

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF PILOT COMMISSIONERS
PILOTAGE RATE REVIEW COMMITTEE

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/3/2017
File #	

IN RE: APPLICATION FOR A CHANGE IN RATES OF PILOTAGE, FILED BY THE FLORIDA-CARIBBEAN CRUISE ASSOCIATION. AND ALTERNATIVE APPLICATION FOR A CHANGE IN RATES OF PILOTAGE FOR PORT MIAMI, FILED BY BISCAYNE BAY PILOTS, INC.

CASE NO.: PRRC 2014 - 1

ORDER

THIS MATTER came before the Board of Pilot Commissioners, Pilotage Rate Review Committee at a duly-noticed public meeting on March 30, 2017 for consideration of a Motion entitled BISCAYNE BAY PILOTS' REQUEST TO BE REPRESENTED BY QUALIFIED REPRESENTATIVE filed in the above styled cause on February 7, 2017.

Committee members present were Sherif Assal, Capt. Carolyn Kurtz, Vincent Oatis, Louis Sola, and Capt. Jay Winegeart. Legal advisor to the Board was Clark R. Jennings, Assistant Attorney General.

APPEARANCES

For Florida-Caribbean
Cruise Association:

Thomas F. Panza, Esq.
Panza, Maurer & Maynard
3600 North Federal Highway, 3rd Floor
Ft. Lauderdale, Florida 33308

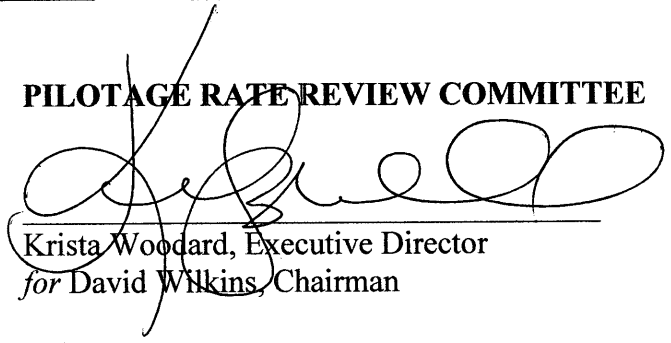
For Biscayne Bay
Pilots Inc.:

Donna E. Blanton, Esq.
Radey Law Firm
301 South Bronough Street, Suite 200
Tallahassee, Florida 32301

Having reviewed the above styled motion, noting the unopposed nature of said motion, and being otherwise fully advised in the premises, it is therefore ORDERED AND DIRECTED that the above referenced motion is **GRANTED** and the Committee hereby designates Mr. Paxton Crew as a qualified representative for the purpose of any proceedings before it in the above styled cause.

DONE AND ORDERED this 30th day of March, 2017.

PILOTAGE RATE REVIEW COMMITTEE



Krista Woodard, Executive Director
for David Wilkins, Chairman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been provided by United States Mail to Thomas F. Panza, Panza, Maurer & Maynard, P.A., Bank of America Building, Third Floor, 3600 North Federal Highway, Fort Lauderdale, FL 33308, and Donna E. Blanton, Radey Law Firm, 301 South Bronough, Suite 200, Tallahassee, Florida 32301, and Robert Peltz, Esq., The Peltz Law Firm, 10220 SW 141st Street, Miami, Florida 33176; and inter-office mail to Clark R. Jennings, Assistant Attorney General, Administrative Law Section, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 3rd day of April, 2017.



Brandon M. Nichols

**FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
PILOTAGE RATE REVIEW COMMITTEE**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	2/7/2017
File #	

In re: Application for a Change in Rates of Pilotage, filed by the Florida-Caribbean Cruise Association, and Alternative Application for a Change in Rates of Pilotage for PortMiami, filed by Biscayne Bay Pilots, Inc.

Case No.: PRRC 2014-1

**BISCAYNE BAY PILOTS' REQUEST TO BE REPRESENTED
BY QUALIFIED REPRESENTATIVE**

Pursuant to section 120.62(2), Florida Statutes, and rule 28-106.106, Florida Administrative Code, Biscayne Bay Pilots, Inc. ("BBP" or the "Pilots") files this Request To Be Represented by Qualified Representative and states:

1. On February 6, 2017, the Board of Pilot Commissioners ("BOPC") published in the Florida Administrative Register ("FAR") a notice relating to a hearing on May 17-19, 2017, concerning the rates of pilotage in PortMiami. The hearing will be held in Miami by the Pilotage Rate Review Committee ("PRRC"), a subset of the BOPC. § 310.151, Fla. Stat.

2. The hearing is for the purpose of considering an application of the Florida-Caribbean Cruise Association ("FCCA") for a 25 percent reduction in the rates of pilotage for passenger vessels in PortMiami, which was filed in 2014, and for considering BBP's alternative application for an across-the-board increase in the rates of pilotage, which was filed on March 24, 2016. The proceedings concerning both applications have been consolidated. A previously scheduled hearing in June of 2016 was stayed pending the resolution of petitions filed by both parties in the First District Court of Appeal. The proceedings in the appellate court have now been resolved, and the hearing has now been rescheduled.

3. In accordance with section 120.62, Florida Statutes, and rule 28-106.106, Florida Administrative Code, the Pilots wish to be represented at the hearing by Paxton Crew, a member of the State Bar of Texas. Because Mr. Crew is not a member of the Florida Bar, the Pilots request that he be designated as a qualified representative. A sworn affidavit from Mr. Crew, setting forth his qualifications, is attached as **Exhibit A**, and his resume is attached to the affidavit.

4. Section 120.62(2), Florida Statutes, provides in relevant part:

Any person compelled to appear, or who appears voluntarily, before any presiding officer or agency in an investigation or in any agency proceeding has the right, at his or her own expense, to be accompanied, represented, and advised by counsel or by other qualified representatives.

(Emphasis supplied).

5. Rule 28-106.106(1), Florida Administrative Code, provides in relevant part:

Any party who appears in any agency proceeding has the right, at his or her own expense, to be represented by counsel or by a qualified representative.

(Emphasis supplied).

6. Rule 28-106.106 sets forth the qualifications required of a person designated as a qualified representative. Rule 28-106.107 sets forth the standards of conduct for qualified representatives.

7. The Pilots recognize that qualified representatives in Florida administrative proceedings are most commonly designated in proceedings before the Division of Administrative Hearings (“DOAH”) or before other agencies conducting hearings pursuant to section 120.57, Florida Statutes. Nonetheless, section 120.62 and rule 28-106.106 make plain that the designation of a qualified representative is appropriate before any agency in any agency proceeding. *See also The Florida Bar v. Moses*, 380 So. 2d 412, 417-18 (Fla. 1980) (noting that the Florida Administrative Procedure Act (“APA”) contemplates representation before state agencies by

persons who are not members of the Florida Bar).¹ The Pilots seek the designation of Mr. Crew as a qualified representative so that BBP may present its case without concerns that Mr. Crew may be accused of the unauthorized practice of law. *Id.* at 417 (“In the absence of legislative authorization for lay representation, there would be no question that conduct which constitutes the practice of law, wherever performed, is subject to our constitutional responsibility to protect the public from the unauthorized practice of law.”) (Emphasis supplied).

8. As demonstrated by Mr. Crew’s affidavit (**Exhibit A**), he meets the requirements to be designated as a qualified representative. He has read section 310.151, Florida Statutes, and understands the role and jurisdiction of the PRRC in connection with applications for changes in the rates of pilotage. He also understands that following notice of the PRRC’s intent to modify pilotage rates, any party may request a hearing at DOAH pursuant to the APA. Accordingly, he has read the Florida Rules of Civil Procedure to familiarize himself with relevant discovery requirements; the Uniform Rules of Procedure, which will govern any proceeding at DOAH; and sections 120.569 and 120.57, Florida Statutes. Specifically, he understands the evidentiary requirements that apply in administrative proceedings, i.e., that “[i]rrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of Florida.” § 120.569(2)(g), Fla. Stat. He understands that in proceedings conducted pursuant to section 120.57(1), Florida Statutes, hearsay

¹ The *Moses* case involved a proceeding before the Public Employees Relations Commission (“PERC”). While the Court recognized that the APA permitted representation by someone who is not a member of the Florida Bar in such proceedings, the Court also found that PERC had not established standards for competence and professional responsibility for such qualified representatives. 380 So. 2d at 418. That problem has since been remedied by the adoption of the Uniform Rules of Procedure, which include rules 28-106.106 and 28-106.107.

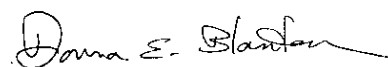
evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.” § 120.57(1)(c), Fla. Stat.²

9. In addition to familiarizing himself with Florida’s statutory procedures concerning changes in the rates of pilotage, Mr. Crew has read the applications of both FCCA and BBP that are at issue in these proceedings. He has substantial familiarity with pilots and piloting and the issues raised in the competing applications. As explained more fully in **Exhibit A**, Mr. Crew is a maritime lawyer who has represented pilots in other jurisdictions. He is a member of the Maritime Law Association of the United States and the Southeast Admiralty Law Institute and has handled multiple maritime cases. *See Exhibit A.*

10. Finally, Mr. Crew has read and understands the Standards of Conduct for Qualified Representatives in rule 28-106.107, Florida Administrative Code, and has agreed to adhere to them. *See Exhibit A.*

For the reasons expressed, BBP respectfully requests that the PRRC designate Mr. Crew as a qualified representative in connection with these consolidated proceedings.

Respectfully submitted,



Donna E. Blanton
Florida Bar No. 948500
Radey Law Firm
301 South Bronough, Suite 200
Tallahassee, Florida 32301
Telephone: 850-425-6654
dblanton@radeylaw.com

² Should any party request a hearing at DOAH following the PRRC hearing, BBP intends to file a separate request in that forum seeking the designation of Mr. Crew as a qualified representative. Nonetheless, BBP believes it is important that such designation also be granted in connection with Mr. Crew’s role representing BBP before the PRRC.

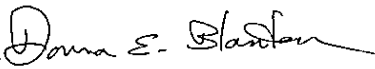
CERTIFICATE OF SERVICE

I certify that the original of this pleading was filed with the Agency Clerk and the Executive Director at the Department of Business and Professional Regulation and that a true copy was served this 7th day of February, 2017, via email to the following:

Thomas F. Panza, FBN 138551
Panza Maurer & Maynard
3600 North Federal Highway, 3rd Floor
Ft. Lauderdale, Florida 33308
Telephone: 854-390-0100
tpanza@panzamaurer.com
Counsel for Petitioner Florida-Caribbean
Cruise Association

Krista Woodard, Executive Director
Board of Pilot Commissioners
2601 Blair Stone Road
Tallahassee, Florida 32399-0783
krista.woodard@myfloridalicense.com

Clark Jennings
Assistant Attorney General
Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399-1050
Clark.Jennings@myfloridalegal.com


Donna E. Blanton

STATE OF TEXAS §

COUNTY OF GALVESTON §

Affidavit of Paxton N. Crew

My name is Paxton N. Crew. I am over the age of eighteen and qualified to make this statement. I have never been convicted of a felony or crime of moral turpitude. I am making this statement further to my request to be deemed a Qualified Representative for purposes of the Biscayne Bay Pilots, Inc. rate application.

I graduated from the University of Houston Law School in 2007. I have been licensed to practice law in Texas since 2007. Since that time I have worked almost exclusively on maritime matters. I began my career with the law firm of Legge, Farrow, Kimmitt, McGrath & Brown in Houston, Texas where I practiced for three years. During my time at Legge, Farrow, Kimmitt, McGrath & Brown, I represented most of the major Protection and Indemnity clubs in purely maritime matters occurring in the U.S. Gulf of Mexico and ports of Texas. I have also been engaged in a number of international maritime collision cases and London arbitrations. I also had the opportunity to defend ship owners in Jones Act personal injury cases, and also to defend harbor pilots before state pilot boards and before the National Transportation Safety Board and U.S. Coast Guard marine casualty investigations. It would be accurate to say that the bulk of my career has focused on collisions and property damage cases, often involving compulsory harbor pilots. I have by my latest count been involved in over two-hundred claims involving the navigation of a vessel (or mechanical failure or loss of propulsion or pollution) when a compulsory pilot was on board. The bulk of these claims resolved prior to any U.S. Coast Guard casualty investigation, but these were all files that were opened and required my involvement. In short, I have an extensive background in the nature of pilotage as it relates to marine casualties.

In 2010 I began my own law firm, The Crew Law Firm, P.C., where I continued to represent maritime interests, both plaintiff and defense. I have tried a number of cases to the bench and to the jury, some of which are highlighted on my attached curriculum vitae. I have also been engaged as an expert in maritime law, in particular maintenance and cure cases. I recently merged my practice with another lawyer creating the firm of Johnson & Crew, PLLC.

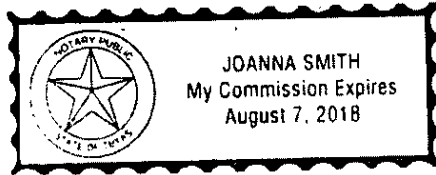
With regard to my experience in pilot rate hearings and negotiations, I have been personally involved in seven rate negotiations in Texas. Three for Galveston-Texas City, one for Matagorda, one for Freeport, and two for Aransas-Corpus Christi. Of these, two have gone beyond the administrative level to a judicial review stage. I believe my insight into the relationships between shippers and pilots and experience in these rate proposals, as well as my maritime law background will be helpful in presenting the Biscayne Bay Pilots' case before the Pilotage Rate Committee on May 15, 2017.




Although I am enrolled in the State Bar of Texas, and the Federal Bars for the Western, Southern and Eastern Districts of Texas as well as the Federal Fifth Circuit Court of Appeals, I am not licensed to practice in Florida. Therefore, with regard to Florida's statutory requirements for Pilot Rate applications, I have read section 310.151 of the Florida Statutes and I am familiar with the requirements stated therein. Likewise, I am familiar with the Administrative Procedures Act and the rules regarding hearsay. I agree to be bound by the Standards of Conduct for Qualified Representatives.


On this 1st day of February 2017, Paxton N. Crew did present before me and swear the foregoing under oath.

Notary Seal:





Paxton N. Crew



Notary Signature

Date: 1 FEB 2017

Paxton N. Crew

The Crew Law Firm, P.C.
South Shore Harbour Resort & Conference Center
Marina View Building
2600 South Shore Blvd. Suite 300
League City, TX 77573
281.245.3385
Facsimile: 281.245.3386
email:Paxton@thecrewlawfirm.com

Mr. Crew was born and raised in Orange, Texas and is a seventh generation Texan. He lives in League City, Texas with his wife and two children. Mr. Crew obtained his B.A. in History from the University of Houston in 1996, and his J.D. from the University of Houston Law Center in 2007. Prior to attending law school, Mr. Crew owned a satellite entertainment company that serviced bars and restaurants throughout Southeast Texas and South Louisiana. He also worked for six years at NASA's Johnson Space Center-Aircraft Operations Division for a contractor involved with integrated projects to NASA's support and training aircraft, including the Boeing 747 Shuttle Carrier Aircraft ("SCA"), WB-57 wide wing high altitude research aircraft, T-38 astronaut trainers, and Gulfstream Shuttle Training Aircraft ("STA").

Mr. Crew has represented a wide array of plaintiffs and defendants, ranging from Jones Act seamen, longshoremen, to vessel owners involved in fleet and vessel mortgage foreclosures, collisions, and complicated charter party disputes. Mr. Crew has settled countless unrepresented Jones Act Seamen cases on behalf of his clients and overseen employer's maintenance and cure obligations in an advisory role. Mr. Crew also serves as outside house counsel to maritime and energy companies in South Texas. He is a member of the Fifth Circuit Federal Bar Association, the Maritime Law Association of the United States and the South Eastern Admiralty Law Institute. He is also a member of the Order of the Barristers and serves as a coach for the University of Houston Admiralty Law Moot Court Team.

Professional Experience:

The Crew Law Firm, P.C.

2011 to present
Principal

Legge, Farrow, Kimmitt, McGrath & Brown L.L.P.

2007 to May 2011
Attorney
Admitted to practice: Texas, 2007,
United States District Courts for Eastern, Southern and Western Districts of
Texas, 2008; United States Fifth Circuit Court of Appeals, 2008

Stolt-Nielsen Transportation Group

Summer 2006
Intern
Norwalk, Connecticut/Houston, Texas

Science Applications International Corporation(SAIC)

October 2000-May 2006
Technical Lead-Functional Analyst
NASA-Johnson Space Center Aircraft Operations Division

Ellington Field
Houston, Texas

Education:

University of Houston Law Center-J.D. 2007

Gus Schill, Jr. Maritime and Professionalism Scholarship Award
Order of the Barristers
John R. Brown Admiralty Moot Court Competition,
National Finalist 2007, National Semi-Finalist 2006

University of Houston-Clear Lake-B.A. History, 1996

Representative Published Affirmative Decisions and Verdicts:

Desmond Clophus v. Cal-Dive International, Inc.,

Cause No. 2012-05338, in the 61st Judicial District Court for Harris County, Texas, \$891,000 verdict on dislocated wrist case for Jones Act Seaman.

Clipper Bulk Shipping, Ltd. v. Sun Coast Resources, Inc.

Cause No. 09-12-00478-CV, in the Ninth Judicial Court of Appeals. Affirmed Jury Trial verdict and award of attorney's fees in fuel dispute.

Ondimar Transportes v. Beatty Street Properties, Inc.

555 F.3d 184, 187 (5th Cir. 2009)
Created new rule of law in Fifth Circuit of a settlement bar to non-settling joint tortfeasors.

Lance Campbell v. Royal Caribbean Cruises, Ltd.

No. 08-41343 (5th Cir. Sept. 9, 2009) (unpublished)

One Beacon Insurance Co. v. Crowley Maritime Corp.

648 F.3d 258 (5th Cir, 2011)
Creating new rule for contract interpretation allowing a website's terms and conditions to be a valid incorporation by reference in an invoice's terms and conditions.

Flame S.A. v. M/T Lynx

No. 1:10-cv-278, in the U.S. District Court for the Eastern District of Texas.
Vessel arrest case involving Mexican national cargo of feedstock being wrongfully detained during an arrest in Beaumont, Texas.

Regions Equipment Finance Corp. v. AT 2400 et al.

No. 1:10-cv-215, in the U.S. District Court for the Eastern District of Texas. Fleet Mortgage Foreclosure action. Lead counsel. Appealed adverse ruling to Fifth Circuit court of appeals and U.S. Supreme Court. Obtained very favorable settlement for principals and guarantors and

reduction of almost 25,000,000.00 in judgments.

In re: Sanco Holding, A.S.

No. 1:07-cv-161, in the U.S. District Court for the Southern District of Texas.
Limitation of Liability Action.

In re: Seatrout GmbH & Co. KG

No. 1:08-cv-3715, in the U.S. District Court for the Southern District of Texas.
Limitation of Liability Action, successfully defended client in case where co-defendant settled for 15,000,000.

Galtex Pilots Service Corp. v. Great American Insurance Co.

No. 1:09-cv-100, in the U.S. District Court for the Southern District of Texas.

Publications and Presentations:

Limitation of Liability: Practical Considerations for Trial, South East Admiralty Law Institute, June 2015 Summer Meeting.

Voyage Data Recorders, "CSI on the High Seas", with James T. Brown, first presented at SEALI's June 2010 Summer Meeting, republished in Benedict's Maritime Bulletin, and Steamship Mutual's Bulletin, found at:
<http://www.simsl.com/Publications/Articles/VDRLeggeFarrowPaper0111.htm>

Marine Casualty Investigation Concerns for the Ship's Officers,
Seabulk Tankers Senior Officer Meeting, Ft. Lauderdale Florida, 2010.