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9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA  
12 Plaintiff,  
13 v.  
14 IOAN LUCA  
15 Defendant.

) Case No. 2:19-cr-00354-VAP

) **SUPPLEMENTAL DECLARATION**  
) **OF MARC R. GREENBERG IN**  
) **SUPPORT OF MOTION TO DISMISS**  
) **REGARDING DISCOVERY**  
) **MATERIALS PRODUCED TO**  
) **DEFENDANTS AFTER DEFENDANT**  
) **LUCA FILED HIS REPLY BRIEF**

) Date: September 9, 2019  
) Time: 9:00 a.m.  
) Judge: Virginia A. Phillips

**DECLARATION OF MARC R. GREENBERG**

I, Marc R. Greenberg, declare:

1. I am an attorney at law, duly licensed to practice before the Courts of the State of California. I am Counsel with the law firm of Tucker Ellis, LLP, counsel of record for Ioan Luca (“Defendant” and/or “Luca” in this action. I have personal knowledge of the facts set forth below and, if called as a witness, could competently testify to the following.

2. On Friday afternoon, August 30, 2019, the United States Attorney produced a data CD Rom disk with 360 separate documents, many of them multiple pages, separated into fourteen folders. The documents were supposedly the emails relating to LCDR Bor’s March 1, 2019 email. No explanation was provided as to why LCDR Bor’s March 1, 2019 email, or the newly produced emails and documents, had not been produced months earlier.

3. One of the documents produced on August 30, 2019 is an email from LCDR Stephen Bor to LCDR Tyler Stutin from January 20, 2019, setting forth who must be taken off the ship and detained in the United States. “Is Sector in a position to identify the likely crew members we’d need in the event this case ends up being referred to and accepted by DOJ?” – Response – At a minimum, the mater, C/E and all of the licensed officers, all the oilers, and if the electrician was the one who conducted the weekly tests. A true and correct copy of the email string is attached as **Exhibit “A”**.

4. Another document produced on August 30, 2019 is an email from January 25, 2019, between Brian Sale at Customs and Boarder Protection LCDR Stephen Bor setting forth the names of the crew members “that shall state within the jurisdiction of the U.S. District Court – Central District of California.” The list includes Fitter Stefan Bunda and Electrical Engineer George Cadar. A true and correct copy of the January 25, 2019 email is attached as **Exhibit “B.”** Exhibit “A” and “B” confirms that the crew members did not stay in a hotel in El Segundo, California voluntarily and were only allowed to leave at the decision of the United States Attorney after they were interviewed and found

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1 to be unhelpful to the government’s theory of the case as presented to them by RAC  
2 Margelot.

3 5. Conspicuously absent from the documents produced on August 30, 2019 are  
4 the emails that RAC Margelot described to LCDR Bor as being written by RAC Margelot  
5 to highlight the flaws by the Inspectors – “RAC Margelot indicated that he intentionally  
6 wrote the emails in a such a manner that when the USAO drops the case, it will be Sector’s  
7 fault and not CGIS.” (The investigators work for “Sector” and CGIS is the Coast Guard  
8 Investigative Service. RAC Margelot is with the CGIS.)

9 6. On Sunday, September 1, 2019, AUSA Andrew Roche provided Defendants  
10 with copies of the sum total of the government’s investigation of the statements,  
11 allegations and claims of misconduct that were identified in LCDR Bor’s March 1, 2019  
12 Email to LCDR Tyler Stutin, CAPT Monica Rochester, CAPT Rebecca Ore, CDR  
13 Marshall Newberry, CDR Michelle Bas, LCDR Anthony DeStephano, and DCDR Kyra  
14 Dykeman.

15 7. Defendants had asked that the U.S. Attorney use the FBI to investigate the  
16 conduct of the Coast Guard rather than allowing the Coast Guard to investigate the Coast  
17 Guard. This request was apparently declined because Coast Guard Special Agent Ashley  
18 N McKay wrote all of the reports of interview of Agent Margelot, Agent Venable, LCDR  
19 Bor and SAC Hoyle.

20 8. A true and correct copy of the report of the U.S. Attorney’s August 30, 2019  
21 interview of LCDR Bor is attached hereto as **Exhibit “C”**.

22 9. A true and correct copy of the report of the U.S. Attorney’s August 28, 2019  
23 interview of RAC M. Margelot is attached hereto as **Exhibit “D”**.

24 10. A true and correct copy of the report of the U.S. Attorney’s August 29, 2019  
25 interview of SA J. Venable is attached hereto as **Exhibit “E”**.

26 11. A true and correct copy of the report of a phone interview of SAC K Hoyle  
27 is attached hereto as **Exhibit “F”**.

28 12. The investigation of the “snafu” within the Coast Guard reveals that the

1 management of the Coast Guard, all the way up to the Captain of The Port and Special  
2 Agent in Charge knew of the issues but no investigation was conducted.

3 13. One of the documents included in the August 30, 2019, production is a copy  
4 of handwritten notes by Special Agent in Charge Kelly Hoyle from her conversation with  
5 CAPT Rochester on February 28, 2019, three days before they both received a copy of  
6 LCDR's March 1, 2019 email. Even before reading LCDR's email CAPT Rochester  
7 expressed her concerns with RAC Margelot's conduct, attitude and refusal to follow  
8 guidance, and refuses to allow anyone speak to the U.S. Attorneys. The end of the note  
9 states – "wants new agents assigned." A true and correct copy of the notes written by  
10 SAC Hoyle are attached as **Exhibit "G"**. SAC Hoyle, in the US Attorney's August 29,  
11 2019, phone interview, stated that "CAPT Rochester never asked SAC Hoyle to remove  
12 any agents from the AMAZON case." This is contradicted by SAC Hoyle's own note that  
13 reads: "Wants New Agents Assigned." The United States Attorneys did not interview  
14 CAPT Rochester in relation to her conversation with SAC Hoyle, or as to what, if any,  
15 action she took two days after her conversation with SAC Hoyle when CAPT Rochester  
16 read LDCR Bor's March 1, 2019 email.

17 14. When Agent Margelot was asked about his interview of the Second Engineer  
18 Gavriluta-Strat he stated that he did not feel he was "ever untruthful to the 2/E during the  
19 interview. He simply explained the process of how witnesses and subjects with the  
20 government work." Perhaps Agent Margelot has forgotten that the interview was tape  
21 recorded.

22 15. Agent Margelot told Mr. Gavritula-Strat that if he did not say that the order  
23 to transfer bilge water to the clean drain tank came from the Chief Engineer Mr.  
24 Gavriluta-Strat would not talk with his children for as much as a year. He justified this  
25 by claiming that in other cases the Coast Guard has seized crew member's phone. This  
26 of course belies that fact that Mr. Gavriluta-Strat could have purchased a new phone the  
27 following day. It also overlooks the fact that Agent Margelot told Mr. Gavriluta-Strat  
28 that if he would just put the blame on the Chief Engineer, he – Agent Margelot, would

1 personally arrange for Mr. Gavriluta-Strat to have daily video conferences with his  
2 children. When that failed, Agent Margelot offered Mr. Gavriluta-Strat the choice  
3 between two closed hands. Mr. Gavriluta-Strat could choose one hand – blame the Chief  
4 Engineer and be a witness in the case, or choose the other hand and continue with his  
5 refusal to blame the Chief Engineer and get prosecuted. Agent Margelot, did not have  
6 the authority to make such an offer and he well knew this because the offer violated the  
7 Coast Guard’s Policies and Procedures for investigation of MARPOL cases.

8 16. The following day, in a second interview of Mr. Gavriluta-Strat, the Coast  
9 Guard, Lt. Phillips, with Agent Margelot, went much further than just lying to try, and  
10 failed, to get Mr. Gavriulta-Strat to inculpate the Chief Engineer – he told Mr. Gavriluta-  
11 Strat precisely what he need to say to earn daily video conferences with his children  
12 personally arranged by Agent Margelot. Mr. Gavriulta-Strat had to say that the order to  
13 pump bilge waste to Clean Drain Tank came from the Chief Engineer to the Mr. Gavriula-  
14 Strat and the he in turn gave the order to the 4th Engineer. According to Lt. Phillips –  
15 anything less would lack credibility. (January 12, 2019 interview, page 21.)

16 17. Agent Margelot and Lt. Phillips violated the Commandant’s Instruction  
17 M16201.1 in several ways. No statement is permitted to be made as to the status of the  
18 person as a witness, subject or target. Agent Margelot had no legal authority to offer Mr.  
19 Gavriluta-Strat the choice between the two hands/options Agent Margelot presented him.  
20 But perhaps the most offensive part is that Lt. Phillips told Mr. Gavriluta-Strat precisely  
21 what he had to say because anything less and “your credibility will be shot.” The Coast  
22 Guard, Agent Margelot and Lt. Phillips, were trying to manufacture testimony rather than  
23 conduct an investigation. A copy of the complete transcript from the first onboard  
24 interview of Mr. Gavriluta-Strat is attached as **Exhibit “H”**, the second interview  
25 conducted the following day is attached as **Exhibit “I”**.

26 18. If an attorney, prosecuting or defense, where to make such a statement to a  
27 witness it would be considered to be witness tampering and obstruction of justice. Yet,  
28 Agent Margelot finds nothing wrong with his conduct, even with the benefit of hindsight

1 and a transcript of the tape-recorded conversation. This conduct is known to the Agent  
2 Margelot’s superiors, SAC Hoyle and CAPT Rochester, and yet no internal investigation  
3 was undertaken after these issues came to light in March 2019. Nothing was done to  
4 investigate Agent Margelot, or his startling allegations of misconduct by others within  
5 the Coast Guard.

6 19. The contradictions between LCDR Bor’s March 1, 2019, summary report to  
7 the CAPT Rochester, and the recent statements by Agent Margelot to the U.S. Attorney  
8 on August 29, 2019 are striking:

- 9 a. The USAO is threatening to drop the case. *Margelot now claims that he*  
10 *never said this.*
- 11 b. RAC Margelot was writing emails to blame the Investigators for when the  
12 case gets dropped. *Margelot now claims that the U.S. Attorney was never*  
13 *threatening to drop the case.*
- 14 c. RAC Margelot had to talk the AUSA “off the ledge” from dismissing the  
15 case. *Margelot now claims he never said this.*
- 16 d. RAC Margelot stated that Inspectors admitted to him that they had tainted  
17 interview statements. *Margelot now claims he never said this.*

18 20. Now that Agent Margelot’s allegations have become an issue for the Court,  
19 LCDR Bor has tried to walk-back some of the statements in his March 1, 2019 email.  
20 For example, he now states that he wishes he hadn’t taken Agent Margelot’s comments  
21 at face value. Why shouldn’t he take seriously the statements of the Resident Agent In  
22 Charge (RAC) of the Coast Guard Investigative Service for Los Angeles and Long Beach.

23 21. The belated production of documents provides no explanation as to what  
24 happened on board the ship the made RAC Margelot threaten to remove his entire  
25 criminal investigation team, as noted in LCDR Bor’s March 1, 2019 email. However, we  
26 do know that RAC Margelot attempted to edit reports of Inspectors and deleted any  
27 mention of chain of custody or handling of the evidence. He deleted three separate  
28 paragraphs from the report of an Inspector that he described as “illiterate

1 kindergarteners”. All of the deletions concerned chain of custody of evidence.

2 22. There is also no resolution of the nature of the “snag” that LCDR Bor now  
3 describes as being a “SANFU” (A World War II acronym meaning *Situation Normal: All*  
4 *F-ed Up.*) For some reason LCDR Bor apparently thinks that SNAFU is less serious than  
5 a “snag.” The August 30, 2019, production of documents included an email exchange  
6 from January 28, 2019 to January 30, 2019 referencing the “snag with the AUSA”  
7 regarding one of the Inspectors. This is apparently the “snag” that LCDR Bor now calls  
8 a “SNAFU.” A true and correct copy of the emails referencing a “snag” are attached as  
9 **Exhibit “J”**. The government has not identified the Inspector or the nature of the “snag”  
10 / “SNAFU.” This will remain a mystery.

11 23. As for statement by LCDR Bor to Coast Guard management on March, 1,  
12 2019, that that **“RAC Margelot named certain Sector inspectors that, according to**  
13 **him, admitted to tainting evidence in their written statements”**, the names identified  
14 by RAC Margelot and the disclosure of what was evidence and/or statements are tainted  
15 also remains a mystery. RAC Margelot denies he ever made the statement. It is highly  
16 unlikely that LCDR Bor made the statement up to include in his email to Coast Guard  
17 management. Meanwhile, in his interview by the U.S. Attorney, LCDR Bor “speculated  
18 that RAC Margelot might have been referring to when CWO Reed turned the reach rod  
19 and to see if it was connected.” Whether it is merely the passage of time between when  
20 RAC Margelot made the statement and when it was finally investigated by the U.S.  
21 Attorney, or the more likely explanation that no one wants to be blamed for causing a  
22 dismissal, what exactly was tainted and my whom within the Coast Guard remains a  
23 mystery.

24 24. The lack of a resolution to what was Inspectors admitted to tainting report  
25 of interviews is quite troubling because the statement was documented by LCDR Bor on  
26 March 1, 2019 and yet no one investigated it, despite the fact that the Chief of the  
27 Criminal Division and the Captain of the Port learned about the statement as early as  
28 March 1, 2019. From March 1, 2019 to August 22, 2019, no one in the Coast Guard took

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as much as a pause in the action to investigate an allegation that would, in most law enforcement agencies, be a career-ending act of obstruction of justice.

25. I have not yet had the time to review all of the newly produced documents from the government. However, the documents reviewed, along with the short interview reports provided, reveal that we do not know the extent of the damage done and we apparently never will, in part because this is an eleventh hour production of discovery and an eleventh and a half hour investigation by of the Coast Guard of the Coast Guard. There is no resolution to the issues noted above and no explanation, whatsoever, as to why these issues were not investigated six months ago, or, why we are only learning about it now, two weeks before trial.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed on the 4th day of September, 2019, at Los Angeles, California.

/s/ Marc R. Greenberg  
Marc R. Greenberg



**CERTIFICATE OF SERVICE**

I declare that I am a citizen of the United States and a resident of Los Angeles, California or employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Tucker Ellis LLP, 515 South Flower Street, Forty-Second Floor, Los Angeles, California 90071-2223.

On September 4, 2019, I served the following document entitled **SUPPLEMENTAL DECLARATION OF MARC R. GREENBERG IN SUPPORT OF MOTION TO DISMISS REGARDING DISCOVERY MATERIALS PRODUCED TO DEFENDANTS AFTER DEFENDANT LUCA FILED HIS REPLY BRIEF** on the interested parties in this action by:

- (X) **ELECTRONICALLY VIA ECF:** the above-entitled documents to be served electronically through the United States District Court, Central District ECF website, addressed to all parties appearing on the Court’s ECF service list. A copy of the “Filing Receipt” page will be maintained with the original document in our office.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on September 4, 2019, at Los Angeles, California.

/s/ Marc R. Greenberg  
Marc R. Greenberg

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# EXHIBIT H

EXHIBIT H

Marian Gavriluta-Strat – January 12, 2019

1 Officer Krager: Today is January 12th, 2019. The time is 0018. We're on board the CMA CGM  
2 AMAZON. I am Chief Warrant Officer Dave Krager with the US Coast Guard,  
3 Sector Los Angeles, Long Beach. Also present with me is...

4 Lt. Philips: Lieutenant Junior Grade Christopher Philips.

5 Matt Margalot: Matt Margalot of the US Coast Guard.

6 Harlan Espinoza: Harlan Espinoza, US Coast Guard.

7 Officer Krager: And we're sitting down to conduct an interview with the Second Engineer on  
8 board the vessel. Sir, your name is...

9 Marian Gavriluta-Strat: Gavriluta-Strat, Marian.

10 Officer Krager: And we're conduct this interview today – we discovered a couple fuel leaks on  
11 board the vessel and we just want to sit down, ask you some questions about  
12 those. The one we found was down in the cargo area, down in one of the void  
13 spaces there in the alleyway. Are you familiar with that leak? I can actually show  
14 you photos. Let me know if you're familiar with that. That's Cargo Hold 50, I  
15 believe it is. Yeah, Cargo Hold 50. Have you seen that leak before on board the  
16 vessel?

17 Marian Gavriluta-Strat: [Inaudible] [00:01:11]?

18 Officer Krager: I'm sorry? Yeah, are you familiar with this leak, that you currently have fuel oil  
19 within that space?

20 Marian Gavriluta-Strat: I found out when I drained the vessel.

21 Officer Krager: I'm sorry?

22 Marian Gavriluta-Strat: I found out after or the week I drained the vessel.

23 Officer Krager: Okay. Did the previous Second Engineer, did he make you aware of this, that  
24 there was a leak on board?

25 Marian Gavriluta-Strat: Which one? I don't remember him mentioning something.

Marian Gavriluta-Strat – January 12, 2019

1 Officer Krager: He did mention something or he didn't?  
2 Marian Gavriluta-Strat: I think he didn't.  
3 Officer Krager: He did not. He didn't tell you about that leak? Okay. So, how did you discover  
4 it?  
5 Marian Gavriluta-Strat: How I discover it? There was the bunker, discovered it was there and then we  
6 were also there and have a look.  
7 Officer Krager: I'm sorry. You said you went down there and had a look. What made you go  
8 down there and look?  
9 Marian Gavriluta-Strat: Because the guy that was, they went there and checked and they said there was a  
10 leak.  
11 Officer Krager: Who went there and checked? Who was that that checked?  
12 Marian Gavriluta-Strat: I think the Fourth Engineer and one oiler, but I don't remember which one of  
13 them.  
14 Officer Krager: Okay. Is that part of normal bunkering operations, they check?  
15 Marian Gavriluta-Strat: Usually, yes. After starting, let's say 20-30 minutes, it's better to have a look.  
16 Officer Krager: Okay. You found out – when did you come onboard the vessel?  
17 Marian Gavriluta-Strat: 4th of November.  
18 Officer Krager: 4th of November. So, about two weeks after coming onboard on the 4th of  
19 November, you discovered this during bunkering operations.  
20 Marian Gavriluta-Strat: No.  
21 Officer Krager: I'm sorry?  
22 Marian Gavriluta-Strat: It was...  
23 Officer Krager: So, once you discovered it, what did you do? Did you notify anyone of the leak  
24 or did you take any actions regarding the leak?

Marian Gavriluta-Strat – January 12, 2019

1 Marian Gavriluta-Strat: Discuss with Chief Engineer and we were trying to change this gasket from them  
2 [inaudible] [00:03:26]. We tried two times, but we couldn't. We tried to end the  
3 line and all the time, we couldn't end the line.

4  
5 Officer Krager: Okay. Now, I know you've seen them, the emails from last January, that this leak  
6 was discovered 12 months ago. I know you'd seen the emails regarding that.

7 Marian Gavriluta-Strat: Yeah, I saw one.

8 Officer Krager: Okay. But you had no idea about this leak until two weeks after you came on  
9 board? Okay. So, once you made the discovery, you stated that you told the Chief  
10 Engineer about it, and then you tried to conduct repairs, is that correct?

11 Marian Gavriluta-Strat: Yeah. We tried to conduct repair but couldn't.

12 Officer Krager: Did you ever try to remove the fuel from that space?

13 Marian Gavriluta-Strat: Yes, we tried to remove the fuel from that space.

14 Officer Krager: How did you go about doing that? How did you go about removing that fuel from  
15 that space?

16 Marian Gavriluta-Strat: Fuel from the space? Small drum.

17 Officer Krager: Okay. Once it was in the small drum, what did you do with it?

18 Marian Gavriluta-Strat: We put it in the overflow.

19 Officer Krager: In the overflow tank? So, how did you get it from the space up into the engine  
20 room and the overflow tank?

21 Marian Gavriluta-Strat: Small drum.

22 Officer Krager: It's all drums?

23 Marian Gavriluta-Strat: So, lift up the drums –

24 Officer Krager: How do you lift them up? When you say lift up, what does that mean?

25 Marian Gavriluta-Strat: Lift up by a piece of a rope.

Marian Gavriluta-Strat – January 12, 2019

1 Officer Krager: By a piece of rope? Okay. So, you would put the – I don't want to – so, you  
2 would put the fuel in the drums and then use a rope to pull them up?

3 Marian Gavriluta-Strat: Yeah. Then we pump Passage A for that [inaudible] [00:05:13] engine room by  
4 the crane and then put them down.

5 Officer Krager: You said Passage A, you bring it through? Is that what I heard you say?

6 Marian Gavriluta-Strat: I said from the cargo hold passageway and –

7 Officer Krager: Oh, passageway. I'm so sorry. Okay. So, once it was in the overflow tank, what  
8 was done with the fuel from that point?

9 Marian Gavriluta-Strat: The fuel from that point? We want almost all the rest of this fuel from the  
10 overflow. It's pumped back in the second tank, passed back, again, to separate.

11 Officer Krager: Okay. Then once it went through the separator...

12 Marian Gavriluta-Strat: It's separated again and sediment is going [inaudible] [00:06:03] tank.

13 Officer Krager: Okay. Was it burned at that point or was it used in the main diesel or how was it  
14 used? Was that fuel once purified? Was it usable again? Could it be used as fuel  
15 again?

16 Marian Gavriluta-Strat: Pumping? Yes, it can.

17 Officer Krager: All right. So, another aspect we were looking at with this is did you ever go down  
18 and assist with the cleaning? Did you ever go down and help remove that fuel?  
19 Were you ever in that space?

20 Marian Gavriluta-Strat: I'd be in that space, but I don't –

21 Officer Krager: Okay. So, at the time you were cleaning, you weren't in the space. Where were  
22 you at when they were cleaning? When they were removing the fuel from that  
23 void space, from that area, where were you at?

24 Marian Gavriluta-Strat: I was in the engine room.

25 Officer Krager: You were in the engine room. Okay. Are you –

Marian Gavriluta-Strat – January 12, 2019

- 1 Marian Gavriluta-Strat: At the time, I was going there to check to see **[inaudible]** the guy.
- 2 Officer Krager: Okay. And are you aware that's a confined space?
- 3 Marian Gavriluta-Strat: Yes.
- 4 Officer Krager: So, who did you have cleaning? Who went down and cleaned? Who did you  
5 direct to go down and clean or who directed them to go down? Was it you that  
6 asked people to go to that space or did someone else?
- 7 Marian Gavriluta-Strat: Yeah.
- 8 Officer Krager: Okay. So, who was in that space? Who was doing the cleaning?
- 9 Marian Gavriluta-Strat: The **[inaudible]** **[00:07:25]**.
- 10 Officer Krager: Do you know their names? Can you tell me who they are?
- 11 Marian Gavriluta-Strat: Pharman, Fernando, and Teodoro.
- 12 Officer Krager: Okay. All right. So, what's their position on board the vessel?
- 13 Marian Gavriluta-Strat: All of them are oilers.
- 14 Officer Krager: They're oilers? Okay. Was that space made safe for entry? Was there any sort of  
15 atmospheric testing done prior to them going in?
- 16 Marian Gavriluta-Strat: The space is ventilated.
- 17 Officer Krager: It was ventilated? By what means?
- 18 Marian Gavriluta-Strat: By the fans.
- 19 Officer Krager: I'm sorry, by what?
- 20 Marian Gavriluta-Strat: There are two fans there.
- 21 Officer Krager: There are fans? Are they portable fans or installed fans?
- 22 Marian Gavriluta-Strat: They're installed fans on the **[inaudible]** **[00:08:15]**.
- 23 Officer Krager: Within the space?
- 24 Marian Gavriluta-Strat: They are blowing continuous air in the space.

Marian Gavriluta-Strat – January 12, 2019

1 Officer Krager: Okay. Are you talking about within the alleyway itself, the larger alleyway or are  
2 you talking about actually within the space where the leak is?

3 Marian Gavriluta-Strat: No. This has dedicated fans for [inaudible].

4 Officer Krager: Within the space where the leak is?

5 Marian Gavriluta-Strat: Yes.

6 Officer Krager: Okay. All right. Was there any atmospheric testing done to confirm the oxygen  
7 levels or anything of that sort? Who's responsible on board for doing testing  
8 prior to entering a confined space?

9 Marian Gavriluta-Strat: The person [inaudible] [00:08:54].

10 Officer Krager: I'm sorry. Say it once more.

11 Marian Gavriluta-Strat: The person that [inaudible] in the confined space.

12 Officer Krager: I really am sorry. I still couldn't understand what you said. Who's responsible for  
13 doing confined space entry and testing?

14 Marian Gavriluta-Strat: So, we open the tank, [inaudible] and do inspection, especially from my side.  
15 That [inaudible] be that person to [inaudible].

16 Officer Krager: Okay. So, when you say do an inspection, how do you normally do that?

17 Marian Gavriluta-Strat: Inspection?

18 Officer Krager: Yeah. Like, when you say an inspection, what does that mean? Like, how do you  
19 inspect? What are you inspecting for?

20 Marian Gavriluta-Strat: We make inspection for [inaudible] that it's very important to be tested on the  
21 atmospheric side and also, just to work with that space and keep containers  
22 ventilated.

23 Officer Krager: So, does this – do you have the equipment on board to conduct that atmospheric  
24 testing?

25 Marian Gavriluta-Strat: Yes, we've got this oxygen [inaudible].



Marian Gavriluta-Strat – January 12, 2019

1 Officer Krager: So, if you have the equipment onboard, is there a reason why that space wasn't  
2 tested before they went in? Okay. Can you think of any reason why the testing  
3 wasn't completed or wasn't done?  
4 Lt. Philips: Why wasn't the testing done?  
5 Marian Gavriluta-Strat: I didn't say the testing wasn't done.  
6 Lt. Philips: Speak up. Sorry.  
7 Marian Gavriluta-Strat: I said I didn't say that it did not be done.  
8 Lt. Philips: Why wasn't the testing done? Do you know how to do the testing? Have you  
9 tested it before in other places?  
10 Marian Gavriluta-Strat: Not like this.  
11 Lt. Philips: So, why wouldn't we do the testing for the oilers? The question is not going  
12 away. Why would we not test the air for the oilers? Say it. Nobody's judging.  
13 Marian Gavriluta-Strat: **[Inaudible]** **[00:12:34]** not.  
14 Lt. Philips: What?  
15 Marian Gavriluta-Strat: Maybe I did a mistake.  
16 Lt. Philips: Not maybe. Why did we not test the air for the oilers? Should you have tested the  
17 air for the oilers? Sir? Should you have tested the air for the oilers?  
18 Marian Gavriluta-Strat: Yes.  
19 Lt. Philips: Do you wish you would have tested the air for the oilers?  
20 Marian Gavriluta-Strat: Yeah.  
21 Lt. Philips: Do you know why you didn't test the air for the oilers?  
22 Officer Krager: So, by not testing the atmosphere prior to them entering space, do you understand  
23 that that was a hazardous condition to place them in?  
24 Marian Gavriluta-Strat: Yes.  
25 Officer Krager: How many times did you send them down there to clean?

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1 Marian Gavriluta-Strat: Only once.

2 Officer Krager: Once?

3 Marian Gavriluta-Strat: Once or twice.

4 Officer Krager: Once or twice? And when were those times? When did that take place?

5 Marian Gavriluta-Strat: It took place one day after the other.

6 Officer Krager: I'm sorry, say again.

7 Marian Gavriluta-Strat: So, one day and the next day.

8 Officer Krager: One day, the next day.

9 Marian Gavriluta-Strat: Then I realized that I made a mistake. So, I didn't send them anymore.

10 Officer Krager: I'm sorry.

11 Lt. Philips: Six or seven times?

12 Marian Gavriluta-Strat: No, only two times, not six. Then I realize I make a mistake and I didn't send

13 them anymore.

14 Officer Krager: So, what were the dates that you sent them down?

15 Marian Gavriluta-Strat: I think 26th and 27th.

16 Officer Krager: So, I have the Enclosed Space Entry Permit.

17 Marian Gavriluta-Strat: Yes.

18 Officer Krager: That it looks like you started to fill out for them, but it doesn't have any readings

19 listed –

20 Marian Gavriluta-Strat: Yes, I know. I [inaudible] [00:15:22].

21 Officer Krager: Okay. But you did state the reason for entry was cleaning and inspect the pipe

22 tunnel for leaks. But yeah, that was on the 26th. How long did it take them to

23 clean? How long were they in there cleaning? Was it a short time? Was it a long

24 time?

25 Marian Gavriluta-Strat: It was a half-day.

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1 Officer Krager: Half-day?  
2 Marian Gavriluta-Strat: Yeah.  
3 Officer Krager: So, when you say a half-day, how many hours would you call a half-day?  
4 Marian Gavriluta-Strat: Four hours.  
5 Officer Krager: About four hours? That was all? Are you sure that was all?  
6 Marian Gavriluta-Strat: I don't know.  
7 Officer Krager: So, how much of that spilled oil was brought up? What quantity?  
8  
9 Marian Gavriluta-Strat: I think...  
10 Officer Krager: I'm sorry.  
11 Marian Gavriluta-Strat: **[Inaudible] [00:16:32]**.  
12 Officer Krager: Do you know how much was brought out of that space and placed into the  
13 overflow tank?  
14 Marian Gavriluta-Strat: It was like seven or eight drums.  
15 Officer Krager: Drums? And how big were the drums?  
16 Marian Gavriluta-Strat: Like this.  
17 Officer Krager: So, is that like a regular – almost like what we call a five-gallon bucket or how  
18 big is that? You kind of indicated with your hand there?  
19 Marian Gavriluta-Strat: It's drums and the chemicals.  
20 Officer Krager: Drums and the chemicals?  
21 Marian Gavriluta-Strat: Yeah.  
22 Officer Krager: All right. So, after they moved the fuel out and you put it into the overflow tank,  
23 purify it, and use it again. Some of the other things we're looking around too –  
24 we noticed quite a bit of oil staining within the bilge itself, within the engine

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1 room and I'm sure you've noticed it as well when you look around some of the  
2 welded stanchions within the bilge.

3 Marian Gavriluta-Strat: Yes.

4 Officer Krager: I know you and I were together and we saw some of this. One thing that we  
5 found was the patch –

6 Marian Gavriluta-Strat: The path – I don't have any clue about the patch.

7 Officer Krager: Okay. You've never seen the patch before and no one ever told –

8 Marian Gavriluta-Strat: No. Not until today I didn't see the patch.

9 Officer Krager: Okay. Is there – now, obviously, you've been on the boat for a while. Is this your  
10 first time being on this vessel or have you sailed on it before?

11 Marian Gavriluta-Strat: No. This for me is the first time.

12 Officer Krager: First time on this vessel. Okay. So, you've been on here for a few months now,  
13 though. So, being on here for a couple months now, a few months, haven't you  
14 made a around of the engine room to try to identify the condition of it?

15 Marian Gavriluta-Strat: Yeah, I mean [inaudible] [00:18:21].

16 Officer Krager: Because the area we focused on, when you take a walk around the engine room,  
17 it's pretty obvious – you immediately see quite a bit of oil staining in that area.  
18 Weren't you ever curious why there was so much oil staining in that area? So, no  
19 one's ever reported to you that there was a soft patch on that pipe?

20 Gavrituta Strat Marian: No. It's [inaudible].

21 Officer Krager: Okay. So, something else that we noticed and I pointed out to you as well is the  
22 amount of oil film on the bilge itself throughout the oil bilge, not just under the  
23 main diesel engine, but everywhere. Remember when we were kind of crawling  
24 down there? It was slick on that bilge, on the deck itself. So, I'd ask you then –  
25 why is there so much oil film everywhere in here? I understand when it's  
26 underneath the main diesel or underneath a connection, but it was everywhere.

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1 So, one thing we found too was a hose that appears to have been draped down  
2 into the bilge. Do you have any knowledge of why you would have a hose draped  
3 into your bilge, put into your bilge?

4 Marian Gavriluta-Strat: A hose?

5 Officer Krager: A hose? And there was also a pump in there as well, a portable pump. Why  
6 would you need a portable pump in an engine room that's fitted with installed  
7 bilge piping? Why would that be in your engine room? Can you give me an  
8 answer as to why we would have found there or what it would have been used  
9 for? Is it possible that hose was used to pump some of that oil out of the bilge?  
10 Like I say, there's quite a bit of oil film on the check, on the bilge deck itself and  
11 it's everywhere, which is pretty extensive.

12 Marian Gavriluta-Strat: There was fuel.

13 Officer Krager: I'm sorry, there was fuel? What does that mean there was fuel? So, can you give  
14 me an answer as to why I'm seeing so much oil throughout the engine room and  
15 why we're seeing a hose and a portable pump in your engine room? You  
16 understand what we're kind of looking at. We have one where the safety of your  
17 crew being sent down into that cargo hold and that confined space concerns us.  
18 In addition to that, we're finding soft patches also on your fuel piping in your  
19 engine room.

20 And then I'm seeing extensive oil film throughout your engine room. And then  
21 on top of that, then we find a rubber hose with a portable pump in your engine  
22 room. Can you explain to me why that would be there? Because what we're kind  
23 of seeing here is you have multiple fuel leaks and safety concerns. So, can you  
24 explain at least the hose to me, why that would be there? What's the purpose?  
25 What's the use of it? Because you couldn't explain why you sent your oilers

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1 down to a confined space that wasn't made safe for entry. So, can you tell me  
2 why the hose was there?

3 Hey, Second, let me tell you – obviously, we can kind of piece this together and  
4 it would be much better if you would just talk to us and just explain to us what's  
5 going on. It's better if you help us to understand what's taking place and why it's  
6 taking place than if we have to continue to look and kind of put it together  
7 ourselves as we go. It's much better if you just help us to get an idea of what's  
8 going on. Is someone telling you to do this? Are you making this decision?

9  
10 I understand – I can see on your face you're thinking and you're worried. I can  
11 certainly understand that. But like I say, it's better to just give us an idea of  
12 what's taking place because we already have several items of concern. So, could  
13 you give us your side of the story? With your silence and what we're seeing right  
14 now and what we already know, it's kind of – it's kind of falling on you as being  
15 the second in the engine room.

16 But if you don't tell us your side of the story, no one really knows what's going  
17 on with you or why these decisions are being made. This is your opportunity to  
18 help us understand why these decisions are being made, why these items are in  
19 your engine room. This is probably a very good time for you to tell us your side  
20 of it. Is there a reason why you don't want to tell us? Can you at least tell me  
21 that?

22 I think you've seen throughout the day – I've worked with you quite a bit today –  
23 our main concern is obviously the safety of your crew, your safety was well, and  
24 the safety of this vessel. So, can you help us understand why some of those safety  
25 items are being missed, why we're seeing items that shouldn't be in an engine  
26 room there?

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1 Like I said, I would really like to hear your side of it. This is a chance for you to  
2 tell us. Yeah. You're visible thinking. I can obviously tell that you have some  
3 concerns. I would really appreciate if you would express those concerns to us and  
4 let us understand what's taking place. Could you just tell me what you're  
5 thinking right now? Can you tell me why you're hesitant to talk to us? Can you  
6 tell me what your concerns are?

7 Marian Gavriluta-Strat: All of my concern is about this mistake that I did to send the guys there. So, I  
8 cannot –

9 Officer Krager: I understand. You feel bad about that?

10 Marian Gavriluta-Strat: Yeah, I feel bad because --

11 Officer Krager: Okay. I understand.

12 Marian Gavriluta-Strat: **[inaudible]** I've always **[inaudible]** **[00:27:09]**.

13 Officer Krager: Okay. You know, knowing that –

14 Marian Gavriluta-Strat: I make very clear **[inaudible]**.

15 Officer Krager: I'm sorry? Say again. So, I understand you feel bad about that, which lets me  
16 know that you care about your career –

17 Marian Gavriluta-Strat: They all say that they are different national origin and can say that I have  
18 something against the other nationalities. That is not **[inaudible]**. I don't want to  
19 talk about these things that people are thinking that I'm racist. I worked before I  
20 joined this company – I worked in a South African crew. They showed me I  
21 worked for racists. So, I try to avoid these things. But **[inaudible]** **[00:28:11]** is  
22 getting on my mind that I made the mistake.

23 Officer Krager: But it shows me that you actually – you're a good person. I can tell because –

24 Marian Gavriluta-Strat: I'm trying to be.

25 Officer Krager: You're recognizing these things.

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1 Marian Gavriluta-Strat: I'm trying to be a good person but **[inaudible]** these things aren't coming here.  
2 I'm trying to be nice to everybody so we can have a friendly discussion all the  
3 time regarding everything. I try to **[inaudible]** sometimes and people get a little  
4 bit nervous maybe and try to **[inaudible]**. But this is a point. So, I'm just trying  
5 to help the crew so that we can work properly together.

6 Officer Krager: I understand that.

7 Marian Gavriluta-Strat: Now, I feel bad because of this. The first time **[inaudible]** to me and I've worked  
8 **[inaudible]** never made this mistake.

9 Officer Krager: Okay.

10 Marian Gavriluta-Strat: It will be a lesson for me because I know here every person is **[inaudible]**.

11 Officer Krager: Yeah, that's true. You're in a position where you do hold the responsibility for  
12 the safety of your crew.

13 Marian Gavriluta-Strat: Yes.

14 Officer Krager: So, I'm glad to hear you say that, that you recognize that was a mistake to let  
15 them go.

16 Marian Gavriluta-Strat: I recognized the mistake when I know a mistake because you can recognize the  
17 mistake, then you **[inaudible]** **[00:30:02]** are forgiven. You always must  
18 recognize your mistake. Otherwise you cannot continue.

19 Officer Krager: That's true. So, the other thing I asked about, then – some of the equipment that  
20 we found in the engine room. Why was that there? We've seen your **[inaudible]**  
21 content meters. We've seen your OWS. We've seen all the equipment there.  
22 Everything seems to be functioning. So, I don't understand why you would need  
23 a hose and a portable pump inside of your engine room.



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1 Lt. Philips: You know how you just said that you want to be a good guy? And you know how  
2 you just talked about you didn't want to be racist and you know how you just  
3 talked about you want to treat other people right?

4 Marian Gavriluta-Strat: Yeah.

5 Lt. Philips: And you know how you talked about is all you want to do is do good for here on  
6 out learn from your mistakes?

7 Marian Gavriluta-Strat: Yes.

8 Lt. Philips: So, you know what that means? If you're really gonna say that stuff and you're  
9 really gonna mean that stuff, that means you actually have to act on that stuff. If  
10 we don't act on that stuff, what kind of men are we? We can't sit here and talk it  
11 and not walk it. That's what you're doing. Does that make sense?

12 Marian Gavriluta-Strat: Yes, it makes sense.

13 Lt. Philips: So, we can sit here and we can wipe the slate clean – do you know what the  
14 means, wipe the slate clean? Forgive you.

15 Marian Gavriluta-Strat: Yeah.

16 Lt. Philips: For lying. We can learn from those mistakes and we can educate, but one mistake  
17 that we can't do is lie. If you're gonna lie to the US Coast Guard, you're lying to  
18 federal officers and that's something that you cannot do. And you as a man,  
19 based off everything that you just learned in self-talk is something that you're not  
20 going to do anymore, right?

21 So, the hose – have you – this is just a yes or no question – have you pumped  
22 water out of the bilge well before? Because it's there and it was there and that's  
23 what that stuff is used for because we see it all the time. So, have you or have  
24 you ordered water pumped out of the bilge or bilge well? I just need a yes or no.

25 Marian Gavriluta-Strat: No.

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1 Lt. Philips: What?

2 Marian Gavriluta-Strat: I was always with the [inaudible] [00:33:08] I have in [inaudible] just to check  
3 the bilges, nothing else.

4 Officer Krager: So...

5 Lt. Philips: Listen, there is nothing wrong with pumping water out of the bilge, right? We do  
6 it all the time.

7 Marian Gavriluta-Strat: Yes, but –

8 Lt. Philips: Hang on. Have any of the guys ever pumped water out of the bilge well? Yes or  
9 no? Yes? Okay. Where did they pump the water to? You're halfway there. Where  
10 did they pump the water to? You're all right. Where did they pump the water to?  
11 Can I get you to look at me for a second? I just need to know where the water  
12 went. You're not losing your job. I'm not gonna walk in there and tell the Chief  
13 Engineer anything that you said. I just need to hear you say where the water was  
14 pumped to. I just need you to tell us the truth. Where was the water pumped to?

15 Officer Krager: You seem to be thinking about it pretty hard. I get the feeling that you do know  
16 where the water went to.

17 Lt. Philips: Did you pump it into the bilge holding tank?

18 Marian Gavriluta-Strat: The person who was always pumping the bilge was the Fourth Engineer.

19 Officer Krager: Why was the Fourth Engineer pumping? Why would it be him?

20 Lt. Philips: Where was he pumping the water to?

21 Officer Krager: Who gives orders to the Fourth Engineer? Who does he report to?

22 Marian Gavriluta-Strat: It was the company he was reporting to.

23 Officer Krager: So, why would he be pumping?

24 Marian Gavriluta-Strat: He was [inaudible] [00:37:51] daytime, I would see him again, just [inaudible].

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1 Officer Krager: So, did you say you were sending him? Did I hear that correctly? So, you said  
2 that he reports to you, is that correct?

3 Marian Gavriluta-Strat: Yes, according to the [inaudible].

4 Officer Krager: Okay. So, if he's pumping, then it would seem likely that he would have received  
5 an order from you unless he made that decision on his own. So, if he's pumping  
6 from the bilge, why would he be doing that? Is there an equipment malfunction  
7 in the room?

8 Marian Gavriluta-Strat: No.

9 Officer Krager: No?

10 Marian Gavriluta-Strat: I didn't instruct him.

11 Officer Krager: So, why would you need to use a portable pump –

12 Marian Gavriluta-Strat: I didn't instruct to use the portable pump.

13 Officer Krager: You said you did or did not?

14 Marian Gavriluta-Strat: I said I didn't instruct him?

15 Officer Krager: You what?

16 Lt. Philips: He said he did not.

17 Officer Krager: You did not.

18 Matt Margalot: Who instructed him to use a portable pump?

19 Marian Gavriluta-Strat: [Inaudible] [00:39:52].

20 Lt. Philips: So, do you understand what's going on right now? Do you understand what's  
21 happening? Do you understand why you're sitting here? Do you understand why  
22 we're talking to you? Yes? I need you to understand because for the next couple  
23 seconds, I want to make sure that you understand everything that's coming out of  
24 my mouth. Okay? This boat is not gonna be going anywhere for a while. This

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1 boat is gonna be staying here. The Coast Guard is gonna be finishing their  
2 inspection. Do you understand that?

3 So, if this goes to a more intrusive investigation, that means the boat is gonna end  
4 up leaving California, but that means witnesses are gonna have to stay in  
5 California. Have you heard of this before? You've never heard of –

6 Marian Gavriluta-Strat: First time, yeah.

7 Lt. Philips: Okay. So, we do this, unfortunately, a little too often. So, what happens – and  
8 I'm just giving you examples – is boats come into the United States, they pollute  
9 or they do whatever that's illegal that's against MARPOL and then we start  
10 investigating it and then we take the crew off. The crew stays in the US. The boat  
11 fixes all of its issues and then the boat leaves and the crew stays in the US until  
12 the investigation is complete and then court is over. This process can take  
13 anywhere from months to years. Do you understand that?

14 Marian Gavriluta-Strat: Yes.

15 Lt. Philips: During that process, you're either a witness, a victim, a subject, or a person with  
16 knowledge. That's your only options. Does that make sense?

17 Marian Gavriluta-Strat: Yes, it makes sense.

18 Lt Philips: Do you understand what you are right now? Do you understand what you are  
19 right now?

20 Marian Gavriluta-Strat: [Inaudible] [00:42:39].

21 Lt Philips: You're a what?

22 Marian Gavriluta-Strat: [Inaudible]?

23 Lt Philips: You're a what?

24 Marian Gavriluta-Strat Definitely [inaudible]

25 Lt. Philips: Definitely you're what? I'm sorry I just can't hear you.

26 Marian Gavriluta-Strat: I'm just thinking about it.

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1 Lt. Philips: Do you know what subject means?

2 Marian Gavriluta-Strat: Subject – a person with [inaudible] [00:43:06] accusation.

3 Lt. Philips: You would be the person that would get charged. So, we have tests – so, we swab  
4 for petroleum product. That little short guy running around is swabbing all over  
5 the place for petroleum and is finding petroleum in places it shouldn't be So, we  
6 already know that it's there. We already know how it gets there But this is the  
7 part that you need to pay attention to. If the order was given to you to give to  
8 someone else, then that burden falls on them.

9 If someone told you to have the bilge well pumped someplace else, then that  
10 order was given to you. That means the charges would be put on them If you sit  
11 here and you take everything, that means the charges could potentially end up on  
12 your shoulders. So, it's very important for you to tell the truth because you're  
13 doing nothing but hurting yourself by sitting here in silence We are trying to  
14 help you

15 Marian Gavriluta-Strat: Yes, I understand

16 Lt. Philips: You understand we're trying to help you? So, tell me the truth and make us  
17 believe and please stop being quiet. I want to get you out of this office as fast as  
18 we can so that you can go back to your normal day, but we can't do that until you  
19 tell us what you know. Who told you to have the water pumped? When you leave  
20 this office, you're on your own. We're gonna keep investigating and you're  
21 gonna have to take it if everything falls on you. You're the only one that controls  
22 where the blame goes.

23 The last guys from one of your sister ships sat right here and did the exact same  
24 thing that you're doing and he stayed here for almost a year and he still got  
25 charged because he just wouldn't tell the truth. Had he told the truth, everything

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1 would have been a lot easier on him, unfortunately. We tried to help that guy too.  
2 You're in a crappy situation.  
3 I know that you were just told to do something and you're just following orders  
4 and you're following orders, you just told the Fourth Engineer to do something  
5 so that he would follow orders, which he did.

6 Marian Gavriluta-Strat: **[Inaudible]** [00:47:00].

7 Lt. Philips: Who'd the orders come from? Who'd the orders come from? I'll say it for you if  
8 you just want to shake your head yes or no. Captain? Bosun? Wiper? Fitter?  
9 Oiler? Chief Engineer? So, the Chief Engineer told you?

10 Marian Gavriluta-Strat: Yeah, he told me.

11 Lt. Philips: What did he tell you?

12 Marian Gavriluta-Strat: He didn't tell me directly.

13 Lt. Philips: What did he tell you?

14 Marian Gavriluta-Strat: He told me about it's nothing. Most of the time, it was the instructions straight  
15 with the Fourth Engineer.

16 Lt. Philips: To do what? Brother, you're almost there. I can only help you if you keep going.  
17 What did the Chief Engineer tell the Fourth Engineer to do?

18 Officer Krager: Did anyone instruct you not to say anything to us?

19 Marian Gavriluta-Strat: No.

20 Officer Krager: So, why aren't you saying anything to us?

21 Lt. Philips: Listen, we're not gonna talk to the Chief Engineer and tell him what you said, but  
22 we are gonna interview the Chief Engineer and we're gonna get the same  
23 information out of him. We will get the information. It doesn't have to be  
24 because you said anything. Like I said, you need to pick which side that you want  
25 to be on. Do you want to be a witness? Do you want to be a subject? Do you

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1 want to be a person with knowledge? So, let's do yes or no again. Do you want  
2 to? That worked for us before.

3 Did the Fourth Engineer empty the water out of the bilge well? I see your head  
4 shaking yes. Okay. Did the Fourth Engineer put that water in the bilge holding  
5 tank? I see your brain saying no. Is the answer no? The answer is no? Did the  
6 Fourth Engineer put the water in the clean water tank, clean drain tank? Yes? I  
7 can't tell. Yes? You're shaking your head yes. The Fourth Engineer put the water  
8 from the bilge well to the clean drain tank. Yes? Did he use a pump to do that?  
9 Are you shaking your head yes? And the Chief Engineer told him to do that?

10 This is where you need to be really careful, okay? Hey, we're there You're  
11 doing a great job. I'm proud of you. Everybody in here is proud of you. But what  
12 you're doing is you've connected the dots for us But if you say everything went  
13 from the Chief Engineer to the Fourth Engineer and you're bypassing yourself,  
14 then your credibility is still shot.

15 If you say the truth and how Cham of Command goes, the Chief Engineer told  
16 the Second Engineer and the Second Engineer told the Fourth Engineer. That's  
17 how things go. Did the Chief Engineer tell you? Did you tell the Fourth  
18 Engineer? Who told the Fourth Engineer? Did you tell the Fourth Engineer? Did  
19 the Chief Engineer tell the Fourth Engineer? You're shaking your head yes So,  
20 did you have anything to do with the water getting transferred from the village  
21 well to the clean drain tank? You're shaking your head no. So, you had nothing  
22 to do with it. We're not done yet

23 So, with the swabs and the petroleum tests that are getting done, that work done,  
24 that's already got tested that's positive for petroleum being in places that it  
25 shouldn't be, now, we have to figure out why it got there. This is where you need

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1 to keep in the back of your mind that you want to be a witness, okay? You with  
2 me? Okay.

3 So, the clean drain tank has to get emptied, right? Yes? You're shaking your head  
4 yes. So, the clean drain tank has to get emptied. Where does that water go? This  
5 is just engineering questions. How does the water get from the clean drain tank to  
6 go empty? How do we empty the clean drain tank? It's an engineering question.  
7 How does that happen?

8 Marian Gavriluta-Strat: By pumping.

9 Lt. Philips: By a pump?

10 Marian Gavriluta-Strat: Yes.

11 Lt. Philips: Okay. So, it goes from the clean drain tank to a pump and from the pump, where  
12 does it go?

13 Marian Gavriluta-Strat: It's going to the ppm monitor and then over the side.

14 Lt. Philips: Over the side – overboard? So, we have the clean drain tank water that goes to  
15 the clean drain tank pump through the ppm to a three-way valve?

16 Marian Gavriluta-Strat: Yes.

17 Lt. Philips: Where does that three-way valve go? It's engineering, man.

18 Marian Gavriluta-Strat: The three-way valve has one entrance, two exits, one overboard and one  
19 [inaudible] [00:56:02] returning to the bilge tank.

20 Lt. Philips: The bilge holding tank?

21 Marian Gavriluta-Strat: Yes.

22 Lt. Philips: Okay. So, water in the bilge holding tank is considered what? It's engineering.  
23 Water in the bilge holding tank is what?

24 Marian Gavriluta-Strat: Contaminated.

25 Lt. Philips: Contaminated? So, contaminated water has to get processed through what?  
26 Engineering – you know this. Just answer it.



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1 Marian Gavriluta-Strat: The oily water separator.

2 Lt. Philips: Oily water separator. So, how many parts per million for the oily water  
3 separator?

4 Marian Gavriluta-Strat: 15.

5 Lt. Philips: 15. So, when we run the clean water drain pump and we're emptying the clean  
6 drain tank from water from the bilge well, is that dirty or is that clean water?

7 Marian Gavriluta-Strat: Clean water.

8 Lt. Philips: I think I tricked you. The water in the clean drain tank – once you put water from  
9 the bilge well, is that water now contaminated or is it clean? This is engineering.  
10 If I take a Coke and pour it into water, is that water still clean?

11 Marian Gavriluta-Strat: No because they're mixing.

12 Lt. Philips: It's mixed. So, is that contaminated water now? Let me just ask this, okay – are  
13 you with me? You're doing good, all right? Did we pump contaminated water  
14 from the clean drain tank overboard? Yes or no?

15 Marian Gavriluta-Strat: The clean drank tank has a 15-ppm monitor. So, the water in the clean drank tank  
16 can be also contaminated from the condensate from the main engine.

17 Lt. Philips: I get the condensate from the main engine.

18 Marian Gavriluta-Strat: So, that [inaudible] [00:58:28] reaching more than 15 ppm, it's closing the  
19 valve. That's going overboard.

20 Lt. Philips: Okay. We do agree that we did have water that was pumped from the bilge well  
21 to the clean drain tank? Yes? You're shaking your head yes. And you agree that  
22 the clean drank tank water was pumped overboard? Yes? You're shaking your  
23 head yes, is that correct? I don't want to misrepresent you here. Yes? Okay. What  
24 would you do whenever the ppm was reaching its 30 parts per million. It's a  
25 higher parts per million than what the oily water separator OCM was running out,

Marian Gavriluta-Strat – January 12, 2019

1 right? That allows you to run dirtier water and pump dirtier water overboard,  
2 right? What? It's engineering.

3 Marian Gavriluta-Strat: Yes. When it's reaching 15 ppm, it's shutting down the –

4 Lt. Philips: The oily water separator is at 15 parts per million?

5 Marian Gavriluta-Strat: Yes, it's shutting down the three-way valve and everything is [inaudible]  
6 [00:59:53] down to the bilge tank.

7 Lt. Philips: Okay. So, the clean water oil content meter is set at 30 parts per million?

8 Marian Gavriluta-Strat: It's 15.

9 Lt. Philips: It's still 15 parts per million? So, when that OCM would work, how would you  
10 keep the dirty water in the clean water tank from going over the side until you  
11 have to get rid of the water? You have to get rid of the contaminated water. So,  
12 how do you keep that pump running? How do you keep this running? What is  
13 this right here?

14 Marian Gavriluta-Strat: It's the 15-ppm monitor.

15 Lt. Philips: 15 parts per million monitor?

16 Marian Gavriluta-Strat: Yes.

17 Lt. Philips: That's attached to what?

18 Marian Gavriluta-Strat: Attached to this hose.

19 Lt. Philips: The hose – this is going to what?

20 Marian Gavriluta-Strat: This is going to the...

21 Lt. Philips: Clean water pump? Clean water drain pump, is that right? So, when water would  
22 come through – when dirty water would come through this valve and go through  
23 that three-way valve, it comes up through this hose, right? And then it goes in so  
24 it's checked through the ppm, is that right?

25 Marian Gavriluta-Strat: Yes.

26 Lt. Philips: I'm not an engineer. So, where does –

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1 Marian Gavriluta-Strat: Here inside is the photocell.

2 Lt. Philips: Where is the photocell?

3 Marian Gavriluta-Strat: Inside.

4 Lt. Philips: Inside this right here?

5 Marian Gavriluta-Strat: That is reading the [inaudible] [01:01:43] of the –

6 Lt. Philips: Of the water.

7 Marian Gavriluta-Strat: Yes.

8 Lt. Philips: So, in that water – so, when this would trip because it's gonna trip because

9 you've got contaminated water in the tank – when that would trip, how do we

10 clear it so that we're kicking more water overboard? You have to clear it. If you

11 don't clear it, you're gonna have nothing but contaminated water in your clean

12 water tank. So, how do you clear it? You're looking at it. You're so close to

13 being done, it's not even funny.

14 Marian Gavriluta-Strat: [Inaudible] [01:02:25].

15 Lt. Philips: When I say done, I mean finished with this interview. How do you clear this

16 OCM or BPM? How do you make it so it goes back down to zero so you can

17 keep pumping?

18 Marian Gavriluta-Strat: [Inaudible].

19 Lt. Philips: You what?

20 Marian Gavriluta-Strat: You have the line for the –

21 Lt. Philips: This line?

22 Marian Gavriluta-Strat: Yeah. That is for clearing.

23 Lt. Philips: So, how do you clear it?

24 Marian Gavriluta-Strat: We have here [inaudible] [01:03:01] valve and it's opening at fresh water and

25 this is from [inaudible].

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1 Lt. Philips: Okay. So, this is how you clear it whenever it's time to clear the ppm? This is  
2 how you clean it to make sure the photocell is operating properly so that –

3 Marian Gavriluta-Strat: For this, you cannot – this electro valve, it's opening only if you have long piece  
4 that's more than 50 ppm. It's making a [inaudible].

5 Lt. Philips: Okay.

6 Marian Gavriluta-Strat: So, we cannot disconnect this one without this [inaudible].

7 Lt. Philips: So, did you always operate this appropriately? Do you notice how that when I  
8 ask you questions and it's something that's simple, you answer it immediately,  
9 but anytime I ask you a question that's difficult and you want to decide as to  
10 whether or not you want to tell the truth or not, you take a long time? Have you  
11 noticed that? Okay. Any idea why I just zoomed in on that? What's this little  
12 white cap here for? Engineering question.

13 Marian Gavriluta-Strat: It's [inaudible].

14 Lt. Philips: It's what? What is it?

15 Marian Gavriluta-Strat: [Inaudible].

16 Lt. Philips: I can't – I honestly can't understand –

17 Marian Gavriluta-Strat: It's a cap.

18 Lt. Philips: What does it do? What is it for?

19 Marian Gavriluta-Strat: [Inaudible] [01:04:50] get out the water that passed through the cell.

20 Lt. Philips: So, it allows you to get to the water that's passing through the cell? I don't know.  
21 You tell me. What does this white cap do?

22 Marian Gavriluta-Strat: We're deciding to remove, for example, the same [inaudible] on the oily water  
23 separator. So, remove this and put the brush inside and I can make the  
24 [inaudible].

25 Lt. Philips: You can make the alarm stop or you can make the alarm test?

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1 Marian Gavriluta-Strat: I make the alarm [inaudible].

2 Lt. Philips: Okay.

3 Marian Gavriluta-Strat: So, I just remove the top, then I put the brush inside so I can see that it's

4 [inaudible], I put back and the same. The oily water separator has the same

5 [inaudible] valve that [inaudible].

6 Lt. Philips: Okay. So, I understand that this valve right here in this line is for flushing.

7 Marian Gavriluta-Strat: Yes.

8 Lt. Philips: Because flushing allows you to clean it properly, right?

9 Marian Gavriluta-Strat: Yes.

10 Lt. Philips: But can you bypass all that and just put fresh water down here to make it work

11 again? Make it work right? Engineering question. Okay. Remember that yes or

12 no moment that we had? You want to do that again or you just want to tell me

13 straight up? I'm gonna treat you with the utmost respect. This is the last piece of

14 this puzzle.

15 We've seen 100 of these things. Obviously, you can sit here and you can tell we

16 know what we're talking about. Obviously, you can sit here and know that every

17 question that we ask we know the answers to. Clearly, you know that you're not

18 fooling anybody. Have you figured that out yet? Yes or no? Have you ever

19 tricked – have you ever poured fresh water down this?

20 Marian Gavriluta-Strat: I didn't.

21 Lt. Philips: Has anyone else? Who has? Did the Fourth Engineer?

22 Marian Gavriluta-Strat: I didn't see him doing this. I cannot.

23 Lt. Philips: You didn't what?

24 Marian Gavriluta-Strat: I didn't see him doing this.

25 Lt. Philips: Okay. You didn't see him do it. Was he told to do it? Did he do it?

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1 Marian Gavriluta-Strat: I don't know. This I don't know. Regarding this, I don't know.

2 Lt. Philips: You don't know –

3 Marian Gavriluta-Strat: It was probably definitely somebody – if he knew these things, just to remove the  
4 valve, plus somebody showed him, but I didn't.

5 Lt. Philips: Okay. So, you didn't show him. I believe that you didn't show him.

6 Marian Gavriluta-Strat: I didn't show him.

7 Lt. Philips: How about I know that you didn't show him? I know you didn't show him. Who  
8 showed you? Someone's telling you, "Hey, man, you know how to shoot that guy  
9 in the head?" "Yeah." There's nothing wrong with learning how to shoot  
10 someone in the head. The problem is when you shoot them in the head.  
11 So, who told you how to do it? There's nothing wrong with telling me. I don't  
12 even need another name. Another Second Engineer? A Chief Engineer? A  
13 Captain? An Admiral? A Commodore? Who told you how to do that? Your  
14 brother? I'm not asking you to give you your mother.

15 Marian Gavriluta-Strat: No.

16 Lt. Philips: I'm asking you what rank they are or what position they hold. This is simple.  
17 And this isn't even necessarily. So, you know that water was pumped from the  
18 bilge well to the clean drain tank from the clean drain pump over the side. You  
19 know this was discharge, right? We've already had this conversation. You've  
20 already said yes. So, you can sit there in silence all day long. So, who has the  
21 authority on the boat to authorize the discharge of water over the side? It's on  
22 placards all throughout the boat. Do you want me to show you one?  
23 Who has the authority? Who has the authority? You've seen that, right? It's in  
24 your engine room. Do you have the authority? Who has the authority? Who do  
25 we have to notify before we pump anything over the side? That's just a process

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1 question. Who do we have to notify before pumping anything over the side? The  
2 Chief Engineer.

3 So, when we run the clean drain pump and we're discharging contaminated water  
4 over the side, does the Chief Engineer know? If not, then you're taking all this  
5 responsibility on yourself. If that's what you want to do it, it's very admirable,  
6 but very stupid. We're not gonna go tell him that you said anything. Did you  
7 order the contaminated water out of the clean drain tank to be pumped  
8 overboard?

9 Marian Gavriluta-Strat: No.

10 Lt. Philips: Did the Fourth Engineer order the water in the clean drain tank to be pumped  
11 overboard? Did the Fourth Engineer order the contaminated water in a clean  
12 drain tank to be pumped overboard? Did the Chief Engineer order the water in  
13 the clean drain tank be pumped overboard? Did the Chief Engineer order the  
14 contaminated water in the clean drain tank to be pumped overboard? You're  
15 shaking your head yes. Is the answer yes?  
16 Can you give me a verbal yes? And I'll leave you alone. Did the Chief Engineer  
17 order the contaminated water in the clean drain tank pump overboard? Yes?  
18 You've already said it. I will take your nod, if that's what you want. I just want to  
19 give the opportunity to be heard. If you want to argue with anything that we've  
20 talked about or you want to say anything else, you're more than welcome to. I've  
21 tried to verbally represent your nodding as we've gone.  
22 May I ask why you're having such a hard time with this? Are you scared o  
23 flossing your job? Are you scared of disappointing the Chief Engineer? Do you  
24 know the Chief Engineer very well? Did he threaten you? Did the Captain  
25 threaten you?

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1 Marian Gavriluta-Strat: No.

2 Lt. Philips: Did the company threaten you? Out of respect.

3 Officer Krager: So, let me ask you one last time – do you feel threatened by anyone? Do you feel  
4 that by talking to us, that anyone would do harm to you?

5 Marian Gavriluta-Strat: I don't know. I don't know after.

6 Officer Krager: So, you said you don't know after. Who do you think would do harm to you?

7 You obviously have someone on your mind. You're feeling something. Who are  
8 you concerned about or who are you even afraid of? Let me say this – this is just  
9 because I'm worried about you because I can tell by your silence you're  
10 definitely scared of something. If you let us know that you are worried about  
11 your safety, that if someone has threatened you, if you would tell us, we can  
12 maybe help you, help your safety, help ensure that you're not harmed.

13 Marian Gavriluta-Strat: No, because [inaudible] [01:15:43].

14 Officer Krager: That's just me being concerned for you because you look visibly scared of  
15 something. So, is there anything that you'd like to tell us or that you need to tell  
16 us? Okay.

17 Lt. Philips: Do you want off the boat? Yes? I need you to really be thinking about this. If this  
18 boat has to stay in California, which right now, it looks like it's going to be, do  
19 you want to be a witness? This is what happens. I'm not trying to fool you. This  
20 is what happens.

21 Witnesses come off the boat. Potential subjects come off the boat. Potential  
22 subjects go to one hotel. Witnesses go to another hotel. The two do not mix. We  
23 all meet up down at the US Attorney's Office if this goes in that direction and we  
24 all have interviews and we all have meetings. You'll see me in a nice suit. But  
25 that's what happens.



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1 Do you want to be a witness or do you want to be a potential subject of the  
2 investigation if it goes that direction? That's an easy question. So, tomorrow  
3 morning, lawyers are gonna start showing up for the boat. They're probably  
4 gonna give you a lot of good advice. However, being a witness definitely could  
5 be in your best interest. Being a subject, you could potentially face charges.  
6 There's no getting anybody out of the wrongs that they've committed. You may  
7 have to answer for those. But you would answer for those and the court would  
8 understand that you provided the best information that you could to support the  
9 investigation because the investigation is not going away. Does that make sense?  
10 So, this boat is gonna be here tomorrow and it's gonna be here the next day and  
11 you guys are going back in the port. We're gonna start taking stuff off of it.  
12 You're gonna have to decide as to whether or not you're gonna be a witness or  
13 not. I have to be able to tell the US Attorney's if they take it. What would you  
14 like me to tell them? Subject? Witness? You're shaking your head yes. Is that a  
15 yes? Is it a yes?

16 I cannot help you when you walk out that door. I am not running around this boat  
17 telling everybody what it is that you told us. I am merely trying to explain to you  
18 what's fixing to happen. Would you like to be a witness or would you like to stay  
19 and potentially be a subject? I'm only asking one more time and then we can just  
20 roll the dice and see where they lay. Okay? Do you want to be a subject? Do you  
21 want to be a witness?

22 Thanks for coming in. Hey, it's in your best interest if you don't go talk to the  
23 Chief Engineer or talk to anybody else about the conversation that we had. You  
24 understand? Do you know why? Because we're gonna have the same  
25 uncomfortable conversation with him. Okay? It's best if you act like nothing

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1                                   happened. The only thing that we talked about was the fuel **[inaudible]**  
2                                   **[01:22:36]**.

3 Marian Gavriluta-Strat: Yes.

4 Lt. Philips:                   Witness or subject? I promise you that I'm not lying to you with what the process  
5                                   is. I've seen many a guy stand there just like you are fighting over the decision.  
6                                   It's a hard decision. But you have to do what's best for you and what's best for  
7                                   your family. If you see us before we get off the boat, let us know. After that, I  
8                                   can't do anything for you. Got it? Thank you, sir. Interview is concluded at 0141.

# EXHIBIT I

EXHIBIT I

Marian Gavriluta-Strat – January 12, 2019

1 Lt. Phillips: It's the 12<sup>th</sup> of January 2019. The time on deck is 16:37. We are on board the  
2 CMA CGM Amazon. This is Lieutenant Junior Grade Christopher Phillips out of  
3 sector LA/LB.

4 Matt Margelot: Matt Margelot, US Coast Guard.

5 Lt. Phillips: Could you state your name please?

6 Marian Gavriluta-Strat: Gavriluta, Strat Marian

7 Lt. Phillips: Okay. We're doing an interview, a follow-up interview with the second engineer  
8 in regards to the findings of the port state control exam initiated yesterday on 11  
9 January 2019. So, Second, we just had some follow-up questions in regard to our  
10 conversation yesterday. Could you just reiterate your position on the pumping  
11 from the bilge to the clean holding tank – the clean drain tank? Yeah, so the  
12 draining that occurred from the bilge well to the clean drain tank – who ordered  
13 that?

14 **Pause [0:01:05-0:03:35]**

15 Lt. Phillips: Second?

16 Marian Gavriluta-Strat: Yeah.

17 Lt. Phillips: We're still waiting for an answer.

18 **Pause [0:03:39-0:04:14]**

19 Lt. Phillips: We're just trying to understand how this happened and why it happened. So, who  
20 ordered the pumping from the bilge well to the clean drain tank?

21 **Pause [0:04:23-0:05:17]**

22 Matt Margelot: Did you? Because that's what we're being told. I told you last night. I was honest  
23 with you last night, and I told you last night what was going to happen.  
24 Everybody tries to put the blame on someone else, and last night, the blame was  
25 put on you.

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1 **Pause [0:05:43-0:06:05]**

2 Matt Margelot: So, did you decide on your own to pump from the bilge well to the clean drain  
3 tank?

4 **Pause [0:06:10-0:06:21]**

5 Matt Margelot: I need you to answer me. Listen. You're not getting in trouble right now. I'm not  
6 taking you off this boat. You walk out of this room, just like you walked into it.

7 **Pause [0:06:37-0:06:48]**

8 Matt Margelot: Do you understand?

9 Marian Gavriluta-Strat: Yes, Boss.

10 Matt Margelot: But I need you – as much as you want to sit there in silence, you can't. Did you  
11 decide, on your own, that you needed to pump the water from the bilge well to  
12 the clean drain tank? Yes or no? Come on. Yes or no? Did you decide that on  
13 your own?

14 **Pause [0:07:27-0:07:40]**

15 Matt Margelot: If you can't answer me, you're not leaving me any options. That means I'll have  
16 to go with the last thing, from the last person, that was said because that's the  
17 information that we have. You are not taking up for yourself. Because of how  
18 quiet you are, you're getting taken advantage of. Because of how docile you are,  
19 you're getting taken advantage of. Does that make sense? We are absolutely  
20 trying to keep you from being taken advantage of, and you're not willing to help  
21 yourself. This boat is pulling back – pulling into port tomorrow morning. Do you  
22 know what happens after that? Another team is coming on board the boat, and  
23 they're going to start removing a bunch of items for evidence. After that, a bunch  
24 of people are going to be coming off the boat. If the Coast Guard finds that  
25 illegal activity was done, then the coast guard is going to request that this case go

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1 to prosecution, and if it's accepted, that means witnesses have to stay in the  
2 United States. That can be anywhere from a week to a year, and then some.

3 **Pause [0:09:30-0:09:41]**

4 Matt Margelot: If you're the subject of an investigation, and you're found guilty, sometimes you  
5 can end up serving time in jail for your crime. If you're found guilty, you can be  
6 given – you can and will be charged for those crimes, which will stay on your  
7 record. Hey, I'm giving you an option, giving you an option to help yourself. If  
8 you do not help yourself, there's absolutely nothing we can do to help you. Do  
9 you understand?

10 Marian Gavriluta-Strat: Yes, I did.

11 **Pause [0:10:48-0:11:03]**

12 Matt Margelot: Do you want to help yourself? These should be simple questions and answers. Do  
13 you want to help yourself? Do you want to help yourself? This is not the way I  
14 want this conversation to go. I am not here to belittle you. I'm not here to  
15 disrespect you. We are here to help you. Do you want help? Sir, do you want  
16 help?

17 **Pause [0:11:54-0:12:12]**

18 Matt Margelot: Were you told to pump the water from the bilge well to the clean drain tank? Can  
19 you just tell me that? Were you told? Hey, please, I'm begging you. I'm not  
20 walking out of here, and we're not going to go talk to the captain, or to anybody  
21 else, and tell them what our conversation was. Were you told to pump the water  
22 from the clean drain tank?

23 **Pause [0:13:02-0:13:16]**

24 Matt Margelot: I need an answer on this. Yes or no?

25 **Pause [0:13:24-0:13:36]**

26 Matt Margelot: Yes or no?

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1 **Pause [0:13:37-0:13:49]**

2 Matt Margelot: Where were you born?

3 Marian Gavriluta-Strat: Romania.

4 Matt Margelot: What year?

5 Marian Gavriluta-Strat: '81.

6 Matt Margelot: Where did you go to high school?

7 Marian Gavriluta-Strat: It was **[name of Romanian school]**.

8 Matt Margelot: What is it?

9 Marian Gavriluta-Strat: It's a high school for – it was like a high school – the Navy – for the Navy. It was

10 military or civilian.

11 Matt Margelot: You went to the military?

12 Marian Gavriluta-Strat: No, I am in the military during my first year of the Naval Academy.

13 Matt Margelot: So, where did you go to the Naval Academy?

14 Marian Gavriluta-Strat: In 2000.

15 Matt Margelot: In Romania?

16 Marian Gavriluta-Strat: Yes.

17 Matt Margelot: Did you graduate?

18 Marian Gavriluta-Strat: Yeah, in 2005.

19 Matt Margelot: What's your rank?

20 Marian Gavriluta-Strat: Sorry?

21 Matt Margelot: Military rank?

22 Marian Gavriluta-Strat: Military rank? So, I think lieutenant in reserve.

23 Matt Margelot: Did you know the Coast Guard is military? Did you know that? Did you know

24 he's a lieutenant? Did you know I'm a warrant officer? Do you like being the

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1 second engineer? General questions, bud. Do you like being the second engineer?  
2 Do you like being underway?  
3 Marian Gavriluta-Strat: Yeah.  
4 Matt Margelot: Do you like being on the water? Do you have kids?  
5 Marian Gavriluta-Strat: Yeah, I have two kids.  
6 Matt Margelot: Do you have a wife?  
7 Marian Gavriluta-Strat: Yes.  
8 Matt Margelot: How long have you been married?  
9 Marian Gavriluta-Strat: Almost – this year in September, it will be seven years.  
10 Matt Margelot: How old is she?  
11 Marian Gavriluta-Strat: She's 36.  
12 Matt Margelot: How old's your kids?  
13 Marian Gavriluta-Strat: The difference between me and her is one year and a few days.  
14 Matt Margelot: So, she's younger.  
15 Marian Gavriluta-Strat: Yeah, with one year. I born in 9 of August. She born in the 29 of August, but  
16 different – next year, it's '82.  
17 Matt Margelot: Did you meet her in high school?  
18 Marian Gavriluta-Strat: No. Some marriages [inaudible] [0:16:38].  
19 Matt Margelot: How old are your kids?  
20 Marian Gavriluta-Strat: Two kids. I have one that's 4 years and the second one is 1 and 3 months.  
21 Matt Margelot: Are you excited to get back home?  
22 Marian Gavriluta-Strat: If I do.  
23 Matt Margelot: If you go home?  
24 Marian Gavriluta-Strat: Yes.  
25 Matt Margelot: What does that mean?



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1 Marian Gavriluta-Strat For the moment, I'm here I don't know what's going to happen after this boat  
2 goes in.

3 Matt Margelot: Is that what's got you worried? Let's be truthful while we're talking Is that what  
4 has you worried, that if you have to stay here, you're not going to be able to see  
5 your kids?

6 Marian Gavriluta-Strat No, because [inaudible] [0:17:29] see my kids but not [inaudible]

7 Matt Margelot Where are you supposed to go home? If you leave out of LA, when are you  
8 supposed to go home?

9 Marian Gavriluta-Strat: [Inaudible] the company so I was planning to leave probably after another two  
10 months

11 Matt Margelot: So, you've got two more months until you're home?

12 Marian Gavriluta-Strat Yes.

13 Matt Margelot: So, you're just afraid that you're not going to get to go home on time? Is that one  
14 of the things that's got you afraid?

15 Pause [0:18:21-0:18:31]

16 Matt Margelot Why do you stop talking? Why do you stop talking on me?

17 Pause [0:18:35-0:18:50]

18 Matt Margelot: I need to know, man. If you want me to go – if you want us to go away and not  
19 help you, we can go away. Do you want us to go away?

20 Pause [0:18:02-0:19:15]

21 Matt Margelot: Do you want us to go away? Do you want to get out of this room? Because  
22 you're free to, anytime you want.

23 Pause [0:19:26-0:19:44]

24 Matt Margelot I can't promise you anything, but I can guarantee you that we will do everything  
25 that we can to support you. But we can't do that if you don't tell the truth, and

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1 right now, what we're being told is that you were the one that did everything, and  
2 you did it on your own. You're the one that has to speak up for yourself.

3 **Pause [0:20:36-0:20:55]**

4 Matt Margelot: Did you tell the fourth engineer to pump the water from the bilge well? Sir? Did  
5 you tell the fourth engineer?

6 **Pause [0:21:06-0:21:20]**

7 Matt Margelot: Did the chief engineer tell you to do it?

8 **Pause [0:21:22-0:21:33]**

9 Matt Margelot: See here that paper or two? Take this, please. If you can't say it, please write it:  
10 where the order came from, and what happened. I'm going to give you five  
11 minutes. If you can't do it in five minutes, or at least start, I can't do anything to  
12 help you. Do you understand? I'm giving you this guarantee. I will do everything  
13 I can to support you. If you have to stay in California until this thing is over, I'll  
14 do everything in my power to get you out of here as fast as I can. While you're  
15 here, I'll do everything in my power so that you can enjoy your time here. While  
16 you're here, I'll do everything in my power so that you can contact your wife and  
17 your kids every day. That's a guarantee. If you do nothing, if you don't help  
18 yourself, you may very well find yourself having to stay here and get no support,  
19 no guarantees, because I won't be able to talk to you every day. Does that make  
20 sense? Five minutes.

21 **Pause [0:23:43-0:25:17]**

22 Matt Margelot: You already told us last night. You already confirmed everything last night.  
23 You've already said it once. Last night, you told me that the chief engineer made  
24 the orders to pump the water from the bilge holding tank to the clean water tank –  
25 clean drain tank. Last night, you told us that the chief engineer ordered the

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1 pumping from the clean drain tank – via the clean drain tank pump, over. Do you  
2 remember that?

3 **Pause [0:26:12-0:26:32]**

4 Matt Margelot: Do you remember telling us that?

5 **Pause [0:26:33-0:26:54]**

6 Matt Margelot: This is your decision that you're making. This is all your decision. Like we said  
7 last night – or, this morning, you're the one that gets to decide if you want to be  
8 the witness and do the right thing. Remember last night, how you said that you  
9 did the wrong thing, by treating the Filipinos bad and not caring for the Filipinos'  
10 safety?

11 Marian Gavriluta-Strat: I didn't say.

12 Matt Margelot: You said that you felt as though that you were racist.

13 Marian Gavriluta-Strat: No, I just said that I don't want to be considered racist.

14 Lt. Phillips: You said you wanted to start doing the right thing, acting with honor.

15 Matt Margelot: So, you just told me that you didn't say that. So, everything that I said before  
16 about what the chief engineer told you, you didn't argue with that. Why?

17 **Pause [0:28:13-0:28:24]**

18 Matt Margelot: Why didn't you argue with that?

19 **Pause [0:28:25-0:28:41]**

20 Matt Margelot: Is the chief engineer a racist? Are you a racist?

21 Marian Gavriluta-Strat: No.

22 Matt Margelot: Is the chief engineer a racist?

23 Marian Gavriluta-Strat: I don't think so.

24 Matt Margelot: Does he hate the Filipinos? Does he hate the Filipinos?

25 Marian Gavriluta-Strat: I don't know, officer.

26 Matt Margelot: Do you hate the Filipinos?

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1 Marian Gavriluta-Strat: No.

2 Matt Margelot: Does he treat the Filipinos good? Does he treat the Filipinos good? Do you agree  
3 with how he treats the Filipinos? Do you agree with how he treats the Filipinos?  
4 Do you want to see the Filipinos hurt?

5 Marian Gavriluta-Strat: No.

6 Matt Margelot: Do you want to see them dead?

7 Marian Gavriluta-Strat: No.

8 Matt Margelot: Do you want to see them killed?

9 Marian Gavriluta-Strat: No.

10 Matt Margelot: Does the chief engineer care if they die? What? Does the chief engineer care if  
11 they die?

12 Marian Gavriluta-Strat: This question maybe only him – he can answer.

13 Matt Margelot: Well, he's the one saying that you're the one telling the Filipinos to go down into  
14 the void and clean it, regardless of the air quality. He's the one saying that you  
15 make those decisions. That's your responsibility. The chief engineer is the one  
16 saying that it was your decision to clean out the bilge well. The chief engineer is  
17 saying that you're the one that doesn't care about the safety of the Filipinos. So, I  
18 did ask him, and he turned around and said everything was on you. Like I said,  
19 do you know why he said that? Because he knows that you're unwilling to take  
20 up for yourself. He thinks that he's just going to let you take the blame for  
21 everything, and then he gets to turn around and go home. Or, he gets to leave  
22 California and sail with the boat, and that you're going to take the fall for putting  
23 the Filipinos in harm way, for pumping dirty, contaminated water to the clean  
24 drain tank. He turned around and pointed everything right at you. Did he tell you

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1 that? Have you talked to him since we left? Have you talked to the chief  
2 engineer?

3 Marian Gavriluta-Strat: I talked to him.

4 Matt Margelot: Did he ask you about our conversation? Did he ask you about our conversation?  
5 Did he?

6 Marian Gavriluta-Strat: Yes.

7 Matt Margelot: What did you tell him?

8 Marian Gavriluta-Strat: I told him the questions that I receive, and it was only for this. Regarding the  
9 [inaudible] [0:32:52] that if I knew about this, and this with the enclosed space  
10 that I sent the guys to.

11 Matt Margelot: What did he tell you we talked about? Did he tell you? Did he tell you?

12 Marian Gavriluta-Strat: Yeah, he told me.

13 Matt Margelot: What did he say?

14 Marian Gavriluta-Strat: He told me the same thing.

15 Matt Margelot: Don't you see how you two just lied to each other? You just confirmed it.

16 Marian Gavriluta-Strat: How did I confirm it?

17 Matt Margelot: That him only talking to you about that and leaving out all the other – the dirty  
18 water – confirms that he put everything on you. Do you understand that?

19 Marian Gavriluta-Strat: I can understand [inaudible].

20 Matt Margelot: Are you okay with that? He doesn't care about your family. He doesn't care  
21 about your wife. He doesn't care about your kids. He doesn't care about your  
22 home. He doesn't care about your job. He doesn't care about your career. He  
23 doesn't care about your self-respect. He cares about saving his own butt. Do you  
24 see that? Can you see that?

25 **Pause [0:34:54-0:35:13]**

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1 Matt Margelot: He wants you to take the fall for everything, and the way things are going, you're  
2 going to. Do you understand?

3 Marian Gavriluta-Strat: Yes, I understand.

4 Matt Margelot: Is that what you want?

5 Pause [0:35:35-0:35:45]

6 Matt Margelot: Is that what your wife would want you to do? Do you think your kids want you to  
7 take the blame for everything? Isn't seeing your kids as soon as you can more  
8 important? Isn't getting to go home and play with your kids more important than  
9 what the chief engineer thinks about you?

10 Pause [0:36:15-0:36:25]

11 Matt Margelot: I could take your statement and go talk to the Coast Guard and Coast Guard's  
12 legal for you, to make sure that you don't get in trouble, to try the best I can to  
13 ensure that you don't get in trouble

14 Pause [0:36:45-0:37:02]

15 Matt Margelot: Can you just focus on me for 30 seconds? Can you? In this hand right here –  
16 Okay? – is my promise to help you. But you have to want that hand Look,  
17 please, just focus on me for a second. In this hand right here is that you're going  
18 to have to stand on your own because you will have to stay in California. If this  
19 gets accepted, you will have to stay But in this hand, you have to stand here, by  
20 yourself, on your own, without any help, without any guarantees at all. In this  
21 hand, you get my help You get the government's help. You get the guarantee  
22 that you get to call your wife every day, that you get to talk and FaceTime with  
23 your kids every day, which is more than you can do from here. No matter what,  
24 you have to stay here if this goes the distance, no matter what That's not

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1 changing Please, point which hand you would like. Please, point to which hand  
2 you would like.

3 **Pause [0:38:42-0 39:08]**

4 **Matt Margelot:** This is simple I'm not asking you any other questions Which hand do you want?  
5 Which hand do you want?

6 **Pause [0:39:28- 0:39:49]**

7 **Matt Margelot:** I have to leave Which hand do you want?

8 **Pause [0:39:54-0:40:31]**

9 **Lt. Phillips:** You told us yesterday who ordered the pumping. Why don't you want to say it  
10 today? What's changed in the last 14 hours? Second? What's changed in the last  
11 14 – look at me. You told us yesterday that the chief engineer ordered the  
12 pumping from the bilge well to the clean drain tank. Why don't you want to say  
13 it today?

14 **Pause [0:41:17-0:41:52]**

15 **Matt Margelot:** Do you have an email out here?

16 **Marian Gavriluta-Strat:** What?

17 **Matt Margelot:** Do you have email?

18 **Marian Gavriluta-Strat:** I have the email from the ship.

19 **Matt Margelot:** That goes to the captain's computer?

20 **Marian Gavriluta-Strat:** Yes.

21 **Matt Margelot:** Do you have a phone? I don't want your number. Do you have a phone? Yes or  
22 no?

23 **Marian Gavriluta-Strat:** Yes, I have.

24 **Pause [0:42:07-0:42:24]**

25 **Matt Margelot:** Do you have a pen?

26 **Pause [0:42:25-0:42:52]**

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1 Matt Margelot: I can't help you if you don't want to help yourself. That's the country code: zero,  
2 zero, one. Once everything starts happening, Sunday and Monday, you're going  
3 to realize what's happening, and the situation is going to change for you, the  
4 severity of the situation, and you're going to understand it. When that happens,  
5 and you start thinking about everything that I said, and you start thinking about  
6 getting pulled off the boat, and you start thinking about all the equipment getting  
7 pulled off the boat, I want you to remember my guarantee. It's the only guarantee  
8 I can give you. I'll guarantee to fight this for you. I'll guarantee to do everything  
9 I can for you. That's a promise. Let's see what kind of guarantees the chief  
10 engineer can make you because he's going to be here with you, if this goes the  
11 distance. You're not going to be here by yourself, but if you can't decide to help  
12 yourself, this boat is going to throw you so far under the bus, and you're going to  
13 take the blame for everything. Call your wife. Talk to your kids. Tell them what's  
14 going on. Make a decision. We want to help. We truly want to help. You're in a  
15 bad situation. Last night, you told us that the chief engineer told you to do  
16 everything. Today, you won't even take up for yourself. Text me. Call me. Okay?

17 Lt. Phillips: Time on deck is 17:17. This concludes this interview.



# EXHIBIT D

EXHIBIT D

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Public Availability to be Determined Under 5 U.S.C. §552

# Coast Guard Investigative Service



## Action Supplement Report

Supplement # AR1901000176-0087

Approval Status: APPROVED

### Action Supplement Details

Date/Time: 08/29/2019 16:24

Type: INVESTIGATIVE ACTION REPORT

Agent: MCKAY, ASHLEY N

Approving Official: SIMPSON, BRETT

### Narrative Information

Title: INTERVIEW OF RAC M. MARGELOT

Entered On: 08/31/2019 02:07

Reporting Agent: MCKAY, ASHLEY N

Participating Agent:

#### Narrative

On 08/29/2019, Assistant United State Attorney (AUSA) Paul Stern and AUSA Andrew Roach, US Attorney's Office Central District of California, and I, Special Agent Ashley McKay, CGIS Pacific Region Alameda CA, conducted an interview with Coast Guard Investigative Service (CGIS) Resident Agent in Charge (RAC) Matt Margelot, CGIS RAO Los Angeles-Long Beach (LA/LB) at 312 North Spring Street, Los Angeles, CA.

Below is a summary of events in which RAC Margelot recalled:

During his interview of the Second Engineer (2/E), the evidence known at the time was that the Chief Engineer (C/E) was involved with the illegal discharge. At the time of interview with the 2/E, RAC Margelot said he led the interview in a direction which he could possibly gain an admission from the 2/E and have him acknowledge the C/E's involvement. RAC Margelot wanted to find out what truly happened.

RAC Margelot further explained his thought process, that if the 2/E did have firsthand knowledge of the C/E being involved, he could potentially be another witness for the government. During the interview with the 2/E, RAC Margelot educated the 2/E on the benefits of cooperation.

RAC Margelot said prior to interviewing the 2/E, he already received two statements from two other crewmembers which alleged the 2/E was involved. When he went into the interview with the 2/E he wanted to first, obtain a confession of his involvement and second, if the C/E was involved, he wanted to obtain the information from the 2/E in anticipation of possibly gaining another witness for the government.

RAC Margelot stated he did not feel he was ever untruthful to the 2/E during the interview. He simply explained the process of how witnesses and subjects with the government work. From his experience with these types of cases, RAC Margelot said normally when the government does an extraction of witness and subjects phones they normally return witness's phones but keep the subjects phone. He explained this as a potential benefit of cooperation to the 2/E. RAC Margelot also noted, all of the whistleblowers from this case had their phones returned to them.

When RAC Margelot was asked about the AUSA dropping the case, he said the AUSA never made that statement. He implied a similar statement to LCDR Bor to highlight the importance and significance of having the materials (statements, evidence, photos, etc) from USCG Sector LA/LB. He recalled that following the referral brief on 23JAN, USCG Sector LA/LB had agreed to conduct a turnover of all case materials to CGIS in two weeks. RAC Margelot said it was approximately four to five weeks later when they started to receive the requested items. He further expressed this created pressure on CGIS when the AUSA was making requests which CGIS could not fulfil.

He further explained, there were some "lessons learned" from a previous MARPOL case which he worked that motivated him to create a list of how to improve the process with future cases. He shared this list with Sector personnel via email but said the list was disregarded from the onset of the AMAZON investigation.

RAC Margelot exclaimed his "ultimate goal" was to have a clean presentable package to turnover to the USAO. He had concerns about how the Sector conducted their process and the timing in which CGIS was receiving the needed materials

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(statements, evidence, photos, etc). He offered that he had become frustrated with the Sector because at the time (around 19FEB) he was receiving tasking (from AUSA Heather Gorman) to draft criminal complaints for material witness warrants and needed the turnover information to ensure accuracy. He recalled the criminal complaints ultimately did not go anywhere but he has maintained the drafts.

When asked about reviewing Sector personnel's statements, RAC Margelot acknowledged that he did review two statements. He said he conducted a quality control review of the statements, not a substance review. He simply identified verbiage and grammar issues because he did not feel that the authors of the statements proof read them. When asked why he did this RAC Margelot replied, it wasn't his job to do so but he was trying to provide the best possible product to the AUSA.

At the end of February, LCDR Bor came by the CGIS RAO LA/LB office to speak with RAC Margelot. He explained that he was not expecting LCDR Bor but they met in the CGIS conference room and discussed the AMAZON case. He recalled LCDR Bor had demanded to speak directly with the USAO (which he had done four to five times prior). RAC Margelot explained he did not allow him to because it was not his role to do so, CGIS is the conduit to the USAO for criminal investigations. Additionally, he did not feel it would be very professional to have multiple USCG personnel contacting the USAO. It was RAC Margelot understanding that LCDR Bor had previously worked in a legal realm and he felt this might have been one of the reasons LCDR Bor wanted to speak directly with the USAO.

In reference to paragraph 12 of the email sent by LCDR Bor, RAC Margelot did not recall ever saying the AUSA threatened to drop the case of that he had to "talk her off the ledge."

In reference to the email sent by RAC Margelot to LCDR Dykman on 27FEB (RE: AMAZON Turn Over (CS1901000160)), the last line of the email, RAC Margelot said he was simply stating the facts. If the USCG/CGIS could not present the evidence to the USAO we ultimately would not have a case. He reiterated that he was stressing the importance of the process to USCG Sector LA/LB.

In reference to paragraph 12 (page 3) of the email sent by LCDR Bor, the statement about "tainting evidence." RAC Margelot adamantly exclaimed he never stated that any members of the investigation "tainted evidence." He did, however, express concern to LCDR Bor that the personnel which took the evidence and logged it wasn't accurate based off the statements. RAC Margelot stated, "I know for a fact, no one ever told me they tainted evidence."

RAC Margelot recalled tasking S/A Venable, via email, to have ENS Stickey and CWO Reed come over to the CGIS office to swear/sign to their original statements after a phone call he had with District Eleven Legal, LCDR Tyler Stutin.

In reference to paragraph three of the email, the best he could recall, RAC Margelot believed the "snag" was due to a theory of the OCM being tricked, which CWO Reed may have come up with, and AUSA Gorman thought the main issue was the clean drain tank, not the OCM. This was early on in the investigation, he recalled speaking with AUSA Gorman and her having questions which he did not have the answers to because he still had not received Sector LA/LB's reports.

After LCDR Bor sent his email, RAC Margelot recalled he received a phone call from SAC Hoyle asking what was going on between Sector LA/LB and CGIS RAO LA/LB. Prior to the call, he believed SAC Hoyle had received a phone call from the Staff Judge Advocate (SJA) CDR Erin Adler, to also inquire from him what was going on in LA/LB. RAC Margelot was under the assumption that CAPT Rochester may have personally called the SJA which initiated the stream of phone calls but he was not certain.

The interview was concluded.