

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

IN RE: MARINE SAFETY OFFICE INVESTIGATION /

DEPOSITION OF KENNETH WELLS

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 10:00 a.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.

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EXHIBIT

COAST GUARD EXHIBIT NUMBER ONE

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1 Thereupon:

2 KENNETH WELLS

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. ERIK LASALLE:

8 Q Good morning, Mr. Wells. Would you please
9 state your name, address, your phone number and your
10 position with the company?

11 A Kenneth Wells. And any address is Box 511
12 Chokoloskee.

13 Q What was that again?

14 A Chokoloskee, Florida.

15 Q How do you spell, that?

16 A C-H-O-K-O-L-O-S-K-E-E.

17 Q Your position with the company?

18 A Right now mostly just part-time job. I kind
19 of retired. Like they needed some help and I told them I'd
20 help.

21 Q Like a handy-man type help?

22 A Pardon?

23 Q Like a handy-man type help?

24 A Right.

25 I spent about twenty years working with them

1 before.

2 Q Okay.

3 I explained to everybody upstairs, and I'll
4 explain again, we are strictly in the fact finding stages
5 of the investigation. We are not at a point where we think
6 of anything else but just trying to collect the facts to
7 help us identify the root causes that caused this casualty
8 in Everglades City.

9 My first question is: How long have you been
10 with the company?

11 A Actually, probably when I was working full
12 time I was to twenty years.

13 Q Twenty years?

14 And you travel back and forth from Ohio, I
15 remember you saying?

16 A Usually in the summertime. It depends.
17 Might be through June I was working, getting things pretty
18 well caught up, and somebody would take my place.

19 Q On December 30th, I believe that was the day
20 the Panther sank?

21 A Right.

22 Q Can you, in your own words, recall what
23 happened, where you were and what you know about it?

24 A Well, we was on -- like Stanford Daniels and
25 I were on the other -- a -- what -- what do they call it,

1 like a sister ship; practically the same boat. We were
2 painting the railings and things on a dock that they had up
3 town.

4 And one of the -- well, he works at the Fish
5 House, Everglades City, partly like a crabber. He come
6 driving in and he said one of our boats sunk.

7 Well, you know, we know -- like, I don't know
8 how you really explain it, you know people, and maybe just
9 joking. At first, I thought it was a joke.

10 So, he said, "No" -- he says, "It's the
11 truth."

12 So, he went back, and we were trying to get
13 stuff off the boat and go out, too.

14 Q Was that the Panther Two that you guys were
15 on?

16 A Right.

17 So, we took off and went as soon as we could
18 get out there. Then Howie Grimm was the guy that come and
19 told us this.

20 Q Who was it?

21 A Howie Grimm.

22 Q How do you well it?

23 A H-O-W-I-E?

24 Q Grimm, G-R-I-M-M?

25 A Oh, Grimm. G-R-I-M-M.

1 Something; I am not sure.

2 Q When you arrived on the scene what did you
3 see?

4 A Well, like the boat that was supposed to have
5 sunk, it was still partly floating. Like the deck was
6 still even with I'd say, with the water, but we was taking
7 the passengers off of the crab boat.

8 Q So, there was a crab boat on the scene, too?

9 A Right.

10 Q Do you happen to know -- the crab boat on the
11 scene, do you happen to know the name of that one?

12 A No, I don't.

13 Q I don't recall what it was -- Layton
14 (phonetic)?

15 A Stanford might know. He would probably know.
16 He is more familiar with like crab boats and things.

17 Q What was the weather like; was it calm?

18 A I'd say it was pretty, you know, it wasn't
19 really what you would call rough. It was pretty calm.

20 Q When you arrived on the scene were there any
21 passengers in the water?

22 A No.

23 They were all out of the water at this point.
24 All out of the water.

25 Q And the boat was still level?

1 A I don't know whether it was a ranger boat, a
2 captain and probably four passengers were on it, other than
3 the crab boat.

4 Q Now the Panther Two, I have seen the Panther
5 Two and the Panther One, and the Manatee One. Panther Two
6 is a sister ship to One?

7 A They're a little different. If you didn't
8 know it would be probably hard to tell.

9 Q If you were working on it you would know
10 which one you were on?

11 A Right.

12 Q That is how I pictured it being described.
13 You were painting?

14 A The rails on the Panther Two, right.

15 Q Are you familiar with any training for newly
16 hired personnel?

17 A No, not that part. Well, like you know I
18 haven't been around that much this year. I was gone.
19 Actually, I helped part-time last year about the same time
20 and I didn't come back until -- up until December this
21 year.

22 Q Okay.

23 For instance, if I was a captain and I wanted
24 to, you know, work for the company as a captain, what kind
25 of training would I go through? You have no idea or what?

1 Any familiarization type of training?

2 A Right.

3 They go with another captain on their tours
4 in the -- the other -- the other captain usually says they
5 pretty well know what the area is like.

6 Q Kind of like a break-in period would you say?

7 A Right.

8 Q To get familiarized with the area?

9 A I'd say so.

10 Q Now, the next set of questions are going to
11 be on the maintenance of the vessel, strictly just on -- I
12 am going to talk about just the Panther One, now, but if in
13 fact I want to know the maintenance of the vessels in
14 general.

15 If there is certain maintenance you do on the
16 Panther One, you wouldn't do on the Manatee One or Manatee
17 Two, I'll assume it might be the same for all of them.

18 A What was the question again?

19 Q The maintenance on the vessels, for instance,
20 were there any recent repairs or maintenance done on the
21 Panther One that you are aware of?

22 A Not what you call major repairs or anything
23 like that. There is always minor repairs like maybe
24 wiring.

25 Q Maybe -- what was that?

1 A Like your wires.

2 Q Wires, all right.

3 A And pumps and everything, they're usually
4 checked every day.

5 Q Are you the person that checks the pumps?

6 A Not normally. This year I was mostly like
7 building a rear seat. They got a big rear seat in the
8 Panther Two. I was doing that. But, what I would do, if
9 they had say a minor problem on another boat, well, I'd
10 help Stanford because I was familiar with it. After years,
11 I know.

12 Q Before we were talking you were fixing the
13 steering?

14 A Right.

15 Q Are you aware of any maintenance logs that
16 are kept that would -- like a check-off sheet; for
17 instance, before the boat leaves you are supposed to check
18 the seat count, the life jackets, maybe look at the
19 engines, the bilges, the steering? Are you familiar with
20 that?

21 A Stanford pretty well takes care of it.

22 Q Besides yourself and Stanford, is there
23 anyone else that does repairs on these boats?

24 A Not normally, not unless it's, you know,
25 something they have problems they don't understand, or

1 something, maybe they call somebody.

2 Q Now, I am not familiar with the specific
3 bilge on the Panther One, or the bilges. How many bilges
4 are on there?

5 A Three bilge pumps, and then you have a
6 hand -- a hand pump that, I don't know, that is it seems to
7 me it's kind of useless, but they have a hand pump.

8 Q So, you have three bilge pumps and you have a
9 hand pump? So, that would make the fourth one?

10 A Right.

11 Q I don't know how to record this, but I am
12 going to draw just an outline of a vessel, and if you
13 can, tell me where the bilge pumps are on the vessel. This
14 is an ugly diagram of the Panther One.

15 A Right here would be one.

16 Maybe put it this way. It's like a fuel pump
17 and back seat. And you have one here. And this is
18 actually like the -- these are tunnels, and the boat comes
19 here. And then you have your engine right in this
20 direction. Right in the center.

21 Q And you have a pump here?

22 A Now, the hand pump has like compartments,
23 different valves you could turn on.

24 Q I am sorry?

25 A You have your lines for your hand pumps

1 separate.

2 Q If you want to pump this area you could
3 switch a valve?

4 A Right.

5 Q Do you know who manufactures the bilges?

6 A Those we are using right now is Rule.

7 Q How do you spell that?

8 A R-U-L-E.

9 Q R-U-L-E?

10 You don't know the make of it do you?

11 A That is the name of the pump. That's on the
12 pump.

13 Q It's on the pump? It is Rule?

14 A Yes.

15 Q Now the high bilge alarm sensor, is there
16 one?

17 A Yes, the one on the area is right up here on
18 the engine. This pump is kind of -- well, let's see, this
19 collects the stuff and this would be your engine, then your
20 beam here. Engine is mounted on -- the high water line is
21 right there.

22 Q High water line, okay.

23 Were there any repairs done on any of the
24 bilges?

25 A The pumps?

1 Q The pumps, I am sorry.

2 A The morning the boat sunk I put on here was
3 Captain Daniels said a shut off switch when he -- this is
4 for the motor, that the shut off switch was slow shutting
5 off.

6 Q To kill the engine?

7 A To kill the engine, it doesn't just do it
8 right then. So, that evening I went to Naples and picked
9 up a switchboard. And the next morning I put in the
10 shut-off switch.

11 One reason we do that right away, if it goes
12 completely bad, you are far, pump won't work either, your
13 automatic fire system on a boat.

14 Q In this case let's -- fire system?

15 A Got it?

16 Specially on diesels. You have to shut the
17 diesels off automatically.

18 Q That switch you put on the engine itself?

19 A No, the switch, it's on the control panel.

20 Q On the control panel?

21 A You have gauges and things.

22 So, Stanford, he was checking all the other
23 boats. So, I went ahead and checked. Well, it would be
24 your starboard bilge, the pump on it, there was a wire that
25 was green.

1 So, I thought well, I'll go ahead and start
2 that. So, I decided to put all new connections because you
3 have a manual, automatic, your wires. By that time I was
4 running close to having time for the boat to go out.

5 Q Okay.

6 A So, I don't know whether you talked to
7 Captain Andrew -- I don't know his last name.

8 Q Andrew?

9 A His first name. I don't know their last
10 name.

11 But, we switched boats. The captains did.
12 Andrew took the first trip.

13 Q On the Panther Two?

14 A No, what you call a skimmer.

15 Q Got you. He was scheduled to go on the
16 Panther One, but they moved him, switched him?

17 A Captain Daniels was supposed to go out on the
18 first trip. That time I had time, I checked them all, and
19 rewired this pump, here, all.

20 Q The starboard pump?

21 A All new connections, yes.

22 Q I understand the basic concept of a bilge
23 pump, but tell me the basic information as far as, the
24 water comes in, goes to a certain level, then the bilge
25 kicks on?

1 A Well, these -- the pumps in this particular
2 boat here are -- they're electronic. They don't have a
3 float. They sense water. You can hear them. Even though
4 there is no water there, it will maybe come on and go off,
5 you know.

6 If there is water there it will pump. It is
7 electronic. We used to have like a float on them and we
8 had trouble with maybe a float sticking and would not come
9 on.

10 Q So, the design of the pump is to sniff, look
11 for water, the pump? If it doesn't find it, it keeps
12 itself --

13 A I can't tell you. It might be so many
14 seconds. I think you noticed -- I think I noticed when I
15 was working on the boat the pump would.

16 Q Come on, kick off, come on, kick off?

17 A Right.

18 Q Just coming on sensing water?

19 A If there was water there it would pump.

20 Q I know you don't know the exact seconds or
21 minutes in between, but it does it periodically?

22 A Yes.

23 Q Every forty-five seconds it comes on, or is
24 it sporadic?

25 A No, it's pretty well --

1 Q Regulated?

2 A Yes, pretty well regulated.

3 Like all the control switches for each
4 individual pump, it has -- well, they have their own
5 separate fuses, but they have a red light that when this
6 pump will start this red light will be on.

7 Q On the console?

8 A Yes.

9 Q Now, the lights that are on the console,
10 is -- and there are switches on the console as well that
11 control the pumps? You can go from automatic to manual,
12 correct?

13 A Right.

14 Q Were all of those in operating order at the
15 time?

16 A Yes. I went through everything.

17 Q And there were no problems with the switches
18 on any of the pumps?

19 A Right.

20 Q Uh, now, switching gears away from the bilge
21 pump, the Panther One grounded in early December?

22 A Well, that is what I have heard. Now, I
23 wasn't there at that time because I didn't -- actually I
24 don't think I got -- it was around the 16th -- 15th or 16th
25 when I come to Florida.

1 Q When you came from Ohio?

2 A Yeah.

3 Q Do you know of any work that was done on the
4 Panther One from the result of the grounding?

5 A No, I don't know. No, I don't know of
6 anything.

7 LT. ERIK LASALLE: You got any
8 questions?

9 LT. NICOLETTE ARROYO: Yes, I do.

10 FURTHER DIRECT EXAMINATION

11 BY LT. NICOLETTE ARROYO:

12 Q Sir, my name is Nicolette Arroyo.

13 A Pardon?

14 Q My name is Nocollette Arroyo. I met with you
15 earlier last month.

16 A Right.

17 Q As far as your experience goes, what type of
18 experience do you have on maintenance of vessels?

19 Do you have any credentials or formal
20 training or anything like that?

21 A Well, no, other than twenty some years of
22 them, that's mainly.

23 Q So, you have worked on vessels all your life,
24 basically?

25 A No, like twenty years. I worked for around

1 twenty years on them. I worked on like engines and
2 electrical work on farm equipment. I was a service manager
3 for a farm equipment dealer for fifteen years.

4 Q And this was in Ohio or was it down here in
5 Florida?

6 A No, Ohio is -- Ohio, farm equipment.

7 Q And what type of work? When you say that you
8 have worked for the Hamiltons twenty years, what type of
9 work do you do? Like exactly what type of work do you do?

10 A Well, it's mostly maintenance.

11 Q And what do you consider maintenance?

12 A Well, like all your wiring, your engine, you
13 know.

14 Q Engine repair, different things on the
15 engines?

16 A We don't actually do a major repair because
17 we usually replace a complete engine, because we don't have
18 the facilities for doing it.

19 Q Just minor repairs to the engine?

20 A Right.

21 Q Bilge pumps?

22 A Bilge pumps.

23 Q Okay.

24 And when you say that you have worked
25 part-time during the season, what is part-time to you?

1 Like how many hours do you work a day, for example?

2 A Normally if I work a day I might work eight
3 hours.

4 Q Eight hours a day?

5 A And I really only wanted to work say two
6 three days a week.

7 LT. ERIK LASALLE: We all want to work
8 two, three days a week.

9 MR. KELLER: Tell them how old you are?

10 THE WITNESS: I'm seventy-two years old.

11 BY LT. NICOLETTE ARROYO:

12 Q So, do you work two or three days a week, or
13 do you normally work more than that?

14 A Lately I have worked more than that.

15 Q When you got back in December, like let's say
16 you got back on the 16th, you said, 17th around there?

17 A Yeah.

18 Q How often did you work from that day you got
19 back until now?

20 A I was putting in a full week.

21 Q Full week, eight hour days?

22 A Because I was working -- you know, like
23 actually what I was starting to do was to list -- all that
24 happened, I was supposed to be mostly building the seats
25 and just painting.

1 Q And you did do some -- as far as the Panther
2 One was repaired, you did do some repairs to the bilge
3 pumps that morning?

4 A Right, right.

5 Q And that's why the vessel was delayed
6 departure?

7 A Right.

8 Q Which wiring system did you replace, again,
9 starboard's?

10 A Rear starboard.

11 Q Rear starboard bilge pump?

12 A Rear starboard bilge pump, right.

13 Q You mentioned there were automatic and manual
14 modes for the bilge pumps. How many switches, because I
15 don't know how this works either.

16 A One switch. Each pump has its own separate
17 switch, and there is an automatic and manual.

18 Q For each?

19 A Yes, for each pump.

20 Q So, if it has three bilge pumps it has three
21 switches? One is automatic, one is manual?

22 A Right.

23 Q How would you put it in the --

24 MR. KELLER: You say one is automatic,
25 one is manual?

1 THE WITNESS: It is one switch, two
2 positions.

3 BY LT. NICOLETTE ARROYO:

4 Q Up and down?

5 A Sideways.

6 Q Which is the automatic mode, to the left?

7 A To the left would be if you were facing it,
8 to the left.

9 Q Okay.

10 LT. ERIK LASALLE: Left being if you are
11 looking it's to the left.

12 BY LT. NICOLETTE ARROYO:

13 Q If you are looking towards the bow it would
14 be to the left?

15 LT. ERIK LASALLE: To the port side?

16 THE WITNESS: Right.

17 BY LT. NICOLETTE ARROYO:

18 Q Do you know if there are any -- what type of
19 alarms there are on these bilge pump systems? Are there
20 any alarms on the systems at all?

21 A Not on the bilge pump itself. There is a
22 high water alarm.

23 Q Is that a visual alarm?

24 A It's a visual and it has a buzzer, too,
25 buzzer and light, red light.

1 Q Okay.

2 And what would indicate if one of those pumps
3 was not working properly? Like how would a captain know if
4 a pump was not working properly, or how would you know, for
5 example, if a pump was not working properly?

6 A On these pumps, this electronic pump. You
7 can make a check with. I know little Sammy and Stanford
8 have tried to make all of them understand that when you put
9 this pump in manual that you shut it to the neutral
10 position five seconds, and when you flip it over. It
11 should come on. You are automatic then. It will come on
12 automatic.

13 But, other than checking for pump and water,
14 you know, you can tell if there is water present it will
15 pump water.

16 Q Okay.

17 Well, what you just said right now, you
18 switch it to manual for five seconds?

19 A No, you can switch it to manual as long as
20 you want, but you switch back to neutral you save
21 approximately five seconds.

22 Q And it will come on?

23 A And it will come on. Most times it will come
24 on.

25 Q Anyway?

1 A Anyway, when you flip across, but you know,
2 it's a check you can make.

3 Q Okay.

4 Have you ever seen -- have you ever seen
5 these vessels like for example any minor adjustment that
6 the captains have done to the switches? Like for example
7 let's say a switch is broken, you know, how would you know?
8 Have you seen like captains put like rubber bands on the
9 switches or things like that?

10 A I haven't.

11 Q You have never?

12 A No.

13 Q Have you ever repaired a switch on these
14 alarm systems, on these activation systems for the bilges
15 as you call them?

16 A If a switch goes bad or anything I replace
17 the whole switch because it's really not repairable.

18 Q Have you -- when was the last time that you
19 have repaired a switch?

20 A I haven't repaired any switches since I have
21 been back.

22 Q Okay. Okay.

23 And let's say there was -- for example, let's
24 say there was too much water in the bilge, what do you
25 think would be the cause of that?

1 A You need to have a lot of different problems.
2 You can have a lot of different problems.

3 Q Like what for example?

4 A One you could have an exhaust leak, and other
5 than something -- oil damage or hull damage.

6 Q And that would be -- would that be the only
7 reason why there would be too much water in the bilge, I
8 mean?

9 A Well, yeah, I'd say pretty well much so
10 because like your engines your exhaust are all -- most are
11 all water cooled. You have -- if you have an exhaust pipe
12 break or a pipe go bad, you would put some water into the
13 bilge that is cool.

14 Q Okay.

15 Any previous grounding on the Panther One
16 that you are aware of, other than the one in December?

17 A Not that I know of. Not since I have been
18 there.

19 Q And what time did you say the Panther One
20 departed the dock the morning of the 30 of December?

21 A Let's see, I am not -- actually, I am not
22 sure whether it's 9:00 or 9:30; 9:30 the first trip is to
23 go to the second. I am not sure. It would be it is --
24 would be another hour and-a-half if like I switched. I am
25 not sure the times it goes.

1 Q So, it departed an hour and a half later than
2 it was scheduled?

3 A Could have been possibly two hours because
4 there is a half hour between, you know, trips. So, I am
5 not sure.

6 Q Okay.

7 Uh, because you do the maintenance on these
8 vessels have you ever done maintenance for example on the
9 V H F radios?

10 A No.

11 Q Never?

12 A Not other than changing, you know, changing
13 radios or maybe putting antennas. We don't do no repair
14 work on radios.

15 Q So, you just change them out?

16 A Other than changing them out.

17 Q Are you aware of the condition of the V H F
18 radio on the Panther One that day?

19 A They have a radio check usually.

20 Q They do have radio checks?

21 A Yes.

22 Q Do you know if they had a radio check that
23 day?

24 A I am not sure if they did or not. It's
25 usually the boat captain does it.

- 1 Q Do you know if it was working at all?
- 2 A As far as I know, but I couldn't swear to it.
- 3 Q Okay.
- 4 Is there a morning check-off sheet?
- 5 A I think you asked that already.
- 6 Q Is there like a morning check-off sheet?
- 7 A I know there is where he checked off that
- 8 morning, but I do know Stanford has a check off.
- 9 Q For the vessel, so before departure of every
- 10 vessel they check off certain items?
- 11 A Usually the captain.
- 12 Q The captain does?
- 13 A Yes, usually the captain.
- 14 LT. NICOLETTE ARROYO: Okay.
- 15 LT. ERIK LASALLE: I have a couple of
- 16 more questions and then we will be able to be
- 17 done.
- 18 If you have any questions for us please
- 19 feel free to ask.
- 20 FURTHER DIRECT EXAMINATION
- 21 BY LT. ERIK LASALLE:
- 22 Q The bilge alarm, the level switches, they are
- 23 mounted vertically on the console, right, is that correct?
- 24 A (No verbal response.)
- 25 Q They go, for instance -- I wanted to clear

1 the point we made before, they go left to right, correct?

2 A The switches?

3 Q The switches themselves.

4 A For the bilge pumps?

5 Q Yes, for the bilge pumps.

6 A Yes, left to right.

7 On the manual position, when you put the pump
8 in a manual position you have to hold it because it will
9 come back to neutral. They go from neutral to automatic.
10 You flip it in and then stay there.

11 Q Automatic to manual you have to hold the
12 switch over?

13 A Yeah, if you take this switch from automatic
14 and you want to go to manual, when you go to manual you
15 hold the switch.

16 Q Okay.

17 A You know, you hold it in. When you release
18 it, it will come back to neutral, but don't go clear back
19 to automatic.

20 Q To keep it in manual full time you physically
21 have to hold it?

22 A Right.

23 Q Where is the console on board the Panther
24 One?

25 A Probably right in this vicinity.

1 Q Alright what -- which switch on the console
2 controls which pump?

3 A Well on this boat here they're like this,
4 they're mounted like three switches.

5 Q Okay.

6 A It's usually like the switch will control
7 your starboard pump. The bottom will control this, and the
8 middle would control that.

9 Q So, the top controls the starboard, the
10 bottom controls the port, and the center controls the
11 center?

12 A I put them that way because you can pretty
13 well remember the middle one is the engine.

14 Q Now, with the switch being in the manual
15 mode, for instance say the captain visually saw water in
16 the pump or heard the pumps, and it wasn't working and he
17 wanted to go to manual, you are saying he would switch it
18 from automatic to manual, and as soon as he let go, back to
19 manual?

20 A Right.

21 Q I know this is the last question I have.
22 It's kind of a general question. What would you attribute,
23 or what would you say caused -- it can be one reason or it
24 can be a series of reasons, the causing of the sinking of
25 the boat Panther One, and I know you don't know, no one

1 knows, but if you were guessing at this, what would you say
2 were the contributing factors to the sinking?

3 A That's a good question. I don't know. I
4 thought about it and thought about it, but there's all
5 different -- it can come up to different things. I just
6 don't know.

7 MR. KELLER: Do this though, Kenny, you
8 have talked to people like the crabber. Tell
9 him what the crabber told you.

10 BY LT. ERIK LASALLE:

11 Q Any witness statements you might have heard?
12 You weren't on board but --

13 A The only thing I can say, the crabber and one
14 person, it was probably a fellow about Sam III's and Joe's
15 age. When we were taking them off the crab boat he had his
16 end turned around, the bow and the stern. When what he was
17 telling me, the bow went down first, and it was the
18 opposite, the stern went down first. It just went.

19 Q Who told you the bow went down?

20 A Well, a boy that was getting off when we was
21 unloading them off, he was telling somebody that, you know,
22 he said it just like that. With uh, Kelvin Townsend
23 (phonetic), the crabber that picked them up.

24 He was coming in with steering problems and
25 he said that the boat -- he said within thirty seconds that

1 it just went like that.

2 Q But he was there? When it was already going
3 down when he pulled up?

4 A Yeah, he seen it all.

5 Q And when you --
6 I am sorry go ahead.

7 A He was the first one there the way I
8 understand it.

9 Q Okay.

10 And when you were doing work on the Panther
11 Two as you stated, then you went out on the scene, how many
12 people were on board that night?

13 A I never counted. I have no idea.

14 Q Okay.

15 A The only, well, thing, it was kind of a
16 shock. I was probably about as shocked as the people was,
17 you know.

18 LT. NICOLETTE ARROYO: Would you say it
19 was more than twenty, more than twenty people?

20 THE WITNESS: I'd say it probably was.

21 LT. NICOLETTE ARROYO: Would you say it
22 was thirty people?

23 THE WITNESS: I couldn't say.

24 LT. ERIK LASALLE: Do you have any
25 questions for me or Mrs. Arroyo?

1 MR. KELLER: Can I ask questions? What
2 I want to do is help you guys along.

3 LT. ERIK LASALLE: Okay.

4 CROSS-EXAMINATION

5 BY MR. KELLER:

6 Q Kenny, you said you took the boat out of
7 service and it didn't make the first voyage?

8 A Right.

9 Q Was that your standard practice if the boat
10 wasn't right?

11 A That was mine.

12 Q Any time you wanted to take her out of
13 practice, did Sammy let you take her out?

14 A He knew when I said I was taking it out.

15 Q When you took it out of service for that
16 period of time you were only acting according to your usual
17 practice?

18 A Right.

19 If I, you know, if I had a problem I wanted
20 to correct it if possible.

21 Q And you actually worked -- you were actually
22 in the areas that morning where the starboard and the port
23 bilge pumps are located?

24 A Right.

25 Q So you were looking below the floor boards?

1 A Right.

2 Q Tell us what you saw, if anything?

3 A I didn't see anything. What -- the reason,
4 well --

5 REDIRECT EXAMINATION

6 BY LCDR LARRY BOWLING:

7 Q Did you say you didn't see anything unusual?

8 A No.

9 Q What you think about is whether --

10 A How the tunnel was pushed up.

11 Q Uh-huh?

12 A When I was working on these pumps, because I
13 have to lay to get to this -- and the wiring -- I have to
14 lay pretty near on my stomach and reach around in there.
15 If there is as much water that is coming in there I would
16 have sure noticed.

17 When I was working on this pump, there was
18 probably that much water in the compartment there, and this
19 is a compartment that when we were bringing the boat in,
20 the day we brought it in, we had a big pump, that this
21 compartment we never pumped.

22 We could only pump it down that far. The
23 water was coming here and running around to this. And I
24 think we pumped maybe four or five times, all the time we
25 were bringing it in. And that would be, the water would

1 get above. Well, the pump would only pump down that far in
2 the water.

3 Q The portable pump you guys used to salvage
4 the boat?

5 A Right, we pumped about that much water.

6 The water that morning pumps the cycle, and
7 there wasn't pumping a lot of water.

8 That's the reason you think maybe something
9 happened between them that time and it sunk, I don't know.

10 RE-CROSS EXAMINATION

11 BY MR. KELLER:

12 Q But you saw no water coming into the boat
13 when you were in both of the areas right?

14 A Right, no.

15 Q You were the guys that actually installed the
16 switches?

17 A Originally, yes.

18 Q After the accident did you check the
19 switches?

20 A I didn't. Well, I even talked to Stanford
21 about it afterwards, even when we were bringing the boat
22 in, were the switches turned off or on, or whatnot. I
23 don't know, it's one of them things, didn't check.

24 Q Did you check to see if all three bilge pumps
25 still worked when the boat came back?

1 A No. The only one is, the safety board took
2 the one pump, this pump here, and the pump was, when you
3 hook it up, would work.

4 LCDR LARRY BOWLING: Referring to the?

5 THE WITNESS: Starboard pump.

6 LCDR LARRY BOWLING: A starboard, rear
7 pump?

8 THE WITNESS: Starboard, rear pump.

9 Like the safety board, when I put those
10 wires together with my connectors I use
11 electronic grease to keep corrosion out, and I
12 told them you can cut the wires anywhere you
13 wanted to cut them in between the connectors to
14 show that's the way I had done them. I mean
15 nobody else usually does that, but I know that
16 I do that.

17 LT. ERIK LASALLE: How you wired it?

18 THE WITNESS: Yes.

19 BY MR. KELLER:

20 Q And you do that to keep the corrosion away,
21 to make it work?

22 A Right.

23 Q You were the guy that maintained it for
24 twenty years?

25 A Right.

1 Q And you were the guy that installed these
2 bilge pumps and the switches?

3 A Yes.

4 Q You use the electronic, still, and it's more
5 expensive, right?

6 A Well, I went through two different types.
7 Actually the company that make the floats, I started having
8 problems. They were getting water in there. The other one
9 called the Mayfair.

10 LCDR LARRY BOWLING: The mechanical
11 type?

12 THE WITNESS: Yes.

13 For years the Mayfair was good, so we
14 went to that. And that was actually after,
15 when we started installing these. It's
16 probably, maybe three years replacing them, as
17 a pump would go bad, or a float would go bad.
18 We had a lot of problems with both captains,
19 maybe a float sticks. They would just never
20 pay attention to it.

21 You know, you wouldn't know whether it
22 was water causing it, or the stick maybe. We
23 thought we had eliminated a lot of the work
24 but --

25 LCDR LARRY BOWLING: Okay.

1 LT. NICOLETTE ARROYO: One last
2 question.

3 THE WITNESS: Yes.

4 LT. NICOLETTE ARROYO: How, because you
5 know their boats -- I mean, you have worked on
6 them for twenty years, the free board on the
7 Panther boats is about this much, maybe?
8 Describe it?

9 THE WITNESS: I had say that's close.

10 LT. ERIK LASALLE: Two and-a-half feet,
11 three feet?

12 THE WITNESS: Probably it is.

13 LT. NICOLETTE ARROYO: From water to the
14 deck?

15 THE WITNESS: I'd say Panther One is
16 probably two feet maybe.

17 LT. NICOLETTE ARROYO: Two feet of free
18 board?

19 THE WITNESS: Panther Two is more free
20 board than Panther One.

21 LT. NICOLETTE ARROYO: Have you ever
22 heard of any captains reporting low free board
23 on the Panther One?

24 THE WITNESS: No.

25 LT. NICOLETTE ARROYO: Have you ever

1 seen low free board on the Panther One, even
2 when it is loaded with passengers?

3 THE WITNESS: No, I have never seen what
4 you call --

5 LT. NICOLETTE ARROYO: Do you know what
6 might cause low free board on the vessel?

7 THE WITNESS: You could get water -- you
8 could get -- I have seen -- in a way, I have
9 seen where some of your boat captains is going
10 through, you know, rough water, will tell the
11 people to move back and you will have less free
12 board that way.

13 LT. ERIK LASALLE: One question just
14 came to my mind.

15 You go to Ohio for the summertime and
16 then you come down here in the wintertime.
17 During that time these boats are still in
18 operation, does Stanford Daniels make the
19 repairs to the boats, if you know?

20 THE WITNESS: He's usually the one.

21 LT. ERIK LASALLE: That is all I have.

22 (Thereupon the deposition was
23 concluded.)

24

25

Exhibit C. 6 #1
EBK 1/22/03

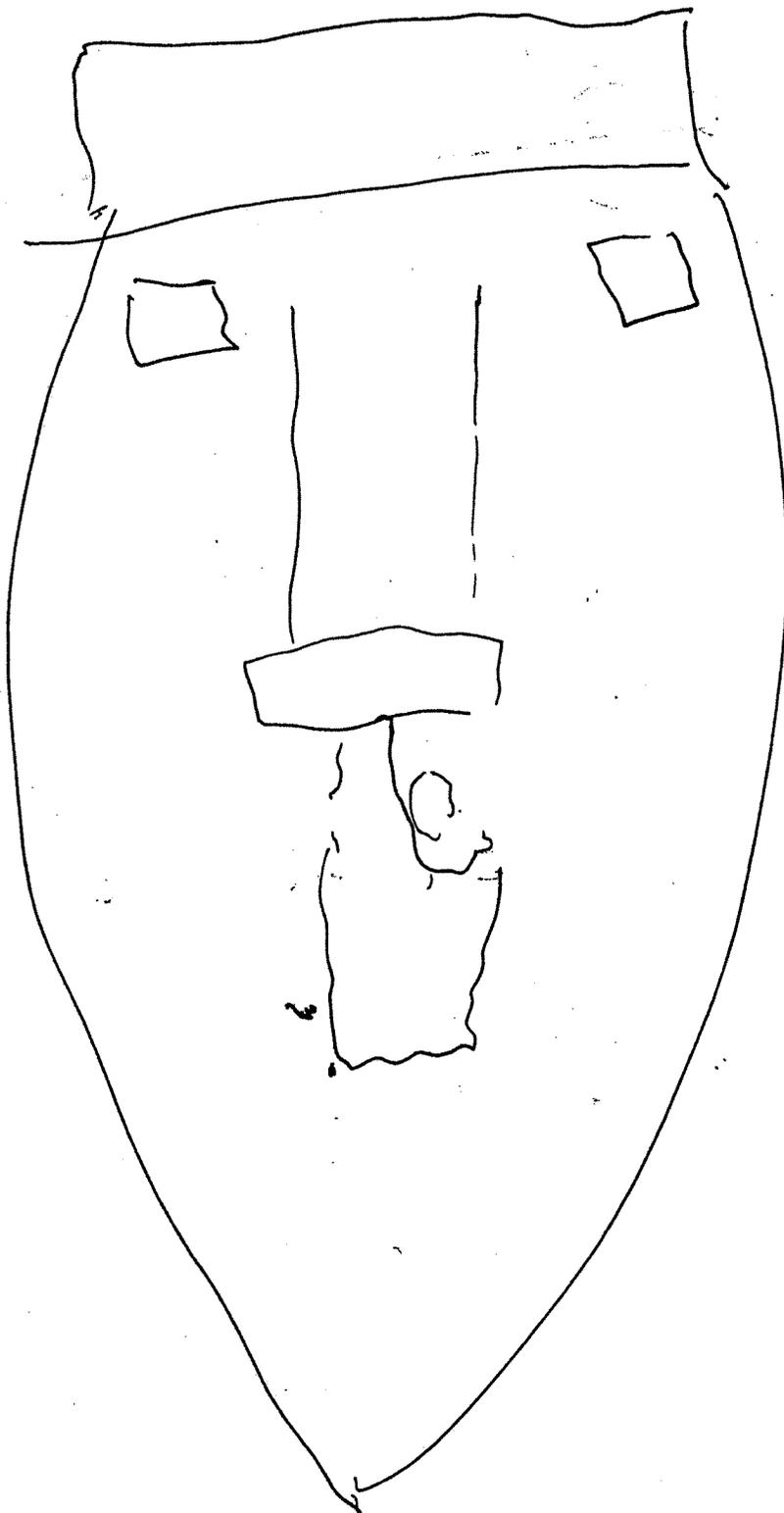
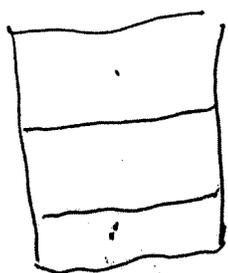
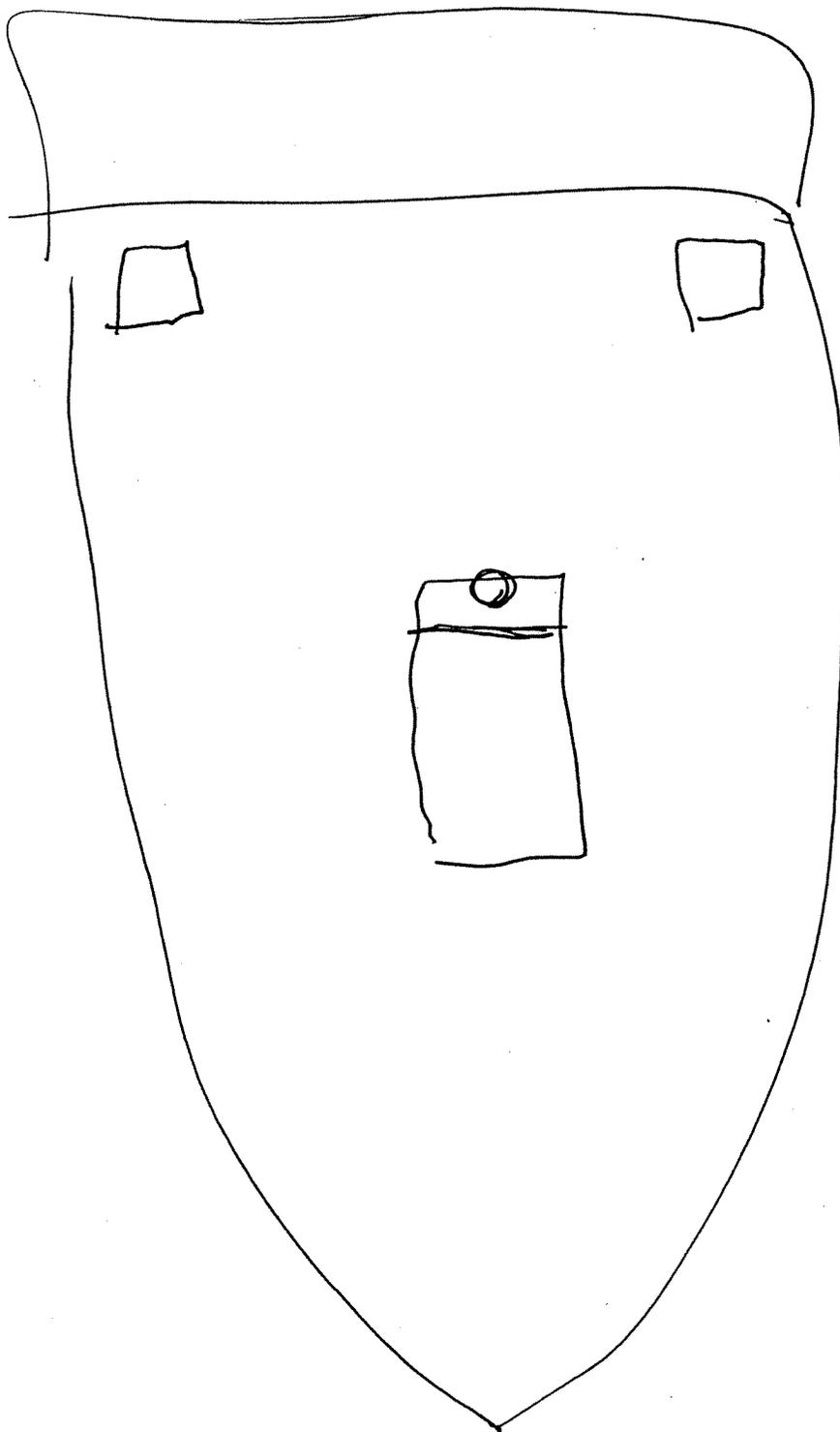


EXHIBIT CG # 2
EPA 1/22/13



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 KENNETH WELLS, a witness herein; that said witness was duly sworn, and that the foregoing pages numbered one through 36, 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