

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT IN
AND FOR MIAMI-DADE COUNTY, FLORIDA

IN RE: MARINE SAFETY OFFICE INVESTIGATION /

DEPOSITION OF JOSEPH HAMILTON

Taken before Evelyn B. Astrin, Notary Public for the
State of Florida at Large, on Wednesday, the 22nd day of
January, 2003, at the U.S. Coast Guard Marine Safety
Office, 100 MacArthur Causeway, Miami Beach, Florida, at
2:00 p.m. pursuant to Notice.

COPY

APPEARANCES:

U.S. COAST GUARD, MARINE SAFETY OFFICE
BY: LT. ERIK LASALLE
LT. NICOLETTE ARROYO
LCDR LARRY BOWLING
100 MACARTHUR CAUSEWAY
MIAMI BEACH, FLORIDA 33139
ON BEHALF OF THE U.S. COAST GUARD.

KELLER BOLZ LLP
BY: JOHN W. KELLER, III, ESQUIRE
121 MAJORCA AVENUE SUITE 200
CORAL GABLES, FLORIDA 33134
ON BEHALF OF THE WITNESSES.

I N D E X

Witness

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1 Thereupon:

2 JOSEPH HAMILTON

3 was called as a witness on behalf of the investigation, and
4 after having been first duly sworn, was examined and
5 testified on his oath as follows:

6 DIRECT EXAMINATION

7 BY LT. NICOLETTE ARROYO:

8 Q Can you state your name, please, and your
9 position with the company?

10 A Joe Hamilton. I guess you could say manager.

11 Q Okay.

12 Can you state your address as well, please?

13 A 43 -- I just moved, 4330 13th Avenue,
14 Southwest. That's Naples, Florida.

15 Q Thank you.

16 Okay, Joe, I am just going to focus on the
17 day of the casualty, the day of the sinking.

18 A Okay.

19 Q December 30, 2002, when did you arrive on
20 scene?

21 A I was in -- I am trying to think what time I
22 showed up. It was after the fact. I pulled in. I saw the
23 boat coming in, unloading the people, a lot of them in
24 towels and stuff like this. Totally caught me off guard.

25 And my Dad is, like, man, we have a problem.

1 And like what? What?

2 And everything hit. And I guess my brother
3 and them were already out and did their thing and brought
4 the people in and stuff.

5 I was on another business that day. I mainly
6 assisted in the salvage operation.

7 Q Can you tell me about the salvage operation?

8 A We -- immediately we went out after, of
9 course, observing and taking care of people. And we are
10 running across the street. Getting a lot of them coats,
11 beer, cigarettes, so everybody is happy.

12 And we run out. And I wanted to see where
13 the boat was. And I guess one of the crabbers, Howie, I
14 guess his name was, tied it off from the shoreline to get
15 it off the main channel.

16 Pretty much I am trying to remember. If we
17 did anything we might have put another rope on it. And
18 then we came back to get a bigger boat. We were trying to
19 figure out what we were going to do.

20 We figured we could just get the boat and
21 bring it in.

22 We got one of the crab boats in the river, a
23 big forty-two foot boat, and a pump from the city, just
24 trying to get our head together.

25 Once we got all set, we got the word we

1 weren't allowed to touch it until you guys showed up. We
2 went out there with two park rangers, Kiefer and one of the
3 park rangers, Johnny.

4 You guys, about 10:00 or something, and you
5 gave us permission to get it beached. We needed it up
6 until the next day when the tide was down. And then the
7 next morning me and my brother but a salvage plan together
8 real simple, I guess about eight steps, typed it real
9 quick, gave it to you, and you got it approved.

10 We wasn't real sure what we were up against.
11 We saw the hole in the tunnel and we brought out a lot of
12 the caulking stuff, temporarily. You guys said we could --
13 nothing permanent -- to get it floated, and get it back.

14 That's pretty much what we did, put the
15 caulking.

16 Stanford and Kenny held it because it
17 wasn't -- once we come off, I wasn't real sure what it was
18 going to do. I didn't want to sink it out in the deep
19 water again. Until we got it off we was kind of taking a
20 chance to see how much water was going to come in. It
21 wasn't that much, as long as I kept my hand in. You saw
22 it.

23 LCDR LARRY BOWLING: Joe, for the
24 record, you are referring to the starboard, to
25 right, the longitudinal stringer?

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THE WITNESS: Yeah.

And I pretty much held that back to the dock. It wasn't that bad as long as I kept my hand there.

Sometimes across a wave it would come in a little worse. I think we ended up pumping maybe four, five times, and we got it back to dry dock.

LT. NICOLETTE ARROYO: That was about it.

FURTHER DIRECT EXAMINATION

BY LCDR LARRY BOWLING:

Q Joey, I want to expand a little bit.

When did you get on scene the 30th, 31st, which would have been when you began the salvage operation?

A That morning. We were going to try to catch the low tide. I am trying to think. I think the low tide was around 6:30 or something.

So, we got down there about 6:15, or whatever. We were a little late, I don't know, getting the word, you know. We kind of missed the tide, but we didn't miss it real bad.

She immediately told us to just get a quick salvage plan together, which we did. It wasn't nothing extravagant, go out get the pump, check the hull, tow the

1 damn thing in.

2 Typed it up get approval, I guess, from you.

3 And then another boat with the rangers to
4 basically watch what we were doing, how we were going to do
5 it, and to follow us. I think you followed us back in, I
6 think.

7 Q Mark De Jesus, Coast Guard warrant officer at
8 the time.

9 A The park ranger found us. They couldn't at
10 first. We came back a quieter route. I didn't want
11 anything rough. I didn't know exactly what was going to
12 happen.

13 Q Were you navigating the boat at the time?

14 A The boat towing us.

15 Q Were you navigating?

16 A No, it was pretty much in the middle, left
17 alone.

18 Q You were on the towing vessel?

19 A No, on the boat being towed, holding the
20 caulking in place.

21 Q You were on the Panther One?

22 A Yes.

23 Q Who else?

24 A Me, Stanford, Kenny, my brother in the
25 skimmer, our other tour boat. I can't remember if he was

1 by himself.

2 Q Three of you in the Panther One?

3 A Yes.

4 I have a pump from the city set up on the
5 starboard corner in the back, in the back hold where the
6 bilge pump was. The leakage, what little I couldn't hold,
7 was running to that corner. It wasn't that bad. I think
8 we had to pump in maybe four, five times, just briefly,
9 just to get it back.

10 I think Sam might have been by himself. Me,
11 Kenny and Stanford were on the Panther One, the boat being
12 towed in, yes.

13 Q Did you determine the extent of the repairs
14 to get the boat refloated?

15 A Kenny is real good. I know the boat since
16 the day I was born. I know those boats extensively. Kenny
17 and Stanford, about the only way -- you couldn't do
18 anything from underneath. You couldn't do anything.

19 Obviously, from the way it was, we thought it
20 would work. We weren't real sure.

21 Once, you know, just let's just ease it off
22 the bar. If it's going down we are basically sometimes on
23 the bar.

24 We eased it off. I am looking, not that bad,
25 let's go a little more, a little more. And it never really

1 started taking on.

2 Where it was, I keep calling it the main
3 channel, Indian Key pass. We know a short cut back. The
4 park rangers couldn't find us for forty-five minutes. We
5 come back Jack Daniel's creek and Sand Fly pass, I didn't
6 want it to get out there and --

7 Q Describe to me in detail the extent of the
8 temporary repairs made by you, at the time, to get this
9 thing moving?

10 A I think Stanford -- Kenny took -- I am not
11 sure about the amount, less than ten. I'm not sure what it
12 is, under-water type -- not an epoxy. I am not real sure
13 what it is based out of, but you can work it real well,
14 like a putty.

15 Q A putty?

16 A It's not like the under water epoxy, totally
17 different than that. And Stanford stopped a lot of it.

18 It actually took and held good. Some of it
19 wouldn't. That's the part I could take one hand on it, but
20 the boat would start rocking. You could see it start easy,
21 and I'm running and trying to hold it.

22 It was basically eight or nine tubes. I am
23 sure we have a receipt somewhere, under-ater type.

24 Q And that was putty?

25 A On the scene, you are talking about the

1 starboard corner, you know, basically the crack you saw.
2 Just trying to get something in the crack.

3 Q Were any other temporary repairs made at that
4 time?

5 A Not that I am aware of, no.

6 Q Were you involved in any of the maintenance
7 of the boat leading up to the time it sank?

8 A No, that would be Kenny and Stanford.

9 Q What about management of the company? You
10 say you have another business?

11 A Yes.

12 Q What is your specific role with the park to
13 your company, and how frequently do you contribute to the
14 management of it?

15 A In the last year not quite as frequently as I
16 would like, I started another -- it's an air boat business
17 closer to Naples. And we have a gas station. And I own a
18 Subway Sub, also.

19 And my brother is there more than me but
20 between the three of us we try to get two out of three
21 there at all times.

22 As far as hiring somebody, I don't have
23 anybody working there I don't want. If I am not there a
24 week it doesn't matter, my Dad won't hire somebody unless
25 he comes to me, and the same, we like him, okay. It

1 won't -- he wouldn't be hired.

2 If I go a week those two are there, two out
3 of three are usually there.

4 Q It would be safe to say it's like a joint
5 management?

6 A Exactly, yeah.

7 Q Once you got up through Jack Daniels creek,
8 and you went into Sand Fly pass, from there get me to the
9 point where the boat got on the rail. I came down there I
10 think on the --

11 I think the --

12 A It was rough on the bay and I was nervous
13 coming across the bay. I didn't know what was going to
14 happen, if it was going to sink in the bay. I wouldn't
15 mind three, four foot of water.

16 Once we got there I wasn't concerned. It was
17 rougher than we would like. Basically, to the outside sea
18 wall where we fuel the boats, into the outside you have
19 seen, and we tied it in there. I still want to say Troy --
20 was Troy there?

21 LT. NICOLETTE ARROYO: Yes.

22 LCDR LARRY BOWLING: He's referred to
23 another chief warrant officer Troy Ivey
24 (phonetic).

25 Before they pulled the boat they wanted

1 to jump on the boat. I know Troy and she
2 jumped on and actually rode on the boat with
3 me, over you know, the boat way is where you
4 pull -- is right around the corner.

5 They stayed on the boat with me. And I
6 guess my brother Stanford pulled us around.

7 We had a little problem so I had to get
8 overboard and kind of work it up there in waist
9 deep water, got it up. No problem, pulled it
10 up. And those guys were on scene from then on.

11 BY LCDR LARRY BOWLING:

12 Q Were you there when the boat was physically
13 brought in to the rail?

14 A Yes.

15 Q Did you see water exiting the hull from any
16 location?

17 A I can't remember. To be honest with you, I
18 really can't.

19 Q We asked your brother, and I think I asked
20 your Dad this question: There were some signs of hull
21 repair, or previous hull repair prior to the sinking, a
22 small area of the fiberglass overlay of the wood patched
23 up?

24 A Yeah.

25 Q Are you aware of anything that may have

1 occurred to the vessel from --

2 A You mean --

3 Q No, like somebody did some --

4 A They kind of take advantage of me because I
5 am away a lot. If there is something to be repaired they
6 say Joe is here today. If it is a little blister, I don't
7 mind. A little glass job, nothing. But as far as anything
8 major, I can't take on the bottom of the boats at all. Any
9 of them like that, you can't do anything major unless you
10 call you guys, rip a whole corner out or something.

11 A little ding, no blister or something -- I
12 don't know when the last time the boat was pulled. I'm not
13 real sure, but I don't think anything like that at all.

14 LCDR LARRY BOWLING: Erik?

15 FURTHER DIRECT EXAMINATION

16 BY LT. ERIK LASALLE:

17 Q One specific question, when the boat went
18 down originally and touched the bottom, how would you
19 describe the bottom?

20 A Where it actually sunk?

21 Q Yes.

22 A It never touched bottom. From what I am told
23 that boat never went to the bottom, not one time. It was
24 also a little free board and the bow was out.

25 Q The stern, nothing hit the bottom?

1 A Not out there where he was.

2 Q Talking about the sinking, where she went
3 down, she never touched the bottom?

4 A I wasn't on site, but from what I am told it
5 didn't.

6 When I got there it had already been towed.
7 One of the crabbers took it. A pretty wise move, I think,
8 to get it out of the channel.

9 LCDR LARRY BOWLING: For the record, the
10 first set of digital photos that was shot the
11 night you were out there, was that the location
12 where the boat was towed to?

13 LT. NICOLETTE ARROYO: That was the
14 location where the boat was towed to. It was
15 already half way up on the sandbar.

16 LCDR LARRY BOWLING: The digital photo
17 does show the boat partly submerged. You can
18 see the seating, some of the bottom portion of
19 the seat at the water line.

20 I want to make sure we established where
21 the pictures were taken. If I were to look at
22 the digital on the computer, that would be the
23 point where the crabber --

24 LT. NICOLETTE ARROYO: Yes.

25 LCDR LARRY BOWLING: John, you want to

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expand on something?

MR. KELLER: No, we'll wrap it up at
this point.

(Thereupon the deposition was
concluded.)

CERTIFICATE OF NOTARY

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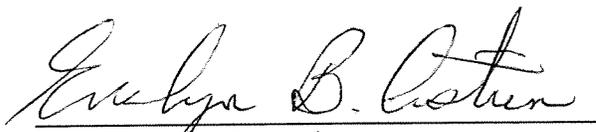
STATE OF FLORIDA :

SS

COUNTY OF DADE :

I, Evelyn B. Astrin, Shorthand Reporter and Notary Public for the State of Florida at Large, hereby certify that I was authorized to report the deposition of SAMUEL HAMILTON, III, a witness herein; that said witness was duly sworn, and that the foregoing pages numbered one through 14, constitute a true record of the statement given by said witness.

Dated at Miami-Dade County, Florida, this 18th day of March, 2003.


Evelyn B. Astrin, Notary Public for the state of Florida at Large.

My commission expires:

EVELYN B. ASTRIN
NOTARY PUBLIC - STATE OF FLORIDA
COMMISSION # CC901230
EXPIRES 1/18/2004
BONDED THRU ASA 1-888-NOTARY1