

UNITED STATES OF AMERICA  
NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: \*

MOTOR VESSEL KITION \*

ALLISION WITH I-10 BRIDGE, \* Docket No.: DCA07FM013

BATON ROUGE, LOUISIANA, \*

FEBRUARY 10, 2007 \*

\* \* \* \* \*

Interview of: NOBRA EXAMINERS

U.S. Coast Guard  
Marine Safety Unit  
Baton Rouge, Louisiana

Tuesday,  
February 13, 2007

The above-captioned matter convened, pursuant to  
notice, at 1:43 p.m.

BEFORE: LIAM LARUE

## APPEARANCES:

LIAM LARUE  
National Transportation Safety Board

BARRY STRAUCH, Human Factors Specialist  
National Transportation Safety Board

BRIAN EISELEN  
NOBRA Board of Examiners

WILLIAM PETER CONNICK  
NOBRA Board of Examiners

KELVIN BOSTON  
NOBRA Board of Examiners

HENRY G. SHOWS, JR.  
NOBRA Board of Examiners

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I N T E R V I E W

(1:43 p.m.)

1  
2  
3 MR. STRAUCH: The time is now about 1:43 local time.  
4 Barry Strauch and Liam LaRue interviewing Peter Connick, Henry  
5 Shows, Brian EISELEN (ph.), and Kelvin Boston.

6 Gentlemen, you all represent the NOBRA pilots or the  
7 Board of Examiners? I'm not quite sure how that works.

8 MR. CONNICK: Basically, it's this Board of Examiners  
9 is a three members body appointed by the government of the  
10 State of Louisiana to oversee the NOBRA Association. There are  
11 four pilot groups in the state. There's Lake Charles, there's  
12 The Bar, there's the Crescent Pilots and the NOBRA Pilots.  
13 Each of those groups have a three member body comprised of  
14 their own membership that's responsible for overseeing and  
15 investigating accidents, implementing disciplinary hearings,  
16 creating rules and regs from recent sea, to rest periods, to  
17 drug and alcohol policies, and so on and so forth, all of which  
18 is in the packet provided to you today.

19 And so this Board here is a three-member body that,  
20 in this particular case, will be presented information as to  
21 the accident and they will conduct a hearing under the open  
22 meetings law. They will, the pilot will be present for that  
23 hearing, accompanied by counsel. I will present the evidence  
24 through our, basically our investigation, the Board will hear  
25 the evidence and there will be, there is separate counsel that

1 will advise the Board.

2           And then, upon the conclusion of all evidence  
3 presented, and it's transcribed normally, depending on the type  
4 of investigation that we're doing, we will go ahead, or the  
5 board will go ahead and make a recommendation as to what type  
6 of action should be taken with respect to the pilot's conduct.

7           MR. STRAUCH: Okay.

8           CAPTAIN SHOWS: If any.

9           MR. CONNICK: If any. Yes, depending on the facts  
10 and circumstances.

11          MR. STRAUCH: Okay.

12          MR. CONNICK: Once the process is completed, then  
13 there is a Board that was created by the legislature, I think  
14 two years ago, it's called the Louisiana Board of Oversight,  
15 which is a Board comprised of 11 individuals. Three retired  
16 judges, three industry, and four members of the four pilot  
17 groups that will receive the transcript that we put together,  
18 along with exhibits, along with testimony, along with any type  
19 of you know, photographs or statements.

20           And they will review what this Board has done with  
21 respect to a recommendation and they will either do one of the  
22 three things. They can say, we agree that your investigation,  
23 your conclusions are warranted. We think that you did not  
24 conduct a thorough investigation, or we do not agree with your  
25 conclusions, so, we have sent it back to you for further

1 hearing. Or, they can say, we're going to take this and we're  
2 going to conduct our own investigation. Eventually, then it  
3 goes to the governor and the governor, you know, receives the  
4 recommendation. And the governor ultimately has the final say  
5 so whether or not to accept or reject the recommendation  
6 involving the pilot.

7           And this applies, primarily to disciplinary matters,  
8 where a pilot may have, you know tested positive for drugs or  
9 alcohol, or he may have done something on the river. And those  
10 are the types of cases that would get to the governor's desk.

11           Groundings, allisions, and those types of things  
12 would go to the review board after the individual Board of  
13 Examiners, either for us or Crescent or Lake Charles would make  
14 a recommendation. Those type of, like say if a ship grounds,  
15 we would conduct our hearing, evidence would be presented, they  
16 would make a recommendation, it would go to the Board of  
17 Review. And if the Board of Review agrees, then it would stop  
18 right there, it wouldn't go to the governor.

19           CAPTAIN BOSTON: Excuse me, if I could cut in. There  
20 was actually, the Board of Review really only has two options.  
21 And that's -- actually, I'll read from the statute.

22           "The Board shall receive reports as to all formal  
23 disciplinary adjudications rendered by the Board of  
24 Commissioners or Examiners and the Board may either (1) review  
25 the report and take no further action, consenting to the action

1 of the submitting Board of Commissioners or Examiners, or (2)  
2 remand the matter to the submitting Board of Commissioners or  
3 Examiners for further investigation or proceedings, the results  
4 of which are submitted to the Board."

5 MR. CONNICK: You're right. I guess, when I said to  
6 the third avenue, I kind of --

7 CAPTAIN BOSTON: Yes, they only have two options.

8 MR. CONNICK: Yes, but there is another option. And  
9 I agree with you, Captain. I apologize. I misstated that.

10 CAPTAIN BOSTON: Yes.

11 MR. CONNICK: There is, under this new legislation,  
12 they, and individual, if it so desires, can basically file a  
13 complaint with that Board of Review and totally bypass the four  
14 local Board of Examiners. So that's the third option I was  
15 thinking of.

16 CAPTAIN SHOWS: Right.

17 CAPTAIN BOSTON: That's correct.

18 MR. STRAUCH: Okay. So you are the NOBRA Board of  
19 Examiners.

20 MR. CONNICK: Correct.

21 CAPTAIN SHOWS: Right.

22 MR. STRAUCH: And each Board has it's own, each  
23 association has it's own Board of Examiners.

24 MR. CONNICK: Correct.

25 CAPTAIN SHOWS: Correct.

1 MR. STRAUCH: Do you set policy for NOBRA?

2 MR. CONNICK: Policy with respect to --

3 MR. STRAUCH: Actions, procedures.

4 CAPTAIN SHOWS: To drug and alcohol --

5 MR. STRAUCH: Yes, drug and alcohol.

6 CAPTAIN SHOWS: Yes.

7 MR. CONNICK: You know, drug and alcohol, we  
8 establish requirements for applicants. You know, certain  
9 licenses, certain types of certificates, BRM among others,  
10 certain type of educational standards. And you know, by way of  
11 background, up until around probably four or five years ago,  
12 when this Board took over, they really had no educational  
13 requirement. Basically, it was just licenses and so on and so  
14 forth.

15 Since then, and you'll see it in here, we have a  
16 phase-in process that we're in the middle of right now where  
17 the, by the year 2010 --

18 CAPTAIN SHOWS: 14.

19 MR. CONNICK: -- 14, the qualifications to get into  
20 the NOBRA association, will be a minimal of a maritime degree.  
21 At this point in time, you have to have an Associates Degree  
22 with a certain amount of maritime hours to apply, along with  
23 the all the necessary licenses and so on and so forth.

24 CAPTAIN SHOWS: And experience.

25 MR. CONNICK: Yes, and experience as well. But yes,

1 this Board sets basically the requirements to get in, the  
2 qualifications. It has a protocol for, you know,  
3 qualifications and examination of pilots. It has general  
4 requirements for applicants, applications screening, the  
5 apprenticeship program that we established.

6 CAPTAIN BOSTON: And continuing education.

7 CAPTAIN SHOWS: Continuing education.

8 MR. CONNICK: Continuing education, restrictive  
9 service period, you know, standards of conduct, basically --

10 CAPTAIN SHOWS: Rest periods.

11 MR. CONNICK: -- mandatory rest periods. We talk  
12 about the type of disciplinary matters, we establish that, and  
13 we follow the open meetings law, but, removal from duty,  
14 investigation and enforcement, how the investigations are to be  
15 conducted. It's all spelled out in the packet before you.

16 MR. STRAUCH: Okay. And just before I forget. You  
17 said earlier, that you, Peter Connick, would present evidence  
18 and the Board would, if there was a disciplinary action,  
19 present evidence, the Board would make a decision. Would your  
20 role be both as sort of prosecutor and judge or are you a --

21 MR. CONNICK: No, no, no. What we do is, I'll  
22 conduct the investigation and I would present evidence to these  
23 guys, to the Board members. The Board Members have their own  
24 separate counsel that advises them and they would go into  
25 executive session and they would render a decision separate and

1 apart from me. I don't participate in that at all. My job is  
2 to gather the information and make a presentation as to any  
3 type of evidence, statements from the master, statements from  
4 the captain, statements for the tug captains, you know, any of  
5 the witnesses out there and just gather as much information as  
6 I can to present a complete picture to the Board.

7 MR. STRAUCH: Okay. So your role is a dual role as a  
8 member of the Board, but also as an investigative officer, if  
9 you will?

10 MR. CONNICK: Well, I'm not a member --

11 CAPTAIN SHOWS: He's not a member of the Board.

12 MR. CONNICK: -- of the board.

13 MR. STRAUCH: Oh, you're not a member of the Board?

14 MR. CONNICK: I'm not a member of the Board, no.

15 MR. STRAUCH: Okay. I see. So the members of the  
16 Board, are you, Captain Shows --

17 MR. CONNICK: Captain Shows, Captain Daniels --

18 CAPTAIN SHOWS: Captain Boston, Captain Daniels was  
19 the --

20 MR. CONNICK: -- Daniels, I'm sorry, he's deceased.

21 But we have Captain Daniels, Captain Shows, and Captain Shows.

22 Captain Daniels is deceased and the governor is in the process  
23 of replacing Captain Daniels.

24 CAPTAIN SHOWS: Of appointing, yes.

25 MR. CONNICK: But no, I'm not a member of the Board

1 at all.

2 MR. STRAUCH: You're -- are you a -- well, what is  
3 your role in regard to the Board?

4 MR. CONNICK: Incident investigator.

5 MR. STRAUCH: Okay. And that's why you were there  
6 yesterday?

7 MR. CONNICK: Yes.

8 MR. STRAUCH: Okay. Thank you. That's -- believe  
9 me, I wasn't clear on that.

10 Does the Board coordinate with other pilots  
11 associations outside of the state in setting, let's say  
12 educational or experiential requirements for hiring?

13 CAPTAIN SHOWS: I mean we reviewed many other pilot  
14 organization's requirements. And that's how we, more or less,  
15 came up with our requirements. Before this Board, like four  
16 years ago, we came in, our requirements were less than they are  
17 now. And we went through a process of looking at all the other  
18 requirements across the country. And we've developed this,  
19 these requirements, we have now.

20 MR. STRAUCH: And what was the reason why the Board,  
21 basically upgraded the educational requirements?

22 CAPTAIN SHOWS: Well, these days and times, I think  
23 you would like to get good business people, you'd like to get  
24 you know, educated people coming in. I mean, you know, in the  
25 past, years ago, you know, pilots would come directly from the

1 river, from families, education wasn't an important thing. But  
2 now we believe that education is a very important part of, you  
3 know, this profession.

4 MR. STRAUCH: Okay.

5 CAPTAIN BOSTON: And obviously, we're dealing with a  
6 lot more things like electronic navigation, which requires at  
7 least a limited amount of education.

8 MR. STRAUCH: Okay. Mr. Connick, yesterday, did you,  
9 did the pilot say anything at the interview that indicates that  
10 he took any action that was in violation of the NOBRA policy?

11 MR. CONNICK: Well, you know, again, that's not my  
12 call, you know, whether he did or not. And it's my job, is to  
13 gather, you know, all of the information, we need to talk to  
14 the tugs that were involved in the accident and you know,  
15 present it to the Board. It's their job to determine that.

16 MR. STRAUCH: Okay. The pilot indicated that he did  
17 not conduct a formal briefing with the captain the way he  
18 intended to unmoor the vessel and take it down the river, but  
19 apparently signed a checklist that indicated that such a  
20 briefing was required -- was carried out. Does the Board  
21 require pilots to always have a formal briefing with the  
22 captain before they unmoor a vessel?

23 CAPTAIN SHOWS: Well, each pilot is an independent  
24 contractor. Of course, when they go through their training, we  
25 go through MPX training where you have a master-pilot exchange

1 where you talk and you go over that pilot card for, you know,  
2 the different things, how many starts on the engine, you know  
3 the draught, you know, the bridge clearance things, and things  
4 of that nature. So during that conversation, I don't know what  
5 took place on that ship there, but I mean, that's the type of  
6 things that normally do happen.

7 MR. STRAUCH: Okay.

8 CAPTAIN BOSTON: Now, one thing that may be a little  
9 misleading is that captains are used to master-pilot exchanges  
10 in other ports where things like a voyage plan could be a lot  
11 more detailed. In our port, it cannot be because of the  
12 traffic density, the mount of turns we have in the river. Oh,  
13 just a simple thing like in the Port of Savannah, they're going  
14 to know how many ships are going to meet on their inbound or  
15 their outbound trips. And we won't know that because we have  
16 not only our ships moving, but we have those ships that are  
17 piloted by the federal pilots, a different group that doesn't  
18 come under Jones Act. So, there's a lot of variables, and we  
19 just have to do a lot more reacting.

20 So a detailed voyage plan really is something that  
21 you're not going to get from us and we cannot really  
22 participate in a detailed voyage plan that the captain can get  
23 from another port. So there may be a little bit of  
24 misconception about how detailed a master-pilot exchange can be  
25 in this port as compared to other ports.

1           MR. STRAUCH: So there is no requirement for the  
2 pilot to have a formal master-pilot exchange before leaving the  
3 dock?

4           CAPTAIN BOSTON: Well, I think you'll find that in  
5 any port, you're going to have, as Captain Shows said, we're  
6 all independent contractors. So there is a limit as to what  
7 the association or even the Board of Examiners can tell the  
8 individual pilot what to do when he's piloting the individual  
9 ship that he's on on that particular day.

10           But convention would be that they do conduct the  
11 master-pilot exchange. And if captain asks for a voyage plan,  
12 then you know, it may be a recommended thing that yes, you can  
13 give him the voyage plan as far as you know, but it's going to  
14 be very limited. You know, in other ports you can say I'm  
15 going to meet all ships on one side of the river or one side of  
16 the channel, whatever they may have, or one side of the harbor  
17 or the other. And we cannot say that, because of the twists  
18 and turns that are on the Mississippi River.

19           MR. STRAUCH: Right. So the Board's relationship  
20 with the pilots is the pilots are independent contractors, but  
21 the Board sets the standards for requirements in terms of who  
22 would join the Board. Is that correct?

23           CAPTAIN BOSTON: Well the Board specifically sets  
24 standards for, to maintain the safety, the health, safety and  
25 welfare of the state, as it pertains to the Mississippi River

1 from New Orleans to Baton Rouge.

2 MR. STRAUCH: Okay.

3 CAPTAIN BOSTON: And as such, we do have authority,  
4 responsibility to do certain things that we can state certain  
5 things, as far as conduct or matters such as that. You know,  
6 if there is an incident and there is obvious pilot error, then,  
7 you know, we deal with that. But as far as telling an  
8 independent contractor what he has to do on each particular  
9 ship, no, we don't have the leeway to do that.

10 MR. STRAUCH: Okay. And that's because the person is  
11 an independent contractor?

12 CAPTAIN BOSTON: That's correct.

13 MR. STRAUCH: Okay. Then what's the authority if the  
14 person makes, if this independent contractor makes an error?  
15 What's the authority of the Board then, to take action against  
16 the person?

17 CAPTAIN BOSTON: Well, based on his commission, yes.

18 CAPTAIN SHOWS: Yes, on his commission. I mean, he  
19 holds a state commission.

20 MR. STRAUCH: Okay. All right.

21 CAPTAIN SHOWS: And if we, as a Board, elected as a  
22 Board, feel that he has done something --

23 MR. STRAUCH: Uh-huh.

24 CAPTAIN SHOWS: -- that wasn't right, then we take  
25 action on it. Remedial or whatever.

1           MR. STRAUCH: Okay. I guess that's my question. How  
2 is it determined? I mean, other than rules of the road, how is  
3 it determined what's right or wrong if you don't set policies?

4           MR. CONNICK: Well, I guess that --

5           MR. STRAUCH: Maybe that's a naïve question.

6           CAPTAIN SHOWS: I mean, after everything's gathered  
7 and we look at it, then we determine, through our experience,  
8 you know, what may have been done differently. If, you know,  
9 each ship we go aboard is a different situation.

10          MR. STRAUCH: Right.

11          CAPTAIN SHOWS: That's the one thing. We don't drive  
12 trucks, we don't -- planes that we're on the same time. Every  
13 ship we get aboard is something different, so we have to look  
14 at each incident differently. You know, we have a crew that's  
15 different every day. So, I mean, we have to look at  
16 everything. So, it's kind of hard to --

17          MR. CONNICK: And I guess, you know, trying to answer  
18 your question, Barry, if you read those rules, the rules are,  
19 there's a lot of play in them because what the Captain just  
20 said, on that river, to establish hard and fast rules as to  
21 particular conduct, it's almost impossible to do. Now, if you  
22 read those rules, you can talk about the neglect of duty,  
23 (indiscernible) and other drug and alcohol policies, and also,  
24 in a situation such as this, which they didn't present any  
25 evidence on yet, but you know, they'll look at the conduct of

1 this particular pilot. And they are going to look at the facts  
2 and circumstances, where he was, the river gauge, the draught  
3 of the ship, the size of the ship, you know, the high places,  
4 tugs, and all those things will become factors at the end of  
5 the day in how this Board will deal with this particular  
6 situation.

7           So are there specific requirements? And you know,  
8 and again, the master-pilot exchange, or lack thereof, or the  
9 communication on the bridge, all that stuff are factors that  
10 will be presented and they will have to, you know, give the  
11 weight they deem appropriate in making a decision on these  
12 particular issues.

13           CAPTAIN BOSTON: Yes. Again, we don't, we're not  
14 trying to avoid the question. It's just, it's difficult to say  
15 that there are certain policies or procedures that are mandated  
16 by this Board for the pilot on this route.

17           MR. STRAUCH: Okay.

18           CAPTAIN BOSTON: Because as Mr. Connick was saying,  
19 each individual, every day, the pilot is dealt with a different  
20 situation.

21           MR. STRAUCH: Okay. Well, the Board requires pilots  
22 to take bridge resource management courses, right? Is that  
23 correct?

24           CAPTAIN BOSTON: That's correct.

25           CAPTAIN SHOWS: Right.

1 MR. STRAUCH: Once or every, or regularly?

2 CAPTAIN SHOWS: Every five years --

3 MR. STRAUCH: Every five years.

4 CAPTAIN SHOWS: -- we have to have a bridge resource  
5 management.

6 MR. STRAUCH: Okay, and the object of bridge resource  
7 management, one of the objectives is to enhance communication  
8 among all critical personnel on the bridge. Is that correct?

9 CAPTAIN BOSTON: Yes, it is.

10 MR. STRAUCH: Okay. Then why wouldn't the Board  
11 require a pilot to have a pilot-master exchange? Wouldn't that  
12 meet the objective, the same objective that you all establish  
13 by requiring pilots to take bridge resource management?

14 CAPTAIN BOSTON: Well that is a part of that course,  
15 that is correct, the master-pilot exchange. And it is  
16 recommended by the course as part of the course outline that  
17 that be done. But as we were saying before, you know, the  
18 pilots are independent contractors and we can't tell them that  
19 they have to have, conduct a master-pilot exchange, it would  
20 have to follow this form on every individual ship that they  
21 Board. Just like we can't tell them that they have to use 10  
22 degrees of rudder every time they give a command instead of 20  
23 degrees or 30 degrees or 35 degrees.

24 MR. STRAUCH: Okay.

25 CAPTAIN BOSTON: If they do something, if they're

1 involved in an incident and they haven't conducted a proper  
2 master-pilot exchange, it will come back on them --

3 CAPTAIN SHOWS: Right.

4 CAPTAIN BOSTON: -- because our experience, the  
5 convention on the river, what adds to the precedent, will all  
6 serve against them, I guess I could say.

7 CAPTAIN SHOWS: It was like I said, you know, they've  
8 got to be presented with all the facts. And they've got to be  
9 presented with the facts of the exchange that Captain Strahan  
10 had with the master vessel, or lack thereof. And you know,  
11 once that's presented, then they're going to, at that point in  
12 time, give the weight that I'm sure they deemed appropriate.

13 MR. STRAUCH: Okay. How long do you thing it would  
14 take for this, let's say investigation of this incident? Is  
15 this an average investigation?

16 MR. CONNICK: Well, again, some are more, obviously  
17 more complicated than others. This is one where I think that  
18 you know, we've gotten a statement from the master of the  
19 vessel. We've gotten a statement, we've heard the statement  
20 from the captain yesterday. You know, Brian and I were talking  
21 today about contacting the tug operators and getting  
22 information from them. Obviously, we'd like to get any reports  
23 produced by the coast guard. And you know, so it really is,  
24 it's hard to give you a specific time, but as soon as all the  
25 information is gathered, we're going to set a hearing and

1 present it to the Board.

2 MR. STRAUCH: Okay. Is there always a hearing as  
3 part of the investigative process?

4 MR. CONNICK: For any action taken by the Board,  
5 under state law, there has to be an open meeting. And on the  
6 agenda, we may have like an incident grounding, that will be a  
7 situation where it will be on the agenda. And we'll call that  
8 and I'll present the information that we have on that  
9 particular incident and the Board will make a ruling on it.  
10 You know, obviously, the Mississippi River, the mud lumps form,  
11 and you know, it's always changing. But not -- so for those  
12 particular incidents, there's not, I guess, a formal hearing,  
13 but it's addressed by the Board at an open meeting.

14 In a situation like this, there will be a hearing.  
15 There will be a formal hearing with the pilot present, to  
16 present his side with his counsel. I'll present the other  
17 side. And the Board will have an opportunity to ask questions  
18 of the pilot, questions of myself, and that type of thing, and  
19 then before rendering a decision, or anybody else that we feel  
20 is pertinent and necessary to conduct a full and thorough  
21 investigation.

22 MR. STRAUCH: Okay. How many hearings or, how many  
23 times does the Board meet to specifically consider disciplinary  
24 actions or judgments?

25 CAPTAIN SHOWS: Well, we have our quarterly meetings

1 and usually at each quarterly meeting, we do have, like  
2 Mr. Connick said, you know, I mean, maybe some incidental  
3 groundings or some reports that may come along that are very  
4 minor that we deal with. But recently, we've had hearings on  
5 things. Just recently, waive wash, things like that. So,  
6 we've had hearings before.

7 MR. CONNICK: Yes, I mean, we'll have --

8 CAPTAIN SHOWS: You know, misconduct.

9 MR. CONNICK: It all depends again, it all depends on  
10 again, you either are going to hear a case on its four corners  
11 or --

12 CAPTAIN SHOWS: The scope of it, I mean it's --

13 MR. CONNICK: -- and the next, for example, you know,  
14 we had wave wash complaint. And so, we conducted a hearing on  
15 that wave wash complaint. And the Board rendered a decision  
16 and it's been packaged up and sent to the Board of Review.

17 And you know, if there's a collision on the river,  
18 that normally warrants a hearing. You know, as this will, will  
19 warrant a hearing. We've had situations where we had a pilot  
20 that about four or five years ago had an apprentice on and did  
21 some things on a ship where we had a disciplinary hearing and  
22 he's no longer a pilot. You know, and so, it all depends on  
23 the facts of the particular case.

24 MR. STRAUCH: Okay. Well, in the last couple of  
25 years, how many investigations has the Board performed that

1 were -- how many investigations were carried out by the Board  
2 in the last, each year, in the last couple of years, just so we  
3 can get an idea?

4 MR. CONNICK: And again, so I understand your  
5 question, investigations meaning anything and everything? Or  
6 just are you talking about disciplinary collisions, allisions,  
7 those types of things, or everything in general?

8 MR. STRAUCH: Let's say investigations that resulted  
9 in forwarding some kind of recommended action to the Board.

10 MR. CONNICK: Well, under the state law, everything  
11 we do is shipped up there. There's an automatic, I guess, you  
12 know, review on anything we do for the last two years.

13 MR. STRAUCH: Okay.

14 MR. CONNICK: You know and every year, we have submit  
15 a --

16 CAPTAIN SHOWS: Annual report.

17 MR. CONNICK: -- an annual report to the DOT, the  
18 State of Louisiana, which lists everything that we did that  
19 particular year.

20 MR. LARUE: Is that a public document?

21 MR. CONNICK: Absolutely.

22 MR. STRAUCH: Can we get a copy of that one?

23 MR. CONNICK: Yes.

24 MR. STRAUCH: Let's say for each of the last three  
25 years?

1 MR. CONNICK: Okay.

2 MR. STRAUCH: And that lists the number of  
3 investigations, the number of decisions, that --

4 MR. CONNICK: Yes, it would list basically  
5 everything.

6 MR. STRAUCH: Okay. In the investigations that have  
7 been carried out in the last couple of years, this particular  
8 one involving the allision with the I-10 bridge, how does that  
9 fall in terms of seriousness of the incident?

10 CAPTAIN SHOWS: That particular one?

11 MR. STRAUCH: This one that we're all interested in.

12 MR. CONNICK: It's serious.

13 MR. STRAUCH: This is up there?

14 CAPTAIN SHOWS: Absolutely.

15 MR. CONNICK: Absolutely.

16 MR. STRAUCH: Okay. Does the Board provide an  
17 attorney for the pilot or does the pilot --

18 CAPTAIN SHOWS: The Board don't provide any attorney.  
19 The pilot's organization, I'm sure, provides the attorney for  
20 him.

21 MR. CONNICK: Yes, Mark Pivach is a lawyer that  
22 represents any pilot that has any incident, if they chose to  
23 use Mark Pivach. And this has nothing to do with the Board of  
24 Examiners, this is the Board of Directors, which is on the day-  
25 to-day operations. You know, they do all the internal. They

1 handle all the money. We don't, you know, this is again, you  
2 have the three-member board, then you have another Board of  
3 Directors that oversees the entire association. And there's no  
4 overlap between the two. We're separate and apart from them,  
5 they're separate and apart from the Board of Examiners. And  
6 it's our appreciation for that. They will provide a counsel  
7 for any pilot that is involved in an incident on the river.

8 MR. STRAUCH: Okay. So it sounds like the Board of  
9 Directors is sort of like administrators, oversight and --

10 CAPTAIN SHOWS: No, they're not oversight.

11 MR. CONNICK: No, they're not.

12 MR. STRAUCH: Administrative support?

13 MR. CONNICK: No, basically what they, I guess, you  
14 know, a president, a treasurer and a secretary. What they will  
15 do, they conduct all the day-to-day operations. They handle  
16 dispatchers, you know, they handle all, I think, the ships  
17 coming in and out of the port, they will, and guys, you all  
18 probably know this better than I do, but they will conduct the  
19 business affairs of the association.

20 They'll meet with, you know, any industry, any  
21 maritime personnel that want to meet with the group. There's a  
22 new outfit coming in that they will be establishing some type  
23 of facility, along a NOBRA route, they'll meet with those guys,  
24 see what kind of ships that will be coming in here, how many  
25 ships a year we can anticipate having, and so on and so forth.

1           They'll deal with all of those, you know, if there's  
2 any kind of legislation they want to push, that's their baby,  
3 not the Board of Examiners.

4           Does that answer your question? I mean if --

5           MR. STRAUCH: No, it does. And so if I wanted to ask  
6 a question as to like why this particular pilot was called up  
7 on his day off --

8           MR. CONNICK: That's their gig.

9           MR. STRAUCH: And they would be able to answer that,  
10 you wouldn't.

11          MR. CONNICK: Yes. No, we have no idea.

12          CAPTAIN SHOWS: We have no idea why.

13          MR. STRAUCH: And they would know why the particular  
14 pilot who was scheduled to work that day, didn't?

15          MR. CONNICK: Yes, they would know all that stuff.

16          CAPTAIN SHOWS: They would know that.

17          MR. STRAUCH: Well, I'll cross off these questions.  
18 They weren't my questions anyway.

19                 (Off the record.)

20                 (On the record.)

21          MR. STRAUCH: We're back on the record. Sorry.

22          CAPTAIN BOSTON: All right, very good. In the  
23 statute, it is provided that the body of pilots form themselves  
24 into a group and this group was to be known as the New Orleans  
25 and Baton Rouge Steamship Pilots. You know, as I said, that is

1 per statute, RS 34:1043. And this is an association and, as we  
2 said before, they're independent, all the pilots are  
3 independent contractors. And they formed themselves into a 401  
4 corporation. And this corporation has officers. The officers  
5 are, the offices are president, vice president and  
6 secretary/treasurer.

7 CAPTAIN SHOWS: And they are elected by the  
8 membership.

9 CAPTAIN BOSTON: The association basically performs  
10 duties of dissemination of the turns that come in. And when we  
11 say turns, they're the ships that need piloting services. The  
12 pilots work in rotation. And the association basically acts as  
13 dispatchers. They provide dispatchers, provide dispatching  
14 services for the pilots.

15 And I guess, along with the dispatching services,  
16 they also provide a common place for, obviously, for the funds  
17 to come in and bills are paid for the association and the money  
18 is distributed. The revenue they generated is divided and  
19 distributed to the individual pilots.

20 MR. STRAUCH: Okay. But in terms of establishing  
21 requirements for pilots, in terms of establishing continuing  
22 education requirements, that, those association offices would  
23 not do that, this Board would?

24 MR. CONNICK: Correct.

25 CAPTAIN SHOWS: That's correct.

1           MR. STRAUCH: Okay. What are the possible  
2 disciplinary actions that occur against a pilot who is found to  
3 have violated, you know, good judgment, or what's expected of a  
4 pilot. What are the ranges of results that could be at the  
5 conclusion of the investigation?

6           CAPTAIN SHOWS: Well, we would hope that remediation  
7 would be the first thing that we would like to be able to do.  
8 If a pilot would have a pattern, of course, of something  
9 happening over and over, it can be much more severe, removal  
10 from duty and then maybe eventually, you know, the loss of a  
11 commission, that would be the most severe.

12           CAPTAIN BOSTON: Right. Our powers allow us leeway,  
13 anything from suspension, revocation, and correct me if I'm  
14 wrong, Peter, but I believe we can impose a fine of up to  
15 \$10,000.

16           MR. CONNICK: Yes, we can.

17           CAPTAIN BOSTON: That has to go through the governor  
18 and --

19           CAPTAIN SHOWS: Right.

20           CAPTAIN BOSTON: -- it's entered into the state's  
21 general funds or something of that sort. But as Captain Shows  
22 was saying, the way we've been moving most recently is, instead  
23 of trying to look for punitive measures, we would much rather  
24 try and reeducation the pilots so that if there is a problem,  
25 we can identify that problem and take measures to rectify any

1 problem or adversity that we find.

2 MR. CONNICK: And I think you're referring, Kelvin,  
3 to the situations where you have allisions and some incidents  
4 on the river, not when it comes to drug and alcohol, the zero  
5 tolerance for the group --

6 CAPTAIN BOSTON: That's correct.

7 MR. CONNICK: -- not when it involves neglect of  
8 duty, you know, where again, it's more of a disciplinary issue.

9 CAPTAIN BOSTON: Right.

10 MR. CONNICK: You know, where it's handled in a  
11 totally different manner --

12 CAPTAIN BOSTON: (Indiscernible).

13 MR. CONNICK: -- and remediation really doesn't come  
14 into play.

15 CAPTAIN BOSTON: Right.

16 MR. CONNICK: It's more along the lines of  
17 suspensions or revocations or fines.

18 MR. STRAUCH: Let's say a person is found to have  
19 alcohol in his system while on duty --

20 CAPTAIN SHOWS: That's serious.

21 MR. STRAUCH: -- and there's a prohibition against  
22 that.

23 MR. CONNICK: Absolutely.

24 MR. STRAUCH: And what would the commission, what do  
25 you think would be a recommendation for action if someone is

1 found --

2 MR. CONNICK: A guy intoxicated on duty?

3 MR. STRAUCH: Not intoxicated, but let's say have  
4 alcohol in his system. And I guess intoxication, I don't want  
5 to say intoxication, but to have consumed alcohol before  
6 reporting for duty?

7 MR. CONNICK: I mean, we've had certain instances  
8 where we had, on a random drug test, one of the pilots tested  
9 positive for drugs. And what we did was, we conducted a  
10 hearing. This was probably five years ago, wherein what we did  
11 was, the Board recommended suspension for a year --

12 CAPTAIN SHOWS: A year.

13 MR. CONNICK: -- go to intensive drug rehab, get on a  
14 very strict regime of drug tests out of his own pocket. And  
15 also had --

16 CAPTAIN SHOWS: He also had him sign his resignation.

17 MR. CONNICK: -- signed his resignation that if he  
18 violates any type of neglect of duty or those type, then we  
19 just, the Board can just accept his resignation, he's out. So  
20 in that situation, you know again, I think the mindset of the  
21 Board was you know, that he wasn't -- it was bad enough he had  
22 drugs in his system. That certainly wasn't taken lightly. I  
23 think by purpose of the fact they kicked him out for year, that  
24 he lost a year's salary, is significant, you know, showed the  
25 seriousness of how the Board viewed the situation. But, give

1 him a year to rehab and to -- and he had to go through many  
2 hoops and loops to stay in. And he did.

3           On the other hand, we had a situation a few years  
4 back where we had a pilot was training one of the apprentices  
5 and he got off the ship and left the apprentice onboard for  
6 like about a five minute period or maybe passed the pilot, the  
7 relief pilot down the stairway, but left the guy on the bridge.  
8 And he got off and took off. And you know, and he's no longer  
9 with us. What we did, we had a thorough investigation and we  
10 had a hearing and, you know, then the Board recommended that  
11 his commission be revoked and the governor accepted that. And  
12 he's out.

13           So, again, given the circumstances. I mean, it's  
14 hard to sit here and to tell you what's going to happen, what  
15 the Board would do until they hear all the evidence because  
16 every case is different, you know?

17           MR. STRAUCH: Right.

18           MR. CONNICK: And you know, in this particular case  
19 where the fellow that left the ship with an apprentice on the  
20 bridge for five minutes, you know --

21           CAPTAIN SHOWS: You know, we got his scenario.

22           MR. CONNICK: Yes, he was asked. He was asked, you  
23 know, do you think, given all the circumstances, would you do  
24 it, how would you handle it, if the situation arose again? I'd  
25 do the same thing. Well, you know, well, that's easy.

1 CAPTAIN SHOWS: He made a mistake there.

2 MR. CONNICK: You know, say, like you know what, I  
3 see where you're coming from. And his position was, you know,  
4 this is the way I train them, to give them a little confidence  
5 and that type of thing. Well, you know, the Board didn't see  
6 it that way. And so, again, given the circumstances of the  
7 particular case, is going to determine how and what would be  
8 the severity of the recommendation to the governor by the  
9 Board.

10 MR. STRAUCH: Incidentally, was there a written  
11 policy that the Board could point to that said that a pilot is  
12 not allowed to leave the bridge in the hands of an apprentice  
13 pilot at any time?

14 MR. CONNICK: Again, it's, if you look at the rules,  
15 and I think when you review this then you'll kind of see where  
16 we're coming from, to put like specific rules in there, I mean,  
17 these are professional pilots. You know, and basically, what  
18 we looked at it as, in the investigation phase, is neglect of  
19 duty. You know, and neglect of duty is the way we presented  
20 the case and in our view, it was neglect of duty.

21 And so, to have a specific rule that you have to stay  
22 on the bridge of the ship is like to me, is like, it's actually  
23 automatic, you're the pilot, you know.

24 CAPTAIN SHOWS: But in this case, he didn't just  
25 leave the bridge of the ship. He left the ship. That was the

1 problem.

2 MR. CONNICK: Leaving, you know --

3 CAPTAIN SHOWS: He left the whole ship. He didn't go  
4 down to go to run down to the bathroom right quick.

5 MR. CONNICK: No, he was going, he was basically --

6 CAPTAIN SHOWS: He left the vessel completely and  
7 didn't know if the pilot relieving him may have not got to the  
8 ship, may have an accident, whatever.

9 MR. CONNICK: Again --

10 MR. STRAUCH: Okay.

11 MR. CONNICK: -- every case stands on its own  
12 factors.

13 I mean, honestly, you're looking back on the  
14 presentation and the facts as we gathered it, it was unclear  
15 whether he was totally off the ship when the relief pilot had  
16 gotten on. It appears as if they were, his position was they  
17 had two stairwells and he was going down one while the other  
18 guy was going up the other. You know, one of those kind of  
19 deals. But, it just didn't, you know, the board felt that what  
20 he did was you now, beyond what is expected of a pilot. So it  
21 was done.

22 CAPTAIN BOSTON: But you know that in situations it  
23 might be different and other ports it might be different.

24 CAPTAIN SHOWS: Right. Right.

25 CAPTAIN BOSTON: In other ports, they actually

1 commission their pilots before they start their apprenticeship  
2 program, as they do in Houston. In that situation, you would  
3 have a commissioned pilot onboard the ship in all situations.  
4 But in our situation, while a person is doing his  
5 apprenticeship program, his one-year with an unrestricted  
6 pilot, once that unrestricted pilot leaves the bridge of the  
7 ship, then you have no commissioned pilot at the helm of that  
8 ship. That makes a difference.

9 MR. STRAUCH: Okay. You know, how many times in the  
10 last year did the Board recommend action against the license of  
11 a pilot, or commission of the pilot, either suspension or  
12 revocation?

13 CAPTAIN SHOWS: In the last year, we didn't.

14 MR. STRAUCH: What about the year before that?

15 CAPTAIN SHOWS: No.

16 MR. STRAUCH: Okay, and the year before that?

17 CAPTAIN SHOWS: I don't know the exact date.

18 MR. CONNICK: Yes, I mean, we've taken some action on  
19 a particular pilot on his license, where he was suspended for  
20 actually a year, two years, served six months concurrently and  
21 on probation for the other six month period, too.

22 MR. STRAUCH: And was that for what you mentioned  
23 earlier?

24 MR. CONNICK: No, another incident, where he was at  
25 the VTC --

1 CAPTAIN SHOWS: Right.

2 MR. CONNICK: -- and basically disappeared all night  
3 long. And you know, the VTC really disagreed with that. And  
4 we all have our stations, each group has a station up there and  
5 it's a 24 hour watch and it's broken down in three shifts. And  
6 he's out there at 11:00 at night, swiped out and swiped back in  
7 at 7:30 in the morning. And you know, obviously, it was  
8 brought to our attention and we did an investigation. As the  
9 result of an investigation, he's --

10 CAPTAIN SHOWS: There was another pilot, too, prior  
11 to, a Captain Bowers that lost his commission --

12 MR. CONNICK: Right. Yes.

13 CAPTAIN SHOWS: -- drug related.

14 MR. CONNICK: Right.

15 CAPTAIN SHOWS: So, there's been three pilots. Well,  
16 two have lost their commission and two have been suspended for  
17 a year.

18 MR. CONNICK: Yes, we also, now that I think about it  
19 now, we had another captain that was suspended for, I think, 30  
20 days --

21 CAPTAIN SHOWS: Right.

22 MR. CONNICK: -- because he was on the bridge and  
23 went down, and left the bridge for a period of time.

24 CAPTAIN SHOWS: For lunch.

25 MR. CONNICK: Yes, for lunch, at the captain's

1 request, at the captain's invite. So we took some action  
2 against him for that situation.

3 CAPTAIN SHOWS: But he took appropriate actions.  
4 What saved him, he still had his radio, everything else. There  
5 was communications with him. And, I think, the apprentice  
6 pilot at that time, had been an apprentice, almost toward the  
7 end of his apprenticeship. But we still didn't look at it as a  
8 prudent pilot would do, so we took action on that.

9 MR. CONNICK: And again, the pilot --

10 CAPTAIN SHOWS: The pilot said --

11 MR. CONNICK: -- the pilot's reaction was, you know,  
12 what? I screwed up. Whereas the other pilot said, you know,  
13 I'd do this again.

14 You know, so again, you weigh all the factors and the  
15 Board does that and they give their recommendation.

16 MR. STRAUCH: Okay. In looking at the factors, it  
17 sounds like the Board looks at the actions of the pilot, the  
18 pilot as an individual. Has the Board ever looked at its own  
19 requirements, it's own policies, and said, well, you know,  
20 maybe we need to change these?

21 CAPTAIN SHOWS: Absolutely. We're always looking to  
22 improve ourself. I mean, in the last four years, that's what  
23 we've been doing all along, is improving everything, our  
24 requirements, our continuing education, drug and alcohol  
25 policy. When accidents happen, we look at that and we say,

1 okay, what caused this accident? Maybe this is an opportunity  
2 now for us to, we have a simulator that we go to and we can,  
3 you know, maybe recreate it and when we go in for our emergency  
4 ship handling, then we redo that same thing over and say well,  
5 this is the way it should be done. And all the pilots go  
6 through this and you know, things of that nature.

7           So, we're always looking to improve. We're always  
8 looking to --

9           MR. CONNICK: Yes, but I think Barry's question is,  
10 do we look at our rules and say okay, how can we change our  
11 rules to adapt?

12           CAPTAIN SHOWS: Oh, okay. Well, I'm sorry.

13           MR. CONNICK: And as Captain Shows indicated, you  
14 know, the rules have been revamped in the last five years. You  
15 know, totally overhauled. And again, you know, certainly, if  
16 there's something there that, you know, something occurs and  
17 you look there, and we have nothing that really kind of applies  
18 to that, you know, we will do an emergency application for a  
19 rule addition, I think, with the legislature and get it in the  
20 books.

21           So certainly, yes. I mean, if you again, if you read  
22 the rules, there's a lot of play because it's hard to kind of  
23 just pinpoint certain situations. You know?

24           MR. STRAUCH: Can you give me an example of where the  
25 Board has done this over the last few years, or the Board has

1 actually changed its rules or requirements as a result of what  
2 it learned in the course of investigating an accident or an  
3 incident?

4 MR. CONNICK: Well, if you look at these rules here,  
5 that VTC situation. You know, and again, we are observers, and  
6 there's a memorandum of understanding between Coast Guard and  
7 each different pilot group. You know, we've added the rule now  
8 that says VTC is like a turn, like going on a ship. And so you  
9 have to stay at the VTC. You know, it's not in those words,  
10 but if you read it in there where we address that specific  
11 issue to take any doubt out of any pilot's mind that when you  
12 turn is not on a ship, but on a VTC, it's like you being on  
13 that ship. So, that's one instance we can give you.

14 MR. STRAUCH: Okay. Can you think of any others?

15 MR. CONNICK: We totally revamped all of these, the  
16 entire rules in the last four or five years, basically, because  
17 of what was, its predecessor, which we thought needed a  
18 tremendous overhaul, particularly in the area of the drug and  
19 alcohol policy.

20 CAPTAIN SHOWS: We addressed, of course, we put in  
21 also a rest period, a six hour --

22 MR. CONNICK: Yes, right.

23 CAPTAIN SHOWS: -- rest period between turns, to make  
24 mandatory that a pilot must have six hours rest from the time  
25 he gets home from his finish time, he has a certain amount of

1 travel time, from the end of that time to the time they call  
2 him for the next turn, he has three hours' notice. So he's  
3 actually got to have six hours rest at home before he can take  
4 another turn.

5 MR. STRAUCH: And that's within the seven days on,  
6 seven days off schedule?

7 CAPTAIN SHOWS: Right.

8 MR. CONNICK: Correct, yes.

9 MR. STRAUCH: So within the seven days on, there must  
10 be at least six hours of rest between one turn and the other.

11 CAPTAIN SHOWS: Right. Correct. And it's actually  
12 more than six hours because it does have travel time also in  
13 that.

14 MR. STRAUCH: Right, that's what I'm trying to  
15 understand. If let's say he gets off the vessel --

16 CAPTAIN SHOWS: In different areas of the river, he  
17 has different types of travel time. If he gets off in New  
18 Orleans, there's a one-hour travel time. If he gets off in  
19 Baton Rouge, he gets a two-hour travel time. So, in addition  
20 to the two hours, he needs six hours rest. And then when he  
21 gets his next order, he has a three-hour notice. So, if he got  
22 off in Baton Rouge, he would have two hours, six hours, which  
23 would be eight, and then the three hours' notice to get to the  
24 next vessel, which would be 11 hours.

25 CAPTAIN BOSTON: It's two and a half from Baton

1 Rouge.

2 CAPTAIN SHOWS: It is. Yes, that's right, two and a  
3 half.

4 MR. STRAUCH: What caused the revamping of the rules  
5 that you said, recently, or a year or two ago you revamped the  
6 rules, and particularly with drugs and alcohol and rest  
7 requirements?

8 MR. CONNICK: You know, I guess, if I can take this  
9 one, you all can chime in.

10 CAPTAIN SHOWS: Okay.

11 MR. CONNICK: There was, I guess, a change in  
12 leadership within the entire NOBRA association and the previous  
13 administration. I'm talking the Board of Directors, not so  
14 much the Board of Examiners. I should say the former Board of  
15 Examiners, they were operating, you know, on what we felt was a  
16 very antiquated, outdated, you know, approach to drug and  
17 alcohol, to the qualifications, to the entire scheme of things.  
18 But it must have been in existence for like I don't know how  
19 many years.

20 And when Henry was appointed by the governor, along  
21 with, and the Board has changed somewhat over that time period,  
22 the first that under Henry's leadership that the Board did was,  
23 they looked at all the old rules. And they made a  
24 determination that, if we're going to move this association in  
25 the right direction, we have to revamp the rules. We have to

1 put some teeth into the rules. We have to, you know, if we're  
2 professionals, we have to make it a professional organization.

3 And that's been the goal and it really is a work in  
4 progress. We think that we've come a long way since we started  
5 the implementing all these rule changes and I'm sure more to  
6 come, based upon what you just mentioned a moment ago, a  
7 specific instance that we don't really thing about at the time  
8 that we have to address.

9 So, you know, the drug and alcohol policy, you know,  
10 was, it really didn't function properly. It was, you know, it  
11 was a situation where --

12 CAPTAIN SHOWS: I don't think it was under the Board  
13 of Examiners.

14 MR. CONNICK: It was under the Board of Directors.

15 CAPTAIN SHOWS: It was under the Board of Directors.

16 MR. CONNICK: You know, stuff like that. I'm trying  
17 to remember what the issue was. But now, it's the Board of  
18 Directors has nothing to do with the drug and alcohol policy.  
19 It's a zero tolerance policy wherein if you are found to have  
20 drugs or alcohol in your system, obviously, you go through,  
21 depending on the facts and circumstances, your either going to  
22 get your commission revoked or extensive drug rehab and  
23 suspensions and so on and so forth. Again, depending on the  
24 facts and circumstances of the case.

25 MR. STRAUCH: Okay. What drugs are prohibited?

1 MR. CONNICK: I think we do --

2 CAPTAIN SHOWS: We do prescriptions. We do  
3 everything. Regular DOT for sure.

4 MR. CONNICK: DOT drug testing.

5 CAPTAIN SHOWS: DOT drug testing, we do hair testing,  
6 we do hair testing twice a hear. We do random drug testing.

7 MR. CONNICK: The hair testing is mandatory.

8 CAPTAIN SHOWS: We (indiscernible) which goes after  
9 all the prescription medications, we do a breathalyzer.

10 MR. STRAUCH: So if someone was taking painkillers?

11 CAPTAIN SHOWS: Oh yes, unless the doctor says that  
12 he can operate a machinery. And then he's got to prove. You  
13 know, we tell him, if you're taking pain medication, you better  
14 make sure that the doctor says it's not affecting your ability.  
15 Because if it is, because he has to go before a medical review  
16 officer, you know at the drug testing facility, everything  
17 else, and he's got to explain all of that.

18 MR. CONNICK: Part of the new drug policy has a  
19 section that addresses prescriptions drugs and how it should be  
20 dealt with by the pilot. That again, is a change in the rules.  
21 And, you know, thank God, that we really haven't had a whole  
22 lot incidents involved in that all.

23 CAPTAIN SHOWS: We really don't have a drug problem.

24 MR. CONNICK: And the hair testing, too, I think is a  
25 mandatory. It's not random. The hair testing is --

1 CAPTAIN SHOWS: Twice a year.

2 MR. CONNICK: Yes, every pilot has a hair test twice  
3 a year. It's not random. Well, it's random when they go to  
4 get the hair test. But it's not like you know, you may miss a  
5 couple. Like with the random drug test, if you don't have an  
6 incident, you know, and you're not randomly selected, you may  
7 go a period of time without the DOT drug test, but you'll not  
8 go within any given year without having at least two hair  
9 tests.

10 MR. STRAUCH: Okay. Now, yesterday, the pilot said  
11 that he was taking three prescription medications. One for  
12 cholesterol, one for blood pressure, and one for  
13 gastrointestinal --

14 MR. CONNICK: I think it was podinecks (ph.) or  
15 something like that?

16 MR. LARUE: Prilosec is what he said.

17 MR. STRAUCH: Would he be required to notify you that  
18 he was taking those drugs?

19 CAPTAIN SHOWS: They're on his physical. I mean, you  
20 know the physical he turns in every year.

21 MR. STRAUCH: Right.

22 MR. CONNICK: Yes. On the Coast Guard required  
23 physical.

24 CAPTAIN SHOWS: Right. And we have copies of that in  
25 our office. You're required to have a physical every year for

1 your license.

2 MR. CONNICK: To maintain your license, yes.

3 CAPTAIN SHOWS: If you don't have a physical, then  
4 your license, pilot's license is not good.

5 MR. STRAUCH: And how do you determine that someone  
6 has in fact fulfilled the Coast Guard requirements and gotten a  
7 physical annually?

8 CAPTAIN SHOWS: We receive them in our office. We  
9 actually, we keep track of that. They're notified by another  
10 organization, notified every year, and we get a report monthly  
11 of people that their physicals are due. If they don't meet  
12 that requirement, then they're taken off the rotation --

13 MR. CONNICK: Then they don't pilot a ship.

14 CAPTAIN SHOWS: -- don't pilot a ship.

15 MR. CONNICK: It's like produce a member certificate  
16 in order to pilot ships.

17 CAPTAIN SHOWS: We require them to have a valid Coast  
18 Guard license.

19 MR. STRAUCH: Okay. Does someone then also review  
20 the results of the physical? So would the organization have  
21 reviewed Mr. Strahan's medicals to determine --

22 CAPTAIN SHOWS: Well, I'm not a doctor. Okay? I  
23 mean, I look. The physical comes, it says he's competent.

24 MR. STRAUCH: Right.

25 CAPTAIN SHOWS: I mean, that's -- I'm not --

1           MR. CONNICK: To answer your question directly, no.  
2 I mean, if your question is do we have a nurse or a doctor's  
3 assistant review the physicals that come in, based upon the  
4 Coast Guard requirement, I don't think --

5           CAPTAIN SHOWS: No, but I think the Coast Guard now  
6 is requiring that.

7           MR. CONNICK: -- but again, and I think that if  
8 there's a, if he's on some type of pain medication or  
9 prescription medication, I mean that would be dealt with  
10 different. You know, if there's some type of a physically or  
11 mind altering type of narcotic because of a physical condition,  
12 that would be a different story all together, I think.

13          MR. STRAUCH: Okay.

14          CAPTAIN SHOWS: The Coast Guard now is requiring, I  
15 mean, that we send in every year, it used to be every five  
16 years, when you renewed, you'd get your physical. And you're  
17 required to have a physical every year, but you're not required  
18 to send it to the Coast Guard. But now, you're going to be  
19 required every year, in which come April we have to send all of  
20 the pilots' physicals in.

21          MR. STRAUCH: Okay.

22          CAPTAIN SHOWS: And they probably have one medical  
23 person up there to look at them all, I don't know, maybe they  
24 have a few more.

25          MR. CONNICK: Well, it's improving and we'll take

1 some credit for that off the record.

2 CAPTAIN SHOWS: But it's going to be yearly. They're  
3 going to be looking at it. They're the doctors and they'll  
4 determine whether or not certain prescription medications are  
5 okay. I can't do that.

6 MR. STRAUCH: Okay. Yesterday, we learned during  
7 interviews of the requirement to pilot 300 vessels in a year.  
8 How did you all come up with the 300 vessel requirement?

9 CAPTAIN SHOWS: You know, one year's time, you're  
10 looking at 365 days. And of course, I guess a guy needs one  
11 day a week off. I mean, we try and give them one day a week  
12 off. And so we figured that in. I mean, if you're really  
13 asking, 300 sounded like a good figure for a one-year period.  
14 And I mean, they would really have to get out there and move  
15 that many ships. One a day. Some turns could take eight, nine  
16 hours, in a day's time, then they have to get their rest.

17 You want to chime in on that one, Kelvin?

18 CAPTAIN BOSTON: Yes. Yes, absolutely. The 300 turn  
19 for the unrestricted period is simply just that. You know,  
20 that's during their or I'm sorry, during the period where  
21 they're riding with an unrestricted pilot. In addition to  
22 that, or after that period, then they get their commission and  
23 they actually serve two restricted program.

24 CAPTAIN SHOWS: Restricted.

25 CAPTAIN BOSTON: And during that restricted program,

1 they're actually still under the guise of the Board of  
2 Examiners. And as Captain Shows was saying, that 300 turn, 300  
3 ships in a one-year period is simply, you know, subtracting one  
4 day per week and you know, giving a little bit of leeway  
5 because we'll, we give them the one day off and during that  
6 period, we also have testing. You know, they'll have at least  
7 once a month, sometimes twice a month, they'll come in for  
8 additional testing, or they may have a guest speaker that they  
9 have to listen to, or we'll bring a particular pilot in whose  
10 specialty may be running the routes. Or another pilot may have  
11 a specialty in hydrodynamics or something of that sort. We may  
12 bring in an outside attorney who has a different specialty.

13 But there are certain days that they're going to miss  
14 and that's how we came up with that figure. Not to give them,  
15 not to overly stress them, but at least have one shift a day  
16 during that one period that they're on the tally, so to speak.

17 MR. STRAUCH: And the restriction, the two-year  
18 restriction refers to the tonnage and size of the vessel?

19 CAPTAIN SHOWS: Tonnage and draught.

20 CAPTAIN BOSTON: That's right. And at this time,  
21 they're, I believe, they serve eight month periods --

22 CAPTAIN SHOWS: Right.

23 CAPTAIN BOSTON: -- for that 24 months. And so they  
24 start off on the smaller ships, smaller in tonnage and in  
25 draught and then they're graduated up to the medium sized

1 vessels, and for the last eight months, they're the larger  
2 vessels.

3 MR. CONNICK: Okay. If I could regress a minute on  
4 that prescription drug use. I was looking at the rules here,  
5 Section 6215, it addresses prescription drug use. "Every NOBRA  
6 pilot has a duty to ascertain whether a prescription  
7 medication, legal prescribed, will impair his or her ability to  
8 perform his or her piloting duties. If, after consultation  
9 with her or her treating physician, a pilot reasonably believes  
10 or has been informed or advised that a prescription medication  
11 may cause impairment, the pilot shall inform the board of  
12 examiners and remove himself or herself from duty until such  
13 time that his treating physician, in consultation with a  
14 physician specializing in occupational medicine, certifies that  
15 he or she may return to duty or change the medication to one  
16 which will not impair the pilot."

17 It goes on to state that, "If a drug screen indicates  
18 that a pilot has in his or her system a prescription drug which  
19 may impair his or ability to perform their piloting duties, and  
20 the pilot has not voluntarily taken leave, the pilot shall be  
21 removed from duty without pay pursuant to Section 6111 of the  
22 Commissioner's Rules, until which time the Board of Examiners,  
23 in consultation with a physician specializing in occupational  
24 medicine, or any other medical professional can determine the  
25 pilot is fit to return to duty.

1 MR. STRAUCH: Okay.

2 MR. CONNICK: So we're trying to address it again.  
3 You know, one of those deals where like you mentioned earlier,  
4 to adapt. And you know, we try to think it out, say okay, if  
5 you know, first off, again, he's a professional he's an  
6 independent contractor. If he's, his job's on the line, you  
7 know, I see that there's a safety issue there and he's an  
8 obligation and a responsibility to say, listen, I've got a bad  
9 back, I'm taking Vicodin, or whatever, a doctor, whatever the  
10 case may be, but the onus is on him to do that. You know, and  
11 it must be, it's discovered in the different circumstances.

12 MR. STRAUCH: So the onus is on the pilot to inform  
13 you that he is taking medication that could impair his  
14 ability --

15 MR. CONNICK: Correct.

16 MR. STRAUCH: -- to perform his duties? How many  
17 times in the last year have pilots informed you that they're  
18 taking these kinds of medications?

19 CAPTAIN SHOWS: I don't know of any time that I've  
20 been informed that they've taken Vicodin or any --

21 MR. STRAUCH: Any impairing medication?

22 CAPTAIN SHOWS: None. Not impairing, you know.

23 MR. STRAUCH: Okay. And the year before that, do you  
24 know, remember how many times?

25 CAPTAIN SHOWS: None.

1           CAPTAIN BOSTON: No, I mean, in general, the pilots  
2 are pretty aware of what they can and cannot take.

3           CAPTAIN SHOWS: Right.

4           CAPTAIN BOSTON: So, if they are taking something --

5           CAPTAIN SHOWS: They know the consequences.

6           CAPTAIN BOSTON: -- some type of pain medicine that  
7 may be, that may impair their abilities, then they will inform  
8 the board.

9           CAPTAIN SHOWS: I'm sure that maybe a pilot may take  
10 something like that on their time off, if they need it, but  
11 they know that they should stop taking that medication because  
12 they may be drug tested at any time.

13           MR. STRAUCH: So, it would be legal for a pilot to  
14 take a medication and then voluntarily, you know, let's say the  
15 week that he's not going to be on duty, the week that he's off,  
16 and then --

17           CAPTAIN SHOWS: Well, if it's not impairing his  
18 ability to pilot the ship, if it's out of his system.

19           MR. STRAUCH: Right.

20           CAPTAIN SHOWS: I'm not a physician or --

21           MR. STRAUCH: Right.

22           MR. CONNICK: I think if, he says listen, you know, I  
23 have a bad back and I'm taking this pain medication, but I'm  
24 not going to take it while I'm on duty, I would think the Board  
25 would say okay, let's go get a physician, an occupational

1 medicine expert to state that, that that would work or wouldn't  
2 work, or whatever the case may be.

3 CAPTAIN SHOWS: Or you may have a pilot that may have  
4 had some surgery the week before that may have --

5 MR. STRAUCH: Right, yes.

6 CAPTAIN SHOWS: -- taken some medication and he'll  
7 say, Captain Shows, last week I had surgery and I took Vicodin  
8 for two days, you know, but I'm off of it now and I've been off  
9 of it for the past three days. And I'd say, we'll has your  
10 doctor approved, you know, said that you know, you're able to  
11 perform you duty?

12 I mean, that has happened. I mean, we do have pilots  
13 that may have had a surgery.

14 MR. STRAUCH: Right.

15 CAPTAIN SHOWS: You know, a minor surgery. Or maybe  
16 a tooth or whatever and they had to take a medication.

17 MR. STRAUCH: As long as they know to report for duty  
18 after the time when the medicine is out of their system --

19 CAPTAIN SHOWS: Absolutely.

20 MR. STRAUCH: -- then it's okay?

21 CAPTAIN SHOWS: Because they can be subjected to a  
22 drug test and then, if they're found to have had it in them,  
23 then they would have to go through a whole lot to explain.

24 MR. STRAUCH: Okay.

25 CAPTAIN BOSTON: Are you, if I could (indiscernible)

1 also, you didn't mention, I guess you asked about is there  
2 anything specifically in our rules concerning the incident, the  
3 pilot that we had who left the ship.

4 MR. STRAUCH: Uh-huh.

5 CAPTAIN BOSTON: Did you ask that question? I  
6 thought I heard that.

7 MR. STRAUCH: Well, something like that. I don't  
8 remember what the exact question was.

9 MR. LARUE: It was a good question though, really.

10 CAPTAIN BOSTON: Well, I'm going to read from Rule  
11 1030, I guess this is 1034, now, 34:1041.

12 CAPTAIN SHOWS: The pilot's duty to remain.

13 CAPTAIN BOSTON: Right. A pilot shall remain on duty  
14 until properly relieved or has completed one's pilot assignment  
15 and/or is relieved by the shipmaster or his representative  
16 agent.

17 MR. STRAUCH: Okay. Yes, we could address it.

18 MR. CONNICK: It's a work in progress. But I'll tell  
19 you what's happening. Honestly, when we've addressed these  
20 situations, it's never happened again. You know, we've taken  
21 disciplinary action, just, that doesn't happen, not that it was  
22 prevalent beforehand, but it sends that message out there.

23 MR. STRAUCH: Okay.

24 CAPTAIN BOSTON: And then the next section, also, if  
25 I can cut in here. "A pilot's duty to remain on duty at the

1 vessel traffic center.

2 CAPTAIN SHOWS: Right. That's the --

3 CAPTAIN BOSTON: "A NOBRA pilot shall remain onsite  
4 and on duty --

5 CAPTAIN SHOWS: -- other one we addressed.

6 CAPTAIN BOSTON: -- at the VTC or similar facility  
7 until properly relieved and shall adhere to normal watch  
8 keeping practices of a prudent seaman."

9 MR. STRAUCH: Well, let me give you a hypothetical  
10 situation.

11 CAPTAIN SHOWS: Oh, I like those.

12 MR. LARUE: Leave him smiling, you know?

13 MR. STRAUCH: The pilot is involved in an accident.  
14 No violation of rules, but your investigation determines that  
15 the pilot just handled it poorly, exercised poor judgment.  
16 What action would you expect the board to take, in this one  
17 instance, assuming the pilot had not been involved in a similar  
18 accident in the previous year? Hypothetically speaking.

19 CAPTAIN BOSTON: If I could bring up an incident.  
20 Oh, this was, probably two years ago, we had an incident where  
21 we actually had a collision with two ships. One was at a berth  
22 and we simply found that the pilot didn't exercise proper  
23 judgment, I guess you could -- I don't remember how we actually  
24 worded it, but he could have used better judgment. So, we sent  
25 him to, I believe it was an advanced ship handling class.

1 Wasn't that it, Henry?

2 CAPTAIN SHOWS: Which one was that, Kelvin?

3 CAPTAIN BOSTON: The one with the Ed Valaro (ph.).

4 CAPTAIN SHOWS: Oh.

5 CAPTAIN BOSTON: The ship that struck Ed Valaro.

6 CAPTAIN SHOWS: Yes.

7 CAPTAIN BOSTON: It was either a bridge resource  
8 management class or advanced ship handling. Because as I was  
9 saying before, we lean more towards remediation, trying to --

10 CAPTAIN SHOWS: DelGatto (ph.). Yes, it was ship  
11 handling.

12 CAPTAIN BOSTON: -- solve the problem rather than to  
13 look for punitive measures.

14 CAPTAIN SHOWS: Right.

15 MR. STRAUCH: So, a pilot who shows lack of judgment  
16 or poor skill, but no rule violation, you would expect that the  
17 result of the investigation would be remediation, additional  
18 training --

19 CAPTAIN SHOWS: Yes.

20 MR. STRAUCH: -- or something like that.

21 CAPTAIN SHOWS: Yes.

22 CAPTAIN BOSTON: Yes. If he shows a lack of  
23 situation awareness, we'll definitely send him to bridge  
24 resource management school. If it's a skill that he hasn't  
25 developed or something of that sort, then we may send him to an

1 advanced ship handling class.

2 CAPTAIN SHOWS: Right. Some form of retraining, some  
3 for of --

4 CAPTAIN BOSTON: Right.

5 MR. STRAUCH: And who would pay for the training?

6 CAPTAIN SHOWS: We have nothing to do with the  
7 payment. I mean it's between the pilot and the organization  
8 who would pay for that.

9 MR. STRAUCH: Okay. Has the board ever recommended,  
10 in addition to additional training, let's say, additional  
11 oversight, that the person would go back and work under the  
12 supervision of a commissioned pilot?

13 CAPTAIN BOSTON: Absolutely. We just had a case such  
14 as that and we required, I think, when all the hours were added  
15 up, we required an additional, almost 200 additional continuing  
16 education hours for the two pilots involved. And in addition  
17 to that, they had to continue, well they were evaluated prior  
18 to their remediation program, re-evaluated at the end of their  
19 remediation program. And then they were required to, in  
20 addition --

21 CAPTAIN SHOWS: To additional --

22 CAPTAIN BOSTON: -- to their 24 hours of continuing  
23 education for the next year, to take an additional bridge  
24 resource management class and advanced ship handling class.

25 CAPTAIN SHOWS: Right.

1           MR. STRAUCH: Okay. And again, it depends on the  
2 circumstances involved?

3           MR. CONNICK: Sure.

4           CAPTAIN SHOWS: Absolutely.

5           CAPTAIN BOSTON: I hope that answers your question.

6           MR. STRAUCH: It does, thank you. Do you have any  
7 kind of formal program where a commissioned pilot supervising  
8 an apprentice evaluates the performance of that apprentice and  
9 then turns in the evaluation for further review?

10          CAPTAIN BOSTON: We have the --

11          MR. CONNICK: Are you talking about doing the  
12 apprenticeship program?

13          MR. STRAUCH: During the apprenticeship program, yes.

14          MR. CONNICK: Okay.

15          CAPTAIN SHOWS: Actually, I believe in the packet for  
16 Captain Strahan, there was evaluations done by a number of  
17 pilots.

18          MR. CONNICK: So to answer your question, yes.

19          CAPTAIN SHOWS: Well, not in that packet. Excuse me.

20          CAPTAIN BOSTON: Yes, well there is -- I'm looking  
21 for --

22          CAPTAIN SHOWS: In his jacket, whenever you do get  
23 it. There was an evaluation done by a number of pilots during  
24 his apprenticeship program. And they ride, of course, with  
25 numerous pilots during the apprenticeship program. And of

1 course, all the pilots do talk amongst each other.

2 MR. STRAUCH: But the evaluations aren't required,  
3 they're voluntary. Is that correct?

4 CAPTAIN SHOWS: No, we do have check rides. We ride  
5 with the apprentices.

6 MR. CONNICK: Let me make sure we're all on the same  
7 page here.

8 CAPTAIN SHOWS: Right.

9 MR. CONNICK: Your question is addressing the  
10 apprenticeship period. Is that right?

11 MR. STRAUCH: The 300 rides.

12 MR. CONNICK: The 300 rides. Is it voluntary or --  
13 it's mandatory, I think.

14 CAPTAIN SHOWS: Right.

15 MR. CONNICK: The Board -- and what happens is, these  
16 pilots are placed with veteran pilots and they participate or  
17 observe those 300 trips that they are involved in and they are  
18 evaluated throughout that process by the senior pilots that are  
19 observing them pilot the ship.

20 They will, the senior pilot will determine what their  
21 strengths are, what their weakness are. And then it gets back  
22 to the Board of Examiners, and they will go ahead and make sure  
23 that, if he has a weakness, and he's going to -- they're going  
24 to pound that weakness and make sure he gets a better feel for  
25 it, you know, more confident in doing a certain thing and that

1 type of thing.

2 They also have some written tests that -- don't they  
3 have written tests at the end of the day?

4 CAPTAIN SHOWS: Yes.

5 CAPTAIN BOSTON: Yes, they do. I have found the  
6 section here in our rules. Basically, the apprenticeship shall  
7 be over the NOBRA route for a period of not less than three  
8 years. "The apprenticeship program shall include the  
9 following. (1) Not less than one year of orientation prior to  
10 commissioning, during which the apprentice accompanies state  
11 commissioned pilots on their duties. (2) Not less than two  
12 years of restrictive service following commissioning during  
13 which the restricted pilot shall be observed from time to time  
14 by unrestricted pilots. (3) Advanced qualification testing.  
15 (4) Any necessary license preparation and upgrade. (5) Any  
16 other industry related or professional development that the  
17 Board of Examiners may deem relevant and necessary."

18 MR. CONNICK: And again, if I may just add something.  
19 I think it goes like this. They are elected into the  
20 association, then they start their apprenticeship program. At  
21 the end of that first year, then their names are submitted to  
22 the governor to receive a commission. I think our rules and  
23 correct me here, Kelvin, the rules do allow, that if, and  
24 ultimately, the names submitted are determined by the Board of  
25 Examiners. The Board of Examiners, obviously, in conjunction

1 and consultation with the numerous veteran pilots that rode  
2 with these individual pilots, and they'll be evaluated  
3 throughout, if like they feel like Pilot A just doesn't have it  
4 right now, they have a right to, you've got to stick into the  
5 apprenticeship program.

6 CAPTAIN BOSTON: Right.

7 MR. CONNICK: And then his name will not be submitted  
8 to the governor because he's not ready, in the Board's mind, to  
9 receive a commission, until he's --

10 CAPTAIN BOSTON: Actually, do you want me to read  
11 that section here, Peter?

12 MR. CONNICK: Well, you can if you like, but also the  
13 same thing applies to the cutting program.

14 CAPTAIN BOSTON: Exactly.

15 MR. CONNICK: If they receive their commission and  
16 they are on limited tonnage, and after whatever period, let's  
17 say the first stage of limited piloting of vessels, and they,  
18 they're still being observed, they're still being evaluated,  
19 and the Board of Examiners feels, that hey, this guy's not  
20 ready to go to that next level, they move everybody else along,  
21 you're going to stay right here and piloting these ships, until  
22 you have the ability to get it done.

23 And at the end of the day, if, you know, if they're  
24 piloting the larger vessels or they're about to go into that  
25 stage, they will not be allowed to do that unless they prove to

1 the Board of Examiners, in conjunction with veteran pilots that  
2 are evaluating them throughout the whole process, that they  
3 have ability and they're ready to go to that next level.

4 MR. STRAUCH: Okay.

5 MR. CONNICK: So it's, we try to have a check and  
6 balance in there. You know, because again, every pilot's  
7 different. You know, some have more ability than others and so  
8 it's a process, really. So you know, I'll give you a hard and  
9 fast rule. We just don't have any hard and fast rules in this  
10 deal.

11 CAPTAIN BOSTON: Well, basically, the orientation  
12 period, which is that one-year period where you're riding with  
13 unrestricted pilots, that can be extended up to one additional  
14 year as determined by the Board of Examiners. If, after the  
15 one-year extension period, the apprentice fails to meet the  
16 criteria and standards, he shall be released from the  
17 apprenticeship program and will not be recommended to the  
18 governor for commissioning.

19 And then, as Peter was just saying, at the end of the  
20 restricted period, this can be extended for one additional  
21 year, as determined by the Board of Examiners. And if after  
22 the one-year extension, the restricted pilot fails to meet the  
23 criteria and standards set by the Board, said restricted pilot  
24 shall be released from the apprenticeship program.

25 MR. CONNICK: So there's an end game there. You

1 know, if you still can't cut it, then you're out.

2 MR. STRAUCH: Okay. Would you know how many pilots  
3 have been released, rather than --

4 CAPTAIN SHOWS: I was waiting for that question. I  
5 knew it was coming. No, I don't. I mean, there was some way  
6 back in the past.

7 MR. STRAUCH: Okay.

8 CAPTAIN SHOWS: There's been some -- I mean, I've  
9 only been here maybe four years on this board with the last  
10 apprenticeship group. There may have been some during the time  
11 that we thought may have needed some additional trips, because  
12 lack of missing some trips or whatever was in your day, you  
13 know, your day off, you have to work, things of that nature.  
14 But --

15 MR. CONNICK: But I recall --

16 CAPTAIN SHOWS: -- I'm trying to remember.

17 MR. CONNICK: -- at least one pilot, I don't recall  
18 the name, that was not -- well, maybe he was or was not. I  
19 know this

20 CAPTAIN BOSTON: Well, of the 44 who were just  
21 recently elected, only 42 got a commission.

22 CAPTAIN SHOWS: Only 42 did, yes.

23 MR. STRAUCH: Two did not?

24 CAPTAIN BOSTON: That's correct.

25 CAPTAIN SHOWS: That's correct.

1 MR. STRAUCH: Do you know why?

2 CAPTAIN SHOWS: Well that was, it wasn't because --  
3 it was because maybe they had some problems with their --

4 MR. STRAUCH: Licensing?

5 CAPTAIN SHOWS: -- licensing that they turned in.

6 CAPTAIN BOSTON: Yes, I think one was licensing and  
7 one was background.

8 CAPTAIN SHOWS: A background issue.

9 MR. STRAUCH: Oh, so security?

10 CAPTAIN SHOWS: It wasn't anything to do with their  
11 skills as a pilot.

12 MR. CONNICK: Basically, yes. As I recall, there was  
13 some false information on the application. And once that was  
14 determined, they were just cut loose.

15 MR. STRAUCH: Now, the association, I believe, has  
16 what, about 100 or so commissioned pilots?

17 CAPTAIN SHOWS: I think right now we have 112, or 111  
18 since Captain Daniels died.

19 MR. STRAUCH: Is that number fixed or does it vary  
20 from year to year? In other words, are pilots selected to fill  
21 specific vacancies or are they selected because they meet the  
22 qualification requirements regardless of the overall number?

23 CAPTAIN SHOWS: No, no. I think we can't go any  
24 higher than 150. But I mean, the legislative body says,  
25 through the fee commission and everything else, they negotiate

1 how many pilots are needed for the --

2 MR. CONNICK: Right, based upon the volume ships and  
3 that type of thing.

4 CAPTAIN SHOWS: -- volume. So I think --

5 MR. CONNICK: It's all a formula that they use.

6 And --

7 CAPTAIN SHOWS: -- the formula came up to about 120  
8 pilots, but in the last year, we had a few retire. And I'm  
9 sure in the next year or so, we'll be electing new pilots.

10 MR. CONNICK: Because again, part of the new  
11 legislative package that was passed by the legislature  
12 recently, creating the review board, they also implemented a  
13 mandatory retire age of 70 years of age. So, just through  
14 that, there'll be attrition. And I think that you know, the  
15 association, not the Board of Examiners, but the association,  
16 determines based upon --

17 CAPTAIN SHOWS: Right.

18 MR. CONNICK: -- the workload, that okay we need to  
19 make new pilots. And again, there's a process that we've  
20 established. You've seen these records where they'll be, you  
21 know, advertising in the paper that NOBRA is going to conduct  
22 an election. Any qualified applicant, please -- you know, it  
23 goes through the whole process. There's a timeline that we  
24 established that the association has to follow in going through  
25 the election, of the applicant qualification election process.

1           MR. STRAUCH:   Okay.   Now we learned yesterday that  
2 Mr. Shrahan's (ph.) father had been a pilot.

3           CAPTAIN SHOWS:   Strahan.

4           MR. STRAUCH:   Strahan.   I'm sorry.   And he took his  
5 father's number.   How does the association protect against  
6 pilots showing him any kind of special favoritism because they  
7 know his father in the course of his apprenticeship period?   In  
8 other words, how does the association prevent a woancy (ph.)  
9 on the part of pilots overseeing his performance because of  
10 family acquaintance in the association?

11          CAPTAIN SHOWS:   Well, by electing people that are  
12 going to be fair.   Okay?   I mean, you're saying, showing him  
13 leniency?

14          CAPTAIN BOSTON:   I mean that would be, the only it  
15 would be this Board, the Board of Examiners, that would be the  
16 only ones who would be charged with leniency on a pilot for any  
17 reason.   And that would be a specific indictment against the  
18 Board of Examiners.   And in an effort to maintain our autonomy  
19 with the association, the Baton Rouge, the NOBRA Pilot  
20 Association, and our position with the governor, we cannot do  
21 that.   We simply cannot.   We cannot afford to be lenient on  
22 anyone for any reason, whether that be for family relations or  
23 personal friendship, personal relationship or whatever.   You  
24 know, that is something that we just cannot allow ourselves to  
25 do.   And we have not allowed ourselves to do.

1           MR. STRAUCH: Okay. But just let's just say during  
2 the person's apprenticeship year, before he or she is  
3 commissioned. The person shows, the applicant shows let's say  
4 less than the level of skills that you would expect of a  
5 commissioned pilot, but the pilot there who is overseeing the  
6 person's apprenticeship on the vessel at that particular time  
7 because he or she knows the person's father, lets him go,  
8 independent of the Board, lets him go and considers him  
9 qualified, and sends that recommendation to the Board because  
10 of friendship with the person's father, rather than objective  
11 assessment of the person's skills.

12           CAPTAIN SHOWS: Well, I think --

13           CAPTAIN BOSTON: Yes, I think I see where you're  
14 going with this but that is why we have our apprenticeship  
15 program set up in the way that it is, because the apprentices  
16 ride with so many different pilots.

17           CAPTAIN SHOWS: Right.

18           CAPTAIN BOSTON: They will ride with a different  
19 pilot every week. You know, throughout that one year program  
20 where they're riding with unrestricted pilots, you know, they  
21 are riding --

22           CAPTAIN SHOWS: They might ride with somebody that  
23 doesn't like the apprentice's father.

24           CAPTAIN BOSTON: -- for at least a year --

25           CAPTAIN SHOWS: So you know, I mean it's --

1           CAPTAIN BOSTON:  -- other than the time that they're  
2 testing.  So there's just very little possibility that he's  
3 going to be allowed leniency from every pilot that he rides  
4 with just because of a relationship that they may have his  
5 father or his family.

6           MR. STRAUCH:  Okay.  Are the pilots required to  
7 submit an evaluation form at the completion of a session when  
8 they have overseen an apprentice on a vessel?

9           CAPTAIN BOSTON:  Well, we do have an evaluation form  
10 that the Board of Examiners has used in the past.  We don't --  
11 at the pilot, the last apprenticeship program, we didn't  
12 require that form to be filled out by each individual  
13 unrestricted pilot.

14          MR. STRAUCH:  So, it's a voluntary submission?  In  
15 other words --

16          CAPTAIN BOSTON:  No.  As Peter was saying before,  
17 we're still evolving.  So this is something that we came up  
18 with.  We didn't have, when we started the last round of  
19 apprentices, but before it was over, it was a form that we had  
20 come up with.

21          MR. STRAUCH:  Okay.

22          CAPTAIN SHOWS:  Right.

23          MR. CONNICK:  And correct me if I'm wrong, guys, but  
24 you guys also, at the end of the day, you all divide up  
25 whatever group is moving up and you all ride with them.

1 CAPTAIN SHOWS: Right.

2 MR. CONNICK: At least one commissioner rides with  
3 every one of those apprentices --

4 CAPTAIN SHOWS: Right.

5 MR. CONNICK: -- and they make a firsthand  
6 determination of their piloting skills. Is that correct  
7 Kelvin?

8 CAPTAIN SHOWS: That's right.

9 MR. STRAUCH: I'm all done with my questions for now.  
10 Liam?

11 MR. LARUE: I just have a couple. He's asked a lot.  
12 So --

13 MR. STRAUCH: He always does, Liam.

14 MR. LARUE: Let's see. We know that they do the 300  
15 test rides, well I'll call them test rides, and once you've  
16 done your 300 in the year, you got your approval, is there a  
17 vote on him by the Board? Or you've done your 300 and there  
18 were no negative consequences?

19 CAPTAIN SHOWS: Well, I mean the evaluations by all  
20 the other pilots.

21 MR. LARUE: Right.

22 CAPTAIN SHOWS: He's met the requirement, and we  
23 don't see anything wrong with his ability to move to the  
24 restricted part of the apprenticeship program. You wouldn't  
25 just go right into piloting ships --

1 MR. LARUE: Right.

2 CAPTAIN SHOWS: -- you know, of large sizes, but he  
3 goes to the restricted part.

4 MR. LARUE: Okay.

5 CAPTAIN SHOWS: So he gets his commission for that.  
6 And he's still under the Board of Examiners. You know, he  
7 could be moved back, he could be, you know.

8 MR. LARUE: How often are they, I thought I heard you  
9 say that you guys do test rides with them when they're on that  
10 restricted part, too.

11 CAPTAIN SHOWS: Uh-huh. Before they move up to  
12 another restriction --

13 MR. LARUE: Okay, they get another one.

14 CAPTAIN SHOWS: -- then we'll ride with them, as the  
15 Commissioner.

16 MR. CONNICK: In some, I know there's been incidents  
17 where the, I mean Henry may go to the chair, his position,  
18 doesn't you know, in a regular turn, but the other  
19 commissioners are on a regular term, and they will be part of  
20 that whole process of getting a pilot for a week to ride with  
21 them and that type of thing while they're on duty.

22 MR. LARUE: So you all don't have a regular -- the  
23 number of people you accept into it every year is different?

24 CAPTAIN SHOWS: And we may not accept anybody for  
25 five years.

1 MR. LARUE: Yes, right.

2 CAPTAIN SHOWS: It could be a while before we bring  
3 any in.

4 MR. CONNICK: And again, that determination is made  
5 by the association.

6 CAPTAIN SHOWS: And by the amount of business and  
7 everything else.

8 MR. CONNICK: I mean, that's part of your question,  
9 you know, when you get to Chris Brown, how do you all determine  
10 you're going to bring in new pilots? Because they make that  
11 call, we don't. This Board does not make that call. It has no  
12 authority to make that call.

13 MR. LARUE: Okay. Every one of your apprentices is  
14 required to have a federal license. Is that correct?

15 CAPTAIN SHOWS: That's correct.

16 MR. LARUE: Prior to starting the apprenticeship?

17 CAPTAIN SHOWS: That's correct.

18 MR. LARUE: What would you say is the skill level  
19 prior to starting the apprentice program, of the folks that are  
20 coming in?

21 CAPTAIN SHOWS: Well, I mean, when they come in, they  
22 have to have a first class pilot's license of any gross tons.

23 MR. LARUE: Okay.

24 CAPTAIN SHOWS: Okay. So I mean, whatever skill  
25 level it takes to get that, that's what they have. That was

1 the minimum requirement by the Coast Guard license.

2 MR. LARUE: Okay.

3 CAPTAIN SHOWS: Now, our new requirements, there is a  
4 lot more that are required of them.

5 MR. LARUE: Including?

6 CAPTAIN SHOWS: Years of experience.

7 CAPTAIN BOSTON: Were you specifically asking about  
8 the skill level of Captain Strahan?

9 MR. LARUE: No, I'm just asking in general, what do  
10 you think is the skill level of these people that are coming  
11 in, before they've even done their first ride with an  
12 experienced pilot?

13 CAPTAIN SHOWS: Well, in order to get the license --

14 CAPTAIN BOSTON: Personally, I think that they are  
15 extremely -- well, let's say they are probably going to be more  
16 skilled, more advanced than the average pilot in other --

17 CAPTAIN SHOWS: In other ports.

18 CAPTAIN BOSTON: -- ports in the country, simply  
19 because of the fact that they have to do such extensive riding  
20 on --

21 CAPTAIN SHOWS: -- to get their license.

22 CAPTAIN BOSTON: -- unlimited tonnage vessels in  
23 order to get the federal Coast Guard license prior to even  
24 being a qualified candidate.

25 MR. CONNICK: On the NOBRA route.

1           CAPTAIN BOSTON: Yes. I mean, taking again Houston,  
2 for example, they simply have to have their 1600 ton master's  
3 license inland or maybe I think it's a third mate unlimited  
4 ocean. And basically, that's all the requirements they need.  
5 They get in and then once they are elected --

6           CAPTAIN SHOWS: Then they get their license.

7           CAPTAIN BOSTON: -- then they are given a certain  
8 amount of time where they ride ships and that allows them to  
9 get their federal pilot's license. They get their commission  
10 at that time, and then they start their apprenticeship program.

11           So, our pilots are, we feel, our system is better  
12 because our pilots are ahead of that before they even start  
13 their apprenticeship program, based on the fact that they had  
14 to do extensive riding on ships on our route to even be a  
15 qualified candidate.

16           MR. LARUE: Okay. And as such, they have all this  
17 experience, is that kind of the reason you don't have the  
18 specific regulations on you know, if you're on this pier, you  
19 need to come off it this way?

20           CAPTAIN BOSTON: Well, that too, but then a lot of  
21 that is based on our route. You know, we can't say well, I  
22 mean, we are evolving and we are, that is something that we are  
23 looking at changing, but we can't specifically say, okay,  
24 you're going to have to go in each and every dock on our route.  
25 At last count, I think we had 120 something docks. And you

1 know, what are the possibilities that we can get every  
2 apprentice into and out of every dock, every anchorage, in and  
3 out of every anchorage, in and out of every buoy system. I  
4 think we have 15 certified U.S. Coats Guard anchorages on our  
5 route.

6           You know, it's just, simply because it is the longest  
7 piloted route in the country and it is the busiest and the most  
8 congested and the most traffic, our program is going to be  
9 different than the apprenticeship program in other groups, as  
10 far as what we can honestly expect to have our apprentices  
11 achieve in the apprenticeship program.

12           MR. LARUE: Okay. And so as independent contractors,  
13 your pilots are basically given leeway to maneuver how they  
14 will, however they see fit?

15           CAPTAIN BOSTON: No, no. It's based on what the  
16 pilot gets that they are riding with. As I said before, they  
17 are assigned to ride --

18           CAPTAIN SHOWS: I think he was talking about  
19 unrestricted pilots.

20           MR. LARUE: Unrestricted, yes.

21           CAPTAIN SHOWS: We don't tell our pilots how to turn  
22 off of docks, we don't tell them how to do. Every pilot  
23 doesn't do it the same. There are numerous ways to handle  
24 vessels. There are. I mean, some pilots do power docking,  
25 some do other types of docking.

1 CAPTAIN BOSTON: Oh, yes.

2 CAPTAIN SHOWS: As an apprentice, you learn all these  
3 different --

4 CAPTAIN BOSTON: When you go to (indiscernible)  
5 class --

6 CAPTAIN SHOWS: -- different ways --

7 CAPTAIN BOSTON: -- they'll teach two or three  
8 different ways to do it.

9 CAPTAIN SHOWS: And then you take the best --

10 CAPTAIN BOSTON: So, in the event something  
11 happens --

12 CAPTAIN SHOWS: -- that you believe is best for you.

13 MR. LARUE: Could you --

14 CAPTAIN SHOWS: Okay.

15 MR. LARUE: You're talking over the Captain.

16 CAPTAIN BOSTON: -- you know, how to do it two or  
17 three different ways. But we can't specify that you have to do  
18 it this way. That would also, piers are corporate bails, so to  
19 speak, because then that take that independent contractor  
20 status away from our pilots and they would be employees, if we  
21 told them what to do.

22 MR. LARUE: Right. That's just all I was trying to  
23 establish, just making sure I understand it. And so, you know,  
24 you give them the leeway to choose how they want to do things  
25 and then if they screw up, they come before you all and you

1 decided that was the right thing to do. Right?

2 CAPTAIN BOSTON: That's correct.

3 CAPTAIN SHOWS: That's correct.

4 MR. LARUE: I think you might have answered this  
5 already, but the hearings you conduct on someone that comes  
6 before you for something like this, that information is made  
7 public essentially?

8 MR. CONNICK: That's correct. Yes, it's an open, as  
9 a matter of fact, it's an open meeting where anyone in the  
10 public can attend it.

11 MR. LARUE: Okay. And you mentioned if you see a  
12 pattern of, particular pattern of behavior with an individual,  
13 what would you consider to be a pattern of behavior? Like two  
14 accidents?

15 CAPTAIN BOSTON: Well, if a person is accused of one  
16 wave wash incident every year for the last three years, we  
17 would say that's a pattern.

18 MR. LARUE: Okay.

19 CAPTAIN SHOWS: Or if he damages a berth three or  
20 four times. Of course, you know, I mean, anything could be a  
21 pattern.

22 MR. LARUE: Do you receive a lot of complaints about  
23 pilots?

24 CAPTAIN SHOWS: No.

25 CAPTAIN BOSTON: Actually what we receive more of

1 than anything are pilots of, how do you say it, Peter? An  
2 abundance of caution?

3 MR. CONNICK: Yes. In other words --

4 CAPTAIN BOSTON: No, they will go and they will --

5 MR. CONNICK: -- self-report, basically. If they  
6 bump, they report it.

7 CAPTAIN BOSTON: There may be a problem, you know, I  
8 may have bumped this dock a little bit too hard or something  
9 like that and they will go and take a voluntary drug test, just  
10 so that if anything comes up in the future, then they've  
11 covered themselves.

12 MR. CONNICK: Yes, so it's more self-reporting than  
13 anything. You know, I guess the majority of what we did,  
14 primarily, groundings, you know, hitting mud lumps and even  
15 when they want to -- they'll report that to the Coast guard, I  
16 guess out of an abundance of caution.

17 But as far as complaints from industry and that type  
18 of thing, you know, very, very minimal.

19 MR. LARUE: What's the relationship like, in general,  
20 between pilots and the captains of some of these foreign  
21 vessels that are coming up and down through here?

22 CAPTAIN SHOWS: Oh, we have very good relationships  
23 with them. I mean, what part of the relationship are you going  
24 after?

25 MR. LARUE: I mean, are there a lot of disagreements?

1 I mean, do they --

2 CAPTAIN SHOWS: Kelvin, you're out there more than I  
3 am.

4 CAPTAIN BOSTON: Yes, I'm sorry, I didn't hear the  
5 question. The relationship with whom?

6 MR. LARUE: With the captains of these vessels that  
7 you're piloting.

8 CAPTAIN BOSTON: Oh, well, I mean, as a general rule,  
9 I would say 99 percent of them are ecstatic with the service.  
10 You know, because I had a captain the other day, just last  
11 week, mention to me at the end of the trip, he said the job  
12 that the NOBRA pilots do is so much better. We are very  
13 professional but our level of difficulty is so much more, in  
14 relationship to the pilots downriver because there downriver  
15 from New Orleans, well, you've got a 90 mile stretch from New  
16 Orleans to Pilottown, then another 23 miles from Pilottown to  
17 the sea buoy. And there's basically no, there's less traffic,  
18 there's less barge fleets, there's certainly less docks. I  
19 would say probably 95 percent, at least 90 percent of all the  
20 docks are in the NOBRA pilots' route.

21 And he was saying that we just cannot not be  
22 attentive on our route. We have to constantly be on our toes  
23 and be professional. And he was just very complimentary but  
24 that is not unusual for a pilot to feel that way -- I mean for  
25 a captain to feel that way because the service that we provide

1 is very difficult. I mean, I've heard some captains even -- a  
2 good friend of mine who was working for Exxon refused to take a  
3 ship over the NOBRA route, because this would have been his  
4 first ship as a captain and he was just very nervous because of  
5 the fact the route is so difficult. And he said, I know those  
6 are some real good pilots you've got up there, but that route  
7 is so difficult and there's so much traffic and there's so many  
8 variables, that anything could happen. And that would have  
9 been his first ship as a captain. And he said he would rather  
10 wait, even if meant waiting another two years, year or two  
11 years, because the route is so difficult.

12 CAPTAIN SHOWS: I know in my 30 years, I've had many  
13 captains say that the Mississippi River pilots, in general, are  
14 the best pilots in the world. And I mean, I'm not just -- and  
15 it's the truth, over my 30 years. They've come in because they  
16 see how difficult our route is. And it makes me feel really  
17 good.

18 MR. LARUE: We talked a little bit about the pilots  
19 briefing the captains, sometimes on you know, what they plan  
20 doing with the vessel. Do you ever get captains that refuse  
21 what you plan on doing, or they don't want to do that? Because  
22 ultimately, the captain's responsible for their vessel.

23 CAPTAIN SHOWS: Right.

24 MR. LARUE: And if so, what do you do or does the  
25 association have something, like a plan for that?

1           CAPTAIN SHOWS: Well, yes, then again, the pilot is  
2 an independent contractor.

3           MR. LARUE: Uh-huh.

4           CAPTAIN SHOWS: You go aboard because you are the  
5 professional. You know the area. You know what's best in that  
6 area, how to do it, because you've been doing it for years.  
7 And generally, the captains always will agree with you. I  
8 mean, I've never had a captain, that I can recall, may have you  
9 know, but to disagree with the way I wanted to do something.  
10 Because they always look at you as the expert.

11          MR. CONNICK: Levin, did you want to add to that at  
12 all?

13          CAPTAIN BOSTON: Yes, I totally agree with what Henry  
14 just said. The captains, in general, have a great deal of  
15 respect for the job, the services that we perform. And you  
16 know, there have been cases where a captain is just going to  
17 know his ship better than we do because, you know, that may be  
18 the first and only time we're onboard his vessel. And the  
19 captain may say, as you're approaching a dock or an anchorage,  
20 the captain may say, pilot, this ship takes a long time to slow  
21 down because of such and such, you know, whatever. And in that  
22 case, you know, here's a situation where this captain knows his  
23 vessel and for me, I will always take that advice.

24          CAPTAIN SHOWS: Right.

25          CAPTAIN BOSTON: But you know, as far as there being

1 a disagreement about how to do things as Captain Shows was just  
2 saying, 99 percent of the time, the Captains will defer to the  
3 pilot because of his experience on this river, at that  
4 particular dock, with those tugboats in question, even with  
5 those linemen, and so on and so forth.

6 MR. LARUE: All right. I think I'm good to go. I  
7 don't think I have any more questions, unless you do.

8 MR. STRAUCH: No, I'm good to go. Thanks guys.

9 MR. LARUE: Let's go off the record here.

10 (Whereupon, the interview in the above-entitled  
11 matter was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF:            Motor Vessel Kition  
                                 Allision With I-10 Bridge  
                                 Baton Rouge, Louisiana  
                                 February 10, 2007  
                                 Interview of NOBRA Examiners

DOCKET NUMBER:            DCA-07-FM-013

PLACE:                        Baton Rouge, Louisiana

DATE:                         February 13, 2007

was held according to the record, and that this is the original, complete, true and accurate transcript which has been compared to the recording accomplished at the hearing.

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Kimberly J. Zogby  
Transcriber