ship?

19 **WIT:** I wouldn't say that that's a focus that I look at. If it was something that I had
20 received feedback on it might. But it's not something I received any feedback on.

21 **Mr. Fawcett:** Do you know how many times a year there are errors in loading a ship?

22 **WIT:** No, sir, I do not.

23 **Mr. Fawcett:** Would anybody at Tote Maritime know that figure?

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

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

2 **Mr. Fawcett:** So on October 3rd, 2015 in what I call the forensic phase of operations
3 examining what might have gone wrong, I draw your attention at Coast Guard Exhibit
4 178 page 95.

5 **WIT:** Yes, sir.

6 **Mr. Fawcett:** Could you describe what I'm looking at there?

7 **WIT:** That is a step by step process of receiving cargo and loading cargo to the vessel.

8 **Mr. Fawcett:** So this is – the reply is from Mr. Rodriguez ----

9 **WIT:** That's correct, I'm sorry.

10 **Mr. Fawcett:** That's okay. In his capacity as the relief terminal manager. And it goes
11 to you and date's Saturday October 3rd. So per your request he goes through a list of
12 procedures and when you examine those procedures did you find the loading sequence
13 for the El Faro on the accident voyage to be complete and thorough?

14 **WIT:** That wasn't my goal. My goal was to be able to talk about that process. And so I
15 was not evaluating this to see if it was thorough or correct. I just – I was doing this from
16 a communication perspective so I could turn around and communicate that to anybody
17 that had asked me. I had had conversations that was a possible conversation with
18 SALCHUCK and so I wanted to make sure. And since I don't do the loading of the
19 vessel that I could talk intelligently about the steps.

20 **Mr. Fawcett:** Did someone within Tote validate those steps to ensure that the vessel
21 was properly loaded? In other words you can't. Who could?

22 **WIT:** That's not what this is for.

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

1 **Mr. Fawcett:** Okay. But those steps as listed by you who would validate whether they
2 were correctly located – you know loaded in sequence or not?

3 **Tote Inc:** He didn't list these steps.

4 **WIT:** Yeah Mr. Rodriguez listed them so he would have to validate them.

5 **Mr. Fawcett:** Okay. But Mr. Rodriguez loaded the ship. Who provided the external
6 insight into whether it was – since he's a relief, since he did it properly?

7 **WIT:** I would imagine the Chief Mate, that's the responsibility of the crew. My
8 understanding is it's the responsibility of the crew before they leave.

9 **Mr. Fawcett:** Subsequently has those steps been evaluated that Mr. Rodriguez
10 provided to determine if the ship was properly loaded?

11 **WIT:** Not by myself.

12 **Mr. Fawcett:** Did you recommend an evaluation of those steps to Tote management?

13 **WIT:** I have not.

14 **Mr. Fawcett:** So let's turn our attention if you would to Coast Guard Exhibit 178 page
15 73 and 75. So what we have here is an email, while you're looking, sir, from the El Faro
16 on Friday September 18th, 11:40 – 11:54 p.m. And in there he's talking about a series
17 of loading operations in San Juan that resulted in a 3.5 degree list while the ship was
18 being loaded.

19 **CAPT Neubauer:** Mr. Fawcett I think it's important to clarify who the email is from in
20 this case.

21 **Mr. Fawcett:** Yes, it's from the El Faro, sir, Master.

22 **WIT:** Yes, sir.

23 **CAPT Neubauer:** Captain Davidson.

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

1 **Mr. Fawcett:** Correct. Thank you, sir.

2 **WIT:** The original was from Brian Vagts.

3 **Mr. Fawcett:** Right, correct.

4 **WIT:** Okay.

5 **Mr. Fawcett:** So were you aware of this issue in San Juan?

6 **WIT:** I was aware after the fact.

7 **Mr. Fawcett:** Okay. So the vessel was loaded, the contents of the email portray the
8 vessel was loaded to 3.5 degrees list. That the Master stopped cargo because of the
9 condition. And Mr. Vagts who was the Chief Mate at the time, let me get to the right
10 part, sir. This would be on page 75 of the exhibit. In the middle paragraph he ends, an
11 excessive list creates many large risk for the vessel and her equipment. What I would
12 like to know, and once again that's the middle paragraph on page 75, how did you
13 communicate those type of concerns during a loading operation to Jacksonville and San
14 Juan so that this didn't occur again?

15 **WIT:** It was communicated through Don Matthews. That email was sent to Don and
16 Don only to begin with. And then Don copied me as a copy line. And so he had turned
17 that around and made sure that the terminal manager at San Juan knew.

18 **Mr. Fawcett:** Okay. Was this communicated, the contents of this email in any fashion
19 that you're aware of, communicated to senior management across the board at Tote
20 Maritime so that they could be apprised of the situation?

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

22 **Mr. Fawcett:** Could this be a safety issue?

23 **WIT:** I would – I don't read it as a safety issue.

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

1 **Mr. Fawcett:** Okay. So the Chief Mate responsible for the safety of the vessel followed
2 by the Captain, Captain Davidson has to stop cargo and the Chief Mate says, an
3 excessive list creates many large risks for the vessel and her equipment. Talking
4 specifically to loading operations.

5 **Tote Inc:** Are we reading the same email?

6 **Mr. Fawcett:** Well it's ----

7 **Tote Inc:** Is Captain Davidson's name on this some place?

8 **Mr. Fawcett:** If you look at page 75 it talks about Chief Mate Mr. Vagts and then if you
9 look at page 73 it is from, best regards, Mike Davidson. Where he is talking about 2
10 root causes identified and the bottom of the page it ends, best regards, Mike Davidson,
11 Master.

12 **Tote Inc:** You mean where he says allow me to comment before this gets blown out of
13 proportion?

14 **Mr. Fawcett:** Yes. But he still calls it an incident where the root cause has been
15 identified for an issue that presents large risks to the vessel. And I believe he's, in that
16 case, sir, he may be talking to the email chain that results in people getting upset with
17 each other about the way the information is conveyed. But the serious problem – how
18 does the safety department or someone involved with safety at Tote Maritime
19 communicate that safety issue? You don't see it as a safety issue.

20 **WIT:** I see it as an operational issue that could potentially become a safety issue. The
21 operational perspective is to load it a certain way, which he identifies. However, if from
22 an operational perspective we would have to get the folks that are originally addressed
23 on this as the issue and to explain that why.

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

1 **Mr. Fawcett:** Did you conduct an investigation?

2 **WIT:** I did not.

3 **Mr. Fawcett:** Did Tote Maritime conduct an investigation?

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

5 **Mr. Fawcett:** Did they input corrective action, formalized?

6 **WIT:** Not that I know of.

7 **Mr. Fawcett:** Do you know if Mr. Peterson, Captain Lawrence were brought over or
8 somehow engaged with Tote Maritime Puerto Rico to resolve this particular issue since
9 they represent TSI safety?

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

11 **Mr. Fawcett:** If you'll turn your attention to Exhibit 21. This an email from Mr.
12 Rodriguez to you, Mr. Fisker-Anderson dated Thursday October 1st, 2015. Once again
13 it's Coast Guard Exhibit 21. Mr. Rodriguez says and I quote, "guys only an observation,
14 the El Faro had this list on Tuesday at 1509. This is the first time I see a list so much to
15 the starboard side". Now we've estimated in hearing one that that list might have
16 approached 4.3 degrees. Although that is an estimated angle of list. Were you aware
17 of this – in other words you're aware of this because you're tagged in this email. But did
18 you investigate how this list developed considering it was only a couple of weeks after
19 the San Juan, what I'm characterizing as excessive list?

20 **WIT:** No.

21 **Mr. Fawcett:** During the loading day for the El Faro on the 29th of September, was Mr.
22 Rodriguez in the yard for the entire loading operation of the ship?

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

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

1 **Mr. Fawcett:** Have you conducted an investigation either internally or third party to
2 determine the events that unfolded that day related to the loading of the El Faro and any
3 inconsistencies in your operations that may have occurred that day?

4 **WIT:** No.

5 **Mr. Fawcett:** Was there any discussion about conducting that sort of investigation,
6 internally or through a third party to find out what may have resulted in that list and any
7 other issues?

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

9 **Mr. Fawcett:** Now I use the term investigation is there – and that may be a bad term.
10 Have there been any other informal Tote generated reviews of those operations/

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

12 **Mr. Fawcett:** So please turn your attention to page 178, or Exhibit 178 page 88.

13 **Tote Inc:** We're ready.

14 **Mr. Fawcett:** Ready, sir. This is an email Thursday, October 1st, 2015, Jim Wagstaff to
15 Ronald Rodriguez, subject El Faro. And you – in here you, I'll paraphrase thanks for the
16 information on the EL F load calculation review with Bill. Who's Bill?

17 **WIT:** Bill Weinbecker.

18 **Mr. Fawcett:** And who is – what does Bill Weinbecker do?

19 **WIT:** He's a Port Engineer with Tote Services.

20 **Mr. Fawcett:** And he's the Port Engineer for who?

21 **WIT:** Tote Services.

22 **Mr. Fawcett:** I mean which ship, I'm sorry?

23 **WIT:** I'm not certain.

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

1 **Mr. Fawcett:** He says even though the calculations appear to have still be – still within
2 tolerances you must ensure the information passed to the vessels are correct, we
3 cannot have these types of mistakes there are lives at stake, not to mention assets and
4 cargo. Please continue to validate the information and I will need to see a corrective
5 action plan to ensure this type of mistake does not happen again and that our current
6 communication is correct.

7 **WIT:** Yes, sir.

8 **Mr. Fawcett:** What were you speaking about?

9 **WIT:** I had in my daily conversations with Ronald I was in Puerto Rico and he had
10 indicated that there was a fuel number that was incorrectly inputted. And he and Bill
11 Weinbecker continued to go through it that the vessel's parameters were still within the
12 guidelines and that it moved from, if I'm not mistaken the GM was at .8 and with the
13 recalculations it was at .64, if my memory serves me correctly. And that they were
14 going to continue to make sure to go through the pieces of it.

15 **Mr. Fawcett:** So did Mr. Weinbecker conduct a review of the loading operations for the
16 El Faro on that date?

17 **WIT:** I don't – Mr. Weinbecker to my understanding didn't review the loading
18 operations, he reviewed it – reviewed the calculations and the inputted information.

19 **Mr. Fawcett:** I haven't heard the term before, and if you'll turn to U.S. Coast Guard
20 Exhibit 178, page 84.

21 **WIT:** Yes, sir.

22 **Mr. Fawcett:** This is an email from you dated Wednesday September 30th, 2015 to Mr.
23 Rodriguez and there's another, I don't understand who the 8 ROTENJEN, who's that?

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

1 **WIT:** That is Rocky. Rocky Oetjen.

2 **Mr. Fawcett:** And who does he work for?

3 **WIT:** Mr. Rodriguez.

4 **Mr. Fawcett:** Okay. And the subject is kicking cargo.

5 **WIT:** Yes.

6 **Mr. Fawcett:** What does that refer to?

7 **WIT:** That is cargo segregation on the terminal. And so as it's a part of the P1, P2
8 process. So when a piece of cargo comes into the gate it's either given a P1 label or P2
9 label. That cargo is then put in certain stacks on the terminal. And if you mix the P1's
10 cargo and the P2 cargos then you have to dig out P1's out of a P2 stack and it's
11 additional work from a stacker perspective.

12 **Mr. Fawcett:** Does this have any effect whatsoever with cargo that is in the process or
13 has been loaded aboard the El Faro?

14 **WIT:** Absolutely not.

15 **Mr. Fawcett:** Okay. So kicking cargo is a completely shore side ----

16 **WIT:** Yes, sir.

17 **Mr. Fawcett:** Activity or issue?

18 **WIT:** Yes, sir.

19 **Mr. Fawcett:** Within the organization do you get copies of the Tote Services quarterly
20 safety meetings or do you all participate in those quarterly safety meetings?

21 **WIT:** I don't get copies of them.

22 **Mr. Fawcett:** Does Tote Maritime get copies of them?

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

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

1 **Mr. Fawcett:** If you'll turn your attention to Coast Guard Exhibit 178, and that would be
2 page 59. Okay. So we're looking at an email from Don Matthews to the Captain El
3 Faro, Chief Mate El Faro with a copy to Ron Rodriguez, Wednesday 26 August, 2015.
4 Revised RO-RO plans. It says good evening gentlemen we found 4 missing reefers,
5 parenthesis no stow location on reefer manifest. They were loaded RO-RO but the
6 checker didn't note them on the stow plan. Revised stow plans are attached. I'll update
7 the cargo load case and send it to you in a few minutes. Have a smooth voyage if
8 possible with the weather the way it is. Were you made aware of this?

9 **WIT:** I was not aware. I'm not copied on it either.

10 **Mr. Fawcett:** Would you be – would you expect to be aware?

11 **WIT:** Possibly, but more than likely not. If they – no.

12 **Mr. Fawcett:** On this voyage the El Faro was sailing out into proximity of Tropical
13 Storm Erika and Hurricane Danny where they took the alternate route. It appears to me
14 from my read of this and I may be wrong, that the ship had sailed by the time they
15 vessel was notified of the discrepancy. Would I be correct there?

16 **WIT:** I didn't get it, so I – won't know.

17 **Mr. Fawcett:** But in analyzing the message.

18 **WIT:** Yes.

19 **Mr. Fawcett:** Do you know the weight of a reefer?

20 **WIT:** I do – they vary, I do not know.

21 **Mr. Fawcett:** Would they be listed on the manifest individually by weight, by accurate
22 weight so you could know the effect on the stability of the vessel?

23 **WIT:** I don't do that. I would suspect that it would be.

1 **Mr. Fawcett:** I'm getting close to the end, sir. Thank you for your patience. If you'll
2 turn to Exhibit 178, page 48.

3 **WIT:** Yes, sir.

4 **Mr. Fawcett:** This is from you on August 20th and it's to – August 20th, 2015, 11:42 a.m.
5 and it's to Fisker-Anderson and a variety of individuals at Tote. And the subject is about
6 Hurricane Danny and the barges. And it says from you, can appreciate the concerns
7 but the tugs need to keep moving. Just talked to Jim Fisker-Anderson about possible
8 safe havens in case. So what would be your involvement with the movement of tugs
9 and the need to keep them moving to have the cargo reach it's destination?

10 **WIT:** In the email below I was reading it that my employee that works for Mr. Rodriguez
11 was assuming that the tug was going to ask for some time. And my – our goal, or our
12 objective is to – is to not assume, but to keep the tugs moving. If the Captain asks for it,
13 make sure that Jim Fisker-Anderson and that team are up to speed to have a safe
14 haven.

15 **Mr. Fawcett:** So how would you engage with Mr. Fisker-Anderson to make sure that
16 both parts of your concerns are met? In other words you need to keep them moving to
17 meet the demands of the cargo and the schedule and Mr. Fisker-Anderson is involved
18 with what's described, I would describe as the safety of the vessels. So how do you do
19 that?

20 **WIT:** Well we do, you know it's a safety perspective first. And at the end of the day Mr.
21 Fisker-Anderson and that crew is going to make that decision. So it's their decision, not
22 Matthews, Don Matthews' decision or is it my decision.

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

1 **Mr. Fawcett:** So do you receive any other correspondence related to the movement of
2 vessels in terms of keeping vessels moving to meet the schedule?

3 **WIT:** Do I receive any?

4 **Mr. Fawcett:** Correct.

5 **WIT:** I receive emails as part of the position I hold.

6 **Mr. Fawcett:** About keeping cargo moving?

7 **WIT:** No about positions, where they're at, when they're going to be there so that we
8 can communicate to the commercial organization.

9 **Mr. Fawcett:** Sir, you've been very helpful. I'm going to call that for the moment my
10 last line of questioning. I may have follow ups, but I'll turn it over to my team and I thank
11 you very much, sir.

12 **WIT:** Thank you.

13 **CAPT Neubauer:** Sir, we've been going for over an hour would you like to take a break
14 before we wrap up?

15 **WIT:** Sure.

16 **CAPT Neubauer:** The hearing is now recessed and we'll reconvene at 3:35.

17 *The hearing recessed at 1526, 18 May 2016*

18 *The hearing was called to order at 1539, 18 May 2016*

19 **CAPT Neubauer:** The hearing is now back in session. Mr. Wagstaff I just have a
20 couple follow up questions from the last round.

21 **WIT:** Yes, sir.

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

1 **CAPT Neubauer:** And a couple from the very first string. In regards to the audits that
2 are conducted, who conducts the internal audits of Mr. Rodriguez's performance of
3 duties?

4 **WIT:** We have an internal audit team that audits the processes.

5 **CAPT Neubauer:** Would a member of that team have knowledge of the CargoMax
6 calculations and stability program?

7 **WIT:** No.

8 **CAPT Neubauer:** In regards to the last external audit that was conduct, did you
9 personally review the results of that audit?

10 **WIT:** Yes.

11 **CAPT Neubauer:** Do you remember specifically were there any issues with the
12 terminal operations?

13 **WIT:** No, sir.

14 **CAPT Neubauer:** Now going back to Mr. Rodriguez for the incident that occurred when
15 he left for the Doctor's appointment without reporting that was in charge of a cargo
16 operation when that incident occurred?

17 **WIT:** I need to clarify that. He had told me he was going to the Doctor, and so it wasn't
18 – I couldn't tell you if he was involved with cargo ops, because that's not something he
19 would typically do. It was an after the fact he went. He didn't record it in our time
20 recording system. So it was a – it was not an off duty, he was off duty when he wasn't
21 supposed to be, it was he had told me he was going to the Doctor, he had just not
22 recorded it into the system to track his time off hours.

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

1 **CAPT Neubauer:** So are you certain that he wasn't in charge of a cargo operation at
2 that time?

3 **WIT:** I – I couldn't speculate. I don't know if he was or not.

4 **CAPT Neubauer:** And, sir, referring back to Exhibit 178, page 88 which was the email
5 that you sent to Mr. Rodriguez on October 1st at 10:27 a.m. It regards to the correction
6 that was made while vessel – while the El Faro was underway.

7 **WIT:** Yes, sir.

8 **CAPT Neubauer:** At the end of that email you said we'll need to see a corrective action
9 plan to ensure this type of mistake doesn't happen again. Have you seen that
10 corrective action plan?

11 **WIT:** I have not. After discussing what led to a number that was incorrectly inputted
12 that he had gotten I felt like it was not something that needed a corrective action plan.

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

14 **Tote Inc:** No questions, sir.

15 **CAPT Neubauer:** ABS?

16 **ABS:** No questions, sir.

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

18 **Ms. Davidson:** No questions, sir.

19 **CAPT Neubauer:** Herbert Engineering?

20 **HEC:** No questions.

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

22 Mr. Fawcett.

1 **Mr. Fawcett:** Mr. Wagstaff I would like to just revisit what you just said. You said you
2 felt there was no corrective action plan needed as a result of those discrepancies in the
3 final voyage's calculations for fuel. If the fuel has a calculation issue do you know that it
4 may affect the free surface of the fuel in the fuel tanks as well as stability?

5 **WIT:** Mr. Fawcett that's – I'm not a mariner so I can't speak to those. I would tell you
6 that the numbers that I understand that he got were incorrect and that those numbers
7 were gotten later that were corrected. And from a corrective action plan from his
8 perspective I didn't think was warranted.

9 **Mr. Fawcett:** You mean the El Faro got the correct number?

10 **WIT:** I'm saying Mr. Rodriguez the numbers that he got, I'm not sure where he got
11 them, the way it was explained to me is where he got them was incorrect.

12 **Mr. Fawcett:** Did a stability expert or a maritime person look at that and determine the
13 severity of the mistake?

14 **WIT:** Mr. Weinbecker was looking at them.

15 **Mr. Fawcett:** Thank you. A follow up question, if you'll turn your attention to Exhibit
16 178, page 59. Correction, 56, I'm sorry. This an email from you to Mr. Morrell, Mr.
17 Nolan, Mr. Fisker-Anderson, Mr. Greene, or Admiral Greene dated 8/22, 2015 at 8
18 O'clock in the morning approximately. The subject is re: Tug Captain Lathem, main
19 engine casualty. Were you aware of the main engine casualty of that tug?

20 **WIT:** I was aware via email.

21 **Mr. Fawcett:** Okay. Had it been fixed?

22 **WIT:** That tug had turned around, had left and turned around and came back to
23 Jacksonville.

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

1 **Mr. Fawcett:** And why would that be?

2 **WIT:** Because of the engine failure.

3 **Mr. Fawcett:** Okay. The last line says, needs some assistance to get them moving the
4 storm is very small with wind extending a very small area around. And that's signed by
5 you. What were you referring to there?

6 **WIT:** In that time period when the barge turned around and came back the Macalister
7 tug was coming into Jacksonville too. There was a suggestion that the two tugs
8 changed barges and let the Mcallister tug pull the Elizabeth barge to Puerto Rico.
9 There was a couple of days of discussion about whether that was a doable thing. And
10 then I think in later emails there were – it was determined that the Mcallister didn't want
11 to take the responsibility from a liability perspective because they hadn't surveyed the
12 barge.

13 **Mr. Fawcett:** Okay. So you assessed the size of the storm, the wind fields and so forth
14 and then you sought assistance from somebody to get them moving out in the direction
15 of the storm, is that correct?

16 **WIT:** I sent that to Phil Morrell to evaluate whether we could leave.

17 **Mr. Fawcett:** And what happened?

18 **WIT:** To my knowledge they didn't leave.

19 **Mr. Fawcett:** Okay. So you turned to Mr. Morrell from Tote Maritime Puerto Rico
20 reaching out to Mr. Morrell who works for?

21 **WIT:** Tote Services.

22 **Mr. Fawcett:** Right. To get them to move – to get cargo moving?

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

1 **WIT:** No. To get the – to check with the tug about them getting them moving, getting
2 out of – to keep moving.

3 **Mr. Fawcett:** Right and that's out to sea where there's a hurricane or storm in the
4 Caribbean?

5 **WIT:** My comments to Mr. Morrell were a question, a directive and Mr. Morrell and the
6 crews have the last say on it.

7 **Mr. Fawcett:** Okay. But just to clarify you sought the assistance of Mr. Morrell to get
8 cargo moving out into an area where there were some storm activity, correct?

9 **WIT:** Not true.

10 **Mr. Fawcett:** Okay. So once again just so I can understand. You were asking for the
11 tugs and barges to swap around and continue one of those tugs to tow your barge to
12 San Juan, is that correct?

13 **WIT:** Correct.

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

15 **CAPT Neubauer:** Commander Denning.

16 **CDR Denning:** Sir, just a few follow ups. If you could flip back again, I know we've
17 been in Exhibit 178 a fair amount, but I just have a quick clarifying question on one of
18 those email chains. If you could go to page 82. That particular email actually starts at
19 the bottom of page 81. Let me know when you are there.

20 **WIT:** Yes, sir.

21 **CDR Denning:** So this is – at the bottom of page 81 the email starts, it's from Tim
22 Nolan on September 22nd addressed to you. And Mr. Nolan asks you a few questions,
23 there's a question about a gate, a mast pole, signage equipment and then at the bottom

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 he says the terminal is running smooth today and he's going to drive around and he
2 spoke with some truckers who were all positive about the changes. I want to make sure
3 I understand the words that are in between each – each of these paragraphs is
4 numbered, 1, 2, 3, and 4. I see your reply to this email above Mr. Nolan's. Am I correct
5 that the language in between each of these where you say, yes this is a new pole, is
6 that your response to his questions?

7 **WIT:** Yes.

8 **CDR Denning:** So those are your responses imbedded within? So at the very very
9 bottom, the very last line of that particular email chain says, this is encouraging but we
10 have a long way to go. Those are your words?

11 **WIT:** I don't know. I would have to look at the email from a computer.

12 **CDR Denning:** That's a less important point than the one I'm – then the one we're
13 going to discuss now. If you could scroll back up, or I'm scrolling on my screen, you're
14 flipping, so on page 81 Mr. Nolan asks did we provide Ronald another warning last
15 week? And your replay immediately above that is yes and in writing. My question is
16 what's the nature of the warning that's referred to there?

17 **WIT:** That was the communication with me on, Ronald had – we implemented a new
18 gate system in the manning and there was only employee, PORTUS employee that was
19 brought in that morning from 7 to 8 and the manning called for 4 people. And he had
20 addressed it with PORTUS. When he talked to PORTUS he had asked them to talk to
21 me. And my direction to him was it's not PORTUS' responsibility to talk to me it's your
22 responsibility to communicate with me.

23 **CDR Denning:** So you issued him a written warning about communication?

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

1 **WIT:** Yes, sir.

2 **CDR Denning:** Have you issued him any other written warnings in the past year?

3 **WIT:** I have – on a – as I stated earlier we've been working together for a long time. So
4 we continue to work on day in day out type of things. Is there ones that are recorded
5 emails, yes. Is there ones that are a human resource, maybe it was given to our human
6 resource, there's only one.

7 **CDR Denning:** I'm sorry that last one was about human resource?

8 **WIT:** It was one – one written up that I turned in.

9 **CDR Denning:** Okay. Have any of the warnings regarding Mr. Rodriguez been in
10 relation to anything that would affect vessel stability, weights, usage of the CargoMax
11 system, work with the Stevedores on lashing, anything that would affect the – that would
12 impact the stability of the vessel?

13 **WIT:** No, sir.

14 **CDR Denning:** Other question, we had a – we had some discussion in the first hearing
15 when we did interview Mr. Rodriguez about the way that the trucks are weighed as they
16 come in to the facility. Do you know how the amounts of fuel in each truck is accounted
17 for in the system?

18 **WIT:** I don't have personal knowledge of that, no, sir.

19 **CDR Denning:** And now my final, I won't say it's one question, but it's sort of – I'm
20 going to take you down a little chain here. Refresh my memory, you said it in the
21 beginning, how long have you been with Tote Maritime Puerto Rico slash their
22 predecessors Sea Star?

23 **WIT:** Since 1998. So that's what 16 years.

1 **CDR Denning:** And that was essentially the inception of Sea Star as a company?

2 **WIT:** Yes, sir.

3 **CDR Denning:** And besides your immediate position what was your most recent
4 position that you transferred from?

5 **WIT:** AVP of – AVP Operations. Terminal Operations.

6 **CDR Denning:** Okay. When you were the Assistant Vice President who was the
7 President of Operations?

8 **WIT:** That was Steve Hastings at the time.

9 **CDR Denning:** And you were the Assistant Vice President?

10 **WIT:** Yes, sir.

11 **CDR Denning:** What was your position just prior to that?

12 **WIT:** Prior to Assistant?

13 **CDR Denning:** Yes.

14 **WIT:** I think it was Director of M&R, maintenance of repair. I would have to look at the
15 records though. It's a while back.

16 **CDR Denning:** So you've been with the company since it's inception, relatively small
17 company.

18 **WIT:** Yes, sir.

19 **CDR Denning:** When we – in the beginning of your testimony you described your role
20 as the Vice President of Operations within Tote Maritime Puerto Rico, you described
21 that as land based, right? Those were your words? And you stated that Mr. Morrell, Mr.
22 Fisker-Anderson are the ones that would handle vessel underway type operations,
23 correct? What I would like you to describe for us is when we took testimony from

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 Captain Hearn the other day he described for us some of the operational guidance he
2 used to obtain from Tote Maritime Puerto Rico, from Sea Star lines and he used a few
3 names. Bill Wisenborn and a few other names. And his – in his testimony that support
4 came from the Tote Maritime Puerto Rico side which you are now describing your role
5 as land based. But he got underway guidance, underway support and advice on routing
6 and avoiding weather. But as you testify today you say that support would be more of a
7 Tote Services. Can you describe for us how that transition occurred? How those
8 responsibilities transitioned from Tote Maritime Puerto Rico to Tote Services?

9 **WIT:** I was not in this department or in that area at that time. I'm not sure that I could
10 describe that. We would have to talk to the folks that were there at that time.

11 **CDR Denning:** So is it true that the individuals that used to provide that type of support
12 were at Tote Maritime Puerto Rico and are now Tote Services?

13 **WIT:** Umm ----

14 **CDR Denning:** Not that the individuals moved but that the function moved.

15 **WIT:** Yeah, it was – in 2011, 12 there were technical support inside of Sea Star Lines
16 and Totem Ocean Express her sister company. That technical organization rolled into
17 one group. That group would then provide technical support. My understanding was
18 technical support to both coasts to Sea Star and to Totem Ocean Express. Lee
19 Peterson was here on this coast. And then however, the crewing and the connection to
20 the vessel from a person – a designated person has always been through, my
21 understanding it's always been through – at that time was IUM. And then in early, if my
22 memory serves me correct, in early 8 – 13 all of those services were moved under Tote
23 Services. So the technical and the operation side of it. So it was – I did hear Mr.

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 Hearn's testimony yesterday and that's the way I understood it. Is that his contact was
2 still through IUM or which is now Tote Services from a person – designated person
3 perspective.

4 **CDR Denning:** What does IUM stand for?

5 **WIT:** Inner ----

6 **CDR Denning:** Inner Ocean.

7 **WIT:** Yes, sir.

8 **CDR Denning:** I'm sorry?

9 **WIT:** Inner Ocean Uglen I think is the name of it. Became, yeah, became Tote
10 Services.

11 **CDR Denning:** So you mentioned Totem, Totem Ocean Trailer on the west coast.

12 **WIT:** Yes, sir.

13 **CDR Denning:** So they used to provide some of those services in that chain. Who
14 would be a good person for us to talk with that can fully describe the transition of roles
15 and responsibilities such as those that Captain Hearn described to what we had just
16 prior to the incident?

17 **WIT:** Mr. Keller was the – that's who I would probably start with. Mr. Greene with Tote
18 Services currently would, I could imagine he would be able to communicate that.

19 **CDR Denning:** Thank you.

20 **CAPT Neubauer:** Mr. Fawcett.

21 **Mr. Fawcett:** Sir, I have two final questions for you. With the loss of the El Faro we lost
22 the logs of the ship. Do you maintain terminal operations logs that have detailed notes
23 or comments in them? And what I'm referring to is in the September 19th excessive list

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 incident down in Puerto Rico Captain Davidson stopped cargo immediately when the list
2 reached an uncomfortable level that impacted the safety of the ship. Normally that
3 would be something that might be logged on a ship. Would an order from Captain
4 Davidson ashore to your supervisor Mr. Rodriguez to stop cargo in that situation be
5 contained in detailed logs or notes that Mr. Rodriguez or you require to be kept?

6 **WIT:** So that happened in Puerto Rico, so that would be Ivan Burgos, he's the terminal
7 manager there. And we would have to refer to him.

8 **Mr. Fawcett:** I'm speaking directly to the day of final loading for the accident voyage
9 where the vessel reached a 4.3 degree estimated list. Would you maintain a log or be
10 required to maintain a log where Captain Davidson would order a suspension of cargo
11 op – loading because it was unsafe and as a result you had to readjust to effectively
12 right the ship?

13 **WIT:** We would have to ask Mr. Rodriguez if there's a log that's kept.

14 **Mr. Fawcett:** And then my final question is, do you get involved directly in any way with
15 the getting direction to the actual loading of cargo?

16 **WIT:** No.

17 **Mr. Fawcett:** Okay. I say that because I'm looking at Exhibit 178, page 67. And while
18 you look for that, Mr. Wagstaff you sent an email to Mr. Rodriguez in that on September
19 8th of 2015 in the evening he asked you do we wait on cargo? And you replied yes.

20 Would that be direct approval for the loading process of the ship?

21 **WIT:** No. It would be approval to wait on cargo that's still transiting to the terminal. It
22 wouldn't have anything to do with loading it to the vessel.

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

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

1 **WIT:** He's referring, this email was referring to do I keep the gate open to allow the
2 cargo to come in.

3 **Mr. Fawcett:** Is this cargo that's just going to be stored in the yard, or is this cargo that
4 the ship is sitting there waiting for? Because the reason I ask that question the time on
5 there is about 7 p.m., which is about 1900 which is the scheduled departure time for a
6 ship.

7 **WIT:** Yes.

8 **Mr. Fawcett:** So the cargo that's outside the gate, my read on this is it's going to come
9 through the gate, through the scales, up the ramp and go on board. And what Mr.
10 Rodriguez seems to be asking you is do we wait?

11 **WIT:** Yes.

12 **Mr. Fawcett:** And that means does the ship wait?

13 **WIT:** Yes.

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

15 **CAPT Neubauer:** Mr. Wagstaff I just have one final question. I need to go back to
16 Exhibit 178, page 88 again.

17 **WIT:** Yes, sir.

18 **CAPT Neubauer:** Sir, when you said that Bill Weinbecker did a review of the
19 CargoMax stability loadout for the accident voyage, is that correct?

20 **WIT:** What I was saying is that when Ronald and I had a conversation that he and Bill
21 Weinbecker were working together on it.

22 **CAPT Neubauer:** Was it your understanding that Bill Weinbecker found the error in the
23 additional calculations?

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

1 **WIT:** I don't recall who found the error.

2 **CAPT Neubauer:** You said in your statement that even though the calculations
3 appeared to still be within tolerance, what were you referring to there, sir?

4 **WIT:** It was the understanding of GM is the way that Ronald was explaining it. It was a
5 .80 before the change and it was at .64 after the change. And .5 is the – is the mark
6 that we're trying to make sure we don't get under.

7 **CAPT Neubauer:** And who decides that level?

8 **WIT:** The?

9 **CAPT Neubauer:** Who sets the .5 level?

10 **WIT:** It was – it was actually set before I was in this role, so I'm not sure who set it. It's
11 part of our ISO program. It's documented.

12 **CAPT Neubauer:** It's documented in your ISO procedures?

13 **WIT:** Yes, sir.

14 **CAPT Neubauer:** Is it your understanding that .5 GM margin is applicable to all
15 voyages?

16 **WIT:** I could not – to all voyages, yes, I'm sorry, yes.

17 **CAPT Neubauer:** And that would include voyages that could encounter storm
18 conditions?

19 **WIT:** Yes, sir.

20 **CAPT Neubauer:** Do you have any – do you think it's a safety concern if the GM
21 margin reduces while the Master is underway by any amount?

22 **WIT:** I couldn't tell you. I don't have that experience.

23 **CAPT Neubauer:** Thank you. Are there any final questions for Mr. Wagstaff?

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 **Tote Inc:** No, sir.

2 **ABS:** No, sir.

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

4 **HEC:** No, sir.

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

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

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

13 **ABS:** No, sir.

14 **HEC:** No, sir.

15 **CAPT Neubauer:** The hearing is now in recess and we'll reconvene at 9 O'clock
16 tomorrow morning.

17 *The hearing recessed at 1606, 18 May 2016.*

18

19

20