

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

BOARD OF PILOT COMMISSIONERS MEETING

RE: PORT OF MIAMI RATE CHANGES PRRC-2014-1

Hyatt Regency Miami

400 Southeast 2nd Avenue, Flamingo Room

Miami, Florida 33131

May 17, 2017

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- 15 CAROLYN KURTZ
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- 16 TOM PANZA
ADMIRAL BAUMGARTNER
- 17 CAPTAIN JIM HANSEN
JOEL GLICK
- 18 LOUIS SOLA
RICHARD LAW
- 19 CHRIS OATIS
CAROLYN KURTZ
- 20 CAPTAIN HANSEN
COMMANDER GALEN DUNTON
- 21
- 22 Also present:
GREG MCDERMOTT
JENNIFER GRANER
- 23
- 24
- 25

1 (Thereupon, the following meeting was had:)

2 **CHAIR:** Okay, let's get started. Welcome
3 everyone to this pilot rate hearing. Today is
4 May 17th, 9:00. My name is David Wilkins, and
5 I'll be chairing today's meeting. Today is the
6 public meeting to consider requests for the
7 modification of the rate of pilotage at the
8 Port of Miami. It will be a very formal meeting
9 for the next couple of days.

10 A couple of housekeeping things that I'd
11 like to first go over. Everyone please turn
12 off your phones if you haven't already. If you
13 are at this desk please do not do what I'm
14 doing right now, which is having your phone on
15 your desk and vibrating, as it will affect the
16 recording equipment, so also have it off
17 vibrate as well if you are going to have it on
18 your desk.

19 The entire session for the entire meeting
20 is being recorded and videotaped. Everyone who
21 is at the desk, your microphone has an on/off
22 button, which you can choose to leave on the
23 entire time, although, you know, your sound
24 will be picked up, or every time you speak you
25 must turn that button on prior to speaking.

1 Does everybody understand that? Okay.

2 Restrooms are right outside, hopefully
3 everyone saw those. Everyone hopefully has
4 received an agenda of the next several days'
5 meeting. This meeting is scheduled to go to
6 through Friday afternoon. Right now we have a
7 strategy to finish Thursday night, so we right
8 now are planning to go late Thursday night if
9 necessary. So those who need to make plans,
10 hopefully you can plan to be here Thursday
11 night after the session. Today we will go from
12 9:00 to 6:00. We will take a break midday
13 before lunch. We'll take an hour and a half
14 lunch. We'll take a small break in the
15 afternoon. We'll take another small break
16 around 5:00 or -- I mean, no, then we'll go
17 until 6:00. And then on Thursday the same
18 agenda, but we'll take a break around 5:00 or
19 6:00 before we come back in the evening if
20 necessary. Okay.

21 For the speakers, I will ask you to please
22 be concise and direct in your commentary.
23 Please not try to overload us with irrelevant
24 information. Try not to be redundant or
25 repetitive, but make sure you cover everything

1 that you need to cover that is important for us
2 to make the decisions we need to make. If you
3 have materials that you are presenting that we
4 have not previously seen please make sure you
5 alert us to that so we can make arrangements to
6 receive that information at the appropriate
7 time.

8 As we go through the different topics and
9 presentations, for the Board members, I'd like
10 us to have question sessions after each major
11 topic, so we'll stop and we'll give all Board
12 members plenty of time to ask questions after
13 each topic. We'll go through each of those
14 topics, and then of course at the end of the
15 session, which will be probably late Thursday,
16 and after public comment, that's when we'll
17 start deliberations.

18 And so our deliberation process is merely
19 a conversation with the Board, and we'll be
20 able just to talk amongst ourselves and ask
21 questions, you know, to both understand each
22 others' point of views on each of the issues,
23 under the rationale of how we've reached
24 different conclusions, and clarify each others'
25 points of views if necessary. And as we are

1 doing that it's extremely important for all the
2 interested parties to still be around in the
3 audience, because you may be asked to come back
4 up and clarify questions that we may have that
5 need clarification.

6 As we go through the meeting I'd like to
7 keep this as formal as possible, but not to a
8 Senate type meeting. But I would like for
9 anyone who has questions to come through the
10 Chair so I can grant right to ask the question,
11 and vice-versa on the response, all right, so
12 we can control the meeting. Hopefully
13 everybody will stay very professional in their
14 correspondence and communications, and, you
15 know, try to keep all the emotion out of the
16 room. Clark, any other questions or, you know,
17 orientation comments we need to make?

18 **MR. JENNINGS:** Yes, thank you, Mr.
19 Chairman, there are a few matters. Initially
20 to the Committee Members I would like to remind
21 you that the process you are about to engage in
22 is of course subject to the provisions of
23 Chapter 286 Florida Statutes, often referred to
24 as the Sunshine Law. Consequently it's
25 important to keep this in mind as we move

1 forward in the process. Everything has to be
2 open, recorded, and available to the public.

3 Consequently it is important that you
4 refrain from leaning over and whispering to
5 your neighbors. Please do not text or e-mail
6 while you are up here during the process.
7 While you may be texting back to your loved
8 ones saying I can't believe I volunteered to do
9 this job, it's killing me, they don't know
10 that, I don't know that, and it could very well
11 be that you're texting to someone in the
12 hallway or someone in the audience about the
13 issue before you, and that is absolutely a non
14 start, so please refrain from doing that.

15 Similarly, when we adjourn for the
16 evening, recess for the evening, you're still
17 covered by this, by these provisions, and so
18 please refrain from discussing what has
19 transpired during the day, or what may
20 transpire tomorrow, with your fellow
21 Commissioners. That again is a violation of the
22 Sunshine Law. You can, of course, discuss
23 matters with me, or with Staff, that's
24 perfectly acceptable, but as you know you
25 cannot ask Staff or myself to act as a conduit

1 of information to another Committee member.

2 And as far as ex-parte communications is
3 concerned, while it is not prohibited it is
4 strongly discouraged, and I suggest this simply
5 for the appearance factor. I mean I know the
6 parties are interested, this is a quasi
7 legislative process and so ex-parte
8 communication is not prohibited, but it just
9 doesn't look good. And obviously if someone
10 saddles up to a couple of you and starts
11 talking that's really bad, you're going to have
12 to separate. And if you do get approached by
13 someone from the public about this matter you
14 can listen to them, but I strongly suggest you
15 do not opine or make any statement regarding
16 the matter, just listen.

17 With all of that being said, Mr. Chairman,
18 let's get to some of the preliminaries on this
19 thing. This is a hearing before the Pilotage
20 Rate Review Committee to address two petitions
21 for a modification of the rate of pilotage at
22 the Port of Miami. This is assigned case number
23 PRRC-2014-1. In March of 2014 the Florida
24 Caribbean Cruise Association, which I may often
25 refer to as FCCA, submitted an application for

1 a change in the rates of pilotage, requesting a
2 25% reduction in the draft and tonnage rates in
3 the Port o Miami, but only for passenger
4 vessels. Rates for all other vessels are
5 requested to remain at current rates.

6 A rate hearing was held in July of 2014,
7 however due to a successful challenge
8 concerning Committee composition that hearing
9 was declared void by the District Court of
10 Appeal. Subsequent to that order from the
11 court all stakeholders agreed to begin the
12 process anew. FCCA's application was
13 resubmitted for this subsequent rate hearing
14 without any change to the request of 25%
15 reduction on rates for passenger vessels,
16 and/or updates to data, or any other
17 information. As permitted by statute the
18 Biscayne Bay Pilots, which I may often refer to
19 as pilots, submitted an alternate application
20 to increase the rates of pilotage over a five
21 year period.

22 Now, Commissioners, your charge is to
23 consider all materials presented to determine
24 if he rate of pilotage in the Port of Miami
25 should be modified. When rendering your

1 decision please remember that your mission is
2 to determine whether the requested rate change
3 will result in a fair, just, and reasonable
4 rate. Upon making such a determination it is
5 important for you to state on the record your
6 reasoning for such a decision. Please be
7 mindful that your decision should be based
8 solely, let me repeat that, solely upon the
9 evidence presented and the record before you,
10 and not upon any independent knowledge or
11 personal bias.

12 Now, if you would, Mr. Chairman, it won't
13 take long, but I do think it's important for me
14 to read to you the two primary provisions of
15 the Florida Statutes that set the parameters
16 for the actions for the next couple of days,
17 specifically 310.151(5): (a) In determining
18 whether the requested rate change will result
19 in fair, just, and reasonable rates, the
20 committee shall give primary consideration to
21 the public interest in promoting and
22 maintaining efficient, reliable, and safe
23 piloting services. (b) The committee shall also
24 give consideration to the following factors:

25 1. The public interest in having

1 qualified pilots available to respond properly
2 to vessels needing their service.

3 2. A determination of the average net
4 income of pilots in the port, including the
5 value of benefits, all the benefits, I'm sorry,
6 derived from service as a pilot. For purposes
7 of this subparagraph, "net income of pilots"
8 refers to total pilotage fees collected in the
9 port, minus reasonable operating expenses,
10 divided by the number of licensed and active
11 state pilots within the port.

12 3. Reasonable operating expenses of
13 pilots.

14 4. Pilot rates in other ports.

15 5. The amount of time each pilot spends
16 on actual piloting duties and the amount of time
17 spent on other essential support services.

18 6. The prevailing compensation available
19 to individuals in other maritime services of
20 comparable professional skill and standing as
21 that sought in pilots, it being recognized that
22 in order to attract to the professional of
23 piloting, and to hold the best and the most
24 qualified individuals as pilots, the overall
25 compensation accorded pilots should be equal to

1 or greater than that available to such
2 individuals in comparable maritime employment.

3 7. The impact rate change may have in
4 individual pilot compensation and whether such
5 change will lead to a shortage of licensed
6 state pilots, certified deputy pilots, or
7 qualified pilot applicants.

8 8. Projected changes in vessel traffic.

9 9. Cost of retirement and medical plans.

10 10. Physical risks inherent in piloting.

11 11. Special characteristics, dangers, and
12 risks of the particular port.

13 12. Any other factors the committee deems
14 relevant in determining a just and reasonable rate.

15 (c) The committee may take into
16 consideration the consumer price index or any other
17 comparable economic indicating when fixing rates of
18 pilotage; however, because the consumer price index
19 or such other comparable economic indicator is
20 primarily related to net income rather than rates,
21 the committee shall not use it as a the sole factor
22 in fixing the rates of pilotage.

23 And then finally, 310.151(6). The
24 committee shall fix rates of pilotage pursuant
25 to this section based upon the following vessel

1 characteristics: Length, beam, net tonnage,
2 gross tonnage, or dead weight tonnage.
3 Freeboard or height above the waterline. Draft
4 or molded depth. And any combination of vessel
5 characteristics listed in this subsection or
6 any other relevant vessel characteristics or
7 characteristic.

8 So when all of this is done what are your
9 options? Well, you have two petitions before
10 you. You can approve one petition as presented
11 and deny the other, or you can deny both
12 petitions and maintain the statute quo, or you
13 can do something in between. You have a
14 request for a decrease. You have a request for
15 an increase. You know, one is at 25%, but you
16 may do something less than 25%, or you may give
17 an increase of less than the requested amount.

18 Once the decision is reached I will craft
19 the final order. That order will not
20 automatically be issued, primarily is because
21 I'm covering my backside more than anything
22 else, to be honest with you, but what I'm going
23 to do is bring the order back to you to give
24 you a chance to review it and determine whether
25 or not that order accurately reflects the

1 decision that the committee makes at the end of
2 this process. It won't be a retrial. It won't
3 be another argument as to the decision. It
4 will simply be a review of the document, and to
5 say to me, Clark, this accurately reflects what
6 the committee decided to do or it doesn't and
7 if it doesn't you tell me how I should modify
8 it.

9 Then we'll issue the final order. Once
10 that order is issued the parties will have
11 twenty one days to review it and determine
12 whether or not the facts upon which the order
13 was based are valid. If they dispute those
14 facts they will go to the Division of
15 Administrative Hearing and they will have a
16 hearing. An Administrative Law Judge cannot
17 determine rates of pilotage, but they can
18 determine whether or not the facts and the
19 reasoning that you utilized are valid or not.
20 The Administrative Law Judge will send order
21 back to you, you get to decide what you wish to
22 do wit that order, and ultimately whatever you
23 decide is appealable to the District Court of
24 Appeal.

25 Now, we can go into a lot more details on

1 that but let's wait until we get to that point
2 in the process sometime down the road. At this
3 point, Mr. Chairman, unless there are any
4 questions I have nothing further to add to this
5 opening.

6 **CHAIR:** That's wonderful. Okay, thank
7 you. All right, Ms. Anne, can we call the roll
8 please?

9 **MS. ANNE:** All right, Commissioner Sherif
10 Assal.

11 **MR. ASSAL:** Here.

12 **MS. ANNE:** Commissioner Carolyn Kurtz.

13 **MS. KURTZ:** Here.

14 **MS. ANNE:** Commissioner Chris Oatis.

15 **MR. OATIS:** Here.

16 **MS. ANNE:** Commissioner David Wilkins.

17 **CHAIR:** Here.

18 **MS. ANNE:** Commissioner James Winegeart.

19 **MR. WINEGEART:** Here.

20 **CHAIR:** Okay, so we have a forum. All
21 right, so first topic up is the procedural
22 review.

23 **MR. JENNINGS:** Yes, Mr. Chairman. We have
24 a preliminary motion that needs to be
25 addressed. The Biscayne Bay Pilots have filed

1 a motion to dismiss. It's a summary motion,
2 and I think it would be appropriate at this
3 time, Mr. Chairman, to allow the pilots to
4 present their motion to the committee, and then
5 of course we'll have a response from the FCCA.

6 **CHAIR:** Okay. All right, so Ms. Blanton.

7 **MS. BLANTON:** Thank you. Good morning to
8 all of you. I'm Donna Blanton. I'm with the
9 Radey Law Firm in Tallahassee, and I'm counsel
10 for the Biscayne Bay Pilots. I'd just like to
11 introduce who is with me at the counsel table
12 today. To the far right I have Mr. Paxton
13 Crew. He is a lawyer in the state of Texas,
14 and he's been admitted here as a qualified
15 representative, and will be serving along with
16 me as Counsel today for the pilots.

17 Next to me is Captain Chris Marlowe. He
18 is Vice Chairman of the Biscayne Bay Pilots
19 Association, and will be sitting with us at
20 counsel table today and tomorrow, and I guess
21 not Friday as of now, but if we're here Friday
22 he'll be here then too.

23 So I thank you for your time today, and
24 I'm going to beg your indulgence a little bit
25 because this is a legal issue. This is a

1 motion on standing. I recognize that, looking
2 around the table, other than Clark, I don't
3 think any of you are lawyers. Am I right about
4 that? Do we have any lawyers on -- I didn't
5 think so, so I'm not going to get into a lot of
6 the case law that is cited in our motion. I
7 know you've all had a chance to read it, and
8 I'm happy to answer any questions about it.

9 But what our basic argument is here, any
10 party that litigates something has to have
11 what's called standing, and that means under
12 Florida law you have to be directly affected,
13 you have to injury in fact, and you have to be
14 within the zone of interest that the statute is
15 designed to protect, and I'll talk about that
16 in a little bit.

17 Now, we have a situation here where we
18 have a statute, and it's in 310.151(2) which
19 says any pilot, group of pilots, or other
20 person or group of persons whose substantial
21 interests are directly affected by the rates
22 established by the committee may apply to the
23 committee for a change in rates. Now, FCCA
24 will tell you that that gives them standing
25 right there in that statute because they're

1 directly affected.

2 My argument, the pilots' argument, is that
3 they are not directly affected because they
4 don't pay the rates of pilotage, the cruise
5 lines pass that on to their passengers. And
6 this motion, we have testimony -- and the
7 reason we filed this motion now quite frankly
8 is because we have recent testimony from a
9 proceeding in Galveston where Mr. Terry
10 Thornton, who is Senior Vice President of Port
11 Operations for Carnival Cruise Lines testified,
12 and he's also Chairman of FCCA's Marketing
13 Committee by the way, and he testified at
14 length that this is a cost component that's
15 passed on to the guests. The guests are the
16 ones who pay the pilotage fee, it's not the
17 cruise lines, it's passed onto the passengers
18 on a per passenger basis. And there's even an
19 explanation from him on Page 3 of our motion of
20 how that actually works.

21 And new did a quick calculation using his
22 formula, and using the, one of the Carnival
23 ships, the Carnival Vista, as an example, and
24 in that case based on the formula that Mr.
25 Thornton provided it works out for \$1.07 per

1 passenger. In any event whatever it is it's
2 passed on to the passengers, so our argument is
3 that 310.151 does not provide standing directly
4 under the statute to FCCA because they're not
5 directly affected. There's a lot of case law
6 in Florida that talks about what directly
7 affected means. One of those tests involves an
8 immediacy requirement, right, and that means
9 you've got to be pretty closely affected, and
10 there are cases that say economic interests are
11 not enough, and those cases are cited as well.

12 The second part of the standing test other
13 than injury in fact is you've got to be within
14 the zone of interest that the statute was
15 designed to protect. If you look at the
16 statute which governs our proceeding, which is
17 section 310.151, what you see is it's all about
18 the pilots and the public interest. More than
19 anything else it's about the public interest
20 and the safety of protecting the public. It's
21 not about the cruise lines. It's not about
22 other users of the port. It's about the public
23 interest. It's not about how cargo ships or
24 cruise lines are affected by the rates of
25 pilotage, so the cruise lines are not within

1 the zone of interest of that statute. And
2 again there's a lot of case law that discusses
3 both prongs of the standing test in Florida.

4 Now, Mr. Panza will tell you that we've
5 waived this argument, you know, we've been here
6 three years, and we would have brought this up
7 a long time ago. Well, I will tell you that
8 standing under Florida Law is a matter of
9 subject matter jurisdiction, and it can be
10 raised at any time, and our rules of procedure
11 that we all go on under the law says that. And
12 if we go the Division of Administrative
13 Hearings, which is the next step after that,
14 FCCA will have to prove their standing.
15 Regardless of what you decide on this motion
16 today standing always has to be proved. It
17 can't be waived, and so we feel like we're
18 within our rights to bring it up here today,
19 and frankly because we knew Mr. Panza would use
20 the waiver argument once we heard the testimony
21 in Galveston we felt compelled to bring it up
22 here today, because it goes to what we've been
23 saying all along in this case, that we believed
24 the cruise lines didn't directly pay the
25 pilotage, the passengers paid it.

1 We asked for Mr. Panza to submit, asked
2 Mr. Panza for some information about that by
3 way of letter more than a year ago, and he said
4 I'm not going to send you that because there's
5 no discovery in these proceedings, and, you
6 know, basically forget about it, you're not
7 getting it, okay. So then we hear this
8 testimony in Galveston which basically confirms
9 what we thought all along, that it's really
10 paid by the passengers. We have some excerpts
11 from some of the contracts that the cruise
12 lines have with their passengers in here that
13 also emphasize that point, but it's really the
14 testimony from Mr. Thornton which sort of
15 hammers home the point.

16 We felt like we needed to raise it today.
17 Again, under the Florida Administrative
18 Procedure Act, the case law on standing, we
19 believe they do not meet the standing test
20 because they're not directly affected, and
21 because their interests are not protected by
22 Section 310.151. With that I will leave it.
23 I'll be happy to answer any questions if you
24 have them. I know Mr. Panza will have a
25 response.

1 **CHAIR:** Okay, thank you, Ms. Blanton.
2 Anyone have any questions before we go to Mr.
3 Panza's response? Mr. Panza, you're up.

4 **MR. PANZA:** Thank you very much. Excuse
5 me. My name is Tom Panza. I'm here with
6 General Baumgartner and Captain Bjorn Hansen,
7 and we have Mr. Joel Glick sitting behind us
8 which will also be a witness, and two of the
9 associates in my office, Mr. Greg McDermott and
10 Jennifer Graner. I thank you for your
11 indulgence this morning on taking this motion
12 up first. This motion has absolutely no
13 relevance in this particular case, and it's
14 completely immaterial. And I'll go through
15 each one of these points, and not raise as Ms.
16 Blanton indicated the case law that's
17 associated with it, but I'll try and hit the
18 major points.

19 It's basically the pilots' position that
20 FCCA has no standing because some of the cruise
21 ships allegedly pass on pilotage fees to
22 customers, which does not encompass all cruise
23 even if some of them happen to do that. The
24 second issue is the -- this simply seems to us
25 to be another method for the rate payers, which

1 are the cruise ships, as well as the cargo
2 ships, but in our case they're the cruise
3 ships. This seems to be another method from
4 holding the pilots accountable to them. The
5 FCCA members in some instances on the cruise
6 ships, which you'll hear today at great
7 lengthy, pay fees of up to \$13,000 for a call
8 on a particular port. They pay the fees.

9 As Ms. Blanton brought up their, under
10 Chapter 310 this specific individuals, or
11 companies I should say, that are responsible
12 for the rates under Section 310.002(7) states
13 pilotage is compensation, quote, fixed by the
14 pilotage review committee, which is you all,
15 which is payable by the vessel, its owners, or
16 agents, and others. It doesn't say one word
17 about passengers. The vessel owner, or the
18 vessel is responsible for these fees. The
19 statute specifically on standing states that if
20 you're directly affected. Well, if the vessel
21 who is owned by one of the members of FCCA is
22 directly affected by virtue of the vessel
23 having to pay the rates irrespective of what
24 may happen with the passengers. It's no
25 different than with the passengers paying their

1 fees and theoretically the food passed on to
2 the passengers, their lodging, their
3 entertainment, et cetera.

4 The third point I want to raise, or the
5 fourth point, which I think is probably the
6 most compelling, or one of the most compelling,
7 is that when this case was heard in 2014 this
8 very issue was raised, and it was raised as
9 part of the case that this was passed on to
10 the, to the passengers, and it was raised in
11 reference to Carnival Cruise Line, which is the
12 same cruise line that Ms. Blanton was
13 discussing here today in the Galveston matter.
14 In addition that case was eventually reversed,
15 as your counsel had indicated, as Mr. Jennings
16 indicated, because there two members on that
17 panel that the court thought were employees, or
18 felt that they were high level employees of the
19 cruise ship.

20 In that case the pilots too the exact
21 opposition position of what they're taking on
22 standing. They went to the District Court of
23 Appeal and filed pleadings, and I'm sure that
24 they meant what they said because no lawyer
25 would file a pleading, and no lawyer of Ms.

1 Blanton's statute would ever file a pleading
2 that would indicate anything that was
3 misleading or erroneous, but in that case
4 before the District Court of Appeal the pilots
5 argued that these two individuals, these two
6 individuals who were appointed that were from
7 the cruise lines were biased, and the reason
8 they were biased was because a rate decrease
9 would, quote, save their employer substantial
10 amounts of money; their employers being the
11 cruise ship lines itself.

12 So the pilots can't have it both ways.
13 They can't say that the FCCA doesn't have
14 standing because some cruise ships may or may
15 not recapture that money from the cost of the
16 pilotage, and then go and say it saves their
17 employers substantial amounts of money. Their
18 employer is the cruise ship. It is the vessel
19 that is responsible for the payment. The
20 pilots only allege that the pass through issue
21 in their, in their motion, was five out of
22 nineteen of the members of the FCCA, and three
23 of those members, when they allege this they
24 don't even say that the, in those particular
25 cases they do not even say that the money was

1 passed on to the passengers in that particular
2 issue.

3 Further, the pilots have waived the issue
4 of standing, and they waived the issue of
5 standing back when they raised this issue in
6 2014. We litigated this whole issue. They
7 never raised this issue on appeal, or any other
8 place. FCCA, and this gets a little bit into
9 the legal issue which I want to try and, you
10 know, kind of avoid. I have laid out all of
11 this in my pleading. But the FCCA is a named
12 party under the Arrico case, which is what Ms.
13 Blanton is relying upon, that's talking about
14 interveners. It's talking about some person
15 that happened to have a piece of property that
16 was down the street that thought that they were
17 going to be affected by what was going to
18 happen with this environmental change. It was
19 a completely different type of case.

20 The pilot -- the FCCA fits under both
21 prongs of Arrico. The FCCA has its substantial
22 interest affected because the substantial
23 interests are that it has to pay the pilotage
24 fees, irrespective of how it captures all of
25 the rest of the fees for lodging and everything

1 else that it does on the boat, on the vessel.
2 When a person -- when an individual goes on the
3 vessel they look at the total amount of the
4 costs. They don't look at the total amount of
5 how it's broken down, they want to know if
6 they're paying \$80, \$500, \$300, whatever the
7 total amount is. So under 310.151(2) it
8 explains that anyone whose substantial
9 interests are directly affected by the pilotage
10 rates to seek a rate change is allowed to do
11 that.

12 The other -- and the last issue I'm going
13 to raise on this is that in the twelve factors,
14 which I'm going to go through in a couple
15 minutes when I have my opening if the Board
16 will indulge me, of the twelve factors that Mr.
17 Jennings read you did not hear one factor, not
18 one of them, that dealt with the profitability
19 or the finances of the cruise ship industry,
20 not one, nothing. You heard nothing about
21 that. It's talking about the, what is a fair,
22 reasonable, and just rate for the pilots. It
23 doesn't have anything to do with what the
24 cruise lines in private business make or don't
25 make, nor does it have to do with the cargo

1 ships, of what they make or don't make, it's
2 strictly about what's fair, just, and
3 reasonable for the pilots to make, not about
4 how much money anybody else makes.

5 So if the cruise ships make money, which
6 they're in private business and they have a
7 right to make money, that's why they're in
8 business, that has no bearing. It wasn't one of
9 the twelve considerations that you had in that,
10 in the statutory requirements, so the
11 profitability has nothing to do with it. So
12 when we talk about standing, yes, we are
13 directly affected, we're substantially directly
14 affected because as these prices go up because
15 of the organic nature of the ships getting
16 larger, which you'll hear quite a bit about
17 today, the pilots make more money, do less
18 work, and the cruise ships pay more money for
19 the less work. They are substantially
20 affected. Thank you.

21 **CHAIR:** Thank you.

22 **MS. BLANTON:** May I briefly respond to one
23 point?

24 **CHAIR:** Yes.

25 **MS. BLANTON:** Thank you. And Mr. Panza

1 has now twice, once in his pleading and once
2 before you today, suggested that I may have
3 misled the appellate court, and personally I
4 find that offensive, and I hope that's not the
5 kind of proceeding we're going to have here.

6 I would just like to make a point, and he
7 brought up that Commissioner Miguez and Burke
8 were disqualified three years ago. He brought
9 that up, and he said that we said to the court
10 at the time that one of the reasons they should
11 be disqualified was because they would save,
12 that it would, that it would save their
13 employers lots of money if they voted the way.
14 Let me tell you what we said, and what we
15 relied on. In FCCA's application which is
16 before you today which we took at face value it
17 says applicant estimates that its members alone
18 paid in excessive of \$5 million in pilotage fee
19 to Port Miami's Port Pilots, applicant as
20 representative of its members who pay millions
21 of dollars each year in pilotage fees for calls
22 on Port Miami. That's what FCCA said.

23 At the time that we moved to disqualify
24 Commissioners Miguez and Commissioner Burke we
25 took the four corners of that pleading at face

1 value, which is exactly what they alleged. We
2 took it straight of their application, and,
3 yes, we did make that allegation to the
4 appellate court. Since then we have found and
5 learned quite a lot, including from the
6 Galveston hearing where Mr. Thornton from
7 Carnival testified that in fact the passengers
8 paid this. It's a standing argument that can
9 legitimately be raised at any time, it cannot
10 be waived.

11 That's all I wanted to say, but I hope
12 we're not going to be accusing each other in
13 this proceeding of improper and unethical
14 behavior, and I find that personally offensive.
15 Thank you very much.

16 **CHAIR:** Okay, thank you. Okay, so we've
17 heard the dismissal request, and the other
18 point of view from Mr. Panza. Board members, do
19 you have any questions you'd like to ask either
20 party?

21 **MR. CREW:** Chairman Wilkins -- hi.
22 Chairman Wilkins, hi, I'm sorry to interrupt.
23 I'm Paxton Crew. I'm a qualified representative
24 here. I'm from Texas. I heard the statutory
25 requirements earlier today, and one of the

1 things that Mr. Panza alluded to in his
2 argument was that there was absolutely not
3 mention of the cruise line's profitability in
4 those statutory factors. It just seems to me
5 that someone on a, on a fair basis, that the
6 last statutory requirement says that this Board
7 can deem other information to be relevant to
8 its determination, and what we have here is a
9 trade association that has asked the Board to
10 say that the pilot rates are unreasonable, that
11 the pilot compensation is unreasonable, and I
12 think that it's only fair that their
13 profitability factors into this because they're
14 the ones that are claiming that they are
15 harmed.

16 Now, they're either harmed or they're not.
17 They either pass it through or they're not, and
18 their profitability, particularly this being
19 the number one cruise port in the world, I
20 think has relevance on that inquiry. And
21 that's all I would suggest.

22 **CHAIR:** Okay. All right, thank you. Go
23 ahead, Clark.

24 **MR. JENNINGS:** That may be all well and
25 good, Mr. Crew, but I think you're premature.

1 That's not what we're dealing with right at
2 this moment. We're dealing with a motion to
3 dismiss.

4 **CHAIR:** Other Board member questions?
5 Okay, that's --

6 **MS. KURTZ:** I have a question for Clark.
7 So the petition for dismissal, you know, the
8 gist of it is that the FCCA, their interest is
9 not protected by 310, and then of course Mr.
10 Panza's position is that the FCCA, their
11 interest is protected by 310. I'm not a
12 lawyer, and I'd like to know what you think
13 about that.

14 **CHAIR:** Mr. Jennings.

15 **MR. JENNINGS:** It's up to me. Okay, let
16 me see if I can answer the question this way.
17 I have reviewed the petition and the response,
18 and other than the waiver argument I find the
19 responsive pleading more compelling. I really
20 think that standing is there. I think the
21 association is there. This issue of pass
22 through, other than the waiver I must concur
23 with Mr. Panza. And I mean I don't see any
24 reason to start going into all of the legal
25 arguments. Again I don't know if that would do

1 you any good if started talking about the
2 various case law and the, and the law, but I
3 think Mr. Panza spelled it out fairly well,
4 other than the waiver issue, I agree with Ms.
5 Blanton on that.

6 And I think, again, they can probably come
7 up with the when and if, if it goes to the
8 Division of Administrative Hearings that issue
9 could be raised again, but, and she may prevail
10 there, she may not, but with regard to this
11 proceeding I tend to agree with Mr. Panza for
12 the most part.

13 **MR. SOLA:** I have a question for Ms.
14 Blanton.

15 **CHAIR:** Yes, Commissioner Sola.

16 **MR. SOLA:** I'll just speak loudly, if
17 that's okay. Hearing both sides of this I
18 understand that the actual person that writes
19 the pilots the checks is actually this side
20 over here, it's not the pass thru, it's not the
21 passenger. Do you have any precedent, or legal
22 case that's ever been where the passenger has
23 taken precedent?

24 **MS. BLANTON:** What we do have are a number
25 of cases that say in the standing context

1 economic interests are not enough, right,
2 you've got to have more than just an economic
3 interest. Here I've got --

4 **MR. SOLA:** Specifically to the pass thru.

5 **MS. BLANTON:** Not so much directly to the
6 pass thru, but more in terms of a party that's
7 trying to come into a case and saying, you
8 know, this would harm me economically if you do
9 this, and the court just says that's not
10 enough. Here we don't even reach that issue
11 because we would argue they're not economically
12 affected at all, they're not just directly
13 affected. They're turning around and passing
14 on the \$1.07 per passenger, or whatever it is
15 depending on the size of the ship, directly to
16 the passengers, the passengers are paying it.
17 And it's really -- I mean it's a very small
18 amount. The bigger the ship, the smaller
19 amount it is, which we'll hear about later.

20 But there are a number of case that talk
21 about what it means to be directly affected,
22 which they also call injury in fact, and you've
23 got to prove that it's a real injury, and our
24 argument here is that it's not even a real
25 injury, you don't even get to whether they're

1 affected economically. Do I have a case that
2 talks directly about pass thru per se', no I
3 don't. To my knowledge, this is somewhat novel;
4 like most cases that was in (unintelligible),
5 it's rare to find one directly on point, but
6 there are many, many, many cases on standing.

7 **MR. SOLA:** So you would argue that the
8 passenger could make --

9 **MS. BLANTON:** Sure if --

10 **MS. SOLA:** -- in addition to any
11 interested group or person?

12 **MS. BLANTON:** Yeah, that's exactly right.
13 As Mr. Jennings pointed out earlier we have a
14 concept in Florida law about associational
15 standing, and there's case law that says
16 associations can bring a case on behalf of
17 their members, but only if those members are
18 directly affected. That's very solid Florida
19 law. So how's directly affected here, the
20 passengers. If there were association
21 passengers, I don't know if there are, they may
22 be, a lot of people go on cruises all the time
23 and there may groups of passengers that are
24 directly affected because they pay pilotage
25 rates in Florida, and wherever else they go.

1 Do -- would they have standing? I think it's a
2 heck of a lot more likely they would have
3 standing than FCCA has standing.

4 **MR. SOLA:** Thank you very much.

5 **CHAIR:** Any other questions from the
6 Board? Okay, so we're now going to vote on the
7 motion, right, so do I have to receive the
8 motion?

9 **MR. JENNINGS:** You have to receive a
10 motion to either approve or, to either grant or
11 deny the motion.

12 **MR. ASSAL:** I motion we leave the Biscayne
13 Pilot's motion, the FCCA's motion on the table
14 for the hearing.

15 **CHAIR:** So --

16 **MR. JENNINGS:** Let me translate that. So
17 your intent is that FCCA should continue on
18 with the process.

19 **MR. ASSAL:** That is correct.

20 **MR. JENNINGS:** Okay, so the motion then
21 would be to deny the motion to dismiss, and you
22 need to state a reason, rather than going
23 through all the details that you wish to say,
24 for the reasons expressed in the responsive
25 pleadings of the association, that is

1 acceptable. I would appreciate it though if
2 you, if there would also be in that motion the
3 exception with regard to the standing issue,
4 because I don't think that that's something
5 that we should be agreeing with, with Mr. Panza
6 on that.

7 **MR. ASSAL:** I'll let --

8 **MR. JENNINGS:** No, you just -- just say --
9 just say what he said and we'll be fine, if you
10 agree with that.

11 **MR. ASSAL:** Well, we have two motions
12 right?

13 **MR. JENNINGS:** No, you have one motion.

14 **MR. ASSAL:** Sorry. We have one motion to
15 dismiss.

16 **MR. JENNINGS:** The motion to dismiss, yes,
17 sir.

18 **MR. ASSAL:** The motion to dismiss.

19 **MR. JENNINGS:** And you're telling me that
20 you wish to deny that motion.

21 **MR. ASSAL:** The motion -- I wish to deny
22 the motion on dismissal of the FCCA's request.

23 **MR. JENNINGS:** Okay. Actually it's a
24 motion order so I don't have to explain why,
25 it's either granted or -- so that's -- yeah, so

1 the motion is to deny.

2 CHAIR: Motion is to deny. Is there a
3 second?

4 MR. WINEGEART: Second.

5 CHAIR: Second from -- who was second?

6 MR. WINEGEART: I did.

7 CHAIR: Okay, from Mr. Winegeart. Okay,
8 any discussion? Any further discussion?

9 MS. KURTZ: I'm sorry, who was the second?
10 I didn't --

11 CHAIR: Commissioner Winegeart.

12 MR. JENNINGS: Mr. Winegeart.

13 CHAIR: Any other discussion on the
14 motion? Technology is working now, okay, good.
15 All right, okay, all in favor of denying the
16 request as motioned by Commissioner Assal
17 please -- no, do we need -- well, let's just do
18 it by aye. Say aye.

19 (Aye.)

20 CHAIR: All opposed? Okay, the motion
21 passes. All right, thank you all. We will now
22 move on to the next agenda item, which is the
23 presentation of the findings of the
24 investigative committee, Mr. Richard Law, and
25 this your twentieth rate hearing, so he has

1 prepared a consultant report that hopefully we
2 all have read in excruciating detail, and you
3 are now going to present the report to us,
4 right? Thank you.

5 (Thereupon, technical issues were dealt with and the
6 meeting continued as follows:)

7 **MR. LAW:** Can you hear me?

8 **CHAIR:** Yes.

9 **MR. LAW:** Thank you, Mr. Chairman. My name
10 is Richard Law. I am a member of the
11 investigative committee. I'm a CPA from
12 Tallahassee, Florida, and this is our
13 nineteenth investigation with the Board of
14 Pilot Commissioners Pilotage Rate Review Board,
15 and Pilotage Rate Review Committee. On my left
16 is Galen Dunton, Commander Retired U.S. Coast
17 Guard. Together with the investigative
18 committee Galen is the pilot consultant
19 responsible for developing the examinations for
20 a pilot, deputy pilot exams, investigating
21 marine incidents for the Board, and so his
22 skill as a professional pilot consultant, Coast
23 Guard safety, the whole thing, understanding
24 the technical aspects of being a pilot, and
25 coupled with my financial background, a CPA, is

1 why we were the investigative committee.

2 The process that we go through is first
3 conduct a public hearing before, after the
4 applications are filed, and the purpose of that
5 is to get public input before we conduct or
6 complete our investigative report. At the --
7 and we've done this twice for these
8 applications, first in 2015 when there was just
9 the FCCA application, and then in 2016 after we
10 had both applications we did another public
11 hearing. And then in 2017 after we got started
12 up again to do this review, investigate these
13 applications, we had a third one.

14 We had feedback at the first public
15 hearing from Maersk and the marine, excuse me,
16 Miami River Marin Group. They were cargo
17 parties, and they gave us some, some feedback
18 that was put into your report. And then 2017
19 when we did public hearing no one really showed
20 up other than I think some pilots and some
21 representatives from the FCCA, and really just
22 didn't get any public feedback, so I think
23 that's important, as far as having openness to
24 the public, participation by the public, just
25 so you know the types of information that, that

1 we were able to gather.

2 The -- between the two applications and
3 our investigative report you've got over 1,000
4 pages of documents, and in the next few days I
5 think you're going to hear a lot of information
6 about piloting, and our, our report you'll see
7 follows a format that Mr. Jennings laid out in
8 Chapter 310. There's thirteen elements to, to
9 our report, and it follows the statute exactly,
10 so you're going to hear a lot of information
11 about pilot compensation, fringe benefits,
12 pensions, workloads, scheduling of pilots,
13 numbers of pilots, the mix of traffic,
14 comparable rates in other ports, and reasonable
15 operating costs.

16 I believe our report presents this
17 information as clearly as we can given the
18 information, but the application by the FCCA
19 was dated in 2014 as I stated, and they were so
20 not presenting the pilot information, financial
21 information, only revenue, and things like
22 that, so when we got the application from the
23 pilots in 2016 we had a 2014/2015 audit, so we
24 have audited financial information for that
25 year, and then we have projections for 2016 and

1 2017, and so we investigated that, and were
2 held up in 2016. So now a year later a lot of
3 that information is stale, but the information
4 is always going to be, have (unintelligible)
5 because things just change all the time.

6 A good example is from 2015 to 2016, you
7 know, you come back and get the actual revenue
8 from 2016 it's \$300,000 higher than they
9 expected, so at any point in time things can
10 change. And the reason I'm pointing this out
11 is when you see financial projections and
12 analysis of costs, and the net income, and all
13 these calculations that come down to the bottom
14 line of net income, you know, what did, what is
15 the average net income including benefits of
16 pilots, it's not static, it will fluctuate from
17 year to year.

18 When you look at all of the factors that
19 we considered, the thirteen factors, it becomes
20 just a very big algebraic equation, if you
21 will, with a lot of variables, and it basically
22 comes down to the number handles, the size of
23 the vessels, the timing of the traffic in any
24 given week, or season, or whatever, the number
25 of pilots, the cost of operations, the timing

1 of capital investments. All of those variables
2 go into an analysis that you need to look at in
3 total to come up with a fair and reasonable
4 rate.

5 You'll hear a lot of discussion today
6 about compensation, what is an attractive level
7 of compensation to recruit and retain pilots in
8 Florida, to have the best considering what we
9 have to protect in Florida. You'll hear
10 testimony from the Masters, Mates and Pilots.
11 We've got a document from them in our report.
12 You'll have information from FCCA, and there's
13 going to be, there's going to be a difference
14 between the two, what's said, but there are a
15 lot of variations income that you have to think
16 about.

17 You may hear what pilots make in San
18 Francisco, or Portland, or Seattle, or New
19 York, or Louisiana, and in some of those cases
20 those pilots are state employed, or they work
21 for some entity that is a pseudo governmental
22 entity, a port authority, so when you hear
23 somebody's salary is \$400,000 that may be their
24 W-2, but in Florida under 310 we've got to
25 present to you what their cash distribution is

1 plus every fringe benefit, and pension. And we
2 even go a step further in identifying what are
3 some of the costs of operation that aren't
4 essential with operating a pilot organization,
5 and we've identified things like lobbying,
6 political contributions, charitable
7 contributions, health insurance, all kinds of
8 fringe benefits and discretionary costs that we
9 add back.

10 But when you compare that to compensation
11 for someone that's an employee, and they say
12 here's your salary, that's their salary. That
13 entity pays its own political or charitable, or
14 other discretionary costs. So I think you have
15 to be aware of the variations of what is
16 income, because I think it's going to vary a
17 lot from what you see. There will be some, a
18 person with a W-2, an employee that probably
19 don't think about their health insurance as
20 part of their compensation. They may not think
21 of their pension, it's might be a 401K where
22 the employer could send that money outside.
23 They just say, well, that's my pension. That's
24 the way a lot of government employees would
25 look at their compensation, what's my net, what

1 do I take home, and so you will see here a lot
2 of numbers today on compensation, keep this in
3 mind because it's apples and oranges.

4 Over the course of the investigations of
5 port rate hearings that we've done for the last
6 twenty years we have determined what the
7 compensation levels are in the state over a
8 long period of time, and just generally
9 speaking your larger ports are going to have a
10 larger income, Jacksonville, Tampa, Port
11 Everglades, Miami. Canaveral and Key West
12 probably have, although they're not big ports
13 they handle big vessels so it's a higher level
14 of technical skill and demand for the pilot
15 organization, a lot of core investment in
16 infrastructure equipment to run the operation,
17 so you see that these are larger businesses
18 with business risk that they assume to run
19 these pilot operations. A lot of this
20 information is presented as a compensation
21 section in our report.

22 Again I'd like to caution you on some of
23 the projections on financial information, that
24 there are a lot of variations that can affect
25 these numbers, and they could be material. One

1 cruise ship that's generating a half a million
2 dollars in revenue that, they could leave the
3 port, they could move to another port, has a
4 big effect, bigger than any one cost factor
5 that they could incur in a year. One ship can
6 leave this port and have a dramatic affect on
7 income, so when you see these projections just
8 know, well, it's a projection. I think you'll
9 see on one of the pages where we go out into
10 three years past, and to '20, '21, '22, here's
11 '21, we give you a warning, caution, this can
12 be very unreliable. The reason we put that in
13 there is just so you know given what the pilots
14 have requested in rate increases, what would
15 that revenue be, and what would it mean to net
16 income if, if things went along without a lot
17 of unexpected change.

18 So, you know, whether at the end of this
19 process there's either no change, or any change
20 in the rates, the pilots are going to walk away
21 from this meeting with a rate, and it's up to
22 them to take that rate and manage their costs,
23 determine the optimum number of pilots they
24 need, make the decisions on the pilot codes
25 that they face, and to operate as efficiently

1 and effectively as they can to really maximize
2 the income, their net income and what they
3 make. Again, since 2003 they haven't been back
4 for a rate increase. That's a long time to go
5 with that approved rate that was previously
6 granted, a very long time, and, and so it comes
7 down to setting a rate that's fair and
8 reasonable.

9 If you want to follow along I'm going to
10 present some highlights. Bear with me, but this
11 is like a general introduction to what I'm
12 going to do. But I'm going to now go through
13 some of the elements of our report just to
14 point out a few things I want you to pay
15 attention to. And if you're looking at your
16 document online if you start at Page 20 of the
17 electronic document that is the beginning of
18 our report, and our report then begins Pages
19 1-112, and so if I give a page number it's
20 going to be Page 1, 2 or 3 with starting at
21 920, okay? Okay, the -- I'm going to try to be
22 brief. And I know there's a lot already here,
23 but I just want to be sure I cover some of the
24 main points. Beginning on Page 3 the FCCA's
25 requested rate reduction is only for passenger

1 vessels. The primary assertion by the FCCA is
2 the disproportionate revenue that they pay
3 versus the handles that they generate in this
4 port, 34% of the handles versus 64% of the
5 revenue that's passenger related. By 2015 and
6 2016 the numbers changed from 39% for handles
7 and 60.5% for boat steers.

8 On Page 4 the 25% reduction in revenue in
9 2015 would have been \$1.7 million. Now that we
10 have 2016 data it would be \$1.8 million
11 reduction in revenue. And if you provided that
12 by the 18 pilots they projected it would be
13 about \$100,000 change in income. Starting on
14 Page 5 of the pilot's application, again this
15 is the first request since 2002. It's been over
16 fifteen years. Their primary reasons is their
17 operating costs are doing up, and they think
18 it's time for a raise.

19 If you look at Page 6 what we did was try
20 to just give you snapshot of what their rate
21 request would be. First of all, Clark, I'm
22 going to ask you if you'd like to say something
23 about this or not, but there is some question
24 about whether they can request a concurrent CPI
25 after a rate, upon a rate request. Would you

1 like to get into that now or, or later?

2 **MR. JENNINGS:** Sooner or later we're going
3 to get into that so we can go ahead and get
4 this off the table now if you wish. Having
5 looked at this I've got some concerns about
6 that particular portion of the request, for a
7 variety of reasons. One, let's go back to the
8 basics, 310 provides that once a rate is
9 established by this committee that rate is good
10 for essentially, well, you can come back and
11 request an additional, or a change in that rate
12 after a year and a half, all right, so the
13 legislature is considering that this committee
14 has jurisdiction, and is not going to give it
15 up, whatever you do is going to be good for at
16 least a year and a half. It could be good for
17 longer, but it's good for only at least a year
18 and a half, and so if you consider a rate that
19 has continuing adjustments essentially what
20 you've done is taken away the authority of
21 future committees, similar to what you would
22 see in the legislature, where you could only do
23 so much because, you know, you can't set
24 budgets beyond the year.

25 My other concern is that 310.151 addresses

1 CPI, and it says this cannot be the sole
2 reason, or the sole purpose of a rate, and to
3 me that would also say if you go forward and
4 for years 3-10 the only thing that's adjusting
5 this rate is CPI, well, now you've just made
6 that the sole reason for the increase in the
7 rate, and that would be contrary to 310.151. I
8 don't know if I just articulated that very well
9 or not. I hope that (unintelligible).

10 **MR. LAW:** Well, that's what I wanted to
11 hear from you, wanted the panel to hear from
12 you, because on Page 6 we looked at the 6% per
13 year for the first five years, and then with
14 and without a CPI adjustment that's, the CPI
15 adjustment may be irrelevant. So some of this
16 information just, especially when you look at
17 the cumulative increase with a CPI it, it's not
18 what it would be, and I want you to know that.
19 I think we can recalculate some of this stuff
20 for you, but I was just trying to present what
21 they were asking for too. Okay.

22 So these are the -- this what would happen
23 with and without the CPI over the next five
24 years. The other ancillary charge -- normally
25 ancillary charges are not that significant but

1 the minimum draft, the harbor control charge,
2 and the neopanamax do have a significant impact
3 on these rates. We estimated that going from a
4 14' to 18' on the minimum draft would generate
5 about \$45,000 to \$50,000 a year in additional
6 revenue. That's an estimate, but it's based on
7 these Exhibit B that has the -- I'm sorry, it's
8 based on a table in the application where they
9 list the number of vessels by draft, and we can
10 figure out how many vessels that would be
11 subject to.

12 The harbor control surcharge which would
13 be \$100 one way, \$200 inbound and outbound,
14 would generate about \$500,000 a year in
15 revenue, in additional revenue. And then the
16 neopanamax charge which would double the fee
17 for a neopanamax, looking at the Exhibit B in
18 2016 of 102 vessels that were greater than
19 90,000 tons, and that revenue was \$417,000, so
20 double that and you would have \$417,000 in
21 additional revenue if all those 90,000 towed
22 vessels were neopanamax. I'm not sure that
23 they are, but I think a pretty big percent are,
24 would be, would be large vessels such as that.
25 So that gives you an idea of what the pilot's

1 requested rates would mean to overall, overall
2 revenue.

3 On Page 8 we're listing the current rates
4 so that you see, and give you a history of all
5 the rate applications going back to 1993. On
6 Page 9 we talk about pilot compensation, and I
7 think there's a pretty big difference between
8 what you'll hear on pilot compensation in the
9 \$400,000 from Masters, Mates, and Pilots versus
10 what FCCA thinks would be reasonable there, if
11 FCCA thinks, has asserted that they're making
12 \$325,000 or \$350,000, \$100,000 less is still
13 going to attract and retain pilots. That's
14 your judgment.

15 On Page 11 we show that, how that's a
16 comparison to Port Everglades, where they have
17 a harbor master charge of fees on top of
18 pilotage rates, compares to what the pilots in
19 Miami are requesting. Again we estimated that
20 the harbor control charge would generate about
21 \$500,000, and in Port Everglades the users of
22 the port are paying about double that to the
23 Port Everglades for harbor master charges.

24 Okay, on Page 12 and 13 I'd like to -- we
25 compress some information here for you based on

1 data on Exhibit B. Exhibit B is, was provided
2 by the pilots, and it is a schedule of cargo
3 and passenger by tonnage, and the revenue
4 thereof in different layers. I think this is a
5 really important piece of information for you
6 all to study and comprehend. We tried to
7 compress it here for you for both 2015 and
8 2016. I left '15 in there when we did the
9 report a year ago, and then we updated it for
10 the 2016 data too just so you could see how
11 things changed there from year to year, but
12 looking at 2015 you can see the average revenue
13 for the different size vessels.

14 I think one thing that's really important
15 in comparing the two tables is that there are,
16 there's a pretty good number of handles in the
17 passenger category between 10,000 and 40,000
18 tons, and so not everything's a big, a big
19 cruise ship. And all you have to do is just
20 keep marching down that table, going up from
21 40,000 - 70,000 tons on up, and you'll see the
22 number of handles, the average revenue for
23 those handles, and how it kind of compares to
24 what the cargo ships are paying in that same
25 layer for size of vessel. And at the bottom of

1 the page you can see what the average handle
2 would be given that 25% discount the FCCA is
3 requesting. Also at the top of Page 13 we show
4 then what would the average vessel be paying at
5 the end of let's say the third year, we had to
6 use some year to give you an example, not all
7 five years of the request, but just to give you
8 an idea of what those requested rates would be
9 for these different passenger vessels in these
10 different layers of tons.

11 On the 2016 handle data I thought
12 something that was a little bit interesting was
13 hat there were some more ships added to the
14 less than 10,000 ton vessels, only 106, not a
15 very significant amount of revenue, and they
16 were, looked like they were paying the minimum
17 charge. And the above 160,000 ton went up from
18 18 handles to 108, so there is growth in the
19 large, very large vessels too.

20 Okay, moving on to Page 19, determination
21 of net income, we have an analysis there going
22 back to 2007. The reason we have 2007 there is
23 because when the pilots gave us an audited
24 financial statements and an application in
25 2008, and then they pulled it out because of

1 the economy, we had an audit, and so that's why
2 2007 is there. I'm not trying to cherry pick
3 financial information, but I had an audit so I
4 used it. So it does show you how even back to
5 2007, you know, revenue is really fairly flat
6 going back to 2997.

7 Net income -- it's important to look at
8 the subtotals that I'm presenting here, and
9 that is if you look at the, under 2015 the
10 average net income before fringe benefits at
11 \$327,218, that would be basically the W-2.
12 That would be the wages that we talked about,
13 comparable compensation. And then we go back
14 in and start identifying the fringe benefits,
15 what we determined to be discretionary costs,
16 and they're all itemized there for you to see.
17 Some of them are just not that significant, but
18 we do hope to show you that we looked for this
19 stuff, and accumulate it, and show it where you
20 see the information.

21 What this table doesn't do has been, since
22 our analysis of the unfunded pension is
23 discussed elsewhere, but it is such a, a number
24 subject to a lot of estimation, let's say not
25 actuarially determined, I just put it at the

1 bottom of the table and said, well, you can add
2 \$30,000 or \$45,000 depending on how you look at
3 that number to the average net income that's
4 presented on these tables. On Page 21 we
5 present a history of net income without the,
6 without the pension, and I mean the first year
7 we did the application in Miami in 1995, you
8 know, they were making just over \$300,000, so
9 you can see it goes down, it goes up, it goes
10 back down. There's just a lot of fluctuation
11 based on a lot of variables, again that complex
12 algebraic equation I presented earlier. Things
13 just -- there's a lot of variables when they
14 just are dealing with a rate.

15 On Page 22, walk through some of the
16 operating expenses, the major expense
17 categories, the -- on Page, your retirement and
18 health is one of the larger expense categories.
19 Employee compensation, nothing looks out of
20 line. I think the pilots pay what they need to
21 pay, and to retain good people, they need good
22 reliable boatmen, and I think as you saw the
23 other day on the tour of the port these guys
24 have to know what they're doing in order to
25 protect the safety of the pilot.

1 Auto and boat expenses, prior to when we
2 investigated in 2016 we knew the dock was an
3 issue, but I don't think they realized that the
4 Biscayne would be reaching a point of needing
5 replacement. Even though the boat surveyor
6 said all three boats are serviceable you're
7 still dealing with a forty one year old boat,
8 and the cost benefit, eventual life of that
9 boat have to be considered. Now, the pilots
10 did not give us any information, what they
11 think, they're just looking at initial bids
12 right now, so we just came up with our own
13 estimate, what if.

14 If it was \$1.5 million for the boat and
15 another \$.5 million to rebuild the docks, how
16 would you finance that. I think they would
17 finance all that they could because they can't
18 just take it out of current operations, that
19 would be shorting the retirees a lot of money,
20 if they were paying that on a short financing
21 term. So we just did a pro-forma of what that
22 cost might be, both in depreciation and, and
23 interest on the note. Depreciation is going to
24 track (unintelligible) pretty much. On Page 24
25 we present the history of the retirement costs.

1 You can see we go back to even 1990 when there
2 are just a few retirees, three, and then by
3 1998 they're up to 11 and 12, 13 retirees per
4 year, and so it's really, it's really costing
5 this organization to fund this retirement. And
6 it is unfunded, they're paying it out of their
7 own operation costs. Under health insurance
8 it's a big number, and one thing about the
9 health insurance for the pilots is their health
10 insurance includes their Work Comp. In any
11 other case Work Comp would be a business
12 expense, not income.

13 We couldn't -- we could not delineate the
14 difference in their premiums between the Work
15 Comp part and just the regular health benefit
16 involved, but I think you should note that part
17 of that health insurance -- if they were paying
18 a separate Work Comp premium we would consider
19 that a business expense, not a fringe benefit.
20 And you can see the difference in premium there
21 for these pilots, \$27,000 average for families,
22 dependent.

23 On Page 25 of the operating expenses in
24 2014 the professional fees were up by \$237,000.
25 That's getting the audits done, handling these

1 rate cases. They have to spend a lot of money
2 to be prepared for one of these rate hearings.
3 That's why they haven't had a rate hearing
4 since 2002, and it's just not something that
5 they can afford to take lightly. Starting on
6 Page 26 pilotage rates in other ports, the
7 Tables 1-8 are tables that we historically
8 present in an investigative report, so you kind
9 of get a comparative analysis of what certain
10 types of vessels of certain sizes pay in the
11 various Florida ports.

12 On Page 27 we have the cruise, these are
13 some of the cruise vessels and what they pay in
14 Florida ports. You will see that Miami, Port
15 Everglades, Palm Beach, Key West, are all kind
16 of in line. Canaveral is a little lower. Fort
17 Pierce is irrelevant because it's basically
18 closed, and the rates were so high because
19 there were so few vessels the rates had to be
20 set high there just to have a pilot go up there
21 and bring a ship in twice a month.

22 Table 3 just gives you what some of the
23 dimensions of these, of what we call a small,
24 medium, or large, or panamax vessels are, so
25 that when we apply the actual rates and these

1 various charts you'll see how we're coming up
2 with the pilot fee. So on Page 28 there is
3 Table 4, which has been comparing West Palm,
4 Port Everglades and Miami, the Charleston,
5 Norfolk and New York for your comparison. On
6 Page 29 Table 5 you'll see the pilotage rates
7 in the other ports. I think it's important to
8 note the effective dates on some of these. The
9 last rate increase in any port was in Palm
10 Beach in 2014. Key West hasn't had a rate
11 increase since 1991, and Port Canaveral hasn't
12 had a rate increase since 1981.

13 If you look at the proposed rates right
14 below that table I think you'll see we're
15 listing Port Everglades and Miami. Port
16 Everglades has an application pending as well,
17 and noted at the bottom is that the Port
18 Everglades application has a graduated tonnage
19 scale which is a little different than what has
20 historically been done in Florida as far as
21 rate setting, it kind of bring a kind of a
22 diminishing scale based on size, diminishing
23 rate based on the size of the vessels. Let's
24 see, Table 5, some more comparisons of these
25 four different vessels in all of the Florida

1 ports.

2 And then at the bottom of Page 30, just to
3 give you an example of what does a minimum,
4 what would this rate do to a minimum vessel.
5 We pointed out that the larger ships do
6 subsidize the smaller ships. The ships that
7 pay a minimum are probably barely covering the
8 cost of getting the pilot boat out there and
9 having a pilot, a boat, and staff, I mean it is
10 a subsidization for the smaller, smaller
11 vessels. But if you look at the table at the
12 bottom of Page 30 of what the draft and tonnage
13 would be years 1-5 with that CPI the rate would
14 go from \$355 current minimum charge up to \$683.
15 Now that's a \$328 increase, or 92%, but a big
16 part of that is, 28% of that increase is that
17 harbor fee. And then -- whereas 44% would be
18 the rate increase overall to all the rates that
19 were presented on Page 6 of our report.

20 So in this case the minimum vessels are
21 getting a pretty substantial increase, which in
22 a lot of ways makes a lot of sense except if
23 you're them, and they have, you know, a small
24 amount of cargo to spread that cost over. And
25 that's what you run into a lot of times, is how

1 many TEUs does one of those vessels carry, and
2 what do they charge for a TEU, and therefore a
3 few hundred more dollars makes a big difference
4 to some of those smaller vessels. And on Page
5 31 we show how the requested rate increase
6 years 1-5 would affect a large cargo vessel.

7 On Page 32 Table 7 another standard table
8 that we give is this, every port, the number of
9 handles, the revenue in every port, the
10 pilotage revenue in every port, the handle
11 time, the number of pilots, the number of
12 deputies, the average handle, revenue per
13 handle, and then the revenue handle per hour.
14 On Page 35 and 36, 34 and 35, excuse me, we
15 talk about the actual time doing piloting duty.
16 These -- when you compare this analysis to
17 Table 7 where we say the average handle time is
18 two hours, and then we present them four and a
19 half, including all of the time to come on
20 station, board a vessel, take the vessel out to
21 the sea buoy, get back on the pilot boat, come
22 back, or you might be waiting out at the sea
23 buoy for another incoming, for many cases this
24 is more realistic to look in the range of four
25 and a half hours at peak times, especially when

1 they're trying to maximize the use of the pilot
2 boat, given there's only three, but also the
3 cost of running it. Sometimes the pilots are
4 out at the sea buoy waiting on an incoming
5 after they get off another, so it all adds up to
6 work time.

7 Again -- and then there could be a light
8 day where they get on a small vessel and take
9 it out, and it's maybe less than two hours for
10 a handle. The point is it's the scheduling,
11 the peak load, the size of the vessel, the
12 complexities involved, the traffic, the
13 weather, everything is highly variable, but if
14 you think about the fact that the pilots have
15 maintained the same number of pilots since
16 2002, or the same in a range of pilots, they
17 know what they need to handle the peak load,
18 and I think they know that if you divide a net
19 income by fourteen people versus eighteen
20 people you're going to make more money, but are
21 you going to be able to handle it, can you
22 handle the peak load.

23 And I think if you go back to the very
24 first point in Chapter 310, is do the pilots
25 serve the public, the public interests, do they

1 serve the customer, and we haven't heard any
2 complaint that ships are waiting at sea, or
3 can't get in, or they're held up and it's
4 costing them money. And that was part of
5 Maersk and the other cargo companies' comments
6 about this, we don't want to be penny-wise and
7 pounds foolish on having fewer pilots and you
8 costing us a lot of money. We want to have the
9 number of pilots that will respond to our need
10 to get us in and out of this port on time, so
11 that all comes down to how many pilots do you
12 need, how much do they work. It just seems to
13 us that after fifteen years with no rate
14 increase they know how to manage this the best
15 they can to maximize their net income.

16 Okay, on Page 37 I've got the, there's a
17 projection here for what the rate increase
18 would decrease on passenger vessels, only with
19 mean to net income. And these are projections,
20 so remember my caveat that I stated earlier in
21 my projections, but generally it would reduce
22 income by \$100,000 per pilot. On Page 39, the
23 projections 2016, 2017, and 2018, these were
24 presented -- 2016, 2017, and 2018 were
25 presented in their application, so I didn't

1 really change anything there. These are
2 presented as, as they projected. They expected
3 revenue to go up some, but it was actually
4 \$130,000 greater than they expected. But I
5 didn't want to -- I footnoted that down at the
6 bottom, too insignificant for me to recalculate
7 all these numbers and, and for that, knowing
8 that there's an actual, but we don't know the
9 actual expenses. We know the actual revenue,
10 we don't know the actual expenses.

11 And then on the projection on Page 40
12 we're looking at revenue and expenses out to
13 2019, 2020, 2021. Those revenues did not
14 include the harbor control. There's so many,
15 so many variables here. I mean I think there's
16 just -- as we said at the bottom, caution. You
17 go out this far you're going to have some
18 projection error, so I do just want to point
19 out that the revenue was projected at 6% plus
20 the 1.6% CPI based on the 2018 base that they
21 had, but we didn't include the harbor control
22 on that. That's a % .5 million. Just to be
23 totally open about those numbers.

24 On Page 41, so what would be the impact,
25 are there enough -- what would be the impact,

1 or shortage, of licensed state pilots? What
2 we've presented here is a table of the number
3 of openings in ports, the number of applicants,
4 the number of qualified applicants, test
5 takers, the number of passed, the number of
6 those who took the tests and passed. Galen,
7 would you like to make a comment about that
8 please?

9 **MR. DUNTON:** As a matter of fact I'd like
10 to maybe explain the exam process to you so you
11 get an idea of what's involved in all of this
12 process, and then I will explain this table.
13 Well, let me explain the table first I think.
14 What the table shows for the most part is we
15 have been able to meet the minimum demands the
16 port needs for a pilot, but at some times,
17 especially in smaller ports, we have not been
18 able to meet them because there was a minimal
19 number of applicants available, and who could
20 pass the test.

21 Now let's get into the exam side of it.
22 And I'm going to give you the 2017 data which
23 was in the Board meeting last year at the end
24 of this just to emphasize something. We start
25 the exam process realistically in the Fall of

1 any given year. We start the exam process,
2 again, in the fall of any given year of those
3 ports. (Unintelligible) they in turn, and I'm
4 sure they'll probably talk about it even more,
5 but they in turn have to plan in advance for
6 when that applicant is ready to start handling
7 ships and become a viable state pilot, which is
8 for the most part a minimum of three years
9 after they declare the opening to a maximum of
10 maybe four plus.

11 The exam process, the openings are
12 declared in, like I said in the Fall at the
13 Board meeting, but we have a different venue
14 than the Coast Guard does. We only allow five
15 different venues to entrance into the system,
16 that is by rule of statute we use those, and I
17 tried to, have always offered, and have tried
18 to encourage people to talk to me in advance
19 because we have a lot of different applicants
20 from different fields that were licensed by the
21 Coast Guard that may not meet the minimum
22 requirements that are provided in our statute
23 for entry into the system.

24 We go through a lot analyzing the
25 qualifications, and then prepare the exam. The

1 exam is probably one of the least, most
2 respected exams I think in the country. We are
3 extremely comprehensive. We have spent, or I
4 should say not we, the Board has spent a
5 tremendous amount of money bringing in experts
6 from all over the country preparing questions
7 for this exam that are not typical of like the
8 Coast Guard. And just for your own information
9 I am retired Coast Guard. I have spent twenty
10 one years in the Coast Guard, eighteen of which
11 was in marine safety field. I handled every
12 office that was with inside the marine safety
13 office back in the 1970's, so I have been a
14 licensed examiner, among other things, so I can
15 speak with somewhat degree.

16 And you can always look at all the Coast
17 Guard -- because they're published and
18 presented. If you can memorize all of those
19 5,000 plus questions you could probably pass
20 that, whatever portion of that exam you're
21 looking at. The difference is we play, and look
22 at the interaction of those questions, and
23 decide which one (unintelligible)
24 comprehension.

25 First time takers in an exam typically do

1 not pass. I can't give you the exact
2 percentage, but I would say it's in the 10% or
3 less, because if, you know, thinking a Coast
4 Guard exam, and ours is much, much more
5 detailed. We have applicants presently in the
6 pilot system that have probably taken this exam
7 seven to nine times in order to pass it and get
8 the qualification. We only have a declarative
9 number of openings. We will only select those
10 individuals that have the top score in that --
11 so it's a very, very competitive exam.

12 As I've said, you can see on Page 41 the
13 table that shows all the years and the declared
14 openings, and for the most part we have been
15 able to meet the minimum requirement for that
16 port. When it has an opening we can fill it,
17 except at times in the very small ports, and
18 there's a number of reasons. So I've been
19 explained by Richard that the large ports have
20 a larger number of applicants because
21 technically the revenue and other things
22 provide a better resource of funds for them to
23 live on.

24 In 2017, I'll give you the stats on that
25 just for your own information, we had eight

1 people -- we tested for different ports. In Key
2 West we had eight applicants. Seven were
3 approved by the Board. Five tested, and five
4 passed that exam. In Miami we had twenty two
5 applicants. Twenty one were approved, fourteen
6 tested, and four passed. In Pensacola we had
7 five applicants. Four were approved, one
8 tested, and nobody passed. In Tampa we had
9 twenty two applicants. Sixteen were approved,
10 nine were tested, and three passed.

11 This is not untypical. We typically, as
12 the record shows, at the bottom of that page
13 you'll see that we have, roughly it has gone
14 down a little bit from seventy five to sixty
15 six in 2016. In 2017 it went down to 60% of
16 actually testing. Out of that we had forty two
17 in the first five years from 2007 to 2011 that
18 actually passed the exam. In 2012 to 2016 it
19 was 40%. In 2017 it was 41%, so we're
20 relatively consistent overall, but realize
21 these all right not first time takers that make
22 this average increase.

23 Any questions?

24 **CHAIR:** Richard, based on where we are
25 could we maybe stop and take a fifteen minute

1 break?

2 **MR. LAW:** That'd be great.

3 **CHAIR:** Okay, let's take a fifteen minute
4 break, or nineteen minutes, and be back
5 starting at 11:00. Okay, thank you.

6 (Thereupon, a brief recess was taken off the record
7 and the meeting continued as follows:)

8 **CHAIR:** Okay, let's reconvene. Mr. Law,
9 I'd like to thank you for taking a break, and
10 let's resume. You were on Page 42 or 3.

11 **MR. LAW:** Okay, thank you. The next part
12 of our report is projected changes in vessel
13 traffic. I think it's important to see the
14 handle data from 2006- 2016 to see that
15 fluctuation in the last several years. We have
16 some captions out of the Port of Miami on
17 cruise facts. Again Port of Miami is the
18 cruise capital of the world. I think -- I
19 think when you see this port, when you drive up
20 on a Thursday, Friday, Saturday, Sunday, and
21 see about five or six very large cruise vessels
22 parked out there that this is the big league of
23 piloting, and also considering the environment
24 here, and this is a very critical piloting
25 situation with the size of vessels and the

1 traffic that's here, not just the commercial
2 traffic but also the recreational traffic. We
3 got some more information on cargo tracks. I'm
4 not going to -- it's all presented. There's no
5 sense in talking about it, but I think it's
6 relevant information.

7 Let's move on to the retirement plan.
8 This subject brings up a lot of discussion
9 because the retirement plan is unfunded. It's
10 very common in the piloting industry around the
11 country that these plans are unfunded. I think
12 it has a lot to do with the fact that many
13 deputy pilots come into the industry a little
14 later in their career, maybe twenty eight, low
15 thirties in age, and so they have a limited
16 time, you know, health and skill, and whatever
17 lies to put in a number of years to build up a
18 retirement on their own, but I think that you
19 will hear some testimony from the pilots, a lot
20 more about this, of how prevalent these
21 unfunded plans are in the industry, but it does
22 present quite a problem on the expense side for
23 the operation, as we presented with that
24 history going back to 1990, and what that cost
25 accumulates to each year.

1 In Florida really only the major ports
2 have this unfunded plan. I mean in Pensacola,
3 Panama City, Fernandina, there's just not
4 enough traffic to even consider something like
5 this, so this benefit that they earn over 22.9
6 years is something that is common in the large
7 ports in Florida, but it's not something that
8 is just guaranteed just because you're a state
9 pilot in Florida. It's almost like because they
10 can, because they can do it, they can fund it.
11 I think that's a significant factor here.

12 In our experience of evaluating these, and
13 hearing other rate review committees and boards
14 consider this, you know, we've heard discussion
15 like what can we do about it, what in setting
16 the rate can you do anything about it, but
17 these plans are binding plans, or contractual
18 plans when a new pilot signs on and becomes a
19 partner in their organization, and they're
20 bound to those active pilots to pay that
21 benefit, so it's really -- it creates as far as
22 rate setting, and you look at the number, the
23 amount of dollars involved, it does create an
24 anomaly if you will of how do you relate a rate
25 to the pilot benefit for the unfunded

1 retirement benefit.

2 It's just something that this Board has to
3 think, consider on their own. The benefit is
4 about 50% of an active pilot's net
5 distributable income. There's no -- there's no
6 adjusting. If you don't make it to your full
7 retirement years you haven't earned anything.
8 If you work ten years you don't get a part of
9 it. There may be some plans that are a little
10 bit different, but so it's hard to really say
11 what's the value when there's such an extreme
12 vesting amount. We did present some analysis of
13 how we came up with the \$30,000 to \$45,000
14 valuation, but I think we've given you enough
15 analysis, and negative factors and positive
16 factors to think, have a look at this, and I
17 think each person, whether you're an accountant
18 or a businessman, or whatever, everything, each
19 one of you would I think consider this in a
20 little bit different context.

21 The last thing I'd like to present is some
22 of this port data on Page 56, how the revenue
23 per ton from 2008-2016, the passengers, revenue
24 per passengers for the port for the same period
25 2008-2016, and then look at the revenue, the

1 pilotage revenue per ton for pilotage, and then
2 the pilotage fee per passenger is flat from
3 2008-2016. Of course it's simply a matter of
4 scale, you have larger ships, a higher number
5 of TEUs per vessel, spreading that cost, or
6 even the number of passengers over, even as a
7 larger ship the cost per passenger is about the
8 same. It's an important piece of information.

9 So that concludes our presentation, and
10 I'd be happy to entertain questions at this
11 point.

12 **CHAIR:** Great. Thank you, Mr. Law, for
13 going through that. That was very helpful.
14 Board members, would you like to Q&A any of the
15 information pertaining to his report, or any
16 other questions you may have related to the,
17 the cost side?

18 **MR. OATIS:** I'll bring up a couple while
19 everybody else is thinking of theirs. Did
20 Biscayne Bay have a third party accounting
21 audit by an accounting firm, and did you look
22 at that as part of your review?

23 **MR. LAW:** Yes.

24 **MR. OATIS:** And who does that?

25 **MR. LAW:** GSK.

1 **MR. OATIS:** Okay. And on Exhibit B, Page
2 12, on all that data about number of handles
3 and passenger cargo information, you had
4 mentioned the Biscayne Pilots provide that
5 information to you. Was that audited from
6 their accounting form, or, you know, how do you
7 understand the accuracy of that?

8 **MR. LAW:** They compiled it, and it's not
9 audited or compiled. It's not -- there's no
10 attest by the CPA, it's just their data.

11 **MR. OATIS:** Okay. So, in other words, you
12 (unintelligible).

13 **CHAIR:** I'll just go ahead -- I mean I
14 just have like five or six questions. I had
15 more, but you covered them.

16 **MR. OATIS:** Good.

17 **CHAIR:** You know, on Page 19 where you
18 have the financials and revenue projections by
19 pilot, and, you know, you show 2007 and then
20 you jump to 2014, and you explained 2007 was
21 audited, am I correct, isn't 2008 when the
22 recession started, right?

23 **MR. LAW:** Right.

24 **CHAIR:** The amazing statistic here is that
25 the revenue number in 2007 is not far off from

1 the revenue number in 2015, but in the
2 2008-2012 years, do you have, do we have an
3 understanding of what revenue was like during
4 that time frame? I mean did it dip with the
5 recession; that's what I want to know?

6 **MR. LAW:** I don't have that available. I
7 may be able to dig it out of my work papers if
8 you give me a minute, and I'll look for that,
9 okay?

10 **CHAIR:** Yeah, because the way the data
11 looks, it looks like, well, we've been flat for
12 ten years, and I was wondering, maybe is that
13 really true, because a lot of things were
14 happening in the economy during that whole
15 time.

16 **MR. LAW:** Yes. Let me answer your
17 question, and it may also answer your question
18 about the exhibit as well. But the -- each
19 pilot organization has to report their number
20 of handles and their pilots' revenue each month
21 to the Department, and so, because they pay a
22 fee to the Department to be governed by the
23 Board, and so the total revenue that's on
24 Exhibit B agrees with substantially, with what
25 is, they report to the Department. Not that

1 it's audited, but it is. But also that
2 revenue, the Department has that. They keep it
3 by every port historically back many years. I
4 do have that. I brought it with me, the
5 revenue in prior years.

6 **CHAIR:** Another question I had is on Page
7 28, where you show the pilotage fees for cargo
8 vessels, and you have some numbers from some
9 ports outside of Florida, you know, the
10 shocking thing is it just seems their numbers
11 are significantly higher in those other non
12 Florida jurisdiction for a few of them. Do you
13 have any color commentary on why? Are we
14 comparing apples to oranges here in terms of
15 costs they include, or is it just a fact that
16 other markets outside of Florida charge more?

17 **MR. LAW:** I think it's a matter of
18 physical dimensions of these ports. This is a
19 short, a short handle in Miami and, and Port
20 Everglades and Miami, and so it's -- if you --
21 if you compare this back to Tampa, which is on
22 Page 30, you'll see some, the fact that there's
23 an eight hour handle in Tampa gives you an idea
24 of how those, they're paying based on time and
25 tonnage. I mean the rate is established because

1 of time, okay, so these are the ports that
2 you're referring to, Charleston, Norfolk, and
3 New York. I don't have the distance for those,
4 but it might be a good idea to add that to our
5 table. Maybe we can get that next time.

6 **CHAIR:** Then on Page 31 there's a ranking
7 at the bottom on the port rankings. Can you
8 just explain what does that mean, the FCCA
9 proposed and BPC proposes ranking?

10 **MR. LAW:** From -- in Table 5 if you look
11 at from the least, let's see, the highest rate
12 -- if you look at the small column, and look at
13 Panama City, it has the highest rate for that,
14 for smallness, and the lowest is Port
15 Canaveral, 11, okay? And so the lowest rate
16 from the highest is 1. 2 would be the next
17 high, I mean the next lowest from that, going
18 up to 11 would be the lowest rate.

19 **CHAIR:** So the FCCA proposed is if the
20 rate increase, I mean decrease was calculated,
21 is that what they're trying to show?

22 **MR. LAW:** Right. But, you know, we didn't
23 do that through year 3, 4, 5. That was kind
24 of, it would get a little bit confusing.

25 **CHAIR:** Then on Page 46 when you're

1 talking about the retirement plan, I just want
2 to make sure I understand what the 20% cap
3 means, and so in my simple logic does that mean
4 they cap the amount of money that goes into the
5 retirement pool based on 20% of the revenue; is
6 that right?

7 **MR. LAW:** That's correct.

8 **CHAIR:** Okay. And that works in --

9 **MR. LAW:** First you determine what is a
10 half share, and then what would all the half
11 shares relate to the total revenue, 20% total
12 revenue, it's capped out at 20%.

13 **CHAIR:** Okay. So therefore if the revenue
14 goes down the retiree benefits go down.

15 **MR. LAW:** Right. If they're limited by
16 the 20%. And one thing -- can I point out
17 something?

18 **CHAIR:** Yes.

19 **MR. LAW:** I mean if you look on Page 40,
20 and I bet this project is the most not perfect
21 thing in the world, but when we projected
22 retirement out in 2019, 2020, and 2021, we just
23 said it's going to be 20% of revenue. Not that
24 it's going to be. I don't know how many
25 retirees there will be. We just said that's

1 the cap, so that cap could be -- the amount
2 paid out could be less than that cap, and then
3 therefore net income could be higher, okay?

4 **CHAIR:** That's true. But you did not a
5 trend of obviously increased retirees over the
6 last -- the assumption you used to make that
7 assumption.

8 **MR. LAW:** Well, no, I really just said --
9 if you look at 2021 the retirement is 20% of
10 revenue at capped, and it may not be that high
11 but it will not exceed that number.

12 **CHAIR:** While we are talking about the
13 benefits going back to Page 21, for purposes of
14 how the estimated imputed value of the unfunded
15 pension plan is being calculated, I know, let's
16 say back in 2000 it's about \$30,000 per year,
17 and now you're currently estimating it's
18 somewhere between \$30,000 and \$45,000. If you
19 can give me high level process of how you came
20 to that amount, came to that range.

21 **MR. LAW:** Well, it is presented in this,
22 starting on Page 48 where we just try to back
23 into a number, in other words what would it
24 take to pay that amount of money, accumulate
25 that kind of money to pay out let's say

1 \$150,000 benefit, but with no residual, with
2 all those factors, and there's too many
3 variables to say that there's anything other
4 than a range of numbers.

5 **CHAIR:** Okay. And then as far as I guess
6 the per pilot that we're considering, does that
7 include those pilots that have hit that vesting
8 level, the 22.9, or is that for all pilots
9 currently in the process? I'm just trying to
10 figure out are we attributing the pension to
11 pilots who might not get qualified for it.

12 **MR. LAW:** We're considering that if it
13 took let's say \$45,000 to accumulate that
14 benefit, that's, you would attribute that to
15 every pilot.

16 **CHAIR:** Okay, assuming that at some point
17 they will all reach that --

18 **MR. LAW:** You assume that they will all,
19 all qualify.

20 **MR. OATIS:** I had another question. You
21 made a comment earlier, and I can't find the
22 page number, but a difference in billing
23 between the Everglades and Biscayne is
24 something around the harbor --

25 **MR. LAW:** Harbor control.

1 **MR. OATIS:** Right. And so is that the
2 County performs that function in Fort
3 Lauderdale; is that -- explain --

4 **MR. LAW:** The Port Authority has a harbor
5 master, that they charge a fee for harbor
6 control.

7 **MR. OATIS:** The Port Authority does.

8 **MR. LAW:** Right.

9 **MR. OATIS:** They bill that separately, and
10 so it's not part of the association there,
11 where in Miami it is?

12 **MR. LAW:** Well, in Miami there's no harbor
13 control. The Port does not manage traffic in
14 the port the way Biscayne Bay Pilots do, so
15 they're providing a service that is otherwise
16 charged in Port Everglades, but given the -- I
17 mean not -- but it's part of the -- it's --

18 **MR. OATIS:** But in Biscayne the pilots
19 perform that service.

20 **MR. LAW:** That's correct.

21 **MR. OATIS:** Okay. All right.

22 **CHAIR:** Other questions? Yes, sir.

23 **MR. WINEGEART:** On Page 2 under FCCA's
24 application. it states in 2013 34% of handles
25 were passenger and 64% of revenue was passenger

1 related, and then the next paragraph it says,
2 '15 and '16, I guess that's combined numbers,
3 39% were passenger handles and 60% were
4 revenue. That's a 10% difference. Is there an
5 explanation of why that changed in those two
6 years? Is it because they're handling bigger
7 cargo vessels that are bringing in more
8 revenue, or --

9 **MR. LAW:** This -- that information is
10 taken on the 2016 data on Exhibit B, and it's
11 just -- it is what it is. I don't really have
12 a reason why, it just is what it is. 2015 and
13 2016 were so close, like 60.2 and 60.7, so I
14 just made it one number for the two years.

15 **MR. OATIS:** Also, and I don't have the
16 page number, there's an administrative law
17 judge that basically said average pilot
18 compensation was around \$400,000 for I forget
19 what year it was, do you know did that include
20 any pension calculations, or what, can you
21 explain that number to me a little better?

22 **MR. LAW:** I saw it happen after I made
23 this, you know, I don't know. I don't know if
24 it includes all the fringe the way that we do
25 it under 310. I think -- I was at the hearing,

1 and I think that the, in general it was a
2 general compensation number of about that.

3 **MR. OATIS:** Do you know what page that is?

4 **MR. LAW:** Number 36.

5 **CHAIR:** So the question, just to clarify
6 your point, was is that a comparable number
7 onto Page 19's average income per pilot, or is
8 it a comparable number to the subtotal, one of
9 the subtotals, or you do you know?

10 **MR. LAW:** That's -- that's right. And, you
11 know, that's why in the beginning I said if
12 some people get a W-2 and it's 400, and some
13 people are getting net income and it's 400 plus
14 their other benefits, it's, it's, it gets
15 un-comparable. And I think what Mr. Quick
16 from Masters, Mates, and Pilots, will have more
17 information for you on that, because I think he
18 was the one giving testimony to Judge Watkins,
19 and I think that's what that's based on.

20 **MR. ASSAL:** One other question.
21 Pertaining to the harbor master, do you know
22 what other services they are getting for that
23 fee, for the harbor master fees?

24 **MR. LAW:** Would that be Port Everglades,
25 or what Miami is requesting?

1 **MR. ASSAL:** Port Everglades. No, Port
2 Everglades. You said Port Everglades has an
3 additional fee for the pilots -- let me
4 rephrase that. Port Everglades has an
5 additional fee for harbor masters, right? What
6 are they paid for for that fee? Do you know
7 that?

8 **MR. LAW:** No.

9 **MR. ASSAL:** Okay, thank you.

10 **MR. SOLA:** You guys got my questions.

11 **CHAIR:** Other questions? Okay, Mr. Law
12 will be here throughout the day, tomorrow, and
13 possibly Friday, so we can always call him back
14 up to clarify. So thanks so much for going
15 through that. That was excellent, good little
16 review. Okay, it's 11:30 so we can go ahead
17 and start with Caribbean Cruise Association
18 presentation to support its application for
19 rate change. Mr. Panza, we can take some
20 advice from you on how far you want to go, then
21 stop for lunch --

22 **MR. PANZA:** I would appreciate it if we
23 could -- I could do my opening statement, and
24 then probably break for lunch. I don't think my
25 opening statement will take more than fifteen,

1 twenty minutes.

2 **CHAIR:** That's perfect. Okay.

3 **MR. PANZA:** Okay. I hopefully can stay
4 within that parameters. Thank you very much,
5 members of the committee. We wanted to make
6 some points of clarification as we start this
7 case so that there's no confusion, as I believe
8 that there was possibly in the last hearing.
9 And we want to state that we are here seeking a
10 rate decrease of 25% to be, to look at what
11 would be fair, just, and reasonable rates. We
12 are not here at all to denigrate the pilots.
13 We are not here at all to say that the pilots
14 are not necessary. We are not here at all to
15 say that we don't need pilots. We are not here
16 at all to say that the pilots do not perform a
17 valuable service.

18 Everybody in this room I would presume, I
19 think, would probably agree that the pilots
20 perform a valuable service, that they're
21 entitled to a fair, just, and reasonable
22 compensation for that valuable service that
23 they perform. We are not looking to reduce the
24 number of pilots that currently serve the Port
25 of Miami, and we are also not looking to reduce

1 anything that deals with the number, like I
2 say, the number of pilots and the methodology
3 that they choose to use.

4 What we do want to point out, because it's
5 a voluntary methodology that they choose to use
6 with staffing, et cetera, which we will
7 discuss, so when I discuss staffing it's not
8 meant in any regard whatsoever to say that the
9 pilots should choose less staff, it is just a
10 fact that the pilots state that they have to
11 operate as a business. This in fact is a
12 monopoly, and it's a state run, or a state
13 sanctioned I guess I could say, monopoly, and
14 as a result of that monopoly there's no free
15 market, so we can't go, so the cruise ships
16 cannot go to some other vendor, so to speak,
17 some other set of pilots, and say we would like
18 to get a bid from you, and we'd like to get a
19 bid from someone else, we'd like to do an RFP,
20 we'd like to do an ITN, we would like to do
21 some other type of procurement instrument to be
22 able to procure these services.

23 These services are what are made available
24 pursuant to the statute, and that's what we're
25 required to do. As a result of that this

1 committee has the obligation, which I certainly
2 think the committee clearly understands its
3 obligation, to ensure that there is a strict
4 oversight of the operations, and that the, and
5 that the pilots are operating this in running a
6 tight ship. Could we have Exhibit A please,
7 the first one, which is Section 310.151?

8 And under -- under Section 310.151(5) is
9 what you all are governed by, and what we're
10 governed by, and what the State of Florida is
11 governed by, and it basically clear indicates
12 that in determining whether the requested rate
13 change will result in a fair, just, and
14 reasonable rates, the committee shall give
15 primary consideration to the public interest,
16 and promoting and maintaining efficient,
17 reliable, and safe piloting services. We agree
18 with that. The committee shall also give
19 consideration to the following: The public
20 interest to have qualified pilots available to
21 respond properly to vessels needing their
22 service. We would agree with that. And we
23 would agree that that's what's been occurring
24 in the Port of Miami since they've had pilots.

25 Now we go to Paragraph 2, or (b)2 a

1 determination of the average net income of
2 pilots in the port, including the value of all
3 benefits. So that when Mr. Law claims, states
4 that we have to look at a W-4 or a W-2, or
5 whatever it may be, or a 1099, or some other
6 document from the IRS that indicates this is
7 what these pilots receive, the statute here
8 requires you to consider the value of all
9 benefits. The legislature obviously could have
10 written it not to consider all benefits, but it
11 did, derived from the services as a pilot. So
12 you must consider all those.

13 The purposes of this subparagraph, net
14 income of pilots refers to the total pilotage
15 fees collected that's paid by the rate payers.
16 The rate payers are basically two
17 classifications for the most part. That would
18 be the cruise ships and the cargo ships. In
19 the port minus reasonable operating expenses.
20 And this is probably one of the primary
21 responsibilities, in our opinion, of the Board.
22 And that's why we come to the Board, and that's
23 one of the reasons why we're asking for a rate
24 decrease. The operating expenses need to be
25 reviewed, and obviously reviewed carefully, as

1 any other business would be reviewed.

2 And since it's not the free market where
3 somebody could come in and bid, and say I'm
4 going to bid for my boatman, I'm going to bid
5 somebody getting paid \$50,000 a year instead of
6 \$70,000 a year, we as the customers, as the
7 cruise ship industry, do not have the luxury of
8 doing that, so it's up to the Board to make a
9 determination whether these operating expenses
10 are really cut to the bone, they're really
11 tight, they're really like any other
12 governmental agency would have, and because
13 that's in essence what this is.

14 Divided by the number of licensed and
15 active state pilots within the ports, so you
16 take the number of pilots -- now, who
17 determines the number of pilots? The Pilots'
18 Association determine the number of pilots.
19 The Board does not determine the number of
20 pilots, the association itself determines the
21 number of pilots. If the association felt they
22 could operate with ten pilots I guess they
23 would operate with ten pilots, or with one
24 pilot, or with eighteen pilots, or with more.

25 Then Number 3 is the reasonable operating

1 expenses of the pilots, so that's repeated
2 again in here. So you have to look at are
3 these, are these operating expenses reasonable.
4 Then if you go down to Number 9 -- I'm not
5 going to read you all of the sections in there,
6 but let's go to Number 9, and Number 9 is the
7 cost of retirement and medical plans. That's
8 also something that you need to consider. It's
9 not a discretionary item, it's an item that's
10 part of the compensation package. It's what
11 the entire compensation is made up of.

12 So those are kind of the parameters of
13 what the Board obviously, and the committee
14 obviously have to look at. We feel that the
15 rates are not reasonable for cruise lines based
16 on changed circumstances. And you'll say to
17 me, well, what are they, you know, what are the
18 changed circumstances. The current per call
19 cruise rates are up to \$13,000 for a call to
20 the Dade County, to Miami-Dade County Port,
21 Port of Miami, and that means going from the --
22 I believe some of you, or all of you may have
23 been out on the, on the trip yesterday and saw
24 that goes out to two or three miles beyond the
25 buoy I believe, and going through the channel.

1 And it's pretty much of a straight channel,
2 which you'll hear from the Admiral and Captain
3 later on how, on how all that works.

4 In our estimation the pilots made
5 somewhere in the neighborhood of about \$499,000
6 a year when you take into account the benefits
7 that are required under this particular
8 section. Under Mr. Law's report, on Page 9 of
9 his report he indicates that the pilots make
10 somewhere between \$396,000, or excuse me,
11 \$366,170 in compensation and benefits, plus
12 \$30,000 - \$45,000 in retirement if in fact they
13 were taking their retirement and basically
14 funding it as you would have any other
15 actuarially sound retirement plan.

16 And when I say that, actuarially sound,
17 we're talking about a retirement plan, every
18 single retirement plan, I can't say every
19 single one because the pilots do it this way
20 but the vast, vast majority, probably 95% of
21 the retirement plans are funded in some way
22 each year. There's a couple of reasons for
23 funding them in some way each year. Some plans
24 require the employee to contribute, such as say
25 the state plan would do. Other plans, the

1 employer contributes the full amount of the, of
2 the plan, and it's an employee benefit, and
3 depending upon the industry and what they might
4 want to do.

5 But there's another fundamental reason for
6 that, and the fundamental reason for it is it
7 has compounded interest, so that if you took
8 the low end of \$30,000, or the high end of
9 \$45,000, and you put that money aside in an
10 escrow account, or a pension trust account, or
11 whatever account it might be, and you kept that
12 money for twenty years, that money is going to
13 grow, and it's going to grow exponentially so
14 at the end of twenty years you're not going to
15 have to collect as much money as you would
16 normally have to do if it was unfunded where
17 you just have to fund \$2 million, as we have
18 done, and as the pilots have done in this
19 particular case, out of operating expenses.

20 You would have already recognized that
21 money. That money would have grown at probably
22 an average of about 5% a year in general, and
23 under Mr. Law's chart, which we'll talk about
24 in much more particularity in a little while,
25 or when we're doing our presentation, that

1 would have been a savings to the system of
2 about \$24 million. But rather than the pilots
3 saving the \$24 million because of the
4 compounded interest they just pass it along,
5 we'll just pass it along in an operating cost,
6 it's non, so we don't have to take any money
7 out of our pocket, because if they take any
8 money out, the \$30,000 or \$45,000 would come
9 out of their net operating funds, which would
10 mean that they would get less money each year
11 because it would be going towards their pension
12 plan just like every other employee probably in
13 the country does. But they don't do that, so
14 we think that that's part of the unreasonable
15 nature of this.

16 Secondly, the cost of pilotage for cruise
17 ships has grown unreasonably over the last
18 twenty years. The pilots, and Mr. Law and the
19 pilots will tell you that they have not got a
20 rate increase in the twenty, or since 2002. It
21 won't be twenty years, that's fifteen years I
22 guess. If we can look at the Graph C, or Chart
23 C please? And we have smaller charts to give
24 to you all so you don't have to worry about
25 memorizing these, or having a photographic

1 memory. We will distribute these as exhibits
2 at some point when it's appropriate to do. If
3 you can read them -- we apologize for the way
4 these are coming across with the room size and
5 everything.

6 But the, the pilotage, the cost of
7 pilotage for cruise ships, as I said we
8 thought, we think, or we believe is
9 unreasonable over the last twenty years. The
10 rate -- this is a really important chart
11 because the rate -- it says the committee shall
12 fix the rates, you shall fix the rates of
13 pilots pursuant to this section based upon the
14 following vessel characteristics. Obviously
15 the length, everybody understands what that is,
16 you know, how long the ship is. The beam, how
17 wide it is, that's not a big deal. Net
18 tonnage, how much, if you put it on a scale
19 what does it weigh. Gross tonnage, and this is
20 really in red because this is what the, this is
21 what the, creates this illusion, and it creates
22 this fallacy.

23 And we're going to go into much, much more
24 detail about gross tonnage because what gross
25 tonnage does is gross tonnage measures the

1 space, the cubic space underneath a covered
2 roof, which would be air for the most part. So
3 that's what you're measuring here. Or dead
4 weight tonnage, which would be the weight that
5 that ship, mainly cruise, cargo ships can
6 carry. The next one, (d) is freeboard, or
7 height above the waterline. That's usually the
8 part that's, when it ends with red and goes to
9 blue, or whatever color the vessel is. And
10 then (3) is draft, and that's one of the
11 considerations that you have, and that's the
12 amount of distance there would be below the
13 water line, or any combination of the vessel
14 characteristics listed in this subsection, or
15 other relevant characteristics or
16 characteristics, vessel characteristics or
17 characteristics.

18 The other combination could be what is the
19 sophistication of the electronics on the new
20 cruise ships that cost \$2 billion. What --
21 what is all of this? That's not counted.
22 What's counted here in front of you to
23 determine what the rates are are two measures.
24 One measure is gross tonnage, and that should
25 be gross registered tonnage, which is GRT,

1 which you'll hear a lot about, and the draft.
2 The GRT is a measure of the enclosed volume.
3 GRT is not rationally related to safety and
4 maneuverability of the ship, which you'll hear
5 from both the Admiral and the Captain. These
6 are billion dollar ships with the most
7 sophisticated technology, with the most
8 sophisticated propulsion system.

9 The ships, some of the ships that we will
10 show you, many of them will have six propulsion
11 engines, three azipods, which are what we've
12 substituted for a rudder that goes in a 365o
13 circle that could move these vessels, four bow
14 thrusters, compared to a cargo ship that has
15 one screw, one propeller, and it has a paddle,
16 or a spade I guess they call it a spade rudder,
17 which moves it, which are much more difficult
18 to move, or to maneuver.

19 Many of the large cargo ships, the pan,
20 the post panamax ships, pay a much smaller fee
21 than the cruise ships for the same or smaller
22 size vessel, and they're not as sophisticated,
23 and quite frankly we believe they're more
24 dangerous. The Captains on the cruise ship
25 lines are extremely highly experienced, and

1 extremely capable, of which you'll hear. On
2 the cruise -- we're going to go through who
3 mans the com, or the bridge on a cruise ship,
4 one of these cruise ships that cost a \$1
5 billion or \$2 billion.

6 You have a captain, staff captain, their
7 master unlimited. You have a first officer, or
8 second officer, or third officer. And we'll go
9 through their experience levels, and we'll go
10 through the experience levels that they have of
11 taking these same vessels and going through
12 ports all over the world without pilots. So we
13 will -- we will explain all of that. The
14 workload and the fees have just gotten out of
15 control. Cruise lines are the majority of the
16 pilots' revenue. They are either 54%, or if
17 it's more currently 60%, but it's the majority
18 of the revenues for the minority of the work,
19 and we're going to have many of these slides
20 that show you the differentials between those
21 when we get into those particular areas.

22 In 2016, as an example, just as an example
23 right now, in 2016 you had 1,700, it would take
24 1,795 cargo handles, this is the highest
25 segment of cargo handles -- now, these

1 admittedly are smaller cargo vessels, but it's
2 still counted on the list as a handle by the
3 pilot, they still need a pilot, they're over
4 10,000 tons, or within 10,000 tons. They've
5 earned a small fee than 108 cruise handles.
6 Now, that 1,795 cargo handles that had to come
7 into the port, had to have the danger of coming
8 into the port, had to have all of the
9 characteristics that the pilots say, that
10 there's submerged reefs, and all the rest of
11 this, and they had to do it 1,795 times to earn
12 a smaller fee than it would take for 108 cruise
13 ships. And the only reason the cruise ships
14 have it is because they have the larger GRT,
15 which they have this larger open area, open air
16 area, which you'll see in some of our slides
17 this afternoon.

18 BPA, the BP, you know, the pilots, let me
19 just call it that. I'm getting mixed up with
20 my words here, BP that are the pilots face,
21 face more great risk, much greater frequency to
22 the, to pilot cargo lines, and they earn a
23 smaller fee, and it's just not a rational
24 split. We're not saying increase the, the
25 cargo fees, or anything like that, or to

1 decrease the cargo fees, but it's just not
2 rational. There is just no basis for it.

3 Now let's look at the fundamental argument
4 that the pilots have not gotten a raise since
5 2002. And we submit to this honorable Board
6 that that's absolutely unequivocally
7 unalterably false. It's just wrong. And the
8 reason it's wrong is under any other set of
9 circumstances in any enterprise -- and the
10 pilots claim they're a business, they've got to
11 run this as a business, they got to manage
12 their operation as a business because this is
13 the amount of money they're going to get. So
14 in any other business if you do half the work,
15 you know, and you get the same fee, you're
16 probably making twice as much money, in any
17 other normal kind of a business. What happens
18 here is the increased sizes of the ship, the
19 organic increase -- the ships have gotten much,
20 much bigger, which we'll show you grafts and
21 charts on that.

22 So that would be about twenty two years
23 ago, twenty one years, twenty two years ago.
24 The pilots had eighteen pilots. They did
25 10,585 handles. 10,585 handles. In 1989, or

1 excuse me, in 1998 -- I'm sorry in 1998 they
2 had 8,909 handles, so that was about 1,000 or
3 so less, 1,500 handles less. They had \$8.9
4 million in total piloting revenue, and at that
5 point they still had eighteen pilots. In 2006
6 -- now this is some, from now some ten, eleven
7 years ago, they had 7,246 handles, so now
8 they're down from 1884 by over 3,000 handles,
9 3,000 units of work they're down. They still
10 have eighteen pilots. In 2016, which is the
11 recent numbers that Mr. Law used, and the, and
12 the pilots will use, they have 5,231 handles.
13 They still have eighteen pilots, and the
14 revenues are higher.

15 The revenues are \$11.2 million for
16 piloting revenue in the year 2016, so what's
17 happened is in the year 1995 they had 10,585
18 handles, in the year 2016 they had 5,200
19 handles, which is half. They had the same
20 number of pilots. I don't know what they're
21 doing of the other half of the time but they
22 had the same number of pilots, and they're
23 making the same amount of money, so when we
24 talk about the revenues remaining flat, the
25 revenues have remained relatively, I guess

1 relatively constant, within \$1 million or so.
2 The pilots' numbers haven't changed. What's
3 changed is their units of work. They work
4 less. They work half the time.

5 The pilots do an average if you take these
6 numbers and divide them, and we will show that
7 to you mathematically, it's not Panza saying
8 this, if you take these numbers it will show
9 with eighteen pilots, it will show they average
10 about 5.5 handles per week at approximately 2
11 hours per handle. When I say 2 hours per
12 handle I'm talking about the sea time, you
13 know, going from the buoy into the, into the
14 port. The pilots, and like I said it's unclear
15 as to what they were doing for the other, you
16 know, since only have the handles.

17 The -- then they have another category of
18 time that they spend which is, which is
19 legitimate, which is called central support
20 services. The statute allows them to charge
21 for essential support services. We think that
22 many of these essential support services are
23 completely dubious. We will show you a list
24 this afternoon of what these essential support
25 services are, many of which, if not most of

1 them, could be done, and could be performed by
2 non pilots at much cheaper costs, so it seems
3 like a reasonable assumption that maybe the
4 pilots do not have that much to do so they're
5 going to go ahead and be a boatman, or be the
6 manager of the facility, of the, of the pilot
7 house. I don't think you need to pay someone
8 \$499,000 to be a manager of a pilot house, but
9 that's one of the duties that we will talk
10 about.

11 Now, despite half of the workload, or
12 despite them having half of the workload they
13 have the same revenues. The revenues now are
14 at an all time high, so the revenues per handle
15 have gone up 25% in the last five years, just
16 in the last five years, the revenue for a unit
17 of work. And I think the only fair way,
18 because Mr. Law is correct, there's many, many
19 variables. The one thing that doesn't
20 variable, that doesn't vary, is a unit of work,
21 what is a handle. I think everybody can agree
22 on what a handle is, you go out to the buoy, or
23 wherever, you pick up the ship and you bring
24 the ship in, or you, you know, you come in with
25 the ship, that's a handle.

1 Those units of service which are clearly
2 definable, the revenue per one of those units
3 of service has gone up 25% in the last five
4 years. The pilots in Dade County, excuse me,
5 the Port of Miami, have the third highest
6 revenue handle per hour in the state. So if
7 you take the unit of service and you divide it
8 by, if it's 2 hours to go into the port, which
9 I think Mr. Law agreed would be a reasonable
10 amount of time, if you took that, and you took
11 it per hour, they have the third highest. The
12 only one that's higher is Key West and Cape
13 Canaveral. And probably the reason is, I'm
14 speculating here a little bit, but probably the
15 reason is they don't have a lot of the cargo
16 ships, are mainly the cruise, cruise ships, and
17 they're bigger.

18 So they have the third. If you were to
19 give the FCCA the 25% discount, which we'll
20 show you charts on, the 25% decrease rather,
21 they sill remain the third highest per handle
22 per hour rate in the state. The compensation
23 package that we will show you through a CPA
24 that we have here, and we show you that's
25 valued at around \$500,000, BPA operates an

1 unreasonable pension plan, which Mr. Law
2 discussed a little bit, and in 2015 they paid
3 \$2 million into this plan. This plan, and Mr.
4 Law said, well, this is what, when the pilots
5 sign up they sign an agreement, they sign a
6 contract. They sign a contract, and they pay a
7 certain amount of money into this association,
8 and when they sign that contract and they pay a
9 certain amount of money into the association
10 which they get when they leave the association,
11 which is like buying into a law firm, or buying
12 into any other type of a partnership, the, they
13 pay that money in, the, excuse me, the pension
14 plan that they get is not going to be, is not
15 going to be funded, and they know at the end of
16 the day, at the end of 20 years, or 22.2 years,
17 or whatever it is, they're going to receive
18 this pension amount.

19 And Mr. Law was indicating, well, this is
20 what they, this is what it says, they're
21 entitled to it. Well, they're only entitled to
22 it because it's a voluntary agreement that all
23 these people that are part of this partnership
24 made. The State of Florida didn't say this is
25 what you must do. I don't believe any pilot

1 commission in the past said this is what you
2 must do. This is a voluntary association of
3 pilots that came together and said this is what
4 we will do. And I mean it's not a bad deal,
5 who wouldn't do this, you don't put in a penny,
6 you take out all your operating, you make as
7 much money as you can, and then at the end of
8 the day you're going to pay out this \$2
9 million, and then what you say at the end of
10 the day is it comes directly out of operating
11 funds.

12 So at the end of the day you say it comes
13 right out of this operating funds without
14 taking any of the compounded interest, or
15 anything else, you just take it out, and then
16 you go to the rate payers, which is the cruise
17 lines, and you say we haven't got a raise, we
18 got to make more money because we got to, you
19 know, we got these pension benefits that we
20 have to pay. It's just not a rational system,
21 cause no other business operates like that.
22 It's not prudent.

23 The full healthcare benefits, if you look
24 at the price of the healthcare benefits and the
25 Workers' Comp -- well, let's just look at the

1 healthcare benefits. They pay full costs for
2 the family, for the employees, the employees
3 themselves, the actual, or they're not
4 employees, but the actual pilots themselves and
5 their families, and when they retire they pay
6 for the coverage for the families as well. The
7 issue here with the healthcare, and the issue
8 that I believe is somewhat disingenuous about
9 the Workers' Comp that they have to pay, is
10 they choose to have a voluntary association.
11 They choose to all be independent contractors.
12 The reason they choose, in my estimation, and
13 this is a supposition on my part, is they don't
14 want the liability, so they're all going to be
15 independent contractors.

16 Well, if you choose to be an independent
17 contractor and you want Workers' Comp I guess
18 you can, you can purchase it. If they came in,
19 and they were an organization, yeah then maybe
20 it would be a reasonable business expense, but
21 I don't think it can be counted as a reasonable
22 expense because you're getting the benefit of
23 what they chose to voluntarily do. So when you
24 count total compensation for, for their
25 benefits it's about \$500,000 per pilot. With

1 this 25% decrease the only thing that the
2 cruise industry is seeking is to maintain
3 stability, to maintain about the same level.

4 And the reason I say that, you can look at
5 me and say, well, what are you talking about if
6 it's a 25% decrease -- well, let's look at
7 historical data. Let's look at the last five
8 years. And let's look at the rate increase
9 went up in five years per handle per hour, went
10 up by 25%. The reason for that was because of
11 the organic growth of the vessels. Well,
12 you've heard much testimony, or you will hear
13 much testimony about the post panamax vessels,
14 how big they are, you'll hear about the cruise
15 ship vessels now, when they used to be, the
16 average was 94,000 GRTs, 94,000 gross tons. It
17 doesn't mean how much they weigh, that's gross
18 tons.

19 Now they're 230,000 gross tons, so for a
20 ship that's currently at 225,000 gross tons
21 they pay about \$18,000, \$18,000 to go from the
22 buoy into the port and dock. So they -- you
23 will also hear testimony that the pilots never
24 dock the cruise ships. They don't dock the
25 vessel, all they do is come in, and they're an

1 adviser to the Captain. Important adviser,
2 extremely important, we're not saying we don't
3 need them, but they don't dock, they don't dock
4 the vessel.

5 If you gave them the increase that they're
6 talking about, and I won't get into the -- my
7 calculation was based on the 2% plus the 6%
8 they were asking for. The 2% was the, was the
9 amount of money for the cost of living, so
10 whether you have that in there or not that was
11 my calculation. You can go back -- and I think
12 Mr. Law's was about 46%, 47% increase over the
13 five years. That same vessel was paying
14 \$18,000, nothing changed about the vessel, but
15 now it pays \$25,000 with that 18% increase. As
16 a result of the organic size if you keep these
17 two measurement, measurement units that you
18 use, gross tonnage and draft, as vessels get
19 larger they naturally, organically the fees go
20 up.

21 So in essence if you have a 46%, or 47%
22 rate increase, and the vessels get larger,
23 you're going to wind up with a rate increase of
24 65-70%, only because the vessels get bigger.
25 Not for any other reason, they just got bigger.

1 So that's what it is. So the -- we have a set
2 of questions which we're going to, we're going
3 to leave up here, which we think that the
4 committee should really, really look at, but
5 one of the points that I do want to raise is
6 that there is no shortage of pilots.

7 And there is no shortage of qualified
8 pilots, and we're going to demonstrate what the
9 qualifications are to be a deputy pilot,
10 because that's the benchmark to become a pilot.
11 There is no more qualifications after you're a
12 deputy pilot other than the experience, you
13 know, your training that you have as a deputy
14 pilot, and as taking the test. But that would
15 be the, that would be the benchmark. You heard
16 the investigative report say that they have not
17 faced a situation where there is no, where
18 there is a shortage of pilots, they couldn't
19 get enough pilots, and I submit to you that
20 making anywhere between \$400,000 - \$500,000 a
21 year you're never going to have a shortage of
22 anything, and especially of pilots. If you
23 gave -- if they received their rate increase
24 they'd be making close to \$700,000 for more per
25 year, which we'll demonstrate, and we'll

1 project out for you.

2 The other issue is they continually, the
3 pilots will continually tell you that the
4 cruise ships make all this money. What ever
5 money the cruise ships make, they're in private
6 industry, and they're in there as any other
7 kind of private enterprise would be, to make
8 money. That's what the purpose of, or free
9 economy is, and the free market is for the
10 cruise ships. And I can use an analogy that we
11 put in our report, and I'll close on that, that
12 if you -- many of you probably live in some
13 municipality that has cable TV, some of you
14 have Comcast, Infinity, whatever it is, you
15 know, and you're probably all unhappy with
16 them, you know, as I am, but nevertheless you
17 think you get charged too much because every
18 little thing they do they charge you for. So
19 you call up, and I say, you know, I'm getting
20 charged \$150 a month for this cable TV, and you
21 got a monopoly because my city commission
22 voted, because they have to have the cable
23 line, so they get rid of a similar kind of
24 monopoly, and so you, city commission, are
25 supposed to go ahead and adjust these things

1 appropriately.

2 Now, when you do that, and you make that
3 complaint to the cable company, you know, the
4 cable company will respond to you and say we
5 have to do this, or we have to do that, and you
6 say to the cable company I want to be charged
7 fair, reasonable, and just amounts, that's all
8 I want to be charged, and the cable company
9 will come back to you and say this is fair,
10 reasonable, and just. The cable company
11 doesn't ask you for how much money you made.
12 It doesn't ask you for your financial
13 statement. It doesn't ask you for your tax
14 return. It doesn't ask you what you make,
15 because what you make is completely irrelevant
16 to watching the cable. The whole issue in the,
17 in the matter, is what does it cost you to get
18 this cable.

19 What does it cost you to get pilots? What
20 is the fair, reasonable cost for that? And we
21 submit to you, most humbly, that the fair and
22 reasonable cost that they receive for doing
23 half of the work that they did in the year 1995
24 is somewhere between \$400,000 - \$500,000. If
25 you take our rate reduction they're still the

1 third highest work per hour, per handle, in
2 this state. And they're still making -- you'll
3 see our numbers, but they're still making over
4 \$400,000 with that, or close to \$400,000 with
5 that.

6 And I submit to you that the pilots, that
7 the captains of our vessels who work 24 hours a
8 day 7 days a week to take these vessels in
9 unbelievable conditions and unbelievable
10 locations are equally qualified to the pilots,
11 and in many instances probably more qualified
12 than the pilots. And I'm not denigrating the
13 pilots, and I'm not saying the pilots are not
14 qualified, they are, they are, but they
15 shouldn't be saying that the captains can't do
16 this. We have -- we will show you slides, and
17 we'll have testimony for the captains that do
18 this very thing, and can do this very thing.

19 So with that I would thank you all very
20 much for listening to me. And I was about two
21 or three minutes over my allotted projected
22 time, which for me is a miracle. Thank you.

23 **CHAIR:** All right, very good. Thanks for
24 that opening. So we will take a lunch break
25 until 1:30, and then we'll resume at that time.

1 **MR. JENNINGS:** Just a reminder, committee
2 members, don't discuss anything at lunch
3 please. Don't discuss anything related to this
4 case at lunch.

5 (Thereupon, a recess is had.)

6 **CHAIR:** We're ready to get back started.
7 It's 1:30, and we will continue on with the
8 Caribbean Cruise Association presentation in
9 support of it's application for a rate change.
10 I did have a request that, for all of us, that
11 for all of us speaking in the mics, some of the
12 individuals in the gallery are having hearing
13 us unless we're up close to the mic, so please
14 lean over to speak when you're using it. Okay,
15 Mr. Panza, are you ready?

16 **MR. PANZA:** Yes, sir, I am. Thank you.
17 I'll try and talk into this. I'd like to if
18 possible now, I have three witnesses, if I
19 could enter their resumes at this particular
20 time for all three. Further, Mr. Chairman, in
21 the last hearing that we had I had two of the
22 witnesses that were dealing more with the ship
23 operations, et cetera, and the size of the
24 ships, et cetera, the admiral and the captain,
25 and I would go back and forth between them on

1 the questions rather than calling up one and
2 then calling up the other and then repeating it
3 and having one sit down. It just expedited the
4 matter tremendously. And they're not going to
5 both talk at the same time, they have different
6 subjects, but some of their subjects are within
7 the same confines of the same subject matter,
8 so it will be just be easier, if that's
9 acceptable?

10 **CHAIR:** Yes, that's fine.

11 **MR. PANZA:** Thank you. Thank you very
12 much. The -- we've talked about the increased
13 size of these ships, and over the last fifteen
14 years how the ships have increased, and the
15 rate decrease that we are, just to put this in
16 context the rate decrease that we are looking
17 at is based upon the tonnage size over the,
18 over the last fifteen years, how that tonnage
19 size has increased. And it really hasn't been
20 disputed at all by the investigative committee.
21 I think they have agreed that it has.

22 And what that I'll ask Admiral Baumgartner
23 to, if he can give you a little bit of
24 background of his credentials. We've put his
25 resume in, but I'll just ask him to give you a

1 short introduction of his credentials, and what
2 he's done in his past life. And the same thing
3 will go with Captain Hansen when I get to him
4 in a moment. Admiral Baumgartner.

5 **ADMIRAL BAUMGARTNER:** All right, thank
6 you. And good afternoon, I'm glad to be here
7 to speak on this matter. Just to give you a
8 preview of m background, right now I am the
9 senior vice president of global marine
10 operations for Royal Caribbean Cruises, Ltd.,
11 so that is the chief maritime operational
12 officer for forty nine cruise ships for all
13 brands and joint ventures across the globe
14 under the Royal Caribbean, the corporate
15 umbrella.

16 I've been with Royal Caribbean for four
17 years. Before that I was an admiral in the
18 U.S. Coast Guard. I had a thirty three year
19 career there. I started out studying
20 engineering with deck, was a captain of a
21 couple ships, and did other things in
22 operations. I think went to law school. I
23 have a JD from Harvard. I did things in the
24 legal field for many years. I was the chief of
25 maritime in the international law for the Coast

1 Guard, then I was the judge advocate general,
2 or general counsel of the Coast Guard for four
3 years. My last four years I was the
4 operational commander for the U.S. Coast Guard
5 for the southeast and the Caribbean, so my
6 headquarters was here in Miami about a half a
7 mile south of here. So that's generally my
8 background, so I'm fluent operations, as well
9 as, as law, regulatory matters, and other
10 things. So --

11 **MR. PANZA:** Basically, Admiral, could you
12 go through this next chart? We -- we have a
13 chart up here that we're going to put up here,
14 which is Graph Exhibit E. Could you please
15 explain -- could you please explain to the
16 committee what this chart represents?

17 **ADMIRAL BAUMGARTNER:** Okay, well, what
18 this chart does show is the growth in the size
19 of cruise ships over the last twenty, over the
20 last almost twenty years. And this is
21 obviously very pertinent for, for rates and
22 revenues, since gross tonnage, or GRT,
23 interchangeable really here, is the primary,
24 primary factor in determining the pilotage
25 rates for a vessel. So in 1998 the largest

1 cruise ship in the world was 108 GRT. Now in
2 2017, as you can see on the right side of the
3 chart, that's about the average size, or the
4 median size for vessels coming into the Port of
5 Miami. I should say median, not average, there
6 are many vessels that are in excess of that.
7 In fact two vessels in excess of 150 GRT were
8 using the Port of Miami in 2017.

9 In 2018 that will actually change
10 significantly because Royal Caribbean will be
11 bringing in the, the largest cruise ship in the
12 world, Symphony of the Seas. It will be
13 launched next year. Actually, I'm sorry, it
14 will be delivered next year. It will be
15 launched next month. Symphony and Allure of
16 the Seas, which is currently operating out of
17 Port Everglades, with both come to a new
18 terminal here in Miami. They are very close to
19 the same size, within a meter or two. They're
20 225,000 - 230,000 GRT, so you see it would be a
21 significant change in gross tonnage, and as
22 I'll explain a little bit later, I'll explain
23 more what that really means.

24 But it does, when you're looking at the,
25 the type of pilotage rate structure here, it

1 really shows dramatically how the structure
2 doesn't really work, and isn't really very fair
3 here. When these two vessels come for a full
4 year they will increase, if nothing stays the
5 same with rates if will increase the revenues
6 of the Biscayne Bay Pilots by 16%, just those
7 two ships calling, one on a Saturday and one on
8 a Sunday. Four handles a week will increase
9 revenues by \$1.8 million.

10 That's because of the way the formula is.
11 And that's I think -- and most people can see
12 that doesn't really make much sense. And is --

13 **MR. PANZA:** Can you -- can we -- can you
14 show the -- let's show the slide F please, or
15 Graphic F. Are we talking about -- Admiral,
16 we're talking about gross tonnage right here in
17 this definition. That's when you're saying
18 GRT, it's the same as that, correct?

19 **ADMIRAL BAUMGARTNER:** It's essentially the
20 same. Gross tonnage is taken over from GRT.
21 GRT will appear many places in the statute,
22 but, or other things, but essentially that's
23 the measure.

24 **MR. PANZA:** Can you explain this slide,
25 what these two slides --

1 **ADMIRAL BAUMGARTNER:** Okay. Well, first
2 you need to start out with is that gross
3 tonnage doesn't have anything to do with
4 weight. And in fact tonnage doesn't come from
5 the word T-O-N, it comes from the word T-U-N.
6 Gross tonnage, from that -- gross tonnage came
7 from how much cargo could a ship carry, and
8 actually how many wining casks to UN, that's a
9 little name for a bow, or a wine cask, how many
10 TUN's could it hold, and that it was a measure,
11 and it's been a measure of volume, and
12 particular cargo volume over a couple of
13 centuries.

14 Now, when we get to gross tonnage, which
15 is the most modern measure right now, it is
16 essentially a formula to estimate the enclosed
17 volume on a ship, and it, the idea is, let's
18 say if you have a bulk carrier that's carrying
19 grain then the enclosed volume of that ship
20 pretty much can represent the cargo carrying
21 capacity of that ship. The same might be true
22 of a tanker. When you get to a cruise ship
23 it's a very different thing because you don't
24 carry cargo, you carry people, and people like
25 large open spaces, they like air, they like

1 eight ballrooms, they like royal promenades,
2 they like theaters. That means there's a lot
3 of volume, and a lot of air there.

4 It's not grain, it's not going to be full
5 of oil, it's not going to be full of cargo, so
6 the measurement becomes very, very poor, and if
7 you're kind of comparing say a cruise ship to a
8 cargo ship. Now, it becomes even worse -- so
9 it's bad enough if you try to compare it to say
10 a grain carrier, but now you're compare to a
11 container ship, which is the predominate cargo
12 ship in the, in the Port of Miami, and in fact
13 in most of the world right now.

14 **MR. PANZA:** That would be this ship.

15 **ADMIRAL BAUMGARTNER:** That's right.

16 That's the one on the left. Okay, so if you're
17 going to say what is gross tonnage on these two
18 ships; if you look at the one on the right, the
19 Carnival Splendor, you will see that it, that
20 it is enclosed all the way up to the dock deck,
21 so all of the volume inside of there is
22 counted, okay, and when you're computing gross
23 tonnage.

24 You go over to the container ship, and you
25 see all those containers, none of those count

1 in gross tonnage, only the volume that is
2 enclosed. So where you've got -- everything in
3 the red doesn't count. Only the stuff that's
4 in the blue below the main deck that's enclosed
5 counts when you're determining gross tonnage.
6 So when you compare the two things, you see
7 here relatively the same; actually, the draft
8 there, you see of the Chateau here, it's -- it
9 could be up to 44', which is significantly more
10 than the Carnival Splendor at 27'.

11 Here you can see the gross registered
12 tonnage, or the gross tonnage on Chateau D'IF
13 at 54,778, less than half of what the Carnival
14 Splendor has, let actually the CMA Chateau is a
15 larger ship. And we don't have it depicted on
16 here, but we have another chart that's even
17 more dramatic later on, but it could carry the
18 entire weight of the Carnival Splendor on it as
19 cargo. And then you look at the pilotage fees,
20 the pilotage fees because it's based upon gross
21 tonnage and not actual, not actual
22 displacement, or size of the ship, or many
23 other, you have other permissible
24 characteristics, the pilotage fee, theirs is
25 \$2,762 versus \$4,596 for the Carnival Splendor,

1 or, you know, it's 66% higher for the Carnival
2 Splendor.

3 So this is some of the things that, that
4 it does when you use gross tonnage as a
5 measure. If you compare cruise to cruise ship
6 it's not a bad measure because it tells you how
7 much volume is available for the passenger
8 enjoyment. If you compared one oil tanker to
9 another it's a good measure. If you're going
10 to compare a cargo ship to a tanker to a cruise
11 ship it doesn't really make much sense at all.

12 **MR. PANZA:** And let's go to the next slide
13 please, which is a photograph of the -- or a
14 depiction, I guess a rendering.

15 **ADMIRAL BAUMGARTNER:** Right. This would be
16 a rendering of the Allure of the Seas. It's a
17 cut out. So it just explains and displays a
18 little bit more visually what we're, what
19 you're looking at, and the enclosed volume that
20 you see on a cruise ship. So here you have a
21 cruise ship with a gross tonnage of 225,000
22 GRT, which is a lot of volume, so look forward,
23 you'll see a huge theatre, that's all air.
24 You'll see a royal promenade, which is almost
25 like a shopping mall, again all air. Much of

1 the rest of the whole superstructure creating a
2 three story main dining room, mostly air, and
3 on and on. But that's all counted as gross, as
4 gross tonnage, so it's, that's how we get this
5 great disparity.

6 And as you see over time cruise ships are
7 finding ways to have more enclosed volume,
8 because that's what people want, that can
9 deliver a better product, but it also is not
10 the right measure really of the comparative
11 size, or many other, or the challenge of
12 navigating, or piloting a particular ship.

13 **MR. PANZA:** Okay. Excuse me. Captain, may
14 I ask, can you please give the aboard the
15 benefit of your background please?

16 **CAPTAIN HANSEN:** Good afternoon. My name
17 is Bjorn Hansen. I am the vice president of
18 nautical and port operations for Norwegian
19 Cruise Line Holdings, which includes Oceania
20 and Regent Cruises. I started my seagoing
21 carrier at the very young age. For the most
22 part I worked for Norwegian Cruise Lines. I
23 started in the early '80's when GRT virtual was
24 about 20,000, and the draft of the ships was
25 about the same as today. I spent nine years

1 with WesternGeco, Schlumberger, marine seismic
2 where I served as a captain, and also worked
3 with the safety in Asia and in Europe. So that
4 wraps up my career.

5 **MR. PANZA:** Okay, thank you. And your
6 present employment now is, I know you mentioned
7 it, you're working now where?

8 **CAPTAIN HANSEN:** Yeah, as I said I work
9 for Norwegian Cruise Line Holdings.

10 **MR. PANZA:** Thank you. Can you discuss
11 how the GRT, the gross registered tonnage
12 differs from the issue of ship displacement?
13 What does ship displacement mean, for the
14 benefit of the committee?

15 **CAPTAIN HANSEN:** Well, it -- it is
16 mentioned earlier that, or it has been
17 mentioned a few times, you know, that GRT is
18 volume, and when we talk about dead weight and
19 displacement it's the actual weight of the
20 ship.

21 **MR. PANZA:** Now can you please explain
22 what's represented in this exhibit? We'll go
23 the next exhibit, which would be H. This is a
24 chart, and could you please go through this,
25 it's the chart that's entitled Huge Growth in

1 GRT Equals Unreasonable Growth in Fees. What
2 -- would you go through the left, to the left
3 hand side of the chart, and please explain to
4 the, to the committee what these numbers
5 represent over here?

6 **CAPTAIN HANSEN:** So what we see here, I
7 think it is more self explanatory, but here we
8 see the average GRT in 2004, and over here we
9 see the average GRT in 2017, and as you can see
10 it has doubled compared to 2004. And as we
11 know the formula calculating, or computing the
12 pilot fee, is the same today as it was in 2004.

13 **MR. PANZA:** Okay, so the GRT, the volume
14 inside, the volume is covered, as the admiral
15 explained about the casks, et cetera, that's
16 what doubled, correct?

17 **CAPTAIN HANSEN:** That doubled. And also
18 like to mention that the draft of the ship,
19 which is a component of the formula hasn't
20 changed much. I would say of even the larger
21 ships, they have a lesser draft, or equal draft
22 to older ships, because of the design of the
23 ship. So back in the days the draft component
24 was much more significant than it is today.

25 **MR. PANZA:** Okay. And could you explain

1 what the bottom portion of this chart is, where
2 it says the average GRT fee of \$2,148, and then
3 it goes over to the average GRT --

4 **CAPTAIN HANSEN:** So I think this speaks
5 for itself too. We can see that because of the
6 average GRT that the fee has doubled, and also
7 if we look into the future it is likely that we
8 will have to phase out the older ships with
9 smaller ships, which means that the average GRT
10 will increase, and ships that already been
11 ordered, the average GRT going forward would
12 for sure not be less than 140,000. 140,000 is
13 conservative as with all the ships today are
14 more likely to be 160,000 plus, and Royal
15 Caribbean coming out with 225,000.

16 **MR. PANZA:** Okay, and the ships on the
17 bottom, they will be paying the higher share
18 for the higher pilotage fee just by virtue of
19 the GRT, is that basically --

20 **CAPTAIN HANSEN:** The formula remains the
21 same, so the higher the GRT the higher the
22 pilotage.

23 **MR. PANZA:** Okay. And is it fair to say
24 that a ship with a larger GRT still pays a
25 significant tonnage fee, even with the 25%

1 discount?

2 **CAPTAIN HANSEN:** That is fair to say.

3 **MR. PANZA:** Okay. And would you be able
4 to estimate what the discount would be on a
5 ship that's 150,000 GRTs with, without the 25%
6 discount, and with the 25% discount? Do you
7 know what that is?

8 **CAPTAIN HANSEN:** I would have to look at
9 the exact number, but if again look at the, the
10 average GRT ten, fifteen years ago, and if you
11 look at what we are paying in average today,
12 the fee has more than doubled in, in US
13 dollars.

14 **MR. PANZA:** Okay, thank you. Would the
15 same be true for the 230,000 GRT ships that
16 will be entering the port this year?

17 **CAPTAIN HANSEN:** No, no, I'd say we're
18 talking about tripling compared to the average
19 in 2015 at least.

20 **MR. PANZA:** Okay, and could we see Exhibit
21 5 please? Colonel, excuse me, Admiral, not
22 Colonel, Your Honor, Colonel, I'm being all
23 totally discombobulated.

24 **ADMIRAL BAUMGARTNER:** Don't worry, I'll
25 still stay.

1 **MR. PANZA:** Whatever military you're at.
2 Thank you. Admiral, could you please explain
3 to the committee what this exhibit represents?

4 **ADMIRAL BAUMGARTNER:** Okay. I think
5 actually this is one of the key, the key
6 exhibits to understanding what's going on here.
7 This shows you that in 1998 the total pilotage
8 revenue was, and how many handles, so they had
9 almost \$9 million in pilotage fees, and had
10 almost 9,000 handles, so it comes out to about
11 \$1,000 per handle, is, is the, that was the
12 rate per handle, okay?

13 If you look up in 2016 the revenue has
14 gone up to \$11,235,000, the number of handles
15 has gone down to 5,231. So you see a 42%
16 decrease in the number of handles, a 26%
17 increase in the revenues, and that means that
18 the per handle fee, or the actual amount of
19 revenue per ship handle has more than doubled
20 over that amount of time, so this really gets
21 to kind of the heart if you say that the rate
22 hasn't increased, well, the rate of what? The
23 rate per gross ton hasn't increased, but the
24 rate per handle has more than doubled over,
25 over this period.

1 In many ways it's a little bit like
2 looking at a realtor, and if your realtor came
3 in to you and said I'm still getting the 6%
4 commission, and that's what we were getting in
5 1998, and you said the housing prices are
6 quadrupled, or more, you're not going to be
7 very sympathetic, and in fact you're going to
8 want to know why isn't, why isn't the rate
9 going down because your actual income is going
10 up. That's much the same that we have going on
11 here, and we expect, not we expect, we know
12 that a the size of ships continue to grow,
13 particularly when, since passenger ships are
14 growing, the gross tonnage is growing much
15 faster than the actual say underwater body, or
16 the weight, or displacement of the ship, you're
17 going to see this grow more and more over the
18 next couple of years.

19 As I mentioned here just with adding
20 Symphony of the Seas and Allure of the Seas it
21 will add \$1.8 million onto that for two ships,
22 one arrival on a Saturday, a departure Saturday
23 afternoon, an arrival Sunday morning and a
24 departure Sunday afternoon, and you're going to
25 have a 16% increase. That will be 1/6th of the

1 total revenue just for those two ships because
2 of the way the formula is calculated.

3 **MR. PANZA:** Thank you. Can we -- Zach,
4 can we please have the next slide which is
5 Graphic J? Okay, vast difference in fees in
6 cruise ships with a higher GRT resulted, I
7 believe Mr. Law said it in, Mr. Law said it
8 before, in a significant cost ship, and I think
9 it's been admitted in the investigative report
10 that there is a significant cost ship. Captain
11 Hansen, can you please explain to the committee
12 what this chart represents, and where this
13 comes from?

14 **CAPTAIN HANSEN:** This is also a very
15 important slide to show, and even though it
16 explains it I'll talk you through it. So as you
17 can see in 2016 the Seaboard Patriot, which is
18 a container ship with a draft of 19' and
19 tonnage of 8,273 GRT handled 104 times, and the
20 total pilotage fee was \$65,728. The same year
21 Norwegian Escape with a draft of 28' and a
22 tonnage of 164,600 GRT handled the same number
23 of times approximately, 4 times more, and a
24 total pilotage fee was more than 10 times more
25 than the container ship. So in other words 10

1 handles of the Patriot equaled one handle of
2 the Escape.

3 **MR. PANZA:** And on the top portion of
4 this, as -- my pointer is not working anymore
5 very well, but on the top portion of this does
6 this vary, depict the difference between the
7 amount of work that goes into the handles for
8 the cargo ships versus that of the cruise
9 ships?

10 **CAPTAIN HANSEN:** As it shows that the
11 handles of the, of the cargo ships here equals
12 about 3/4th of the pie.

13 **MR. PANZA:** Okay, thank you. You should
14 put up the next slide please. Okay, it's
15 another -- Captain Hansen, this is another
16 chart. It depicts various I guess points of
17 data, and if we look at this could you please
18 explain what -- the passenger handles do not
19 equal the cargo handles. Can you please
20 explain this to the, to the Board?

21 **CAPTAIN HANSEN:** So this is similar to the
22 last slide we showed you. If you look at it
23 here 108 passenger handles all done by one ship
24 larger than 160,000 GRT. It says revenue
25 \$702,000, but this is the actual cost for the

1 operator. And beside it was see that 1,795
2 cargo handles of ships less than 10,000 GRT
3 generated \$667,000 USD. So you see the
4 difference, 108 passenger handles versus 1,795
5 cargo handles.

6 **MR. PANZA:** Captain Hansen, when you say a
7 handle, the handle is the same distance, is
8 that correct, it would go from we'll say
9 relatively the buoy, or a little bit further
10 out than the buoy into the port, into the
11 berth; is that correct?

12 **CAPTAIN HANSEN:** As far as I'm aware the
13 pilot station for cargo ships and for cruise
14 ships is more or less in the same location,
15 which is a couple of miles out from the
16 seaport.

17 **MR. PANZA:** Okay, and so the mere fact
18 that a 10,000 GRT ship, does that require a
19 tugboat?

20 **CAPTAIN HANSEN:** In most cases I'm
21 guessing that the -- it depends, but most cargo
22 ships, they are very simple as far as the way
23 they are equipped. Very often it deals with a
24 spade rudder, single screw, and sometimes not
25 even a bow thruster, so it is common to use, to

1 get assistant from tugboats for cargo ships.

2 **MR. PANZA:** Okay, and could you look at
3 the bottom portion of the slide where it has
4 1806 passenger handles versus the 1795 cargo
5 handles, and the differences; please explain
6 that.

7 **CAPTAIN HANSEN:** Well, here you see
8 approximately the same amount of handles, and
9 at the bottom we see the difference in the
10 pilot fees, so it's \$7 million plus versus less
11 than \$700,000, so more than 10 times more for
12 the cruise ships than for the cargo ships.

13 **MR. PANZA:** Okay, thank you. Now, on
14 these handles, on each of these handles is
15 there any difference in the time it goes past?
16 In other words we have a handle -- if it's a
17 cargo handle does it also take 2 hours, similar
18 to a passenger, or a cruise ship?

19 **CAPTAIN HANSEN:** I would say, yes, the
20 time it takes for the pilot boat to get out to
21 the ship, and for the time to navigate it into
22 its berth is more or less the same.

23 **MR. PANZA:** As a general rule do the cargo
24 captains, the cargo crew, the crew on a cargo
25 vessel have the same qualifications as that of

1 the crew on a cruise ship?

2 **CAPTAIN HANSEN:** On cruise ships the
3 manning is definitely different. On most
4 modern cruise ships today you, on the departure
5 and arrival you will have enhanced manning on
6 the bridge, meaning that the captain, in
7 addition to the captain and the navigator, and
8 the co-navigator, you'll also have the staff
9 captain, who is second in command, and another
10 officer, and a QM who is a lookout -- a
11 helmsman, as opposed to cargo ships, as far as
12 I know very often you might experience perhaps
13 two officers when, when you board those
14 vessels. I'd also like to add having more
15 people on the bridge is not really the point,
16 but it is how the roles are defined and
17 delegated by the captain to the officers on the
18 bridge so everybody knows what their role are,
19 and communication is crucial during this time.

20 **MR. PANZA:** So if we were to look at,
21 excuse me, in times of hours worked, and we
22 looked at the 108 handles, if it's 2 hours that
23 would be approximately 216 hours of pilot time
24 on the sea, or during, doing the handle, it's
25 actually doing the piloting, correct?

1 **CAPTAIN HANSEN:** That sounds to be
2 correct.

3 **MR. PANZA:** Okay. And if we took the
4 1,795 handles that would constitute 3,590
5 hours; is that correct, at 2 hours a handle?

6 **CAPTAIN HANSEN:** Yeah.

7 **MR. PANZA:** Thank you. The next questions
8 I want to ask is about the cost differential,
9 bearing no relationship to the safety of the
10 vessel. In the past we've heard as part of
11 these arguments, and I'm just saying the
12 context here, that the larger cruise ships must
13 be harder to handle, and thus the increased
14 pilotage fee. We do not believe this is true,
15 and much of the cargo ships is not under the
16 roof, or under an enclosed structure, and does
17 not get accounted for in the pilotage fee for
18 the Port of Miami.

19 I'd like to show you Graphic L, which I
20 think will depict this. Okay, we have Graphic
21 L here for our purposes, which is a large
22 cruise ship, and could you please explain what
23 this depicts, Admiral?

24 **ADMIRAL BAUMGARTNER:** Certainly. Okay,
25 we're going to go back to some, some

1 measurements, and some terms here again. So
2 what this does show here is it shows some
3 critical dimensions of two ships. 1. The
4 Maersk Altair, a container ship that does call
5 in the Port of the Miami, as well as Allure of
6 the Seas which will be coming in 2016.

7 So I just talked before about tonnage,
8 gross tonnage being volume. There on the
9 bottom we'll see the gross tonnage. It's
10 108,393 for Maersk Altair, 225,000 for Allure
11 of the Seas. Looking at those numbers you'd
12 think Allure of the Seas is over twice as
13 large. Actually you would be quite wrong.
14 Draft for the Altair, we show 40' here.
15 Actually the maximum draft of the Maersk Altair
16 is more than that, it can be 45', 46'. Allure
17 of the Seas is actually less than 31'. We
18 typically are under 30' all of the time
19 regardless of where we're at.

20 If you looked on here pilotage fees
21 because it's based upon gross tons, you see
22 \$4,644 for the Maersk Altair and \$8,730 for
23 Allure of the Seas, almost twice as much.

24 Now we get to some important things down
25 here. There's a new term we're going to talk

1 about, dead weight tonnage. This is actually
2 weight. This is how much the ship can carry in
3 terms of cargo, fuel, and supplies. It's
4 things other than the weight of the ship
5 itself. If you look here the Maersk Altair has
6 a dead weight tonnage of 110,294. That means
7 it can carry that much weight, okay? That's a
8 common, that's another statutory element you're
9 allowed to look at here. Allure of the Seas
10 19,750 dead weight ton. That's how much she
11 carries in fuel, people, and food. Now, that
12 would be a deceptive measure if you based
13 pilotage fees on that, right?

14 Now, another thing I'm going to talk about
15 now is the total weight of the actual
16 displacement of the ship itself, how much does
17 the ship weigh itself. Okay, Allure of the
18 Seas actually weighs about 100,000 tons.
19 That's actual weight. That's called
20 displacement tonnage. When you look at it here
21 the Maersk Altair can carry the entire weight
22 of the Allure of the Seas as Cargo. If she
23 carried the entire weight of the Allure of the
24 Seas as called into the Port of Miami she'd
25 pull about half the pilotage rate that the

1 Allure of the Seas does. That gives you an
2 idea of how off this particular system is. And
3 besides, if you look at (unintelligible), but
4 they're roughly equivalent, Allure of the Seas
5 is a little bit longer.

6 Now if you're going to look at something,
7 what's the, what's the challenge of bringing
8 these ships in. Now clearly here Maersk Altair
9 is a larger ship. If you can carry the other
10 ship as cargo you're probably larger, okay, it
11 depends on how much she's actually weighted
12 with containers, but when you look at the
13 ability to maneuver the ship, and look at the
14 characteristics of the ship, are vastly
15 different. The Maersk Altair has one engine,
16 it's -- diesel, and if you want to shift
17 directions with the engine you have to
18 physically stop it and start again in the other
19 direction. She has one single rudder, and
20 that's it. She is nice and powerful if she's
21 going in a straight line in the deep ocean.
22 Allure of the Seas, on the other hand, is made
23 to run in pilotage waters, and channels, and
24 (unintelligible). She is made with six
25 propulsion engines, has almost 100 megawatts of

1 power available to her. She has three azipod
2 propulsion pods.

3 **MR. PANZA:** Can you explain maybe what,
4 maybe what the --

5 **ADMIRAL BAUMGARTNER:** Sure -- sure, azipod
6 population consists of 20, 20,000, 20 megawatts
7 each, so we've got 60,000 megawatts of
8 propulsion power if you need it. That's far
9 more than you've ever need inside of a channel.
10 We usually use far, far less than that. But an
11 azipod is actually a 250 ton pod that hangs
12 beneath the stern of the ship, and it steers al
13 the way around 360 degrees, and you can direct
14 the thrust of that azipod in any direction you
15 want. It's all controllable up in the pilot
16 house simply by turning the levers that direct
17 the pod to whichever and, whichever direction
18 you want.

19 And you've got three pods on that ship,
20 and they can all three be pointed in different
21 directions if you wish, and you can really do
22 just about anything you want with them, and
23 they're very, they're very responsive. They're
24 electric motors so that if you want to change
25 the speed it happens very quickly. You don't

1 have to stop and start an engine, and turn --
2 or anything like that. Up on the bow you have
3 four bow breakers. Each one has over 5
4 megawatts, or 7,400 horsepower, so altogether
5 you've got almost 30,000 horsepower in thrust
6 available on the bow to maneuver the bow of the
7 ship as well. The ship also has a
8 (unintelligible) system on it. What that does,
9 means that you can turn (unintelligible) the
10 computer. You can hit a button and the
11 computer and all of the thrusters will keep the
12 ship in the exact same spot in the exact same
13 angle despite wind or current, the same kind
14 system that you'd use on a deep, ultra deep
15 water drilling rig drilling for oil, and many
16 other things like that. So very response, a
17 lot of maneuverability. Yeah, she's large, but
18 she's got, she's built to maneuver in ports
19 with all the recent best equipment.

20 On the navigation side she also has the
21 latest in --

22 **MR. PANZA:** Before we get to the
23 navigation on the Altair here, how would that
24 ship get into the port, would it need tugboats,
25 or how would it go in?

1 **ADMIRAL BAUMGARTNER:** Absolutely,
2 absolutely she'd need tugboats. And that's a
3 good point. She would need a few tugboats I
4 think according to the Biscayne Bay Pilot
5 rules. And actually when you look at the
6 Biscayne Pilot rules for tugboats the
7 differentiator on what size tug you need and
8 how much power you need isn't gross tonnage,
9 its draft, and the draft on most of the cargo
10 ships exceeds what you're going to see on
11 cruise ships. Cruise ships all have to be
12 built so you can get into the small ports in
13 the Caribbean or you don't have a viable, you
14 don't have a viable business.

15 **MR. PANZA:** Okay, thank you. Let's go to
16 -- let's talk about the navigational system on
17 the, on these ships at the cruise, the Allure
18 of the Seas as an example.

19 **ADMIRAL BAUMGARTNER:** Okay. The Allure of
20 the Seas does have a state of the art
21 navigation system on her, so you have multiple
22 GPS, and multiple other satellite systems that
23 are integrated. She can actually take herself
24 back to a position within a few centimeters if
25 she's been at the dock before. In transit in a

1 channel, you also have advanced electronics,
2 electronic charts that will show you where the
3 ship is going to be so many minutes in advance.
4 They can computer the currents, the winds, the
5 current impact on their, on their, whatever the
6 environment, however the environment is
7 affecting the ship, and then project that ahead
8 so you know now when you need to make your
9 turn.

10 It can also -- it also (unintelligible)
11 angle. So if you do have winds, you -- you
12 can't go directly. You can't go directly at
13 that if you've got a wind. Sometimes you have
14 to pivot a little bit, and that's called
15 crabbing, and so you're actually going at an
16 angle. This electronics shows you how you crab
17 in the channel, shows you where your stern is,
18 as well as your bow, gives you a pretty good
19 representation, and also projects ahead where
20 those components are going to be. It's a great
21 assist if you're, if you're (unintelligible)
22 use of officers or pilots, but you have a
23 tremendous amount of electronics, a system to
24 help you, to help you navigate and predict.

25 **MR. PANZA:** Could you explain what a track

1 mode is on a ship?

2 **ADMIRAL BAUMGARTNER:** Well, a track mode
3 is also a place where the ship can, depending
4 in their electronic system, can actually follow
5 a predetermined track. It can make the
6 adjustments from wind and current, and so
7 forth, and keep you, keep you exactly on track.

8 **MR. PANZA:** And what are the requirements
9 for ECDIS training? Can you explain that to
10 the Board, what that is?

11 **ADMIRAL BAUMGARTNER:** I think I'll let
12 Bjorn, if you don't mind?

13 **MR. PANZA:** Okay, that's fine.

14 **CAPTAIN HANSEN:** ECDIS, it means
15 Electronic Chart Display Information System,
16 and most ships today are certified to sail
17 paperless, meaning that the electronic charts
18 are valid charts. There are different types of
19 ECDIS. For those who have been aboard ships
20 you will see that there are different
21 manufacturers. So today there's a requirement
22 for all officers, in addition to have a generic
23 ECDIS course they're also required to have a
24 type specific familiarization course, so
25 whatever ship they are serving they need to

1 have this type specific training before they
2 can become officer on the watch.

3 **MR. PANZA:** Thank you, Captain Hansen.
4 Are the pilot -- is it your experience in the
5 Port of Miami, the pilots, are they trained on
6 all of these new technologies that are on these
7 particular ships? Do they have a particular
8 training course that they go through? Do you
9 know?

10 **CAPTAIN HANSEN:** I don't want to answer
11 that, but maybe the committee can ask the
12 pilots that question.

13 **MR. PANZA:** Okay, thank you. Fair enough.

14 **ADMIRAL BAUMGARTNER:** One question -- you
15 asked me about tugs and maneuvering, and
16 actually I got off track, but the thing I think
17 for the committee to under with say the Maersk
18 Altair coming and needing tugs, is actually if
19 you're going to stop the vessel, if you have to
20 try to reverse the engines to, in a kind of
21 emergency, or if you just need to slow down,
22 it's a very different thing than on a cruise
23 ship.

24 Here first, I said before, you've got to
25 stop the engine physically, turn it in the

1 other direction, and get it up to speed, but
2 also because it's a single screw if you reverse
3 the ship starts to lose control, and you'll
4 actually, there's a lot of side force when,
5 when you reverse, and that's why you need tugs,
6 to slow down the vessel and control it. So
7 actually just for the normal maneuvering in and
8 out, they're difficult enough to control
9 because of their configuration. They're not
10 designed to be in port, they're designed to be
11 on the ocean, that's why you need all the tugs,
12 all the extra control, the coordination.

13 On a cruise ship on the other hand, so
14 like Allure of the Seas if you want to slow
15 down you simply do that. If you need to in an
16 emergency stop you can stop actually very
17 quickly, you can turn the azipods, and in a few
18 seconds the azipods will actually be sending
19 the thrust in the complete opposite direction
20 and it's all under control, and if you need to
21 you also have thrusters and, and other things
22 to control the ship. So in emergencies it's a
23 much easier ship to control, and to stop, and
24 to stabilize, and it can even go into dynamic
25 positioning mode if you had a real emergency

1 and you had to simply stay put in the, in the
2 channel in current or wind. And it's a very
3 different scenario from a cargo ship that
4 really isn't designed to be in port, it's
5 designed to be out on the ocean.

6 **MR. PANZA:** Does the cargo -- do the cargo
7 ships have the same type of sophisticated
8 navigational equipment, in your experience?

9 **CAPTAIN HANSEN:** I doubt it. It is likely
10 that they have electronic charts, and ECDIS,
11 but here we are talking about dynamic
12 positioning, and other (unintelligible) and
13 equipment that we find useful on a cruise ship,
14 which is designed to be self sufficient, and
15 also designed to operate in area where tugs are
16 not available.

17 **MR. PANZA:** Thank you. Captain Hansen, one
18 of the issues that has come up is the captain,
19 or the ships' captains' qualifications, and the
20 safety and pilot liability. Can you discuss
21 with the committee please what are the
22 requirements of a cruise captain, and how are
23 they qualified, and what, and could you explain
24 about liability please, their liability?

25 **CAPTAIN HANSEN:** To become a captain on a

1 cruise ship it is a long path. Most captains
2 that we have today, it took them average
3 fifteen years from they started their entry
4 level as a third or second officer. Probably
5 longer if you include seagoing career as
6 deckhands or deck cadets, so I would say at
7 least for Norwegian cruise line for the
8 captains we have today it took them between
9 fourteen and twenty years to become captains in
10 command of a ship. You asked me something,
11 something else?

12 **MR. PANZA:** Yeah, what I -- okay, we'll
13 get back to that in one moment. Can you
14 explain to the members of the panel what it
15 means for the, what the pilot does when he gets
16 on board, what it means when he takes the com,
17 what exactly does the pilot do?

18 **CAPTAIN HANSEN:** When the pilot comes on
19 board there is a pilot exchange between the
20 captain and the pilot. A pilot exchange is
21 basically a briefing to the pilot, or it's a
22 two way conversation. The pilot will be
23 provided a pilot card with the ships
24 specifications, the particulars of the ship,
25 draft, tonnage, and also the capability and

1 limitations of the ship, so any information
2 about the propulsion and navigation of the ship
3 would be shared with the pilot. In exchange
4 the pilot will inform the bridge team and the
5 captain about any inbound or outbound ships, or
6 any other local information that he or she may
7 have.

8 So when the pilot exchange has been done,
9 and the ship is on a course that everybody
10 agrees that they are comfortable with, the
11 pilot will then take over the com, or the
12 conduct of navigation. This is usually handed
13 over from the office of the watch, and when the
14 pilot takes over the conduct of navigation
15 three main factors that comes into play here,
16 and that is compass course instruction, speed,
17 and rudder.

18 **MR. PANZA:** Does the pilot ever take
19 physical control of the ship?

20 **CAPTAIN HANSEN:** In the sense of control,
21 the captain is (unintelligible) in command and
22 is responsible of the guests, the crew, and the
23 safety of the ship.

24 **MR. PANZA:** Can the captain override the
25 pilot if the captain feels the pilot is going

1 too close to the, to the shore, to whatever?

2 **CAPTAIN HANSEN:** The captain can at any
3 time intervene if the situation becomes of a
4 nature where that's necessary.

5 **MR. PANZA:** And who -- who is responsible;
6 is the captain held responsible for the safety
7 of the ship?

8 **CAPTAIN HANSEN:** Yes, the captain is
9 overall responsible for, again, the ship and
10 all the people on board.

11 **MR. PANZA:** Admiral, do you have something
12 to add to that, please?

13 **ADMIRAL BAUMGARTNER:** I do. We're lucky
14 that the Biscayne Bay Pilots are very expert,
15 and very, very good. That's not always the
16 case. And in fact, what I was going to say is
17 when the (unintelligible) captain override, we
18 actually discipline captains who don't override
19 the pilots soon enough when they should have
20 known sooner that the pilot was making an
21 error, and as we go throughout the world, but
22 that's the level that we require, that's the
23 level of responsibility we place on the
24 captain. And we even have a dismissed captain
25 that, you know, that had an incident, and the

1 vessel was under command of a pilot but the
2 captain did not exercise what I thought was
3 sufficient judgment to control, and to ensure
4 the overall safety and integrity of the ship.

5 So to really emphasize this, this is, you
6 know, it's not words, this is what we do with
7 our captains, and what we fully expect of them.
8 Again, here in Miami it's a completely, and
9 it's a very, very, very high level of
10 professionalism, and when I'm talking about
11 case where I've had to intervene like this is
12 not Miami, and not the Biscayne Bay Pilots,
13 thank goodness.

14 **MR. PANZA:** Thank you. Captain Hansen,
15 does the pilot ever dock the ship, the cruise
16 ship?

17 **CAPTAIN HANSEN:** I can only speak for
18 Norwegian Cruise Line. Here in Miami the
19 captain or the staff captain always do the
20 docking of the ship, and also departure,
21 bringing the ship out from the berth before the
22 captain takes over the com.

23 **MR. PANZA:** Does the -- does the pilot
24 turn over the com to the captain when it gets
25 ready to dock?

1 **CAPTAIN HANSEN:** Yeah, normally when the
2 ship is approaching the berth they, this is
3 also part of the exchange, the briefing, that
4 when the ship is in a certain distance from the
5 berth the pilot the pilot will give the com
6 back to the captain.

7 **MR. PANZA:** And is that same with your
8 cruise line?

9 **ADMIRAL BAUMGARTNER:** Yes, it is.

10 **MR. PANZA:** Do you know if it's the same
11 with the cargo ship? Does the pilot dock the
12 cargo ships, or is that done by the captain of
13 the cargo ship; do you know?

14 **CAPTAIN HANSEN:** Again perhaps the
15 committee can ask the pilots, but of the pilots
16 that I have spoken with have explained to me
17 that very often they are doing the berthing of
18 container and cargo ships.

19 **MR. PANZA:** Thank you very much. Could we
20 have the next graph please, which is Graph M?
21 Okay, this graph depicts, or not depicts, but
22 it's the Florida statute that sets forth,
23 301.071, and it sets forth the requirements of
24 the, of a deputy pilot. And in this particular
25 slide, this is taken right out of the statute,

1 and I'd like to ask the admiral, can you please
2 explain what these requirements are here, and
3 what the level of services to be a requirement
4 for a deputy pilot?

5 **ADMIRAL BAUMGARTNER:** Well, I think the
6 first two are self explanatory. As you said
7 the good physical condition and mental health.
8 When you look at maritime experience there are
9 four different ways that a candidate for deputy
10 pilot according to the statute can demonstrate
11 the requisite experience. The first
12 (unintelligible) is two years -- well, all of
13 them require two years of service at sea at
14 some point, but the first one is having one
15 year, and must have been serving at an
16 unlimited, with an, as an unlimited second
17 mate, and that's going to be generally the
18 third or fourth senior officer on board the
19 ship.

20 Another way is to serve as a first class
21 unlimited pilot with at least an underlying
22 second mate's license, or a license as a master
23 of freight and towing vessel of at least 1,600
24 gross registered tons upon oceans.

25 **MR. PANZA:** Can we stop there for a

1 second? Will you explain to the committee,
2 since we haven't talked about any vessels that
3 are 1,600 gross registered tons, what, what
4 would a vessel like that be like?

5 **ADMIRAL BAUMGARTNER:** A 1,600 gross
6 registered tons would be about the size --
7 actually if we had opened the windows we might
8 see some coming by. It's about the size of a
9 cargo ship that you see come up the, up the
10 Miami River, one of the Island, Island
11 freighters, they would be in the neighborhood
12 of 1,600 to 2,500 gross tons. It varies on
13 them. There are some large private yachts in
14 this area that are 1,600 gross tons, or about
15 that, but you're looking at a small cargo ship
16 that would be something, to be 1,600 gross tons
17 probably 160' - 200' would be about the right
18 length. It could vary. It could vary
19 somewhat.

20 **MR. PANZA:** And an unlimited second mate,
21 does that say on what size cruise ship?

22 **ADMIRAL BAUMGARTNER:** Unlimited, it means
23 there's no limit on the size of the ship.

24 **MR. PANZA:** So that could be -- if you had
25 a cruise of 1,600 -- let's say the one that

1 goes to Bimini, the Bimini fast boat, or
2 whatever it's called, it's small cruise ship,
3 would that be in that range?

4 **ADMIRAL BAUMGARTNER:** Yeah, it would
5 probably require an unlimited second mate on
6 there. Or if it was -- an unlimited second
7 mate is a U.S. license category. There's
8 international license categories, and Bimini
9 ferries would have, it's not a U.S. flagged
10 vessel so it would be slightly different, but
11 if it was a U.S. flagged vessel it would be, an
12 unlimited second mate would be one of the
13 officers on there.

14 **MR. PANZA:** Okay, and what about the last
15 one, the two year towing --

16 **ADMIRAL BAUMGARTNER:** Right, and at least
17 one of that would be, is the master of a type
18 of barge combination of at least 5,000 gross
19 registered tons, and some of the other. But to
20 know what that is, that would be a fairly large
21 coastal barge. Typically it would be an
22 integrated tug/barge combination, which is
23 pretty common, moving oil, petroleum, and other
24 things along the coast.

25 **MR. PANZA:** And do you know -- would you

1 know what other -- would there be any other
2 requirements, if you know, other than the
3 length of time it would take for a deputy to
4 become a pilot, and to pass a test, are there
5 any other licensure requirements that a deputy
6 pilot would have to have to be promoted to a
7 pilot?

8 **ADMIRAL BAUMGARTNER:** Okay, no other
9 threshold items that I'm aware of.

10 **MR. PANZA:** In other words you wouldn't
11 have to have an unlimited master --

12 **ADMIRAL BAUMGARTNER:** Many -- now -- of
13 course many, or most of them, most of them do,
14 or acquire it during their tenure as a pilot.

15 **MR. PANZA:** Now, what type of licensure
16 and how many years of experience do your
17 captains have on your vessels?

18 **ADMIRAL BAUMGARTNER:** On our vessels of
19 course they're going to have a master unlimited
20 tonnage. Typically you would have fifteen to
21 twenty years experience before you'd be
22 promoted to captain, and then it's not unusual
23 for our captains to have ten to twenty five
24 years service as captains. You also have a
25 staff captain on board who also holds a master

1 unlimited license, and typically you have a
2 chief officer that also has a master's
3 unlimited license. So you typically have at
4 least three officers on board with master's
5 unlimited licenses.

6 **MR. PANZA:** Okay. And do your captains
7 and crew have experience going in and out of
8 foreign ports without pilots?

9 **ADMIRAL BAUMGARTNER:** Yes, they are --

10 **MR. PANZA:** With or without.

11 **ADMIRAL BAUMGARTNER:** With and without
12 pilots, yes, there are some areas, some ports
13 that don't require a pilot. There are other
14 ports in the world where the pilots are very,
15 are very passive, and so our, our captains are
16 really trained and expected to be able to
17 maneuver and transit whatever port it is
18 regardless of whether there's a pilot or not,
19 particularly because, as I mentioned before, we
20 expect them to oversee, detect if something is
21 going wrong with the pilot, to see if he's made
22 a misjudgment, to see if there's anything
23 wrong, and to be fully, fully capable of
24 completely taking over, you know, the entire
25 transit if necessary.

1 **MR. PANZA:** All right. And, Admiral,
2 would your captains meet and exceed the
3 maritime requirements of becoming a deputy
4 pilot?

5 **ADMIRAL BAUMGARTNER:** Yes. Yes.

6 **MR. PANZA:** And, Captain Hansen, what is
7 the type of licensure that your captains have
8 to have to be on your vessels?

9 **CAPTAIN HANSEN:** It the same as being
10 mentioned, and in addition several of our first
11 officers have unlimited captain license as
12 well.

13 **MR. PANZA:** Okay. Would your captains
14 meet and exceed the maritime requirements of
15 the deputy pilot?

16 **ADMIRAL BAUMGARTNER:** Yes.

17 **MR. PANZA:** Captain Hansen, can you
18 explain to the committee what a bridge resource
19 management is; what does that mean?

20 **CAPTAIN HANSEN:** Bridge resource
21 management, in general it means communication.
22 The ships are complex. There's a lot of
23 sophisticated equipment, and there are many
24 things that go into place, especially dooring
25 mooring operations and in general, so in order

1 to prevent misunderstandings it is crucial that
2 the team on board have a standardized way of
3 communicating. We call it close lip
4 communication. It is similar to aviation. So
5 when you give an order, for instance if you say
6 half a head to the navigator, the captain gives
7 that order to the navigator and the navigator
8 will respond half a head, and then the captain
9 will confirm by saying yes.

10 That is one part of it. All our officers,
11 they go to bridge resource management training
12 on a regular basis. All our officers who are
13 starting with the company, they will have to go
14 through BRM, ECDIS training, and other STCW
15 training before, before they join the ship.
16 From the position of first officer, which is
17 officer on the watch, all our officers before
18 they can take over as officer of the watch they
19 have to go through a two week overlap period
20 when they are new to the company.

21 **MR. PANZA:** Okay, thank you. Admiral, can
22 you explain what the jobs and the obligations
23 of a captain are working on the, on board on a
24 cruise ship during their whole, during their
25 time, during their whole tenure out there on a

1 cruise ship?

2 **ADMIRAL BAUMGARTNER:** Okay. Well, the
3 captain is first and foremost ultimately
4 responsible for the safety of the ship. He's
5 also responsible for the whole performance of
6 the crew on board there, so, in some places the
7 crew is up to 2,200, so you end up with great
8 leaders, and so forth. But when you're looking
9 at the essential items he's, he's responsible
10 for, absolutely responsible for the safe
11 navigation of the ship at all points in time.

12 **MR. PANZA:** Can you explain the stresses
13 that captains endure on on time arrivals and
14 departures, and potential implications of
15 delays?

16 **ADMIRAL BAUMGARTNER:** Well, the -- in our
17 business, as is many others, arrival on time is
18 very important, not as important as arriving
19 safely, so one of the great stresses the
20 captains always have is, yes, they are supposed
21 to be some place on time, but they also are
22 responsible for slowing things down, stopping,
23 intervening if everything isn't absolutely
24 safe. In fact one of the major portions of my
25 job as the senior vice president is to be the

1 insulator between any other corporate factors
2 and the captain's responsibility for,
3 absolutely responsibility for safety of the
4 ship, and to ensure that any time he make a
5 decision in the interest of the safety of the
6 ship, and the safe navigation of the ship, that
7 he's completely insulated from anything other
8 than professional navigators and professional
9 seamen reviewing his performance.

10 **MR. PANZA:** Admiral, in the past the
11 pilots have claimed they have significant
12 liability if there's a maritime accident. We
13 hear that quite often. Could you explain to
14 the committee the maritime liability the pilots
15 would have, and have had in the past?

16 **ADMIRAL BAUMGARTNER:** As you said before
17 the captain, the operators, and the owners of
18 the ships, are the ones that are liable. The
19 fact that a pilot may be on board doesn't do
20 anything to absolve the captain of his
21 responsibility, the operator of the ship's
22 responsibility, or the ship owner's
23 responsibility for anything that happens while
24 that pilot is on board. The pilot doesn't, it
25 doesn't change the liability at all.

1 As I mentioned before we consider -- if
2 the pilot makes an error and the our captain
3 doesn't catch it we hold the captains
4 responsible, and simply we're responsible as
5 the ship owner and operator in the court of law
6 for anything that happens, or any damage that
7 that ship might do. Probably a good example of
8 how some of this liability issue with captains
9 come up -- sorry, it seems I'm breaking up.
10 I'll try to be a little bit more -- with the
11 microphone.

12 **MR. PANZA:** Back -- back off.

13 **ADMIRAL BAUMGARTNER:** Back off? Okay, is
14 that better?

15 **MR. PANZA:** Yes, sir.

16 **ADMIRAL BAUMGARTNER:** Okay, I was trying
17 harder. Okay, the Cosco Busan is one of the
18 prime examples that's often shown as pilot
19 liability, and if I -- I actually have first
20 hand experience of the Cosco Busan because I
21 was the judge advocate general of chief counsel
22 of the Coast Guard during that particular
23 incident. In that incident a pilot --

24 **MR. PANZA:** Can you tell them what the
25 incident was about?

1 **ADMIRAL BAUMGARTNER:** Yeah. In this
2 particular incident there was -- a container
3 ship left the dock in Oakland. There was
4 almost zero visibility. They were under the
5 control of a pilot. As they left to proceed
6 out San Francisco they had to go underneath the
7 San Francisco Oakland Bay Bridge, okay, not the
8 Golden Gate Bridge, first they had to get
9 underneath the Bay Bridge. Okay, as they
10 approached the Bay Bridge the pilot was
11 apparently confused, and to go back to some of
12 the language from the NTSB investigation it
13 appeared that his cognitive functioning was
14 impaired, he couldn't understand symbols on the
15 electronic chart, he asked questions of the
16 captain, what does this symbol mean, a symbol
17 for a buoy, and the captain said, who was
18 Chinese, said that means the center, or he
19 asked him is that the center of the bridge, and
20 they said yes.

21 This particular bridge has a pier in the
22 center of it. The center of the bridge itself
23 is not actually the center of the span, there
24 are multiple spans. He was queried by the
25 vessel traffic service as to what his

1 intentions are because he appeared to be not
2 lining for his, as his intended course. He
3 made a course change, and steered right for the
4 symbol on the chart, which was not the center
5 of the span but was actually one of the piers
6 on the bridge. And the bridge pier was
7 detected just before impact. They did impact
8 the bridge pier. They discharged I believe
9 about 60,000 gallons of bunker oil into the,
10 into San Francisco Bay.

11 Now, as it turns out here when you look at
12 pilot liability, this particular pilot also was
13 under the affect of multiple medications,
14 several narcotics and opiate medications, as
15 well as medications for sleep apnea and many
16 other things, none of which are disclosed on
17 his physicals that he had submitted to the U.S.
18 Coast Guard for his federal pilots license. In
19 this particular situation because of the
20 failure to disclose his medications so that
21 that could be monitored appropriately and the
22 extreme recklessness for actually steering the
23 ship directly at a bridge pier he was faced
24 with criminal liability.

25 He was charged with, initially with two

1 felony counts for lying on his, and hiding his
2 medical history. And he was also charged with
3 a misdemeanor count of negligent, negligent in
4 causing pollution in the Federal Water
5 Pollution Control Act, and a misdemeanor count
6 under Migratory Bird Treaty Act for interfering
7 with birds through pollution. In this
8 particular case he was sentenced to ten months
9 for one of the, for the misdemeanor violations.
10 The felony violations were removed in a plea
11 agreement. He wasn't fined, and he did have to
12 surrender his license.

13 In this particular case though the ship
14 owners paid over \$54 million in fines and
15 penalties, plus the full liability for one of
16 the most expensive cleanups prior to the
17 Deepwater Horizon that we have had in the
18 United States. That was all borne by the ship
19 owner and the ship operator, not by the pilot.
20 There was also action, of course, with the
21 captain on board, and the captain was, was
22 taken to task for not intervening, and not
23 forcefully supervising the pilot in this
24 particular case.

25 And this is one of the few cases where

1 there's actually something that's happening
2 with the pilot, and in this case you can see,
3 you know, the falsification of the documents,
4 and literally as you look through steering the
5 ship right at a bridge pier despite the
6 electronic charts, and despite the radar
7 information, and despite the queries from the
8 vessel traffic service, that's what we saw
9 here. So you really -- I'm not aware of any
10 other case where there's been any kind of
11 significant pilot liability for any kind of an
12 incident, and certainly not one where there was
13 reasonable judgment taken, and where there
14 wasn't some type of other manifestly, you know,
15 criminal intent to defraud or submit false
16 statements.

17 **MR. PANZA:** So to summarize would it be
18 fair to say that you're not familiar with any
19 other maritime accidents which cause liability
20 to the pilot other than a situation where there
21 was a felony or someone was drunk?

22 **ADMIRAL BAUMGARTNER:** Not that type of
23 liability. I mean I know other times where
24 there's, there may be some suspension of their
25 license by the Pilot Association, or something

1 along those lines.

2 MR. PANZA: Okay, but I'm talking about
3 financial liability.

4 ADMIRAL BAUMGARTNER: I'm not aware of
5 any, no.

6 MR. PANZA: Okay. You're talking about
7 licensure restrictions or, okay, disciplinary
8 --

9 ADMIRAL BAUMGARTNER: Yes.

10 MR. PANZA: Okay, thank you. Captain
11 Hansen, are you familiar with the pilots'
12 ability to restrict the movement of a vessel
13 calling on a port because of wind restrictions?

14 CAPTAIN HANSEN: In I believe it was last
15 year, 2016, the Biscayne Bay Pilots implemented
16 restriction for vessels that are larger than
17 165,000 GRT, and larger than, and in between
18 from 125,000 - 165,000, and what the
19 restriction is, if we have, if there are winds
20 from north or south ships will not be able to
21 approach the channel if the wind exceeds 25
22 knots for ships with a larger than 165,000 GRT,
23 and 30 knots wind for ships larger than
24 125,000.

25 MR. PANZA: So that the pilots -- so the

1 pilots have the right to restrict for safety
2 reasons if the wind is too strong on a
3 particular direction; is that correct?

4 **CAPTAIN HANSEN:** That is what I
5 understand, that they can decide to wait until
6 those, until we go below those thresholds.

7 **MR. PANZA:** Okay, we handed out a, I think
8 what is a memo that reflects that, and that as
9 an exhibit. If can -- excuse me. Another issue
10 that's been discussed many times in here is the
11 risk of, the physical risk of piloting, and the
12 physical risks of piloting in FCCA's belief is
13 not as severe as the pilots would make them out
14 to be, particularly on the cruise ships.
15 Captain Hansen, could you please explain how
16 the pilots board the cruise ship versus that of
17 a cargo ship?

18 **CAPTAIN HANSEN:** There is a schedule for
19 when the pilot is expected to arrive on board.
20 Prior to boarding the pilot the ship will have
21 to position itself in order to give a shelter
22 and lee to the pilot boat when the come
23 alongside. When the pilot boat is alongside
24 there will be a pilot ladder rigged for them.
25 On all cruise ships the shell door where the

1 pilot ladder is rigged is relatively close to
2 the surface. They will have to, if I remember
3 right, four to five steps in order to get on
4 board, and as soon as they arrive on board they
5 will be met by security who will escort them up
6 to the bridge.

7 **MR. PANZA:** Is this the same door -- you
8 said the shell door? Is that what you called
9 it?

10 **CAPTAIN HANSEN:** Yes, it's a shell door.
11 It is the same shell door that's been used to
12 (unintelligible) in the various ports that we
13 (unintelligible).

14 **MR. PANZA:** If there was a, if you were in
15 a port where you were anchored and there was
16 no, there wasn't a dock, and you had tenders
17 coming up to pick up passengers, is that the
18 door they would go out?

19 **CAPTAIN HANSEN:** That is correct.

20 **MR. PANZA:** Okay. Is there any type of
21 safety harnesses, or any other equipment that
22 would be provided to a pilot if requested?

23 **CAPTAIN HANSEN:** We do have safety
24 harnesses if they request. Request harnesses
25 will be provided. And if I may add we have

1 compared cargo and container ships with cruise
2 ships. If a cargo ship is in ballast, which
3 means coming in empty, very often they have a
4 very high freeboard, so for the pilots to enter
5 a cargo ship may sometimes having them climbing
6 30' plus vertical in order to get on board,
7 which is, goes without saying, a much riskier
8 approach.

9 **MR. PANZA:** So when we're -- we're talking
10 about the cargo ships, and we were talking
11 about the earlier slides of 1,795 handles, that
12 means they would board 1,795 times I presume;
13 is that correct?

14 **CAPTAIN HANSEN:** That is correct.

15 **MR. PANZA:** Okay, and if that's on -- if
16 those were cargo ships they would have to walk
17 up a rope ladder, or some other type of ladder
18 up the side of the vessels, the cargo vessel,
19 to get on the vessel; is that correct?

20 **CAPTAIN HANSEN:** That is correct.

21 **MR. PANZA:** In your estimation as a
22 captain, and your experience, is it more
23 dangerous to do that than it is to enter the
24 shell door on a cruise ship?

25 **CAPTAIN HANSEN:** Without a doubt.

1 **MR. PANZA:** Do you position the ship,
2 either through dynamic positioning or any other
3 device, to keep the position, to keep the
4 position in the Gulfstream in such a fashion
5 that is the safest for the pilot to enter off
6 of the pilot boat, and could you explain that
7 to the committee?

8 **CAPTAIN HANSEN:** During peak season in
9 particular where you have a convoy of ships
10 read to enter, and with the time interval, it
11 is crucial to position the ship so that it's
12 possible to enter. And the currents from the
13 Gulfstream can sometimes be very strong, as we
14 know, so it can be challenging. And especially
15 from time to time for various reasons the pilot
16 boat may be delayed, and in those cases the
17 equipment that we have on board with the
18 dynamic positioning may come into place.

19 **MR. PANZA:** Okay, thank you. We'll to go
20 our next theme, which is the time spent on
21 piloting and the essential support services.
22 And this is what I discussed in my opening
23 statement about the time spent on piloting,
24 piloting, and the essential -- am I talking
25 loud enough, everybody can hear me? Am I

1 talking too loud?

2 **CHAIR:** No, no, you're fine.

3 **MR. PANZA:** Okay, I was trying to --
4 whatever.

5 **CHAIR:** Yeah, you got to share that one
6 mic. I'm sorry.

7 **MR. PANZA:** Okay, no problem at all, but I
8 just was trying to keep it in a relatively
9 decent level. Excuse me. In the past the
10 piloting duty was defined, and other essential
11 support services are defined, which were, and
12 I'm going to say this, allegedly adopted by the
13 Board of Pilot Commissioners. And these --
14 these are two definitions, and I'd like to
15 bring these up now because I don't think that
16 they apply, and I think that the pilots were
17 using those as part of their application, or as
18 part of this as demonstrating the piloting
19 duties.

20 An the actual piloting duty means the time
21 elapsed from the time when the pilot leaves his
22 or her home, office, or other location, to a
23 closer alternative location of his or her
24 choosing plus any additional time need, or
25 excuse me, I left out part of it, I'm sorry.

1 Let me just start over.

2 It mean the time elapsed when the pilot
3 leaves his or home office or origin, or to a
4 closer alternative location of his or her
5 choosing, plus any additional time needed to
6 document the piloting services performed for
7 billing purposes. Then it has a definition of
8 other essential services.

9 Other essential services mean the time
10 spent by pilots and their agent,
11 representatives, employees, in performing task
12 that contribute to the provision of safe and
13 efficient piloting services, to include time
14 spent on training, business operations,
15 security, and maintaining adequate
16 infrastructure, interaction with both
17 governmental authorities and private parties
18 involved un port operations and port security.

19 Our research indicates that these two
20 definitions were never adopted by rule, and
21 that they shouldn't be the definitions that are
22 used in here for, used in this proceeding
23 rather, for piloting duties, or other essential
24 support services. And I would direct that to
25 Mr. Jennings because it goes to the time that

1 the pilots use. I -- we could not find any
2 rule that was -- we found minutes that said
3 they were going to adopt the rule, but then
4 there was never any rule adopted. Do you know
5 if there was a rule adopted on this, and then
6 if there is then I'll -- I'm just trying to do
7 this as a point of clarification so I don't
8 make a record that I'm wrong on.

9 **MR. JENNINGS:** And, Mr. Panza, I can't
10 answer that question as I'm not familiar with
11 whether or not there is a rule dealing with
12 that. What are you reading from, just for my
13 benefit?

14 **MR. PANZA:** From their application. From
15 the pilots' application.

16 **MR. JENNINGS:** Okay, thank you.

17 **MR. PANZA:** Okay, so if we could just take
18 a look at that later, because it would deal
19 with whether there is a rule or isn't a rule,
20 and there's a big difference that I was trying
21 to point out, and I didn't have a witness to do
22 that.

23 **MS. BLANTON:** May I just speak to that
24 briefly. The rules are a matter of record.
25 They're public information. Anybody can do on

1 the Florida Administrative code and get the
2 rules.

3 **MR. JENNINGS:** Yeah. Yeah, I'm just
4 saying that I don't have them committed to
5 memory.

6 **MS. BLANTON:** No, I understand. I'm just
7 -- Mr. Panza is asking a question, and I'm
8 just not sure why he's not clear on what the
9 rules are.

10 **MR. PANZA:** Well, we looked and we didn't
11 a rule to that affect.

12 **MS. BLANTON:** Okay, then fine.

13 **MR. PANZA:** Okay, thank you. Admiral, the
14 Biscayne Pilots operate with eighteen pilots
15 currently. Those pilots work a schedule of two
16 weeks on and two weeks off. Is that your
17 understanding of the pilots' schedule?

18 **ADMIRAL BAUMGARTNER:** Yes, it is.

19 **MR. PANZA:** And based upon that schedule
20 is there only nine pilots operating at any one
21 given time?

22 **ADMIRAL BAUMGARTNER:** It would appear so
23 from that schedule.

24 **MR. PANZA:** Does this take into account
25 peak hours in your estimation?

1 **ADMIRAL BAUMGARTNER:** It would appear to,
2 yes.

3 **MR. PANZA:** Okay. And if there is a need
4 for nine pilots at any given time does it seem
5 reasonable to have eighteen pilots?

6 **ADMIRAL BAUMGARTNER:** Well, we're --

7 **MR. PANZA:** From a rate payer's
8 standpoint.

9 **ADMIRAL BAUMGARTNER:** Yeah, I think what I
10 would -- it says -- from what I understand from
11 the application that there are peak times that
12 might need that many pilots on the weekends,
13 but that certainly looking at the rest of the
14 data most of the rest of the time they're not
15 needed, that you can, that there's -- if we
16 didn't have those peak times on the weekends
17 there would be a much lower staffing during the
18 rest of the week.

19 So looking at it from a business, or an
20 efficiency standpoint, you would say if you
21 know you have peak times then staff or peak
22 times, but when you know you don't have peak
23 times you send people home and you give them
24 their time off when you don't need them rather
25 than having a set number all of the time

1 regardless of what the, the demand signal is.
2 So that's from -- from a rate payer's
3 perspective you look at that and you say
4 there's a more efficient way to meet that
5 demand, especially if it's, you know, a fairly
6 predictable demand, and the cruise business is
7 predictable, then to -- I'm sorry.

8 The way it is right now, it appears to be,
9 is that 365 days a year we staff, the Biscayne
10 Bay Pilots are staffing for peak demand that
11 happens during part of the year on the
12 weekends, so if you simply rearrange your time
13 so that you have more people assigned on peak
14 periods and fewer people assigned during non
15 peak periods when you know you have non peak
16 periods you could have significant, you could
17 have less staffing.

18 **MR. PANZA:** Okay, if you had less staffing
19 would there be less operational costs?

20 **ADMIRAL BAUMGARTNER:** Yes.

21 **MR. PANZA:** Have you seen any evidence as
22 a rate payer that the Biscayne Pilots have
23 engaged in any type of feasibility study, or
24 any other study that would demonstrate that
25 they've looked at these cost efficiencies?

1 **ADMIRAL BAUMGARTNER:** I haven't seen
2 anything where they've looked at alternate
3 staffing models that would be more efficient,
4 that used their resources more efficiently.

5 **MR. PANZA:** Do you -- do you have any
6 knowledge of -- the pilots when we first were
7 talking in the beginning we were talking about
8 in 1995 the pilots had eighteen pilots and they
9 did 10,585 handles. In 2016 they have eighteen
10 pilots and they did 5,231 handles, which is
11 less than half. Do you know as a rate payer
12 what these pilots were doing for the other half
13 of the time that they were doing back in 1995
14 that they obviously must not have been doing in
15 2016 if they had half the handles?

16 **ADMIRAL BAUMGARTNER:** No, I don't.

17 **MR. PANZA:** Captain Hansen, do you know
18 what they might have been doing?

19 **CAPTAIN HANSEN:** No, I don't.

20 **MR. PANZA:** The -- in 2014 the pilots
21 indicated in their financial statements they
22 had 15.17 FTE, full time equivalent pilots. In
23 the year 2015 in their statement they had 16.58
24 FTE pilots. Do either one of you representing
25 your particular line noticed any particular

1 change in the service which you received in
2 either 19, either in 2014 or 2015 as a result
3 of the, you know, reduced amount of pilots,
4 15.17 and 16.58 respectively?

5 **ADMIRAL BAUMGARTNER:** No, not from my
6 perspective.

7 **MR. PANZA:** What about from you --

8 **CAPTAIN HANSEN:** No, I haven't noticed any
9 changes.

10 **MR. PANZA:** Do you know how many pilots
11 the pilots have now other than what you've seen
12 in the application, either one of you?

13 **ADMIRAL BAUMGARTNER:** No.

14 **CAPTAIN HANSEN:** No.

15 **MR. PANZA:** May I ask the chairman if we
16 are close to getting to a break time, for
17 natural causes?

18 **CHAIR:** Sure. About five minutes.

19 (Thereupon, a brief recess was taken off the record
20 and the meeting continued as follows:)

21 **CHAIR:** Okay, let's start. Okay, we're
22 ready to start back here. It's 3:15, and we
23 will try to continue now to 6:00 when we
24 finish.

25 **MR. PANZA:** Thank you. Okay, we all have

1 our own mic now. Thank you. Okay, we would
2 thank you for letting me have that break. Can
3 we go to the graph again --

4 **CHAIR:** Can you provide us slides to all
5 the --

6 **MR. PANZA:** I can provide them to you any
7 -- I just thought it was going to be confusing
8 if I started handing them out now. If you'd
9 like me to do the now --

10 **CHAIR:** Have you already made copies?

11 **MR. PANZA:** Yes, sir. Yes.

12 **CHAIR:** Could you please distribute those?

13 **MR. PANZA:** Yes. Can we have a couple
14 minutes just so we -- we had them, they were
15 individual, so if you give us a couple minutes
16 we can collate them, and we'll give you a whole
17 set.

18 **CHAIR:** That would be perfect.

19 **MR. PANZA:** No problem, I'm sorry.

20 **MR. JENNINGS:** And, Ms. Blanton, when your
21 time comes if you have exhibits could you also
22 go ahead and have them presented?

23 **MS. BLANTON:** We have ours in a bound
24 notebook, and we'll give them to you at the
25 beginning of our case.

1 **MR. JENNINGS:** Perfect, thank you.

2 **MS. BLANTON:** And we would appreciate a
3 copy of whatever Mr. Panza is handing out to
4 the committee as well, thank you.

5 **MR. PANZA:** Yes, we'll give you one.
6 Okay, ours are sorted separately. I could hand
7 them out individually, and you all can pass
8 them out, or we can collate them here. It will
9 take us about five minutes to collate them
10 probably. Which would you rather have? And I
11 do apologize for the delay.

12 **MR. JENNINGS:** Why don't we just hand them
13 as he presents them going forward, and then I
14 guess the rest of them --

15 **MR. PANZA:** Okay. And then as soon as the
16 hearing gets close to the end then I'll give
17 you the, we'll collate them. Thank you so much
18 though. Okay, so excuse me, Chairman Wilkins.

19 **MR. CREW:** I just have a -- I have a
20 question real quick on the exhibits just for
21 purposes of tomorrow. You have a couple of
22 power points, would the Board appreciate like
23 copies of the power point slides as well? I
24 just wanted to make sure so we could make
25 copies and put them -- great, thanks.

1 **MR. PANZA:** Okay, thank you very much.
2 You all have a slide in front of you, which is
3 the same slide as we have up here on our chart,
4 and Colonel -- Colonel, I'm sorry, Admiral.
5 Next you'll be general. Would you please
6 explain getting into the details of this, the
7 actual time spent on piloting? Have you
8 investigated -- have you reviewed the
9 investigative report?

10 **ADMIRAL BAUMGARTNER:** Yes, I have.

11 **MR. PANZA:** Okay, and the investigative
12 report estimates approximately 2 hours on
13 average per handle, is that -- would you say
14 that's reasonable?

15 **ADMIRAL BAUMGARTNER:** That would probably
16 be the maximum actual time actually piloting.

17 **MR. PANZA:** Is it your understanding that
18 this chart shows that in 2015 the pilots did
19 approximately 5,099 handles?

20 **ADMIRAL BAUMGARTNER:** Yes. Yes, that's
21 true.

22 **MR. PANZA:** Okay. And across the eighteen
23 pilots at 52 weeks a year is it about 5 1/2,
24 5.45 handles per week, would that be the math
25 on that?

1 **ADMIRAL BAUMGARTNER:** That's right.

2 **MR. PANZA:** Which equates to about 10.9
3 hours in actual bridge time, would that be
4 correct?

5 **ADMIRAL BAUMGARTNER:** That would be.

6 **MR. PANZA:** And when we say bridge time
7 we're talking about the handle, correct, so
8 we're all on the same page?

9 **ADMIRAL BAUMGARTNER:** That's correct.
10 That's correct, that's presuming that it did
11 take them up to 2 hours, yes.

12 **MR. PANZA:** Okay, and so we don't mislead
13 anyone we're saying per week. Based upon the
14 pilots' schedule of two weeks on and two weeks
15 off what would the impact of that be?

16 **ADMIRAL BAUMGARTNER:** Well, that would be,
17 it would then be about 22 hours per working
18 week, and then nothing during the non working
19 weeks. So that's how it would work out.

20 **MR. PANZA:** So if you took this at 52
21 weeks a year then that's basically --

22 **ADMIRAL BAUMGARTNER:** Right.

23 **MR. PANZA:** Thank you. Okay. The
24 investigative committee and the pilots account
25 for additional time other than bridge time,

1 which includes thirty minutes for commuting to
2 the pilots' station for each handle. Would you
3 say that's reasonable?

4 **ADMIRAL BAUMGARTNER:** I mean that I --
5 that I don't know. Normally we don't look at
6 commute time for most, for most businesses when
7 we estimate, or pay people. And if they're
8 staying at the pilot station, or have multiple,
9 multiple handles during the day, then that
10 doesn't seem quite right.

11 **MR. PANZA:** Okay. And the investigative
12 committee includes, includes 45 minutes of
13 average time on the pilot boat per handle.
14 Does that seem like it's a reasonable
15 assessment to you?

16 **ADMIRAL BAUMGARTNER:** I think it is
17 reasonable. Again I think that's probably on
18 the high end, but it's reasonable.

19 **MR. PANZA:** Okay. And that includes three
20 boats and seven boatmen.

21 **ADMIRAL BAUMGARTNER:** Right. Right.

22 **MR. PANZA:** Okay. And the investigative
23 committee includes 30 minutes of time to get
24 off the boat once docked and back to the pilot
25 station, for the gangway to be lowered, et

1 cetera. Does that seem reasonable?

2 **ADMIRAL BAUMGARTNER:** That actually seems
3 a little bit long since it's all on the same
4 island, but that does seem a little bit long.

5 **MR. PANZA:** Okay, and I'd like to show you
6 -- can we have the map?

7 **ADMIRAL BAUMGARTNER:** Yeah, and this is
8 what we're looking at, so from --

9 **MR. PANZA:** Okay, one second. We're going
10 to hand this one out. This is marked as, or
11 this is indicated as Royal Caribbean Terminal J
12 the Biscayne Bay Pilot Boat Docks, and it's a
13 Google map. Could you explain to the committee
14 what this depicts?

15 **ADMIRAL BAUMGARTNER:** Yeah, it's just as I
16 was mentioning before, the pilots' station, or,
17 you know, the pilots' station and the terminals
18 are all on the same island, and this is, you
19 know, basically as it says, you know, about 2.2
20 miles from one end to the other, so it's a
21 fairly short distance.

22 **MR. PANZA:** Okay. And the -- if we use
23 the investigative committee's figures this only
24 totals to about 1.25 hours of additional time
25 per handle, correct?

1 **ADMIRAL BAUMGARTNER:** That's right. If
2 you use those figures that's the additional
3 before and after time.

4 **MR. PANZA:** On average instead of doing
5 10.9 hours of work per week, that would be, you
6 know, per actual week, an average port pilot
7 does about 17.8 hours per week based upon the
8 additional time of 1.25 and the 2 hours?

9 **ADMIRAL BAUMGARTNER:** That's right.

10 **MR. PANZA:** Do you know of any captain on
11 your, in your fleet that works 17.8 hours a
12 week when they're on duty?

13 **ADMIRAL BAUMGARTNER:** In just a day maybe,
14 but no.

15 **MR. PANZA:** No.

16 **ADMIRAL BAUMGARTNER:** No, it isn't. It's
17 -- it's much more, much more intensive than
18 that.

19 **MR. PANZA:** Can you explain very briefly
20 to the committee what you mean by more
21 intensive than that for the captain?

22 **ADMIRAL BAUMGARTNER:** Well, the captain is
23 under 24/7, you know, just a mandatory,
24 mandatory rest hours, but, you know, the
25 captain is going to be up for all revolutions,

1 and unlike cargo ships generally our ships are
2 in port almost every day. Generally at least
3 five out of seven days they're entering and
4 exiting ports, usually arriving early in the
5 morning and sometimes leaving late at night,
6 sometimes in the afternoon. Plus they have the
7 whole administration of the ship, the whole
8 safety of the ship, drills, exercises, all of
9 those kinds of other things to attend to. And
10 then of course they do have guest facing
11 activities that they have to, have to deal with
12 as well, but, you know, they're, you do see an
13 extremely full day for, for all of the
14 captains.

15 **MR. PANZA:** And this would be seven days a
16 week?

17 **ADMIRAL BAUMGARTNER:** Yes, our captains
18 work obviously seven days a week, ten or
19 thirteen weeks on, on duty, and then they have
20 ten or thirteen weeks where they can, where
21 they go on vacation. And of course when
22 they're on the ship they're on 27/7, called
23 during the night, all of, all of those normal
24 things that (unintelligible) to being a captain
25 underway.

1 **MR. PANZA:** Okay, thank you. We'll go to
2 our next graph that talks about the essential
3 support services, and we'll hand this out to
4 you all. On the, this chart, the source of
5 this chart comes from the application of the
6 pilots, and it shows what the other component
7 is, besides bridge time, or handle, the actual
8 handle is the other essential support services
9 that they perform, and they indicate that it's
10 15 pilots at 500 hours plus 3 pilots at 1,000
11 hours. That constitutes 10,500 hours, 52
12 weeks, is just the math that's in their
13 application, and it's 202 hours spent per week
14 every work, every week on other essential
15 support services. As a rate payer have you
16 looked at these, Admiral, have you looked at
17 these essential support services?

18 **ADMIRAL BAUMGARTNER:** Yes, I have.

19 **MR. PANZA:** Okay, and do you question any
20 of these essential support services; is that
21 what a pilot needs to do as an essential
22 support service?

23 **ADMIRAL BAUMGARTNER:** As I'm looking here,
24 202 hours per week is essentially 5 full time
25 employees, which is kind of hard for me to

1 understanding, having been in the business on,
2 particularly that we would need, you know, 5
3 people of the pilots' level of experience and
4 qualification full time, as essentially full
5 time employees to handle these other services.
6 Many of these things, some of these things on
7 here are actually, you know, very important.
8 Certainly the South Florida, the Coast Guard
9 South Florida Area Committee is important, in
10 Hurricane season the Strategic Weather Advisory
11 Committee, those are things that are quite
12 important. The Harbor Safety Committee, those
13 quarterly meetings are very important as well.

14 I look at some of the other things, and in
15 terms of the boat manager, building manager,
16 computer manager --

17 **MR. PANZA:** Well, let me ask you, do you
18 know what a boat -- excuse me, I didn't mean to
19 interrupt, Admiral, but do you know what the
20 boat manager is?

21 **ADMIRAL BAUMGARTNER:** I don't know
22 exactly, but I know it's, as I'm looking at it
23 I'm wondering if it needs the level of
24 expertise and competence of, of a Biscayne Bay
25 Pilot to fulfill that, to fulfill that job. It

1 would seem something that you could have
2 somebody of much lesser qualifications handle
3 it at a more efficient and effective price.

4 **MR. PANZA:** As part of -- as part of
5 piloting in your experience in the Coast Guard
6 and on see is a building manager that normal
7 function of a pilot?

8 **ADMIRAL BAUMGARTNER:** I wouldn't normally
9 think so. I think you could get somebody of
10 far lesser qualification to handle that, that
11 function well.

12 **MR. PANZA:** And what about a computer
13 manager, is that something that typically a
14 pilot needs as part of his qualifications?

15 **ADMIRAL BAUMGARTNER:** I mean I don't think
16 you would need a, you know, a pilot's
17 qualifications to be a computer manager. No,
18 no I don't.

19 **MR. PANZA:** What about the communications
20 officer; do you know what that does?

21 **ADMIRAL BAUMGARTNER:** I don't know exactly
22 what that does with the --

23 **MR. PANZA:** Okay, and the training
24 officer, do you know what they do?

25 **ADMIRAL BAUMGARTNER:** I don't, but I would

1 -- I can definitely, depending on what the job
2 is, I mean that could require the expertise of
3 a pilot. On the other hand if it's somebody
4 that's scheduling and organizing then it
5 definitely doesn't. But it depends on what the
6 job is.

7 **MR. PANZA:** Okay, and the next one is one
8 pilot serves on the Board of Pilot
9 Commissioners. Do you know how often the Board
10 of Pilot Commissioners meet?

11 **ADMIRAL BAUMGARTNER:** No, I don't.

12 **MR. PANZA:** Do you know how many, how many
13 duties they have in the intersessional time
14 when they're not meeting?

15 **ADMIRAL BAUMGARTNER:** That I don't have.
16 I don't know.

17 **MR. PANZA:** Okay. Now, do you know what
18 the Florida Harbor Pilots Association is?

19 **ADMIRAL BAUMGARTNER:** I'm not that
20 familiar with it, but I believe it's the
21 industry of the lobbying group for the Florida
22 Harbor Pilots.

23 **MR. PANZA:** Their trade association.

24 **ADMIRAL BAUMGARTNER:** Their trade
25 association, yes.

1 **MR. PANZA:** Okay, and do you know what
2 they do on the Florida Harbor Pilots
3 Association?

4 **ADMIRAL BAUMGARTNER:** Well, I think they
5 -- well, they lobby, they advance the goals of
6 the, of the harbor pilots.

7 **MR. PANZA:** And you feel that that's an
8 essential service, for them to lobby?

9 **ADMIRAL BAUMGARTNER:** That's not really
10 for, you know, for me to say here, but as a
11 rate payer, you know, I'm never inclined to
12 have, that would be an expense to, to lobby on
13 the other side of the issue. There may be
14 other things that the Board of Harbor Pilots
15 Association does that, that may be very
16 different. If it's exchange of expertise
17 between areas, sharing best practices, and
18 those types of things, then --

19 **MR. PANZA:** Okay. And do you know what
20 the -- well, the executive committee, that
21 would be of the Florida Harbor Pilots, okay.
22 Customer relations, do you know what that
23 means? Do you know how much time they spent on
24 that?

25 **ADMIRAL BAUMGARTNER:** That I don't know.

1 **MR. PANZA:** And who are the customers?

2 **ADMIRAL BAUMGARTNER:** Well, I think that
3 would be us.

4 **MR. PANZA:** When you say us who's us?

5 **ADMIRAL BAUMGARTNER:** Is -- as one of the
6 ship owners and ship operators the cruise lines
7 would be one of the customers.

8 **MR. PANZA:** Okay. And do you have regular
9 meetings with the pilots as the ship owners?

10 **ADMIRAL BAUMGARTNER:** Our fleet captains
11 do have regular, and I shouldn't say regular,
12 but they have good relationships with them, and
13 good open lines of communications. And that's
14 certainly one of the things that I do hear well
15 from my fleet captains.

16 **MR. PANZA:** Okay, and mentoring students,
17 do you know which students we're talking about?

18 **ADMIRAL BAUMGARTNER:** Here I don't know.

19 **MR. PANZA:** Okay. And the USCG Coast
20 Guard South Florida Area Committee meets
21 quarterly. Would you know about that --

22 **ADMIRAL BAUMGARTNER:** Yes, and I think the
23 pilots are -- that's an important function, an
24 important contribution the pilots do make, so
25 it's quarterly meetings, yes.

1 **MR. PANZA:** And how long do these
2 quarterly meetings last once they happen?

3 **ADMIRAL BAUMGARTNER:** You know, I don't
4 know the exact schedule of the ones down here,
5 but they're generally, most places they're
6 generally a morning or an afternoon.

7 **MR. PANZA:** Okay, so 3 or 4 hours
8 probably?

9 **ADMIRAL BAUMGARTNER:** It could be, and
10 there could fluctuation to that, but, you know,
11 that's the -- you know, that's -- the pilots
12 are an important part of that.

13 **MR. PANZA:** Okay. And the Strategic
14 Weather Advisory Team it says meets in the
15 event of a Hurricane. Is that when we have a
16 Hurricane, they meet to talk about the port?

17 **ADMIRAL BAUMGARTNER:** Yes, preparations
18 for that, and certainly the response
19 afterwards. And the pilots are a very
20 important part of, very important part of that,
21 and their input when the Coast Guard looks to
22 reopen the port is absolutely critical.

23 **MR. PANZA:** Okay, and do you know how many
24 hours a year they would spend on that?

25 **ADMIRAL BAUMGARTNER:** I don't know

1 exactly.

2 **MR. PANZA:** Do they only do that if
3 there's a Hurricane that's impending -- I mean
4 South Florida here hasn't had a Hurricane in
5 the last few years, so.

6 **ADMIRAL BAUMGARTNER:** I don't know the
7 exactly schedule, but I would expect that there
8 would be preparatory meetings. You want to
9 know the other people, and you have drills and
10 exercises so to make sure that you're ready, so
11 even if you have no Hurricanes there would be
12 work.

13 **MR. PANZA:** Okay, and what about Miami
14 Harbor Safety Committee that meets quarterly?
15 Do y know how long that Committee meets for
16 when it meets quarterly?

17 **ADMIRAL BAUMGARTNER:** That's probably,
18 generally probably an afternoon or a morning,
19 and that again is something that the pilots are
20 a very essential part of, the Harbor Safety
21 Committee, and that's, I think that's
22 necessary, it needs the expertise certainly of
23 Biscayne Bay Pilots to participate in.

24 **MR. PANZA:** And do you know about the
25 Miami River Commission, what that is?

1 **ADMIRAL BAUMGARTNER:** Yes, I do.

2 Overlooking the Miami River, the uses of it,
3 and many other projects.

4 **MR. PANZA:** Do you know if the pilots met
5 at all, went to any of those meetings in 2016?

6 **ADMIRAL BAUMGARTNER:** I don't know. I
7 don't know.

8 **MR. PANZA:** The propeller club, do you
9 know what that is?

10 **ADMIRAL BAUMGARTNER:** Yes. Yes.

11 **MR. PANZA:** What is it?

12 **ADMIRAL BAUMGARTNER:** That's an
13 organization of marine interests. There are
14 local chapters of it. There's also national
15 chapters of it.

16 **MR. PANZA:** They meet once a month. For
17 how long do they meet?

18 **ADMIRAL BAUMGARTNER:** Generally they do,
19 and generally there's an evening meeting. Most
20 -- sometimes they vary between, between
21 different locations.

22 **MR. PANZA:** Okay, so it would be once a
23 month, maybe on evening?

24 **ADMIRAL BAUMGARTNER:** Yes. Yes, sir.

25 **MR. PANZA:** And then the Greater Miami

1 Chamber of Commerce meets once a month; do you
2 know what that, what they would do there?

3 **ADMIRAL BAUMGARTNER:** I mean I think -- I
4 haven't been at a meeting and seen the pilots
5 there, but there are general meetings, and the
6 Port of Miami is a huge part of the economic
7 engine of, of the Metro-Miami area so that does
8 make sense to me.

9 **MR. PANZA:** Okay. On any of these areas
10 that you've described is there any of the areas
11 that you think that there's civilian, when I
12 say civilian I don't mean ones in the military,
13 but non pilot personnel could do?

14 **ADMIRAL BAUMGARTNER:** I'm -- certainly I
15 -- when you look at both, manager building,
16 manager computers, manager of public
17 communications, officer and so forth, those I
18 don't see why, why a pilot would be, to be
19 necessary, a pilot's level of expertise would
20 be necessary for that. It would seem like it
21 could be done much more efficiently. And I
22 would imagine that those would be items that
23 would take up, I don't know, a significant
24 portion of the 200 and some hours per week.

25 **MR. PANZA:** Okay, have you seen any, any

1 research, or any type of documentation that the
2 pilots have produced that would show you what
3 the, the boat manager does, and whether it
4 could be one of the seven boatmen that would be
5 paid a little bit more possibly?

6 **ADMIRAL BAUMGARTNER:** I haven't seen the
7 (unintelligible), no.

8 **MR. PANZA:** Does it seem reasonable to you
9 as a, as a rate payer, to have the pilots spend
10 202 hours per week, or 5 full time employees
11 per week on the services we just outlined?

12 **ADMIRAL BAUMGARTNER:** No, it doesn't. It
13 seems -- it seems pretty high.

14 **MR. PANZA:** Captain Hansen, I'm not going
15 to go through all these questions again just to
16 expedite this matter, but I would ask you the
17 same questions. Do you think that it's
18 reasonable to spend 202 hours per week on these
19 functions that we just described.

20 **CAPTAIN HANSEN:** No, I don't, and I don't
21 have anything else to add.

22 **MR. PANZA:** Thank you. We'll now move on
23 to the actual navigation of the, of Port Miami,
24 or Port of Miami. And there's been -- there is
25 information in the application, and what the

1 pilots will say, that this is a very difficult
2 port, et cetera, to navigate, and I would like
3 to bring the Board's attention to this.

4 Admiral, one argument that is made is the Port
5 of Miami complexity because of unmarked reefs.
6 Can you explain whether there's any unmarked
7 reefs present that propose a hazard to your
8 cruise ships?

9 **ADMIRAL BAUMGARTNER:** Okay, from our point
10 of view the harbor is well marked, and it's
11 fairly straightforward, and there aren't a
12 whole lot of hidden or undisclosed hazards to
13 navigation in this particular port.

14 **MR. PANZA:** Captain Hansen, has your, in
15 reference to any of your cruise ships have you
16 run into any difficulty with unmarked reefs
17 causing a hazard to your cruise ships?

18 **CAPTAIN HANSEN:** As Commander Dunton
19 mentioned earlier Miami is the cruise capital
20 of the world, and it means that it's a modern
21 destination, it's a modern port, and which
22 means that we have very accurate chart data, we
23 have very accurate weather forecasts, current
24 predications, there are current buoys right
25 outside the cut, and also the location of marks

1 and buoys are well known. If any of the buoys
2 are drifting out of position this is monitored
3 on a very early stage. We also have Coast
4 Guard sector Miami rights inside the Government
5 Cut that is patrolling the coastal area where
6 the cruise ships are entering, and also as we
7 know stringent security in Port of Miami, so to
8 answer your question Miami is a safe, a very
9 safe port to operate in from a navigational
10 point.

11 **MR. PANZA:** And your captains haven't
12 reported to you problems with unmarked reefs,
13 have they?

14 **CAPTAIN HANSEN:** It has never been brought
15 to, to my attention, no.

16 **MR. PANZA:** Thank you. Captain Hansen,
17 I'd like to ask you about the Gulfstream. Can
18 you explain the challenges posed by the
19 Gulfstream? The pilots have indicated that
20 that's a challenge.

21 **CAPTAIN HANSEN:** As I briefly mentioned
22 earlier the challenge is to position the ship
23 for the pilots to, to board, meaning that we
24 need to provide shelter the best we can when
25 the pilot boat is coming alongside, and at the

1 same time keep our slot for entry. So again
2 for various reasons it may happen that the
3 pilot is slightly delayed, and that can be a
4 little bit challenging when the current is at
5 2, 3 knots north.

6 **MR. PANZA:** Does your position directed --
7 dynamic positioning system, I'm sorry, does
8 that, is that used when you're trying to
9 maintain a particular position for the pilot to
10 gain entrance to the vessel?

11 **CAPTAIN HANSEN:** From time to time we use
12 it, especially if the delay is longer than
13 expected, or if it's challenging to keep the
14 ship in position.

15 **MR. PANZA:** Thank you. Captain Hansen,
16 can you explain how the Port of Miami is a
17 modern port, and how it's dredged, and whether
18 there are obstacles or other conditions that
19 change from day to day?

20 **CAPTAIN HANSEN:** Again as mentioned it is
21 a modern high tech port where for us as an
22 operator there are not many, or if any
23 surprises as far as conducting safe navigation,
24 we know how deep the channel is. We know the
25 width of the channel, and we know where our

1 navigational markers and, and buoys, and also
2 the charts are up to date in Miami.

3 **MR. PANZA:** Captain Hansen, do many of
4 your ships visit the Port of Miami on a weekly
5 basis, on a regularly scheduled weekly basis,
6 in other words they come in and out at least
7 once or twice a week?

8 **CAPTAIN HANSEN:** That is correct. The
9 Norwegian Sky sails year round from Miami doing
10 three or four day cruises, so two turnarounds a
11 week.

12 **MR. PANZA:** And Admiral, would your cruise
13 lines have the same situation; do you have
14 ships that come in and out on a weekly basis?

15 **ADMIRAL BAUMGARTNER:** We do, and we have
16 some that turnaround twice a week in Miami as
17 well.

18 **CAPTAIN HANSEN:** And sorry, in addition to
19 the Norwegian Sky doing two cruises a week we
20 also have the Norwegian Getaway and the
21 Norwegian Escape on weekly turnarounds in
22 Miami.

23 **MR. PANZA:** Okay, when they -- when they
24 come in on weekly is it the same captain and
25 staff captain?

1 **CAPTAIN HANSEN:** The captains and the
2 staff captains typically do a ten week
3 contract, so we have two captains sharing the
4 ship, ten weeks on, ten weeks off, and the same
5 with the staff captains. Then we also try to
6 have an overlap so that they don't sign on and
7 sign off at the same time. And we try to keep
8 the same captains and staff captains on board
9 the same ship for two to three years. That can
10 of course be challenging, as we are building
11 new ships, or if we need to transfer them to
12 other ships on a need to be basis.

13 **MR. PANZA:** What is the purpose of keeping
14 a captain on the ship for two to three years?

15 **CAPTAIN HANSEN:** It is to continue to
16 make, so they are familiar with the ship, and
17 also as was mentioned earlier it's not only to
18 navigate the ship, it is also to get know your,
19 your crew and, and the overall operations of
20 the ship.

21 **MR. PANZA:** So would it be your opinion
22 based upon your staffing model that these ship
23 captains that come in here are always
24 experienced with the Port of Miami?

25 **CAPTAIN HANSEN:** Yes, they are. And I

1 mention this, or near as well -- when you --
2 not only when you are a new officer coming to
3 the company, if you are transferred from one
4 ship to the next it is required for a 14 days
5 overlap if you are transferring from a
6 different type ship, let's say if you're going
7 from a public ship to a conventional it's a two
8 weeks overlap. If it is -- if it is a sister
9 ship, meaning same type of ship, it's usually
10 one week overlap, or it can be extended if, if
11 found need.

12 **MR. PANZA:** And Admiral, would your answer
13 be the same? I mean is that what your company
14 does?

15 **ADMIRAL BAUMGARTNER:** Yes, we tend to keep
16 the same captains, and do try to keep them on
17 the same ship for two to three years. Of
18 course you can't always do that, and generally
19 he captains that are going to be on the ships
20 that call every week are going to, are going to
21 be familiar with, generally very familiar with
22 the port. You do have some ships that are
23 occasional callers where maybe they are lesser
24 familiar, but the ones that call consistently
25 each week are going to have very, captains that

1 are familiar with the area.

2 **MR. PANZA:** Okay, can we move on. Greg
3 would you hand out Graphic O, or Q? Okay,
4 Admiral, could you please explain to the
5 committee what this slide demonstrates?

6 **ADMIRAL BAUMGARTNER:** What this slide does
7 demonstrate is it just compares the Port of
8 Miami to the, to the Port of New York and New
9 Jersey to give you some idea of the relative
10 complexity of the two ports. One of the things
11 I would point out right away as you're looking
12 at these is that these two photographs are not
13 to scale at all, and that's one of the things
14 that you would see right off if you're
15 comparing say these two ports, is that in
16 general the length of a run in terms of miles
17 is going to be for the most part three to four
18 times longer in New York than in Miami.

19 And as you see there are many, many more
20 facilities in New York that, you know, that the
21 pilots and so forth have to deal with. You
22 have various waterways. Just inside New Jersey
23 itself you have Bayonne, then you've got the
24 Port of Newark, and then the New Jersey Kills
25 where there are many different facilities, so

1 you've got main channels, sub channels, and
2 various different things. You go up the Hudson
3 River where some of the cruise ships are, is
4 quite a way up the Hudson River. As you're
5 navigating in, in New York, actually one other
6 thing is that probably a third of the run isn't
7 even on this chart, it's just -- to make things
8 simple, but there's a much longer run in in
9 Lower New York Harbor to get up through to the
10 bridge and then into New York Harbor itself.

11 Unlike Miami, where the actual waterways
12 and channels are well defined, and if you do
13 have traffic going in the other direction, or
14 you do have any other significant traffic,
15 their path and your path are well defined, and
16 you have very few actual reaches, or channels.
17 In New York it's very different. There are
18 multiple different locations. You have traffic
19 crisscrossing at different angles all the time,
20 you have multiple ferries, including the large
21 Staten Island Ferries.

22 You have large tugboats and tows that are
23 cutting across things. You've got an anchorage
24 in the middle of the harbor that helps, that
25 blocks the view, particularly at night, and the

1 currents are quite extraordinary in portions of
2 New York, and they work across, sometimes
3 directly across the channel that you're
4 navigating in. So when you look at just
5 relative complexities of different ports this
6 is just one example of one that is much more
7 complex than Miami.

8 **MR. PANZA:** Thank you. Captain Hansen, can
9 you compare in the application of the -- on
10 Table 3 of the pilot's application, and compare
11 their fee to a fee of large cruise ships that
12 would pay in other ports around the country,
13 such as Mobile, San Francisco, Columbia River,
14 Tampa, Baltimore, Puget Sound, and others?
15 Would you -- could you describe why you believe
16 it's not a fair and accurate comparison?

17 **CAPTAIN HANSEN:** All ports we call into
18 have their challenges, and some are higher than
19 others. And Miami is a very well structured
20 port, as mentioned not very many surprises. We
21 do have currents, and sometimes strong
22 northerly and southerly wind, and we have to be
23 aware of the crabbing of the ship, which in my
24 opinion is at least of the top three of the
25 risks in Miami. That said if you compare Miami

1 to many other places that we go to, take, for
2 instance New Orleans, where you have -- transit
3 of 9 hours to get up to New Orleans. Sometimes
4 with very strong currents you have tugs and
5 barges, you have crossing traffic. If you
6 compare the two I think it's pretty obvious
7 about you are facing more risks, and notably
8 hazards when you are transiting up through, to
9 New Orleans. And you also mentioned Tampa here
10 in Florida where quite often there is
11 restricted visibility and narrow passages, and
12 the pilotage, pilot transit up to Tampa, if I'm
13 not wrong I think it's about 3, 3 1/2 hours one
14 way.

15 **MR. PANZA:** Thank you. Have you, Admiral,
16 have you been made aware that there's been any
17 difficulty in the Port of Miami on finding
18 qualified individuals to serve as pilots, or a
19 shortage of pilots in general?

20 **ADMIRAL BAUMGARTNER:** No, I haven't been
21 made aware of anything.

22 **MR. PANZA:** And when you were in the Coast
23 Guard you was actually stationed here in Miami.
24 Did you -- were you aware of any shortage of
25 pilots, or any difficulty in obtaining the

1 qualified pilots?

2 **ADMIRAL BAUMGARTNER:** No, there wasn't
3 anything brought to my attention, no.

4 **MR. PANZA:** Okay, and Captain Hansen, the
5 same questions. Based on your experience here
6 in Miami have you become aware of any situation
7 where there are a shortage of pilot applicants
8 for deputy pilots, or actual pilots themselves?

9 **CAPTAIN HANSEN:** Not that I'm aware of.

10 **MR. PANZA:** Are you aware of any
11 difficulty in the pilot, in the pilot
12 organization having the ability to fill, fill
13 open spots, open slots; have you noticed any
14 delays that you would have at your company
15 because they have not had the ability to fill
16 these open slots?

17 **CAPTAIN HANSEN:** Not to my knowledge, no.

18 **MR. PANZA:** Okay, and are you familiar
19 with the investigative report that indicates
20 that most deputy pilots are not skilled enough
21 to be pilots without significant training, so
22 would that be your, would that be your
23 assessment as well?

24 **CAPTAIN HANSEN:** Can you repeat that?

25 **MR. PANZA:** Yeah. Would your assessment

1 be that a deputy pilot wouldn't be skilled
2 enough to be a pilot without significant amount
3 of training?

4 **MR. PANZA:** If -- if I get your -- yeah,
5 it requires a good amount of training. Okay, if
6 you come in with the requirements that were,
7 were here before, you were unqualified second
8 mate, that would require training, correct?

9 **CAPTAIN HANSEN:** That is correct, yeah.

10 **MR. PANZA:** Versus a captain of a ship
11 that's been a captain with unlimited for thirty
12 years.

13 **CAPTAIN HANSEN:** Yeah, if I understand
14 your question correctly if you meet the
15 requirements to, to become a pilot, you would
16 first have to pass the exam and then serve as a
17 deputy before you become a pilot. Does that
18 answer the question?

19 **MR. PANZA:** Yes, that's fine. Were you
20 aware that in approximately 2000 or 1990, well,
21 in 1995 the pilots were handling 10,500
22 handles. Do you know if they were doing those
23 okay at that particular point, competently in
24 1995?

25 **CAPTAIN HANSEN:** Yeah, I believe so.

1 **MR. PANZA:** Okay, and that would be about
2 600 handles per pilot per year.

3 **CAPTAIN HANSEN:** That sounds to be right,
4 yes.

5 **MR. PANZA:** And the pilots were working
6 with eighteen pilots at that time; is that
7 correct?

8 **CAPTAIN HANSEN:** As far as I know, yes.

9 **MR. PANZA:** Okay, let's go to the next
10 graph please, the next chart. Okay, Admiral,
11 I'd like to ask you about this chart, and ask
12 you what does this chart depict with the, it's
13 entitled Miami has the third highest revenue --
14 I'm sorry, my apologies. I'm just waiting
15 until everybody got their copy. I'm sorry.
16 This chart here is entitled Miami has the third
17 highest revenue handles per hour before and
18 after the 25% reduction. Could you explain
19 this chart please to the committee?

20 **ADMIRAL BAUMGARTNER:** Right. What this
21 chart does show, it does divide the revenue by
22 handle hour to put it in the, in the different
23 display, I think that's probably a more
24 accurate representation of the work that's
25 done. And you can do -- you can see that, you

1 know, Miami right now is the third highest
2 revenue per, per handle, and even with the
3 requested reduction it would still be the third
4 highest. It would still be higher than Port
5 Everglades, Jacksonville, and all of the ports
6 in Florida except for Key West and Port
7 Canaveral.

8 **MR. PANZA:** Okay, and do Key West and Port
9 Canaveral have the volume that Dade County,
10 that Port of Miami has?

11 **ADMIRAL BAUMGARTNER:** No, it doesn't. Key
12 West has a fairly low volume, which would
13 explain the high, the high numbers. And then
14 Canaveral also has less volume, and it's, it's
15 mostly cruise ships, again with the same gross
16 tonnage issues.

17 **MR. PANZA:** And so you know if this report
18 comes from the investigative committee report
19 on Page 32?

20 **ADMIRAL BAUMGARTNER:** That's my
21 understanding.

22 **MR. PANZA:** Thank you. Okay, I'd like to
23 go to the next chart please. Okay, thank you.
24 Admiral, I'd like to show you this chart, which
25 it says History Supports the FCCA's Rate

1 Decrease. And you as a rate payer, it says the
2 pilots have received a total fee increase of
3 over 25% in the past five years, the FCCA's
4 rate decrease which applies only to cruise
5 lines would still leave fees at a 5% above
6 2012. Could you explain this chart please to
7 the committee? It's pretty self explanatory.

8 **ADMIRAL BAUMGARTNER:** It is. And this is
9 looking at again revenue per handle, and it
10 does show that between 2012 and 2016 the
11 revenue per handle did go up 25%, and as is
12 explained here even with the requested FCCA
13 decrease the revenue per handle would still
14 have been, would still have gone up from 2012
15 to 2016 by 5% per handle. So it -- it shows
16 that, you know, that the actual rate per unit
17 of work is going up, even with the requested
18 gross tonnage discount for cruise ships.

19 **MR. PANZA:** And is that because -- and is
20 the causation of that because of what we talked
21 about, about the measurement of the gross
22 registered tonnage, or the GRT?

23 **ADMIRAL BAUMGARTNER:** That's right.
24 That's right, that's due to the increase in the
25 size, the gross tonnage primarily of cruise

1 vessels.

2 **MR. PANZA:** Okay, so it's not that the
3 handles have increased, and that caused it to
4 go up, it was just the size of the ships, the
5 organic increased size of the ships; is that
6 correct?

7 **ADMIRAL BAUMGARTNER:** That's right,
8 actually the handles went down, but the gross
9 tonnage went up, and so that, they ended up
10 with that 25% increase at the current rates,
11 and it would still be a 5% increase per handle
12 at the requested FCCA rate.

13 **MR. PANZA:** Okay, thank you. If we could
14 go to Graph P. Thank you. I'll ask you again,
15 Admiral, could you please explain this chart?

16 **ADMIRAL BAUMGARTNER:** Okay, well, this
17 chart shows that soon the same growth in size,
18 well, there will be a growth in size in the
19 cargo ships, or the container vessels in
20 particular as a result of the Panama Canal
21 expansion, and the now post panamax container
22 ships. This will yield, we'll have maybe some
23 increase in handles, but they'll be a larger
24 size vessels coming so the revenues will
25 increase without any type of a rate increase.

1 And this is even discounted because here we're
2 talking back to container ships. Gross tonnage
3 is not a good representation of the, of the
4 cargo carrying capacity of a container ship, so
5 we may actually double the, double or triple
6 the carrying capacity of the container ship.
7 You won't actually see the gross tonnage
8 increased by that same, by that same multiple,
9 but it will still go up, and you'll still see a
10 revenue increase, even with the same rates.

11 **MR. PANZA:** Is the reason it will go up is
12 because of the more covered space below where
13 these, where it depicts the containers now --

14 **ADMIRAL BAUMGARTNER:** Right.

15 **MR. PANZA:** -- because the ships are
16 bigger; is that why, there's some that are
17 below deck?

18 **ADMIRAL BAUMGARTNER:** It will be more --
19 that's correct, there will be more enclosed
20 volume. So here the, the length, the allowable
21 length post panamax size is greater. The beam
22 is significantly greater, and probably most
23 important is the draft is, is greater. And
24 particularly the beam and the draft increasing,
25 those are, those are going to result in greater

1 enclosed volume numbers, that will be more
2 gross tonnage.

3 **MR. PANZA:** And the, Captain Hansen, the
4 cruise ships will continue to increase in size;
5 is that your understanding in the future?

6 **CAPTAIN HANSEN:** Yeah, and also eventually
7 we will start phasing out the smaller ships and
8 combining the two, that the ships will not get
9 smaller. The average GRT will increase
10 proportionately.

11 **MR. PANZA:** Thank you. If we could go to
12 Chart U please. Okay, Admiral, I will start
13 with you because you're sitting next to me
14 here. This one is entitled Moderate Growth in
15 Work Equals Substantial Growth in Pilotage
16 Fees. Can you explain this chart please? And
17 where it says cargo ships dock, does that mean
18 handles? Is that the same? Would that be
19 comparable to handles? What does that mean?

20 **ADMIRAL BAUMGARTNER:** Actually, I would
21 presume that that would be half of handles.

22 **MR. PANZA:** Half of a handle.

23 **ADMIRAL BAUMGARTNER:** Because you've got
24 two handles per ship docking.

25 **MR. PANZA:** Okay.

1 **ADMIRAL BAUMGARTNER:** So this is sort of
2 the -- the last slide was the future, this is
3 actually going back a few years to show the
4 trend even before we had the Panama Canal
5 expansion in affect. But you can see TEUs,
6 that's actually, that's the normal measure of
7 the size of a container ship. That's the 20'
8 equivalent units, or how many equivalent 20'
9 containers it can handle. Most containers are
10 40' rather than 20', but that's the standard
11 notion.

12 So you can see that the TEU is growing
13 over the last, the last five years, from
14 909,000, there was a dip, but it's projected to
15 be over 1,000,000.

16 **MR. PANZA:** Excuse me, Admiral, does that
17 mean that's 909,000 containers?

18 **ADMIRAL BAUMGARTNER:** It would be --
19 actually it would probably be about half that,
20 because again a TEU is a 20' equivalent unit.
21 Most containers would (unintelligible) at 40',
22 so you would have like, you know, half size,
23 full size, except that they count them by half
24 size more or less.

25 **MR. PANZA:** Okay, thank you.

1 **ADMIRAL BAUMGARTNER:** And you see that the
2 actual number of ships docking goes down, so
3 again it's the same thing, it's more, you know,
4 larger ships, fewer, fewer, encounters, and the
5 others are the actual, this is actually the
6 tonnage weight of cargo going in and out, and
7 you can see the total tonnage handle is, is
8 going up from 2012 at 8,100,000 up to almost
9 8,800,000 in 2016.

10 **MR. PANZA:** And what does that outbound
11 and inbound tonnage mean, does that mean how
12 much, if you weigh, if you put a scale
13 underneath one of these containers that's what
14 they would weigh?

15 **ADMIRAL BAUMGARTNER:** Well, this is going
16 to be the weight of the, of the tonnage of
17 cargo coming on and off here.

18 **MR. PANZA:** Okay, that would be --

19 **ADMIRAL BAUMGARTNER:** We're not back to
20 the gross tonnage volume. It's T-O-N not
21 T-U-N.

22 **MR. PANZA:** Okay. And all of this tonnage
23 that's above the deck is not counted at all for
24 any fees, any GRT fees.

25 **ADMIRAL BAUMGARTNER:** That's right.

1 That's right, the containers, again, carried
2 above the deck which are visible, if you can
3 see it it's not counted. If you can't see it
4 isn't counted, so that's sort of how the way it
5 works.

6 **MR. PANZA:** Okay, thank you. Do you
7 believe that the, just by virtue of these
8 numbers and the increases that the, the natural
9 increases will increase pilot rates currently?

10 **ADMIRAL BAUMGARTNER:** Well, I think you'll
11 see revenues will go up, there isn't any
12 question. And the revenue per handle will go
13 up, and it will go up quite nicely over the
14 next couple of years.

15 **MR. PANZA:** Okay, thank you. And let's
16 have -- and we'll go to the Comparability of
17 Marine Professionals, and I'd like to have
18 Graphic V. Okay, this is the Florida statute
19 310.150(5)(b)6, and it talks about the
20 prevailing compensation available to
21 individuals in other maritime services of
22 comparable professional skill and standing as
23 sought in pilots, it being recognized that in
24 order to attract the profession of piloting,
25 and hold the best and most qualified

1 individuals as pilots, the overall compensation
2 accorded to pilots should be equal to or
3 greater than that available to other
4 individuals in comparable marine employment.

5 I would ask you first, Admiral, to please
6 give us your opinion based upon your experience
7 as to what other marine services of comparable
8 professional skill and standing would be to
9 that of pilots.

10 **ADMIRAL BAUMGARTNER:** Well, certainly you
11 do have -- the first thing that comes to my
12 mind, obviously, all right captains of cruise
13 ships. A lot of experience getting in and out
14 of harbors, docking. That's definitely,
15 definitely comparable in those skills, and
16 actually in leadership and management, and many
17 other things, and quite a few additional
18 demands for those positions. That would
19 certainly be comparable.

20 There would probably be many comparable
21 positions inside, it could be inside the Coast
22 Guard as captains, ship captains, and so forth.
23 And I think probably other, other professions
24 in there, or rather parts of the profession
25 that, you know, would be, could be similar or

1 equivalent.

2 **MR. PANZA:** You believe that ship -- is it
3 your opinion that ships', captains of cruise
4 ships would be comparable to that, to be
5 considered comparable from an economic
6 standpoint, or a compensation standpoint, to
7 that of pilots?

8 **ADMIRAL BAUMGARTNER:** Yes.

9 **MR. PANZA:** Okay. And, Captain Hansen,
10 would you believe the same thing, that captains
11 of your cruise ships would be comparable to
12 that of pilots in the professional skills, and
13 that of compensation?

14 **CAPTAIN HANSEN:** Yes, I do.

15 **MR. PANZA:** Okay. And do you -- do either
16 one of you believe that you can only compare
17 pilots to pilots to determine compensation
18 under this statute?

19 **ADMIRAL BAUMGARTNER:** No, I don't think
20 the statute limits you there. No.

21 **CAPTAIN HANSEN:** Me neither.

22 **MR. PANZA:** Okay. And let's go to Graph W
23 please. Captain Hansen, can you explain this
24 chart? What does this indicate, the Pride of
25 America Pilotage Bonus?

1 **CAPTAIN HANSEN:** The Pride of American is
2 registered in the U.S. and is operating in
3 Hawaii. The ship, it is in port every day.
4 The captain, both captains and staff captains
5 on board, they have, I got to look at my notes,
6 federal pilot examination, which means that
7 they have endorsements qualifying them to call
8 into these ports without taking an additional
9 pilot on board. The exam that they have to go
10 through is the written part, and also there is
11 a blank sheet where they will get the
12 coordinates in a port and then by memory
13 sketching down the contours of shallows and
14 land, and this is a pass/fail exam.

15 When they pass this exam, which our
16 captains on the Pride of American have done,
17 they are as I said going into port on a daily
18 basis without having to take a pilot on board,
19 an the chart I showing what we are compensating
20 them for carrying two hats. So on each call
21 they are compensated \$214, and if both the
22 staff captain and the captain have the pilot
23 endorsement they split that amount between
24 them.

25 **MR. PANZA:** And if that -- is this captain

1 on this Pride of America, would that captain
2 ever serve here in the Port of Miami, I mean is
3 he qualified to serve here in the Port of
4 Miami, take that vessel into the Port of Miami?

5 **CAPTAIN HANSEN:** As a matter of fact one
6 of our captains, he used to be captain on the
7 Pride of Aloha, which today is the Norwegian
8 Sky, so when Norwegian Sky was registered with
9 U.S. flag and operated in Hawaii he was the
10 captain on board that ship without having to
11 take a pilot on board.

12 **MR. PANZA:** Okay. And Admiral, could you
13 please explain to the committee what the
14 difference is between a foreign flagship and an
15 American flagship, and why that an American
16 flagship does not need a pilot?

17 **ADMIRAL BAUMGARTNER:** Well, first an
18 American flagship would need a pilot, but it
19 would be somebody with a federal pilot's
20 endorsement. But it could be a federal pilot's
21 endorsement, a foreign flagship is a statute
22 that removes the foreign flagship, pilotage for
23 foreign flagships from federal jurisdiction and
24 makes it exclusively a state matter. However
25 U.S. Flagships, that statute doesn't apply to

1 them, and U.S. flagships of any size are
2 controlled and regulated by the Coast Guard,
3 and the Coast Guard sets the requirements for
4 pilotage endorsements in particular ports, or
5 particular waters, so t there is a specific
6 requirement, the testing regime, the
7 qualification regime, to get a first class
8 pilot's endorsement in any given waterway in
9 the U.S. if you want to get a federal pilot's
10 endorsement, and then you're able to act as a
11 pilot in those waters.

12 **MR. PANZA:** Okay, and could explain to the
13 Board what the difference is between a foreign
14 flagship and an American flagship, I mean the
15 tax reason -- what's the reason the have that?

16 **ADMIRAL BAUMGARTNER:** Well, okay, so for a
17 U.S. Flagship to engage in say passenger,
18 carrying passengers, their requirement is that
19 it must be built in the United States, and then
20 have an all, all United State's crew, actually
21 we've shown -- it's demonstrated quite, quite
22 conclusively with a couple of the ships that
23 now Norwegian Cruise Lines has, that United
24 States is not a, is not a good producer of
25 cruise ships, and really can't do that, so for

1 a cruise ship right now the vast majority of
2 any large cruise ships are built in four
3 different shipyards in Europe, so to, almost
4 with very, very few exceptions you almost have
5 to be a foreign flagged vessel to be a large
6 cruise ship. And then you're going to be
7 regulated by the flag in which you fly, and the
8 classification society that controls your ship.

9 **MR. PANZA:** Thank you. And Captain
10 Hansen, does all of the employees of the ship
11 if it's an American flagship have to be a
12 United State's citizen?

13 **CAPTAIN HANSEN:** That is correct, either a
14 resident or citizen. A few years back we had
15 three ships operating in Hawaii with an
16 American flag, and if I remember correctly we
17 had to interview 80,000 people every year in
18 order to man those three ships. And why is
19 that? And the answer is there's not very much
20 culture for being an American crew member, so
21 we had to, even after we reflagged two of the
22 ships we needed to get approval from Congress
23 to get an exemption so that we could man the
24 ship with 25% international crew. So there are
25 many reasons why we do carry foreign flags on

1 our ships.

2 **MR. PANZA:** Okay, thank you.

3 **ADMIRAL BAUMGARTNER:** And let me just note
4 here, just is it much of that crew is the hotel
5 crew, and the food and beverage? The officers
6 and the main line marine crew is a very
7 different thing in terms of culture to man a
8 cruise ship. You know, we have -- in our
9 company we have American captains, and American
10 officers, and so forth, in addition to all
11 kinds of other nationalities, but the real
12 difficult thing is getting the entire, you
13 know, large hotels, hotel crew that all have to
14 be U.S. citizens.

15 **MR. PANZA:** Thank you. And Captain Hansen,
16 what is the, without giving any trade secrets I
17 guess, what is the salary level of a captain of
18 one of these major cruise ships that we've been
19 showing? We'll just take the one that's here,
20 Pride of America. How big is the Pride of
21 America, how many tons is that?

22 **CAPTAIN HANSEN:** It's about 80,000. Our
23 captains and officers, they are compensated
24 based on their position, and there is no other
25 factors. If they are the captain on our

1 largest ship Norwegian Escape, or on our
2 smallest Norwegian Sky, the compensation is the
3 same. And our most experienced, or our
4 captains with the longest seniority, they
5 average about \$120,000 a year compensation.

6 **MR. PANZA:** Okay, and that's for -- is
7 that for -- so that we're accurate here that's
8 for six months?

9 **CAPTAIN HANSEN:** That is for six months,
10 so they are only paid when they are on board.
11 So if they do 10/10, and average spend six
12 months on board, that's what they're
13 compensated.

14 **MR. PANZA:** So even if they worked all 12
15 months that would be approximately \$240,000 --
16 I guess you're saying it's \$120,000 for 6
17 months, so it would be approximately \$240,000
18 for 12 months.

19 **CAPTAIN HANSEN:** That is correct.

20 **MR. PANZA:** Okay, and Admiral, is your
21 captains in line with that, or the industry?

22 **ADMIRAL BAUMGARTNER:** Yes, we're roughly
23 in line with that. And just so, you know, the
24 option of working 12 months, we would not allow
25 that. I mean -- you did the math there, but

1 just so nobody would be confused there for
2 safety and other purposes, you know, we do
3 require our captains to take that vacation, and
4 we don't allow them to work continuously
5 because they need to recharge batteries. It's
6 pretty demanding to spend 10 weeks, 10-13 weeks
7 onboard as the captain of a major cruise ship
8 today.

9 **MR. PANZA:** Okay, thank you.

10 **CAPTAIN HANSEN:** And it's the same for us,
11 and of course we also have to comply with ILO,
12 International Labour Organization.

13 **MR. PANZA:** So that would be compared to
14 the amounts that the pilots are receiving, if
15 we take the investigative report it's somewhere
16 around \$360,000 or so, that was in the
17 investigative report, against \$120,000 for the
18 captain on a cruise ship; is that correct,
19 Captain Hansen?

20 **CAPTAIN HANSEN:** That would be correct.

21 **MR. PANZA:** Thank you. So fi the,
22 Admiral, at the Harmony of the Seas -- and how
23 big is the Harmony of the Seas?

24 **ADMIRAL BAUMGARTNER:** Harmony of the Seas
25 would be about 230,000 gross tons.

1 **MR. PANZA:** If the Harmony of the Seas
2 enters into the Port of Miami, which it will;
3 is that correct?

4 **ADMIRAL BAUMGARTNER:** That's the plan,
5 yes.

6 **MR. PANZA:** Okay, and that will pay
7 approximately how much in pilotage fees for
8 that single call?

9 **ADMIRAL BAUMGARTNER:** For the call, which
10 would be two handles, it will be about \$17,600
11 or so, calculated.

12 **MR. PANZA:** Okay, so would that \$17,600
13 for a single call be more than what one of your
14 captains on your ship makes in a whole month?

15 **ADMIRAL BAUMGARTNER:** Yes. Yes, we would
16 pay about -- yeah.

17 **MR. PANZA:** Okay. Captain Hansen, would
18 your situation, or your company be virtually
19 the same?

20 **CAPTAIN HANSEN:** Yes, it would. We would
21 actually pay more for one call than for a
22 monthly compensation.

23 **MR. PANZA:** And that would be one call
24 that would last 4 hours of sea time, we'll say.

25 **CAPTAIN HANSEN:** That is correct.

1 **MR. PANZA:** Okay, at this point, sir, I am
2 -- Mr. Chairman, I'm going to change
3 witnesses. I'm going to have the accountant
4 come up, so if that's okay we can --

5 **CHAIR:** Yes. How much longer do you
6 expect --

7 **MR. PANZA:** We have the accountant, I
8 would assume would be about at least an hour,
9 probably so, or more. Probably about an hour.
10 Do you want to take a break and then --

11 **CHAIR:** Let's take a ten minute break.

12 (Thereupon, a recess was taken off the record and
13 the meeting continued as follows:)

14 **CHAIR:** Okay, let's get started. Well,
15 thank you. Thank you all. Excuse me. We're
16 going to start with our next witness, which is
17 Joel Glick, which will be our final witness.
18 And this will be the accounting component of
19 this, or the economic component I guess. We
20 had to set up a projector with the charts, but
21 since we're going to hand out the charts -- I
22 think it would be easier if we just give you
23 all the charts, and you can look at them,
24 rather than everybody trying to go blind
25 looking at this projector, and everything else.

1 So we're going to hand you out all of the
2 charts that Mr. Glick prepared, and we'll go
3 through those.

4 Let's just do them individually then.
5 Okay, so take the first two pages.

6 **MR. GLICK:** We're going to hand these out
7 to you because some of them look similar, and I
8 think it may cause confusion to do it another
9 way.

10 **MR. PANZA:** Thank you. Mr. Glick, could
11 you please explain, or tell the committee a
12 little bit about your background? Be very
13 brief, they have your resume.

14 **MR. GLICK:** Good afternoon, my name is
15 Joel Glick. I'm with Berkowitz, Pollack,
16 Brant. I'm a director in our forensic
17 practice. I've been a CPA for over 22 years.
18 That's it, pretty brief.

19 **MR. PANZA:** Thank you. Mr. Glick, the
20 estimated salary of \$366,000 which was in the,
21 in the report, assumes that the pilots'
22 operating expenses are reasonable, and that the
23 pilots have provided all the information
24 necessary to analyze the compensation with
25 scrutiny and detail. Can you explain your

1 history as it relates to these proceedings?
2 You testified at the last hearing; just give a
3 brief explanation of that.

4 **MR. GLICK:** As Mr. Panza said I was --

5 **MR. PANZA:** And talk up a little bit too
6 so they can hear you.

7 **MR. GLICK:** I testified as part of your
8 predecessor hearing three years ago at the
9 prior rate decrease application, and I
10 discussed a lot of the same issues that we're
11 discussing today.

12 **MR. PANZA:** Okay. And have you reviewed
13 in detail the pilot's financial statements and
14 investigative committee findings?

15 **MR. GLICK:** I have.

16 **MR. PANZA:** Can you briefly discuss the
17 pilots' various claimed operating expenses?

18 **MR. GLICK:** Sure. But before actually,
19 Mr. Chairman, you asked a question earlier of
20 Mr. Law and I have the information that from
21 2007-2014, the revenue you wanted to know if it
22 dipped or not. 2008 was \$10.6 million, \$10.1,
23 \$10.8, \$10.4, \$10.1, and \$10.2 through 2013, so
24 it was relatively flat.

25 I'm sorry, so as far as operating

1 expenses, just going down the income statement
2 you've got employee related payroll and costs,
3 repairs and maintenance on the boats, building,
4 and vehicles, subscriptions, contributions.
5 The largest item is the retired pilot payments,
6 employee benefits, training, education.
7 Another large item is insurance of about \$1.8
8 million, depreciation, professional fees, rent
9 and utilities.

10 **MR. PANZA:** Are there any expenses you
11 cannot identify what they're for?

12 **MR. GLICK:** Well, I mean I -- excuse me.
13 I was not provided any detail with any of this.
14 I mean some of it's obviously self explanatory.

15 **MR. PANZA:** What are you reading from?

16 **MR. GLICK:** I'm looking -- I apologize.
17 I'm looking at the audited financial
18 statements. This is the -- it's not part of
19 the handout, it's just part of the -- that was
20 the information provided. It's the combined
21 statement of income, and it just, it shows the
22 revenue and expenses.

23 **MR. PANZA:** In order for you to be able to
24 test the reasonableness of the expenses would
25 you have to know what exactly the expenses were

1 for?

2 **MR. GLICK:** It would certainly help, yes.

3 **MR. PANZA:** Okay. And were you able to
4 identify if any of the fees that were
5 identified in that financial statement that
6 you're looking at, as far as the audited
7 statement, are reasonable? Can you tell if
8 there's any that are not reasonable in there?

9 **MR. GLICK:** So for example the dues and
10 subscriptions of over \$300,000 there's no
11 detail. From looking at what Mr. Law put
12 together, he was able to discern what it
13 related, the certain fringe benefits that would
14 be added back. The information that I was
15 provided would not allow me to, to get to that
16 granular level.

17 **MR. PANZA:** When you say fees and
18 subscriptions \$300,000; is that what you said?

19 **MR. GLICK:** Dues. Dues and subscriptions.

20 **MR. PANZA:** Dues and -- do you know what
21 there were dues and subscriptions for?

22 **MR. GLICK:** I do not.

23 **MR. PANZA:** Okay. Is there any
24 documentation you would have liked to have had,
25 or needed in order to complete a comprehensive

1 analysis of this information?

2 MR. GLICK: I mean I think that the most
3 important would have been census information
4 with regard to the retirement benefits, and
5 also the various employee benefits, and
6 insurance that is being paid.

7 MR. PANZA: And were you provided any
8 actuarial data?

9 MR. GLICK: I was not.

10 MR. PANZA: Okay. Would that have been of
11 assistance?

12 MR. GLICK: Yes.

13 MR. PANZA: And what would that have been
14 assistance for?

15 MR. GLICK: Well, that would have allowed
16 you to know who, who the different recipients
17 were, their ages, when they, when they came on,
18 things of that nature.

19 MR. PANZA: Can you give the committee an
20 overview of your understanding of the pilots'
21 compensation plan, and their retirement plan,
22 how are they paid, the pilots paid?

23 MR. GLICK: I'm not really sure exactly
24 how they're paid. From -- from reading the
25 financials my understanding is the service

1 corporation Biscayne Bay Pilots, Inc. is owned
2 by each of the pilots as a shareholder of the
3 corporation. I'm not sure if it's a C
4 corporation or S corporation. And then the
5 Biscayne Bay Pilots Association is a general
6 partnership. Each of the pilots has their own
7 entity, I don't know what type of entity that
8 is, that owns their partnership interest in the
9 association.

10 My understanding is the service
11 corporation Inc. Owns the employees, the
12 personnel, owns the vessels, the equipment, and
13 so forth, and provides the support services to
14 the pilots who then obviously perform their
15 services for the rate payers.

16 **MR. PANZA:** Do you know if the pilots buy
17 into this, if you're a deputy pilot, you become
18 a pilot, you buy into this as you would, say a
19 law firm or an accounting firm, or anything
20 else where you're buying a share?

21 **MR. GLICK:** Yes, my understanding is that
22 the buy in is based on the value at the time of
23 the buy in, and it's, I think it's paid in, or
24 I think it's actually deducted from your
25 distributions over a 100 month period.

1 **MR. PANZA:** Do you ever recapture that
2 money upon your retirement?

3 **MR. GLICK:** Yes, so it's basically the
4 same thing going out. So when you retire my
5 understanding is, is that you're paid out based
6 on the book value of your shares at that time,
7 and you are paid out over a period of time.

8 **MR. PANZA:** Would you have any information
9 on what the value of those book shares, of, you
10 know, of the book amount is?

11 **MR. GLICK:** No.

12 **MR. PANZA:** Would that have been of any
13 benefit to you?

14 **MR. GLICK:** It would have been additional
15 information. I don't know if it would have
16 necessarily impacted any of my calculations.

17 **MR. PANZA:** Okay. And is it your
18 understanding that each of the pilots operate
19 as being their own independent contractor, or
20 they are an independent contractor?

21 **MR. GLICK:** Like I said, I'm not really
22 sure how they bill for their services to the
23 rate payers, and how they're actually -- how
24 that money flows through to the actual pilots
25 themselves.

1 **MR. PANZA:** Can you please explain to the
2 Board what benefits the pilots receive by way
3 of compensation?

4 **MR. GLICK:** They are -- they receive --
5 again, based on my understanding of the
6 committee's report and reading the financial
7 statements, is that there are cash, monthly
8 cash distributions based on the monthly
9 revenues, and then there is the retirement
10 benefit, health insurance, life insurance, and
11 the other items that Mr. Law added back to his
12 calculation.

13 **MR. PANZA:** Okay, and where does the money
14 come from when a pilot retires and receives
15 their payout?

16 **MR. GLICK:** My understanding is that is
17 sort of at the same time someone is going out
18 someone is coming in, so that money is sort of
19 sort of coming, coming in and going out at the
20 same time. I'm not sure if that's accurate or
21 not.

22 **MR. PANZA:** Okay, well when a pilot
23 retires does the pilot get a retirement
24 benefit?

25 **MR. GLICK:** Over and above the, what we'll

1 call the, their capital, their return of their
2 capital, they receive health benefits in
3 retirement, and then they receive what
4 previously they referred to as a consulting
5 agreement revenue which was the, Mr. Law
6 indicated it was the 50% of what the acting
7 pilot were making at the time, cap that at 20%
8 of the revenue of the, the entire revenue of
9 the association.

10 **MR. PANZA:** Okay, before we get into the
11 specifics, can you give us your overall
12 thoughts on the retirement payments? Do you
13 know why historically this retirement system
14 was set up in this nature, being unfunded and
15 paid for upon retirement as it is?

16 **MR. GLICK:** Do I know why it was done that
17 way, no. My understanding, this was done back
18 in, I think I read 1981, so I don't know why it
19 was done this way. And I do understand that
20 reading, I think it was Admiral Quick's report,
21 that this is a very common practice in the
22 industry. I don't think that necessarily makes
23 it right, or fiscally prudent, but I can't tell
24 you why they did what they did.

25 **MR. PANZA:** Is it a reasonable and

1 rational plan in the general business
2 community, forgetting about, just about the
3 pilots and what Captain Quick said?

4 **MR. GLICK:** In my opinion, it is not.

5 **MR. PANZA:** Why would that be?

6 **MR. GLICK:** Because they're, again as I
7 said it's not, they're not being fiscally
8 responsible. They're not taking any risk on
9 their own. They're not funding anything into
10 the plan. It's just all being paid -- the
11 current obligation is being paid out of current
12 cash flow.

13 **MR. PANZA:** When you say they're not
14 taking any risk what do you mean by that?

15 **MR. GLICK:** Well, when you -- if you were
16 to put money aside into a retirement plan -- if
17 it's a defined benefit, basically what I'm, as
18 the employer what I'm telling you is that when
19 you retire you're guaranteed to get X, which
20 means as the employer I'm going to put in some
21 smaller amount today that has to grow to the
22 amount I told you that you were going to get.
23 So if the market tanks, or other things happen,
24 and so value of the pot of money that I need to
25 give you is not there when I need to give it to

1 you, that's on me the employer, not you as the
2 employee, because I promised you that it was a
3 defined benefit, versus a defined contribution,
4 which is something more, it's like a 401K,
5 which everybody is used to, or familiar with
6 now, is I'm going to give you a certain amount,
7 and then whatever it is when you retire it is.
8 If it goes up, great, if it goes down that's on
9 you, not on me the employer.

10 **MR. PANZA:** And what is this; is this
11 either one of those two?

12 **MR. GLICK:** This is -- they're writing it
13 up in the financials as if it's a defined
14 benefit plan. If you look at -- if you were to
15 look at the notes of the financial statements
16 it shows a \$50 million liability for this plan
17 based on the required disclosures that came out
18 in late I guess 2008 that affected basically
19 tax years starting 2003, audit years starting
20 2009 forward.

21 **MR. PANZA:** We'll go to the first chart,
22 which is the one we handed out. It's this one.
23 Okay, so the first chart that you all have, Mr.
24 Glick, could you please -- do you agree with
25 the investigative committee, or the pilots'

1 determination of the value of the present
2 compensation over the past years, what it's
3 been, and regardless of the rate increase or
4 decrease; do you agree with the value?

5 **MR. GLICK:** That was a multi-part
6 question. Could you --

7 **MR. PANZA:** Okay, so I'll break it up. Do
8 you agree with the pilot and the, the pilots
9 and the investigative committee on what the
10 value of their present compensation over the
11 past few years has been?

12 **MR. GLICK:** No, I would -- I used Mr.
13 Law's report, Page 19 as a starting point, and
14 then I added to it.

15 **MR. PANZA:** And what do you mean by when
16 you say you added to it?

17 **MR. GLICK:** If you want --

18 **MR. PANZA:** Yeah, go ahead, go through the
19 -- please walk them through the chart. That
20 will be easier than me interrupting you.

21 **MR. GLICK:** All right, so if we start with
22 the schedule that's in front of you, I tried to
23 break it down into smaller sections. So the
24 first section is information that's coming
25 right off of the audited financial statements.

1 And again as Mr. Law indicated this is based on
2 the audited information, so it's there for
3 comparative purposes even though there's a big
4 gap between 2007 and 2014.

5 So this shows you based on the audited
6 financial information, and let's just focus on
7 2015, that that the average net income per
8 pilot before adjustments was just over
9 \$279,000. The next section, the adjustments is
10 something that I added that Mr. Law did not
11 include in his, and it goes to the retirement
12 plan. So the -- as I understand the statute,
13 and it talks about reasonable operating
14 expenses, in my opinion the \$1,960,000 that was
15 actually paid to the, the pilots, again that
16 was the value of what was due to them in this
17 year.

18 It was not an amount that was to be put
19 aside to grow for some future payment, which is
20 in my opinion, again, not a reasonable expense,
21 is a business, is a reasonable company would
22 fund an amount, let it grow, and, and have that
23 pot of money which would now be outside of
24 operations. It would be some other pot of
25 money, whether it's outside managed by some

1 fund, pension manager, or whatnot, and payments
2 to the retirees would come from that source of
3 funds, not out of operating funds. So I added
4 back the entire \$1,960,000 million, but then I
5 deducted \$1,126,000. If you go to the next
6 page I can walk you through how we came up with
7 that number.

8 So using as a stating point again what Mr.
9 Law did, so that top section is from I think
10 Page 48 of his report, which basically said
11 that for 2015 there were 13 retired pilots,
12 they received \$1,959,000, so each received
13 approximately \$150,762. So I used that as a
14 proxy and said, okay, well, now I'm an active
15 pilot, what should be put away for me, what
16 should be put away for me today to fund my
17 retirement in the future?

18 So I worked backwards, and I said, well if
19 I want to, if I want to receive, I'm rounding,
20 \$151,000 a year, and I used 28 years cause
21 that's, at 55 that's the life expectancy of a
22 55 year old male. If there's female, female
23 pilots, I apologize, I do not, I don't have a
24 census so I don't know if they're all men or
25 women. But so that's -- 28 years is the life

1 expectancy of someone at 55. Clearly someone
2 could, you know, die sooner than that, live
3 longer than that, but that's, the social
4 security data says that that's the life
5 expectancy.

6 So if I want to receive \$151,000 a year
7 for 28 years, and I'm using a 5% rate, which
8 was a little bit more conservative, what pot of
9 money do I need to exist when I retire at 55.
10 That's \$2,246,000 and change. Okay, so now if
11 I'm going to pay in, and this is again where
12 the census would have, would have been helpful,
13 I'm assuming a first year, a first year pilot,
14 and I need to be on the job for 20 years before
15 I can be eligible, so now what amount of money
16 do I need to put in every year for 20 years,
17 again let's assume 5% growth, that when I
18 retire at 55 I will have that pot of money of
19 \$2.2 million to then draw out the \$151,000 for
20 the next 28 years.

21 So again I worked backward. So that
22 number was \$67,927, so call it \$68,000. I then
23 said, well, that is what I need to put away for
24 one pilot to fund his retirement in the future,
25 and there are 16.58 full time equivalent pilots

1 today, or again as of 2015. That number, the
2 math is \$1,126,000 and change, so that is my
3 reasonable, in my opinion what my reasonable
4 expense would be for a retirement. Because I
5 know someone mentioned before that, you know,
6 it's being funded. Nothing is being funded.
7 Something is being paid, not funded, there's a
8 difference.

9 So -- so the \$1,126,000 now going back to
10 that first page is, is a deduct, so I'm adding
11 back the 100% that was actually paid and
12 deducting the amount that should have really
13 been set aside that year for the future.
14 Running through the rest of the calculation I'm
15 adding that adjustment to the \$4.6 million up
16 above, I've now --I have net, average net
17 income per pilot after adjustments and before
18 add- backs of roughly \$330,000. I think add
19 back the fringe benefits and the discretionary
20 costs. Many -- most of them are coming right
21 from Mr. Law's report.

22 There's a couple that I added in, and I'll
23 go through those, well, first the crew post
24 retirement costs, both add-backs, but the same
25 add-backs Mr. Law added back as well, he just

1 added them back in a different place, but it's
2 the same numbers. I then added back
3 depreciation because depreciation is non, a non
4 cash item, and they're compensated based on
5 cash distributions, so I added that back. I
6 think also added back that \$1,126,000 which is
7 the imputed retirement benefit that the pilots
8 are receiving, or theoretically would receive.

9 Then there's two other items. One is an
10 employee portion of health insurance, and then
11 the other one is, it's not an add-back because
12 I don't have enough information, but I put a
13 line in it for employee portion of 401k
14 contributions. I will say that based on my
15 understanding that the pilots are very generous
16 employers. From the information I've seen is
17 that they pay 100% of an employee's health
18 premiums for the, for the employee and their
19 family.

20 **MR. PANZA:** And which employees are there
21 you're referring to?

22 **MR. GLICK:** This is everyone but the
23 pilots themselves, so the dispatchers, the
24 boatmen, things of that nature. So that is
25 very generous. I, you know, the clients I deal

1 with, my firm itself, no one does that.
2 They're -- they're -- that's not the norm
3 whatsoever. There is actually data, and so
4 what I did was I took the health insurance
5 costs for those employees and added back 26%
6 percent. That \$83,000 and change represents
7 26%.

8 There is a study that the Keyser Family
9 Foundation, which has been studies for 18
10 years, it's health insurance cost surveys, and
11 that's where that information came from, and so
12 based on the mix of the single premiums and
13 family premiums that are being paid for by the
14 pilots, about 17% of employees with single
15 coverage are -- I'm sorry. Employees with
16 single coverage are paying about 17% of their
17 premium. Employees with -- this study.
18 Employees with family coverage are paying about
19 28% or 29%. You'll see it in the next schedule
20 we provide. So on average based on the mix of
21 coverage that the pilot employees have I added
22 back, it was a little over 26%. I just used
23 26% as an add-back to the pilots.
24 So they -- they can pay that. They can
25 pay 100% if they wish, there's nothing saying

1 they can't, but it's not -- in today -- in
2 today's business world that's not reasonable.
3 Likewise on the, as I understand their 401K for
4 their employees they contribute 7.5% of an
5 employee's salary up to the FICA limit wage
6 base, and then 5.7% of anything over that. And
7 then on top of that they also will match 100%
8 up to 7.5% of the employee's salary for
9 anything that the employee puts in. So if the
10 employee wishes to max out they're basically
11 paying 15% for their employees for a 401K.

12 The average labor, labor statistics on
13 just the matching part, it's about 3%, so again
14 it's a very rich plan. I don't -- the total
15 expense for the year was \$95,000, so I don't --
16 it wouldn't be -- whatever the percentage would
17 be divided by the full time equivalents, it
18 wouldn't be a huge impact. I just wanted to
19 point out that, again, the plan is very
20 generous but it's not a reasonable operating
21 expense.

22 And then for the rest -- the rest of the
23 items listed there were all right from Mr.
24 Law's report, so that results in, when you use
25 the 16.58 full time equivalent an adjusted

1 salary of roughly \$499,000.

2 MR. PANZA: That's with all the add-backs
3 in, \$499,000, correct?

4 MR. GLICK: Correct.

5 MR. PANZA: This is approximately \$87,000
6 - \$100,000 per pilot higher than the
7 investigative committee estimated; is that
8 correct?

9 MR. GLICK: Mr. Law came up with \$366,000.
10 If you added the \$30,000 on the low end for his
11 retirement number it would get you to \$396,000,
12 so it's, yeah, it's just over \$100,000
13 difference. If you use the \$45,000 and change
14 it would be about an \$87,000 difference.

15 MR. PANZA: Okay, and what is the -- and
16 can you explain why your imputed retirement
17 plan is higher than the investigative
18 committees?

19 MR. GLICK: The main thing -- well, two
20 things. One is -- actually it's a lower rate,
21 which would make the amount -- the lower the
22 rate the larger the current pot of money that
23 you need in order to grow. You're basically
24 saying it's going to grow slower so I need more
25 money now. And I also used 28 years versus Mr.

1 Law used 20 years.

2 **MR. PANZA:** And if the investigative
3 committee imputed \$30,000 - \$45,000 per pilot
4 for 18 pilots that amount is \$540,000 -
5 \$810,000, correct, per year that they would
6 have to collect?

7 **MR. GLICK:** I'm sorry, ask that question
8 again.

9 **MR. PANZA:** If the investigative committee
10 imputed \$30,000 - \$45,000 per pilot, and
11 there's 18 pilots, that amount is \$540,000 on
12 the low end to \$810,000 on the high end; is
13 that correct?

14 **MR. GLICK:** I didn't do the math myself
15 but I'm assuming, yeah, I mean the easy math,
16 yes.

17 **MR. PANZA:** Okay, well, if that's the
18 \$30,000 - \$45,000 for 18 pilots, let's assume
19 the math is correct, why would you, what did
20 you base the actual retirement payment on in
21 2015?

22 **MR. GLICK:** I'm not sure I understand the
23 question.

24 **MR. PANZA:** Okay, I'm sorry. We know the
25 actual retirement payment in 2015 was over \$2

1 million; is that correct?

2 **MR. GLICK:** Well, the cash payment was
3 \$1,960,000.

4 **MR. PANZA:** Do you know how the
5 investigative committee accounts for the other
6 \$1.5 - \$1.2 million depending, the difference
7 between the actual payment and the imputed
8 amount of \$540,000 - \$810,000?

9 **MR. GLICK:** No.

10 **MR. PANZA:** Do you know where it is? In
11 any financial statements can you see it?

12 **MR. GLICK:** Are you asking me as far as
13 what Mr. Law, Mr. Law's adjustments?

14 **MR. PANZA:** No.

15 **MR. GLICK:** No.

16 **MR. PANZA:** Have you created this chart on
17 healthcare costs claimed by the pilot, this
18 next chart we're going to show you?

19 **MR. GLICK:** Yeah, I mean that -- that was
20 the, again for 2014, '15, and '16, that was
21 just the information from the KFF study.

22 **MR. PANZA:** The next chart -- does
23 everybody has the next chart? It's based on
24 FCCA's requested rate reduction, the heading --
25 okay, you all got it? Okay. Mr. Glick, did

1 you do an analysis of what the FCCA's 25% rate
2 decrease would do to BBP's compensation?

3 **MR. GLICK:** Yes.

4 **MR. PANZA:** And could you explain this
5 exhibit please?

6 **MR. GLICK:** Sure. So this exhibit --
7 there's a lot of columns, so if we just stay to
8 the very left column, that is starting out with
9 -- again the layout is as similar as I could
10 make it to the previous schedule as far as the
11 sections. The \$11.2 million is the actual
12 revenue for 2016. I'll just point out that
13 that's about \$700,000 more than the pilots'
14 estimate for 2016. The GSK projection has
15 \$10,542,000, was their 2016 projected revenue,
16 and the actual revenue was to be \$11,235,000,
17 so I don't know how that may or may not impact
18 the future projections.

19 So anyway just -- so \$11,235,000 was --

20 **MR. PANZA:** Well let me understand this so
21 that we're all clear on it. They actually --
22 they projected -- they did a pro-forma and they
23 projected something less than \$11,235,000,
24 correct?

25 **MR. GLICK:** About \$700,000, yes.

1 **MR. PANZA:** \$700,000. So they actually
2 collected \$11,235,000.

3 **MR. GLICK:** Yeah. Yes. Yes.

4 **MR. PANZA:** Okay, go forward.

5 **MR. GLICK:** I deducted the operating
6 expenses based on the projected financials. I
7 tweaked a little bit to account for the
8 additional dues that would be incurred, because
9 my understanding is there are certain dues that
10 are (unintelligible) revenue, so to the extent
11 that I didn't start with the actual revenue
12 that was in the projection I adjusted the
13 operating expenses accordingly, and the result
14 was for 18 full time equivalent pilots that the
15 unadjusted revenue was about \$276,000 and
16 change.

17 Again going down, making the similar
18 adjustments that I made for 2015, which was
19 adding back 100% of what they say they would
20 pay to the pilots, because again that's not a,
21 that's a current value, not a, the represent
22 value of a future amount. That was about a
23 \$639,000 adjustment. That increased the per
24 pilot income to just over \$312,000. Again
25 using -- a lot of this information is the same

1 information from Mr. Law's report, other than
2 the same adjustments that I made for 2015, I'm
3 not going to go back into them, which results
4 in just under \$466,000 per pilot revenue for
5 2016 before the rate reduction.

6 Going -- so now going to the second
7 column, that's applying the 25% rate reduction
8 to the passenger volume, reduce, would reduce
9 the corresponding revenue, operating expenses,
10 and you would just follow that down. That
11 drops to the \$270,000 I'm rounding, \$277,000
12 per pilot income dropped to about \$179,000 when
13 you make all the adjustments and go straight to
14 the bottom the \$460,000, I'm going to round,
15 the \$466,000 would drop to just under \$368,000
16 after the, the 25% reduction.

17 Then Counsel had asked me to do the same
18 set of analysis to the next two sets of
19 columns. It's the exact same analysis, it's
20 just using the 2014 or the 2015 full time
21 equivalents, pilot equivalents to see what the,
22 the income would have been at that lower level
23 of staffing. You can see the numbers.

24 **MR. PANZA:** Do you have anything else to
25 add to this particular chart?

1 **MR. GLICK:** I don't think so.

2 **MR. PANZA:** Okay, let's have the next
3 chart. Okay, could you please explain to the
4 committee the next chart. It says Comparison
5 to Net Income Per Handle.

6 **MR. GLICK:** Sure. So this -- the first
7 two columns comes right off of the committees
8 report, the 1995-2015, and the corresponding
9 net income per pilot. The next column over,
10 the number of pilots, that comes from the FCC
11 application, and then for, for a portion of it,
12 and then for 2007-2015 that handle data comes
13 from the investigative committee's report on
14 Page 42. So having the net income per pilot,
15 and the number of pilots, I grossed, it,
16 grossed it back up to come with the total net
17 income for each of the years. I got -- I took
18 the number of handles off of the investigative
19 committee report and then divided that in order
20 to get net income per handle. So that's -- now
21 we're about halfway through the chart.

22 And then you see a column that says years,
23 and then there's three columns of CAGR,
24 compound annual growth rate. So just jumping
25 down to 2015 what, you'll see it says 25 years,

1 which means that it's from 1990 - 2015, 25
2 years. To the right of that is net income per
3 handle at 5.5%, which means counting for annual
4 growth, means that on average every year for
5 the last 25 years the net income per handle
6 went up 5.5%. Again it's on average. Some
7 years it could go down, it could be less than
8 that. Some years it could be more than that,
9 but on average for the 25 years that was the
10 growth.

11 The next column over is the same
12 calculation, but just on the actual net income
13 itself, and if you look at those two columns
14 side by side you'll see that the net income,
15 that the total net income increased 3% a year
16 each, on average, each of the last 25 years.
17 But the net income per handle over that same
18 time period increased 5.5%, and that's because,
19 you can see in the middle of the sheet the, the
20 decrease in handles. In 1990 there were 9,230
21 handles. In 2015 there were 5,100 handles, so
22 almost, almost half.

23 Then the very last column, I compare it to
24 CPI, and so on the 2015 row, what that says is
25 over the last 25 years on average CPI has

1 increased 2.5% for each year for the last 25
2 years, and so then if you compare that to the
3 column to the left it shows net income outpaced
4 CPI by 0.5%, so it's 3% versus 2.5%.

5 Then the next -- the next groupings, I was
6 asked to do the same calculations but using the
7 2014 adjusted net income numbers from the prior
8 page, and then also 2014 based on the 25% rate
9 reduction. Similarly I was asked to do it for
10 the 2015 adjusted net income per pilot revenue,
11 and then also again in 2015 applying the 25%
12 rate reduction. And what that shows is that --
13 so if the \$499,000 that we're talking about,
14 before it would work out to be, compare that
15 same 2.5% per year CPI increase, income, net
16 income would have gone up 3%, net income per
17 handle 6.8%. And then even after a 25% rate
18 reduction which would put the pilots at just
19 under \$384,000 per pilot of income it would be
20 3.2% growth of the income versus the CPI of
21 2.5%, and the net income per handle was 5.7%
22 versus 3.2% for the income itself.

23 **MR. PANZA:** Okay, do you have anything to
24 add to that chart?

25 **MR. GLICK:** No.

1 **MR. PANZA:** Okay. Mr. Glick, can you
2 please explain this chart? It's entitled
3 Comparison of Retirement Plan Funding FCCA.

4 **MR. GLICK:** Sure. So this is going back
5 to the original schedule we talked about. The
6 -- just up the top section, the middle line
7 says annual costs, you'll recognize the
8 \$1,126,000 figure that I calculated. It's just
9 comparing it to that same calculation that Mr.
10 Law did, using his numbers, and it just -- so
11 the top shows that under a, under the numbers
12 that I calculated there would be about \$22.5
13 million, over the next 20 years about \$22.5
14 million actually funded and, you know, and
15 deducted on a current year basis as opposed to
16 using \$1,960,000 that was actually paid times
17 20 year, you know, assuming obviously it stays
18 flat, times 20 years. That would be \$39.2
19 million, which would basically cost the rate
20 payers an additional \$16.7 million.

21 Using Mr. Law's calculations it would be
22 even higher. It would be -- the differential
23 is \$24 million cost to the rate payers. And I
24 will give the same caveat that Mr. Law did,
25 that again without actual census and actuarial

1 information these are, these are estimates.

2 **MR. PANZA:** Okay, and as -- what makes up
3 the difference in this, we'll say either your
4 \$16,673,000, or the \$24,110,000, what, what's
5 that made up of, is that interest?

6 **MR. GLICK:** In this particular case it is,
7 as I said earlier it's -- I used 28 years as a,
8 excuse me, as a retirement period that it would
9 be collecting, and I also used a lower interest
10 rate, so that is basically what accounts, when
11 you then multiply it out times a 20 year period
12 of funding that's what accounts for the
13 difference.

14 **MR. PANZA:** No, but what I'm asking you is
15 -- maybe I wasn't clear. I probably wasn't.
16 The \$16,673,120 -- is how much the rate payers
17 could have saved by virtue of the compounding
18 interest in either one of those two models; is
19 that correct?

20 **MR. GLICK:** Yes.

21 **MR. PANZA:** So without doing that this is
22 just passed along to the rate payers I guess to
23 pay; is that correct?

24 **MR. GLICK:** Correct, the current way that
25 the retirement is being paid, and I'm not going

1 to say funded because it's not being funded,
2 it's being paid, is under Mr. Law's calculation
3 saying had it been done more fiscally prudent
4 versus how it's being done now it, it is
5 costing, it's actually costing the rate payers
6 \$24 million, \$24.1 million. If you use my
7 calculation, again same underlying rationale,
8 is that you should, you should be, your cost
9 should be something smaller today to grow to
10 what you're obligated to fund in the future,
11 that's, my number is \$16.7 million.

12 **MR. PANZA:** Okay, thank you. And this is
13 the last chart that we have with this witness.
14 I have a few comments I want to make. I don't
15 know if the Board has questions of this
16 witness, but I mean it's not my place to ask
17 that, but before I let him go --

18 **CHAIR:** Does anybody have any questions?
19 Are you completed with your presentation?

20 **MR. PANZA:** Yes, sir, I'm completed with
21 the presentation. I just have a few, just a
22 few comments, but, yes, I'm completed.

23 **CHAIR:** Yeah, we have thirty minutes or so
24 here, so does the Board want to ask any
25 questions? What we'll do, we'll wait until the

1 morning for your response back.

2 **MS. BLANTON:** Sure, that would be fine.
3 And just to -- we want to be respectful of your
4 time, and what we would like to do tomorrow, if
5 it's agreeable to you, is we will have an
6 opening, which we will sort of combine our
7 rebuttal with our opening, and then we will
8 rebut during in our case in chief, so it won't
9 be two cases, it's going to be really one case.
10 And it will take most of the day, but we think
11 we can finish tomorrow.

12 **CHAIR:** Okay, perfect. Okay, so let's
13 spend the next few minutes with questions from
14 the Board on what we've heard for the last five
15 hours. Any questions? Yes, Mr. Winegeart.

16 **MR. WINEGEART:** In your calculations on
17 the retirement plan -- you say it was started
18 at one point, right, whatever year that was, so
19 there was a whole generation where there was
20 zero payments; is that what you would --

21 **MR. GLICK:** Yeah, basically when the
22 founding members of the Biscayne Bay Pilots
23 Association started this they made a decision
24 to not take any money out of their pocket and
25 start putting money aside. They basically

1 took, you know, put, kept all the cash, and I
2 guess relied on the fact that the guys that are
3 going to come after them are going to pay for
4 their retirement, and --

5 **MR. WINEGEART:** So there was a generation
6 where there was zero retirement costs?

7 **MR. GLICK:** Yeah, I mean up until 2007 I
8 think there was -- I think that's when there
9 were three retirees.

10 **MR. WINEGEART:** Okay, so there's no
11 calculation as to the overall cost of the
12 retirement plan over time. We're -- we're
13 using like one year at a time, not a forty,
14 fifty, sixty year period for the costs; that's
15 correct?

16 **MR. GLICK:** I'm not sure I understand the
17 question.

18 **MR. OATIS:** You're looking at it from the
19 current perspective, right, you're saying as of
20 right now. If we were to implement a plan like
21 this --

22 **MR. GLICK:** Yes.

23 **MR. OATIS:** -- how would it, how would
24 that be transitioned, because obviously there's
25 a first generation of retirees that are now

1 being funded out of current funds, but how
2 would that be funded if we had a direct
3 benefit?

4 **MR. GLICK:** My calculation doesn't address
5 the conundrum of what's a reasonable operating
6 expense, and what is the, have that translate
7 into pilot income, versus what has been
8 created, and perpetually, and how to pay for
9 that. They're, you know, they're at odds, but,
10 you know.

11 **MR. OATIS:** So essentially it's
12 theoretical in nature, because there'd
13 obviously be a large gap in the actual
14 implementation of a plan like that.

15 **MR. GLICK:** Correct.

16 **MR. WINEGEART:** Thank you, sir.

17 **MR. ASSAL:** From what I understand you
18 said the health and welfare, or the pension
19 fund started in 1985, correct?

20 **MR. GLICK:** I thought I read in the 1998
21 financial that it was 1981.

22 **MR. ASSAL:** 1981.

23 **MR. GLICK:** I think that's what I read.

24 **MR. ASSAL:** So basically pre 1981 no one
25 knows what they did with a pension plan, or a

1 --

2 **MR. GLICK:** No, based on my understanding
3 is I think that's when the association was
4 formed. I don't know, I mean I guess tomorrow
5 they can tell you that. I don't know -- I
6 don't have that information.

7 **MR. ASSAL:** Okay, thank you.

8 **MS. KURTZ:** I have a couple of things.
9 You made a statement that according to a study
10 that, a (unintelligible) study, that it's not
11 reasonable to pay a full health benefit and a
12 generous retirement contribution. I guess this
13 is more of a comment than a question, you know,
14 I think it's really up to the employer to
15 decide that, and not every business model is
16 the same. And, you know, some of these
17 employees work, you know, around the clock in
18 difficult conditions, so, you know, perhaps
19 it's something they do that they can retain
20 employees. So, you know, putting that as an
21 add-back, to me that's really theoretical, and
22 not, I'm not sure that is something that you
23 can decide, and that we use that number to
24 compare, because --

25 **MR. GLICK:** This information is all for

1 you to --

2 **MS. KURTZ:** Right, I understand that. It
3 just struck me as -- in common, and --

4 **MR. GLICK:** -- this is in order for you to
5 make that decision, and -- and I -- well, I --
6 what I had said was is that they're, they're
7 within, well within their rights to pay
8 whatever they want to pay, but based on what is
9 a reasonable operating expense, if the study
10 says that across all employers these are the
11 statistics the I would say that that may not be
12 reasonable.

13 It doesn't -- I wasn't say that they're
14 not allowed --

15 **MS. KURTZ:** Sure, no, I understand the
16 difference between allowed and optional, but
17 reasonable I think is up for, up for
18 discussion, because perhaps for them to retain
19 employees this is reasonable, to have a more
20 generous benefit, that that (unintelligible).

21 You made the comment a few times that
22 there was information that wasn't available, or
23 that wasn't provided. Was that information
24 requested and you didn't get it, or just as you
25 were compiling things you realized you didn't

1 have certain information that you needed. You
2 said that there was no actuarial information --

3 **MR. GLICK:** Yeah, I believe that was
4 requested, and it was not provided.

5 **MS. KURTZ:** Okay, and so that would
6 include if they had pilots that retired at age
7 55 or later, like we don't know how old, you
8 don't have any of that information.

9 **MR. GLICK:** Correct. Correct.

10 **MS. KURTZ:** That's all I have right now.
11 Thank you. Wait, I'm sorry, I have one more
12 thing. In this last paper you handed out, and
13 you used the 16.58 pilots, I'm wondering why
14 you didn't use the 18 pilots as the number,
15 because that seems to be what they have
16 currently.

17 **MR. GLICK:** This is -- this is the -- this
18 is based on the 2015.

19 **MS. KURTZ:** '15, okay.

20 **MR. SOLA:** I have a couple for the
21 admiral.

22 **MR. OATIS:** Are we done -- are we still
23 going with the CPA, or are we trying to move on
24 from him, because I have more questions?

25 **CHAIR:** No, any questions.

1 **MR. OATIS:** I was just thinking about
2 that, I was just thinking about the retirement
3 plan, and I maybe this is a comment, I'm just
4 thinking through the risks that you had
5 mentioned, or not, not taking a risk by putting
6 the money into a defined benefit plan and
7 allowing it work in the market to build towards
8 an ultimate egg for them to be paying out of.
9 Thinking through a pay as you go plan like we
10 have for Social Security, you know, the largest
11 plan in the world, to some extent it's the most
12 risky of plans if you think about it, because
13 what happens if the port were to shut down?

14 At that point then there's no revenues
15 coming in to then make payments out of, so I
16 guess as far as when we think about risk, I
17 guess how do you, how do you integrate risk
18 into your thoughts, into the computations?

19 **MR. GLICK:** Well, I -- it's a fair point,
20 and I guess that would be the ultimate risk, is
21 that the port would shut down. But the question
22 is, what is the reality of that really
23 happening?

24 **MR. OATIS:** Sure.

25 **CHAIR:** Sir, I have a question. So you've

1 been in the CPA business for 20, 30 years,
2 right?

3 **MR. GLICK:** 30 years. 30 years plus.

4 **CHAIR:** Okay. Have you ever worked with
5 an organization that had a retirement plan that
6 was in a management consulting type of contract
7 like this that didn't define benefit, or define
8 contribution?

9 **MR. GLICK:** I have not.

10 **CHAIR:** Never.

11 **MR. GLICK:** No.

12 **CHAIR:** You've never seen another
13 organization like that. Have you ever seen an
14 organization, a non government organization
15 that paid all healthcare benefits like this?

16 **MR. GLICK:** No.

17 **CHAIR:** Never, okay. Any other questions
18 for the accountant?

19 **MR. OATIS:** I just also was thinking about
20 the depreciation as I'm just kind of going
21 through the list. I'm going to think about it
22 some more as well. But when it becomes an
23 amount of depreciation, obviously it's a cash
24 outset on the initial purchase, right?

25 **MR. GLICK:** Right.

1 **MR. OATIS:** And so from an add-back
2 perspective -- I mean I understand what you're
3 saying, kind of thinking from a cash flow
4 perspective, there's no cash, but ultimately if
5 you look at it they're almost penalized to some
6 extent by depreciation, right? They can't take
7 the full expense within the first year, it's a
8 matter of amortizing that, and depreciating
9 that over a period of time, so it's -- there
10 was a cash outlay at some point that rather
11 than taking the reduction in that year against
12 income they were forced to basically depreciate
13 it and add that back in a capitalized manner to
14 take over a future period.

15 **MR. GLICK:** Unless they were financing it,
16 which I don't -- I don't -- I don't know.

17 **MR. OATIS:** Okay.

18 **MR. PANZA:** May I -- at the appropriate
19 time I'd just like to respond to one or two of
20 the questions that are being asked to clarify
21 some of them up.

22 **CHAIR:** Are they on the accounting issues?

23 **MR. PANZA:** Yes, sir.

24 **CHAIR:** Okay, yes, go ahead.

25 **MR. PANZA:** On the depreciation did you

1 see anting in there that was a sinking fund, or
2 any other type of fund where they would take a
3 depreciation, put it in a separate account so
4 when the vessel was 41 years old and they had
5 to go replace the vessel they would have had
6 all the money that they accumulated for the
7 depreciation in a fund, would have gained
8 interest, and been able to repurchase the
9 vessel; did you see anything like that?

10 **MR. GLICK:** No. And actually the -- the
11 statement of cash flows, I don't think I said
12 this earlier, in 2015 there was \$5,665,000 of
13 cash generated from operations, and their
14 distributions to shareholders and partners was
15 \$5,775,000, so they're taking out all the
16 money. I mean that year there was a net cash
17 increase of \$16,000, in 2014 there was a net
18 cash decrease of \$8,300 on \$5,755,000 of net
19 cash available for, for the operations.

20 **CHAIR:** Any questions? Mr. Sola, do you
21 want to --

22 **MR. SOLA:** Thank you very much. Admiral
23 and Captain, thank you for coming out today. I
24 appreciate it. I had a couple of questions
25 that I wrote down. They're in no specific

1 order. You mentioned that Symphony of the Sea
2 and Allure were going to be based here in the
3 Port of Miami in 2018; is that correct?

4 **ADMIRAL BAUMGARTNER:** That's correct.

5 **MR. SOLA:** How do you see just offhand the
6 turning radius, because we went out yesterday
7 in a tour and we saw that, that area
8 specifically. Those are very big ships. How
9 would you address that?

10 **ADMIRAL BAUMGARTNER:** The turning radius
11 is, is adequate. It's not -- it is tight, but
12 they are very capable ships, and they can do
13 it.

14 **MR. SOLA:** Will they be based here year
15 round?

16 **ADMIRAL BAUMGARTNER:** Yes, they will be.

17 **MR. SOLA:** We mentioned before how many
18 tugs are required for a cargo vessel at that
19 size, but you didn't mention how many tugs
20 would be required for a passenger vessel at
21 that size.

22 **ADMIRAL BAUMGARTNER:** With that particular
23 class there's no need for tugs because they
24 have far, they have much more capability when
25 it comes to that.

1 **MR. SOLA:** And is that because of the
2 azipod system that you mentioned?

3 **ADMIRAL BAUMGARTNER:** The azipod is
4 primarily that, but also the bow thrusters.
5 That class has four bow thrusters at 7,400
6 horsepower each, so almost 30,000 horsepower in
7 bow thrust, as well as three azipods. In
8 maneuvering both you can have 10 megawatts on
9 each of the azipods, so 30 megawatts, or
10 roughly like, you know, almost 40,000
11 horsepower to maneuver --

12 **MR. SOLA:** Now, both of your fleets are
13 very extensive, you have a lot of ships. How
14 many of those ships would have that advanced
15 technology as, as similar to the azipods and
16 the advanced bow thrusters?

17 **ADMIRAL BAUMGARTNER:** For our -- for our
18 company generally anything that's going to be
19 over 100,000 tons has got azipods and bow
20 thrusters. Actually probably about 90,000 tons
21 is about the threshold because 90,000 tons is
22 going to have azipods. All of our vessels have
23 bow thrusters, but generally you're going to
24 have azipods I think just, I think you'll
25 exclusively has azipods and multiple bow

1 thrusters if you're over 100,000, or over
2 90,000 GRT.

3 **MR. SOLA:** The same with Norwegian?

4 **CAPTAIN HANSEN:** Yes, the same. Today we
5 have fifteen ships in the Norwegian brand, and
6 eleven of them have azipods --

7 **MR. SOLA:** And you have a high season and
8 a low season, so you rotate ships in and out,
9 is that --

10 **CAPTAIN HANSEN:** The peak season in Miami
11 is during the winter. During the summer time
12 we send ships over to Europe, and also to
13 Alaska.

14 **MR. SOLA:** Do you have ships that have
15 over 100 handles per year? You mentioned --
16 you mentioned that you did, you had a couple.

17 **CAPTAIN HANSEN:** (Unintelligible).

18 **MR. SOLA:** Yes, you each did.

19 **ADMIRAL BAUMGARTNER:** And one of the
20 things that will happen here revenue wise, is
21 Terminal A will be constructed, that's why
22 Symphony and Allure will come here, because
23 there will be a brand new terminal constructed
24 in the next 18 months.

25 **MR. SOLA:** The Board saw the location

1 yesterday that --

2 **ADMIRAL BAUMGARTNER:** So from a revenue
3 point of view that's an additional terminal,
4 and the two large ships that are going to be
5 coming over are additions, they're not
6 displacing other ships that (unintelligible).

7 **MR. SOLA:** Okay. Mr. Panza, could you
8 give us according to the 310.151(6) which we
9 have right here that specific category that
10 you'd like to create for passenger vessels?

11 **MR. PANZA:** Well, the categories that we
12 would probably be talking about with the other
13 categories -- I'm sorry. I might leave this up
14 to the Admiral, as to what they would think
15 would be the fairest measures, but I believe
16 that the other characteristics would be all of
17 the electronics and all of the sophistication,
18 and the self maneuvering would be one of those.
19 Another one would be the draft.

20 And I would ask if I could, if it's okay
21 with you, sir, if I can have the Admiral or the
22 Captain, who are much more familiar with marine
23 engineering than I --

24 **ADMIRAL BAUMGARTNER:** Right. I mean here
25 actually in the application for FCCA you're

1 looking at cruise ships in general that are
2 going to have azipods, greater maneuverability,
3 so the 25% rate reduction was a simplification.
4 If you started with a blank slate, and you
5 wanted to be more even handed about what the
6 actual challenge of a particular ship was, the
7 size of it, you'd do something similar to what
8 New York does.

9 And New York actually calculates something
10 called a pilotage unit, which is the length
11 times the beam times what would, it's the
12 depth, the height of the ship up to the first
13 continuous deck. Now, that gets a little bit
14 technical, but it's basically the draft plus
15 the freeboard, so when you say look at a
16 container ship, and you say none of those
17 containers count, you'd look at the cruise ship
18 and you'd say the superstructure doesn't count.
19 You're basically counting the main ship volume
20 up to the main deck, so that makes it roughly
21 equivalent if you, you can work with both
22 items.

23 You could also go and simply create a
24 different scale for different type of vessels.
25 You could have TEU for container ships, gross

1 tonnage for normal freighters, and something
2 else for cruise ships, that brought things in
3 line so that, you know, a ship the Maersk
4 Altair that can carry the allure of the seas as
5 cargo doesn't end up paying half the, half the
6 pilotage rates. If could you calibrate them
7 something -- the Panama Canal does something
8 similar to that so that, because they recognize
9 that gross tonnage wasn't a good way of doing
10 it, and other ports do the same thing. Those
11 are some of the things we would --

12 **MR. SOLA:** But -- but specifically your
13 recommendation in your application --

14 **ADMIRAL BAUMGARTNER:** Well, that is the
15 25% reduction for cruise ships, and that's
16 based on the supplication that most of the
17 cruise ships are going to have, that their size
18 is overstated because you're using gross
19 tonnage, and that they also, a large majority
20 of the larger ones, all the larger ones are
21 going to have azipods and the bow thrusters.

22 **MR. PANZA:** And if I could add, ask the
23 question, that is the measure that's used
24 currently. That's why the (unintelligible).

25 **MR. SOLA:** Okay, thank you.

1 **MR. OATIS:** I have a question for you.
2 Going back to one of the charts, it's the
3 comparative difficulty and cost in cargo ships
4 versus cruise ships, I guess just for my
5 understanding, so when we talk about the dead
6 weight and we're comparing the Maersk Altair to
7 the Allure of the Seas, dead weight, is that
8 the capacity that it has to carry, or is that
9 the actual tonnage that it carries?

10 **ADMIRAL BAUMGARTNER:** Dead weight tonnage
11 is the capacity, the carrying capacity of the
12 ship, so how much additional weight can you put
13 on the basic ship structure.

14 **MR. OATIS:** Okay, so if I'm looking at the
15 Allure of the Seas where it says 19,750, that's
16 based on actual load.

17 **ADMIRAL BAUMGARTNER:** That is how much
18 weight you can put on, you can add to the basic
19 ship. So for us -- actually the cruise line
20 would be very happy if you used dead weight
21 tonnage to calculate rates. I would -- I would
22 revise if I could --

23 **MR. OATIS:** -- all the options that are up
24 there as well.

25 **ADMIRAL BAUMGARTNER:** I'm sorry to be

1 facetious there.

2 **MR. OATIS:** No, no. But understand that
3 the, that dead weight then is what it actually
4 carries, or what it can? What is the capacity
5 for dead weight on --

6 **ADMIRAL BAUMGARTNER:** Dead weight tonnage
7 is the capacity that it has to carry.

8 **MR. OATIS:** So theoretically what would be
9 the capacity for the Allure, let's say it
10 wasn't a cruise ship, let's say the Allure is
11 bringing some sort of product in that --

12 **ADMIRAL BAUMGARTNER:** All you could bring
13 in is 19,000 tons, that's it. That's it. And
14 it's just that -- and on the Allure of the Seas
15 you can fill that up with people, fuel, food.
16 That's basically what you carry on there.
17 Other than that the rest of the structure is
18 playground so to speak.

19 **MR. OATIS:** But theoretically we could
20 fill that space, if we were bringing some
21 product into the -- if we wanted to use that
22 ship we could fill it up even in that space the
23 --

24 **ADMIRAL BAUMGARTNER:** Well, you could --
25 you would be out -- you could not actually,

1 because there are restrictions on the
2 classification of the ship. It's not designed
3 to carry -- say if you wanted to fill up the
4 royal promenade with bauxite you would fit, you
5 know, 10s and 10s of thousands of tons in
6 there, but the ship stability is not designed
7 for that, the strength of the ship it not
8 designed for that. It would far exceed the
9 design over the maximum allowable draft of the
10 ship. You would have all kinds of problems
11 with discharges, and so forth. It's just you
12 just can't. You just can't do it. And you
13 wouldn't be permitted to do it. We would be
14 stopped immediately by authorities because
15 that's outside the design of the permissible
16 operating parameters of the vessel.

17 **MR. OATIS:** Thank you for clarifying.

18 **MS. KURTZ:** So just to address something
19 to what Commissioner Oatis just said, on a
20 cargo ship the dead weight measures the cargo,
21 and you can have high value cargo and low value
22 cargo, so you can be carrying jet fuel, which
23 is a very high value cargo, or you could carry
24 fertilizer or coal, which is a very low value
25 cargo, so it's the same weight, that value

1 that's on board, you know, it really varies.

2 It's always been my understanding that
3 gross tonnage is a measure of the revenue
4 earning capacity of the ship, so when you're
5 talking about passengers and larger spaces each
6 passenger may not weigh that much, but each
7 additional person on board is capable of
8 generating more revenue so the value goes up
9 based on, again from my understanding, you
10 know, the ticket price of what they spend, and
11 all of that, so I do, I have a couple of
12 questions for the Captain and/or the Admiral.

13 From one of the smaller ships, let's say
14 the Carnival Paradise type size to, you know,
15 your largest more modern ship, how many more
16 passengers are you talking about from, you
17 know, let's say one of those, a 900' to, you
18 know, the latest ship to come out? What's the
19 increase in the number of passengers on one of
20 those vessels approximately?

21 **CAPTAIN HANSEN:** The capacity of the ships
22 that was built before 2000, around 2000 in the
23 Norwegian fleet, they have a capacity of about
24 2,600 passengers. The newer larger ships carry
25 around 4,000.

1 **MS. KURTZ:** Okay, so that's an increase in
2 approximately 1,400 passengers per vessel.

3 **CAPTAIN HANSEN:** That is correct.

4 **MS. KURTZ:** At capacity.

5 **CAPTAIN HANSEN:** At capacity.

6 **MS. KURTZ:** Is the ticket price different
7 on the smaller --

8 **CAPTAIN HANSEN:** I'm glad you asked the
9 question, because it was mentioned earlier that
10 the passengers are paying the pilots, and as we
11 know we have peak seasons and we have low
12 seasons. During low seasons we are, to
13 exaggerate, sometimes almost giving away the
14 tickets, and quite often the ships are only
15 sailing half full. So -- so yes, but --

16 **MS. KURTZ:** Okay, I see those differences,
17 but from a smaller ship to a larger ship is
18 the, is the ticket the same price for a seven
19 day cruise, or is it --

20 **CAPTAIN HANSEN:** It -- it all -- it all
21 depends on itinerary and --

22 **MS. KURTZ:** So a one week cruise from
23 Miami to the Caribbean in, you know, an outside
24 cabin without a balcony, you know, kind of a
25 typical sort of mid level type thing, is it

1 going to cost more to go on the newest biggest
2 ship than it does to go on an older smaller
3 ship in the same company, not to go on
4 Seaborne, or Radisson, or you know, something
5 super high end that's smaller?

6 **CAPTAIN HANSEN:** I would have to go back
7 and look at it. If you take the Norwegian Sky
8 for instance, which is calling into Cuba now,
9 the tickets, the ticket price are relatively
10 high, so you would pay more to go on the Sky,
11 which is older, an older ship as opposed to the
12 Escape, which is the newest --

13 **MS. KURTZ:** Right, but I'm talking just
14 same itinerary, you know, apples to apples,
15 Cozumel, you know, Groton, Key West, on the
16 Paradise or, you know, the Allure. And I think
17 you understand my question, I mean it's --

18 **CAPTAIN HANSEN:** Yeah, no, I do, and I
19 tried to --

20 **MS. KURTZ:** -- have to go on a cruise an
21 older --

22 **CAPTAIN HANSEN:** And I tried to answer it
23 the best I can, and on the newer ships you have
24 more categories of state rooms, you have from
25 large suites to small inside cabins, so you

1 have a much bigger variety. So if you compare
2 -- if you take a similar cabin on the older
3 ships and on the new ships I would say that the
4 ticket is about the same.

5 **MS. KURTZ:** Okay. But in any case you're
6 looking at a capacity, and increased capacity
7 of about 1,400 passengers at the same time of
8 year from one ship to another, right, 1,400
9 more due to this increase in air that you're
10 carrying around you do have an increased
11 earning capacity on the vessel.

12 **CAPTAIN HANSEN:** That is right, yes.

13 **MS. KURTZ:** Okay. And the newer ships,
14 they're bigger, so would you say that they take
15 up more room in the channel than a smaller
16 ship?

17 **CAPTAIN HANSEN:** Obviously.

18 **MS. KURTZ:** Okay. And do you think
19 there's any increased risk or difficulty in
20 bringing a larger ship through a same sized
21 space?

22 **CAPTAIN HANSEN:** As we talked about
23 earlier when a ship is longer and wider there
24 is less space, so the pilots have implemented
25 limits for wind speed, if you have northerly or

1 southerly winds 25 to 30 knots. The reason why
2 they have done that is to reduce the risk.

3 **MS. KURTZ:** But there is more risk because
4 you're bringing a bigger ship in through a
5 place that's the same size, even, unless they
6 (unintelligible) which they wouldn't restrict,
7 but you have exponentially more --

8 **CAPTAIN HANSEN:** Yeah, you will -- you
9 will have a bigger crab the longer the ship is,
10 but it's a fact. And also the newer ships, the
11 propulsion and the maneuverability has been
12 designed proportionately so you have more power
13 in order to compensate for those forces.

14 **MS. KURTZ:** Okay. There were also some
15 comments made about, you know, if the ship has
16 been to a dock before, you know, the ship on, I
17 forget what term you used, you know, on track
18 mode or something to get back to that position,
19 you know, without -- I thought I remembered
20 something about repeatability, you know, just
21 by --

22 **ADMIRAL BAUMGARTNER:** Yeah, we have some
23 things that will tell us where you are very
24 closely, but no, and track mode is something
25 else. We didn't say that track mode will take

1 you back to the dock, no, no, no.

2 **MS. KURTZ:** Okay. All right, I apologize
3 for my --

4 **ADMIRAL BAUMGARTNER:** Actually the
5 industry will tell you that they are, that the
6 -- the maritime industry vendors will assure
7 that they can do that in a couple years.

8 **MS. KURTZ:** I'm sure they will.

9 **ADMIRAL BAUMGARTNER:** And they will tell
10 you that you -- yes, I know that. I know that.
11 And in fact they're telling us that we would
12 be, they're advising very much against the long
13 pilots and captains to dock ships after the
14 next three or four years, but I'm not there at
15 all. But, no, no, that's not what we meant.
16 If we got the two things conflated or confused
17 I apologize for that.

18 **CAPTAIN HANSEN:** -- pilot is a steering
19 program.

20 **ADMIRAL BAUMGARTNER:** The other thing is
21 you, with wind bear and the size of the
22 vessels, the newer and the larger vessels often
23 have much, much more power and maneuverability
24 to overcome the wind, so it does depend on the
25 size of the port, and different issues inside

1 of the port, but in our corporate screening for
2 different thresholds, and when a ship must get
3 permission from higher up ashore to consider
4 going into a port the wind thresholds are lower
5 for the smaller older ships than they are for
6 the larger newer ships because of the design
7 elements in the ships.

8 There is a lot more windage, and wind
9 affect, of course, on Allure of the Seas, but
10 the power, the automation, the understanding of
11 it, the fine tuning at exactly what angles and
12 exactly what kind of vectors you're going to
13 see is, is quite different, so our older, our
14 older ships, smaller with conventional
15 propellers are going to have much higher, or
16 much lower wind restrictions in general from us
17 as a company, but crabbing is a very different
18 thing, like Captain Hansen said. It's a factor
19 of length of the ship very much.

20 **MS. KURTZ:** Okay. You both mentioned DP,
21 dynamic positioning, at different points in
22 your presentation. Are your officers DP
23 certified? It's my understanding that there is
24 a certification for vessels that are DP
25 certified for the officers to be able to

1 operate that equipment, are your, do your
2 officers --

3 **CAPTAIN HANSEN:** When -- when we are
4 saying dynamic positioning it is a light
5 version, so it's compared to, to the oil
6 industry where you have to have, where you have
7 to place a rig within inches. It is a
8 positioning system, and as far as I know
9 there's no requirement to be certified in order
10 to operate.

11 **MS. KURTZ:** So then is it really dynamic
12 positioning?

13 **CAPTAIN HANSEN:** It is a positioning
14 system which works the same way as a dynamic
15 positioning does.

16 **ADMIRAL BAUMGARTNER:** Yeah, there are
17 different levels of gradations in types of DP
18 systems, and so we are not in the business of
19 drilling in 15,000 - 20,000' of water in a one
20 meter hole underneath us, which is, you know,
21 that's the highest level of DP, DP
22 certification. We don't need to do that.

23 **CAPTAIN HANSEN:** It is basically to keep,
24 keep it in position in cases where it's
25 necessary.

1 **MS. KURTZ:** Okay. We also touched on the
2 safety of boarding and disembarking, and you
3 know, the pilots and the passengers use the
4 same shell door, you know, in getting on and
5 off the ship, so, you know, you're saying that
6 they use the same access points to get on and
7 off the ships, you know, to sort of minimize,
8 you know, the risks that the pilots take in
9 getting on and off.

10 What would be the maximum sea condition
11 that you would allow a passenger to board or
12 disembark from a tender?

13 **CAPTAIN HANSEN:** About your first
14 question, I think the point that we wanted to
15 make regarding where you board a cruise ship
16 compared to a cargo ship is that you have on a
17 cruise ship, 3, 4, maybe 5 steps to get on, as
18 opposed to a cargo ship where you have a
19 vertical climb of sometimes 30' or more.

20 **MS. KURTZ:** Right. No, I understand that,
21 and on loaded ships it is, it's a much smaller
22 climb, and I do agree on an empty it is a much
23 harder climb. Since the comment was made, it
24 may have Mr. Panza, but I apologize, I can't
25 remember exactly who it was, that after talking

1 about the pilot going into the shell door, it
2 was also mentioned that the passengers use the
3 same access point when they're tendering, and
4 so I was wondering at what point, you know, do
5 you know tender, you know, is it too, does it
6 ever get too rough, is it a foot, is it two
7 feet, you know, are you always able to make a
8 leaf for the passengers when you're going back
9 and forth to shore?

10 **CAPTAIN HANSEN:** If the conditions are too
11 rough it happens that we will have to cancel
12 the operations.

13 **MS. KURTZ:** Okay. Have you encountered
14 sea conditions offshore here where you were not
15 able to board a pilot?

16 **CAPTAIN HANSEN:** Personally I have once,
17 and that was the day after Hurricane Andrew. I
18 think that was in 1995.

19 **MS. KURTZ:** And -- and how high would you
20 say the seas were?

21 **CAPTAIN HANSEN:** It was heavy swell. It
22 would rough conditions, so --

23 **MS. KURTZ:** 10', 8', 10-12'?

24 **CAPTAIN HANSEN:** That's a good guess, yes.

25 **MS. KURTZ:** Okay, so pretty rough.

1 **CAPTAIN HANSEN:** Yes.

2 **MS. KURTZ:** So it may not be exactly the
3 same conditions that pilots and passengers are
4 accessing the ships through the same --

5 **CAPTAIN HANSEN:** No, I don't think we --

6 **MS. KURTZ:** Well, it just seems to me that
7 the comparison was made to minimize the risk
8 the pilot takes to get on board the ship, so --

9 **CAPTAIN HANSEN:** Maybe -- maybe, yeah,
10 that maybe came out wrongly when we have a
11 tender boat alongside the tenders are usually a
12 little bit higher than the pilot boat, so you
13 get an easier transit from the ship over to the
14 tender, and sometimes there is, or most of the
15 time there is, again, ways between the
16 (unintelligible) and the ship, but again the
17 point I think we were trying to make is that
18 the climb is much less than entering a cargo
19 ship.

20 **MS. KURTZ:** Okay, thank you.

21 **CHAIR:** Anything else? Mr. Panza, do you
22 want five minutes to close or --

23 **MR. PANZA:** I submit --

24 **CHAIR:** You're going to close, okay.

25 **MR. OATIS:** I'd like to ask some

1 questions. Another question came up, actually
2 for Mr. Glick, if you don't mind, it just
3 jumped out at me when I was looking at the
4 financial statements. I just want to make sure
5 I understand. I apologize for not seeing this
6 earlier. So this looks at the three years of
7 financial statements, 2007, '14 and '15 that
8 you provided. Why don't we start with the
9 financial statements and kind of work back
10 through some add-backs and adjustments to get
11 to a computed net income, and I'm trying to
12 make sure I understand the flow of the
13 retirement benefit again because in the
14 adjustment section we have a net adjustment
15 that's coming in that's related to the
16 \$1,960,000 paid being offset by the funding of
17 imputed retirement benefits. So we have a net
18 adjustment -- do you have it in front of you?

19 **MR. GLICK:** Yes, sir.

20 **MR. OATIS:** Okay, great. So in the far
21 right column you have \$334,000 that's coming in
22 as an adjustment.

23 **MR. GLICK:** Positive.

24 **MR. OATIS:** And then -- positive
25 adjustment, correct. And then down below in

1 the add-backs we're picking up basically the
2 difference for the \$1.1 million that was the
3 imputed benefit.

4 **MR. GLICK:** Yes.

5 **MR. OATIS:** So if I'm looking at that
6 constructively there is not an allowance for
7 any deduction for any benefits, even under a
8 defined benefit plan theoretical approach.

9 **MR. GLICK:** Correct, because the nature of
10 it would be that it's an operating expense, but
11 it happens to benefit the pilots so it is an
12 add-back because of the benefit. If it was a
13 legitimate operating expense for employees it
14 would have been a deduction and stayed a
15 deduction, it wouldn't have been an add-back.
16 It just so happens that it's --

17 **MR. OATIS:** Yeah, it's -- that's the
18 question, to make sure I'm not missing it
19 somewhere in the computation, that there's a
20 smaller piece being left, but the entire amount
21 is being adjusted out.

22 **MR. GLICK:** Effectively, yes.

23 **MR. OATIS:** Thank you.

24 **MR. WINEGEART:** Just real quick. I'll be
25 very brief. Can we go to your, I guess Slide

1 J, average revenue per handle, just real quick?
2 I just want to make sure I'm reading this
3 correct.

4 **ADMIRAL BAUMGARTNER:** Which chart?

5 **MR. WINEGEART:** I think it's J. The
6 40,000 - 70,000 gross tons revenue per
7 passenger, average revenue per passengers is
8 \$2,240; is that correct?

9 **ADMIRAL BAUMGARTNER:** Average, that's
10 revenue per handle.

11 **MR. WINEGEART:** Revenue per handle, okay.
12 And for the cargo the same tonnage the average
13 is \$2,377, slightly more; is that correct?

14 **ADMIRAL BAUMGARTNER:** Yes. Yes.

15 **MR. WINEGEART:** Okay. The next tonnage
16 70,000 - 80,000 for the cruise ships is \$3,122,
17 and cargo is \$3,390, correct?

18 **ADMIRAL BAUMGARTNER:** Yes.

19 **MR. WINEGEART:** And the next 80,000 -
20 120,000 \$4,004 for cruise ships and \$4,088 for
21 cargo?

22 **ADMIRAL BAUMGARTNER:** Yes.

23 **MR. WINEGEART:** And I just want to make
24 sure, these average revenues per handle are
25 existing, not with the 25% discount that you

1 are proposing.

2 **ADMIRAL BAUMGARTNER:** That's existing.

3 **MR. WINEGEART:** That's existing. So the
4 cargo ships are paying more -- in those tonnage
5 ranges they're actually paying more than the --

6 **ADMIRAL BAUMGARTNER:** Yeah, but what I
7 would point is you see there are no cargo ships
8 above that because the largest cargo ship that
9 could possibly come in here doesn't, is about
10 106,000 gross tons, so the largest one that
11 comes in right now I think is the Maersk
12 Altair. Because of the way everything is
13 generated you're not going to see container
14 ships with gross tonnages much higher than, you
15 know, than 110,000. I guess it would grow a
16 little bit with post panamax, but because of
17 the way you're doing it they just don't exist.

18 **MR. WINEGEART:** It will grow with post
19 panamax, I know --

20 **ADMIRAL BAUMGARTNER:** It will grow a
21 little bit, but it's not going to grow up to
22 the 160,000 and 200,000 --

23 **MR. WINEGEART:** It will go to 140,000, I
24 know, but --

25 **ADMIRAL BAUMGARTNER:** I think the other

1 thing you'll find out, you know, you see there,
2 is cargo is a little bit more because the
3 drafts are more, so there's going to be -- that
4 plays into -- that plays into it, because
5 they're larger, they're really in reality
6 larger ships in terms of mass.

7 **MR. WINEGEART:** I understand. I know
8 everybody wants to get out of here. Just a
9 question on the number of passengers. The
10 difference -- Allure of the Seas is it, that
11 was 225,000 gross tons?

12 **ADMIRAL BAUMGARTNER:** Yes.

13 **MR. WINEGEART:** What is the passenger
14 capacity on that vessel?

15 **ADMIRAL BAUMGARTNER:** Okay, so, yeah we
16 have to kind of -- let me flip to something
17 here because there's, there's a maximum
18 capacity, and then there's double occupancy,
19 which is the standard way that, that is
20 described, and I apologize, I want to make sure
21 that I get to the -- I think it's about 5,200
22 on double occupancy.

23 **MR. WINEGEART:** Would you be surprised it
24 --

25 **ADMIRAL BAUMGARTNER:** Yeah, 5,400 on

1 double occupancy, yeah.

2 **MR. PANZA:** Commission of 5,400.

3 **ADMIRAL BAUMGARTNER:** 5,400.

4 **MR. WINEGEART:** Okay, do you have any idea
5 what the Grand Princess, which is about half
6 the gross tons, the occupancy on that vessel?
7 I'm not sure whose vessel it is.

8 **ADMIRAL BAUMGARTNER:** It's Princess Line.
9 Actually it's -- if you gave me a minute what I
10 would do is look it up.

11 **MR. WINEGEART:** Well, I did it, and it
12 came up to 3,100, about half actually, so kind
13 of what I'm saying is the gross tonnage was
14 tracking the number of passengers based, in my
15 point.

16 **ADMIRAL BAUMGARTNER:** In newer ships that
17 are say 2000 and older, I mean, sorry, 2000 and
18 newer, amongst passenger ships itself, you
19 know, gross tonnage can somewhat track that.
20 If you get smaller than that, and older than
21 that then, then it changes quite, quite
22 rapidly, because you'll find out that, say,
23 okay so it -- I'm sorry, what was the tonnage
24 of the Princess ship you just mentioned?

25 **MR. WINEGEART:** What I've looked up was

1 109,000.

2 **ADMIRAL BAUMGARTNER:** 109,000. So we have
3 something in Champion of the Seas, it's about
4 the same passenger capacity. I believe she's
5 about 89,000 tons, so as you get to ships that
6 are before 2,000 the tonnage is much less
7 because the design, just the aesthetics of the
8 ships are different, not as many big spaces.
9 So there's kind of a break in the design of the
10 ships.

11 **MR. WINEGEART:** But you would agree it
12 kind of, the number of passengers kind of
13 tracks the gross tonnage also, right?

14 **ADMIRAL BAUMGARTNER:** It generally tracks,
15 yes. It can generally track, yeah.

16 **MR. OATIS:** One last question, I promise.

17 **CHAIR:** The last one.

18 **MR. OATIS:** So I guess just speaking in
19 generalities, I mean obviously you represent
20 two cruise lines, there's nine in total listed
21 on the application as being users of the Port
22 of Miami. With all the representations made as
23 far as current technology, trends for the
24 future, plans for the future, does that speak
25 to all those cruise lines, as far as where

1 they're at from the technology perspective, and
2 their abilities to use the same technologies on
3 board, to your knowledge?

4 **ADMIRAL BAUMGARTNER:** Okay, it -- it
5 generally tracks, we all have differences, and,
6 you know, some of us are quite proud that we --
7 obviously Royal Caribbean moves, you know,
8 slightly larger and more, sorry Bjorn, but
9 technically savvy, we like to be in that, in
10 that part of the market with the latest
11 electronics, the latest of this and that. But
12 generally the industry is doing the same thing,
13 because it makes sense for them, and certainly
14 the maneuverability is necessary to effectively
15 operate in different places. There may be some
16 differences between, there are differences
17 between lines, but, you know, in general I
18 think that speaks towards it.

19 **MR. OATIS:** Thank you.

20 **CHAIR:** Okay. All right, well, it's 6:00.
21 I want to thank you, Mr. Panza, and your team,
22 for all your presentations today. So we'll
23 start at 9:00, Ms. Blanton, with you, and
24 we'll do your combined presentation, and we'll
25 just keep going as is. And for the team,

1 tomorrow will look very similar to today, but
2 we'll probably also plan on staying later. We
3 still have Friday reserved as well if we need
4 to go it. Thank you. The meeting is adjourned.
5 (Thereupon, the above meeting adjourned.)

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