

FOI#15005

THE LAMBOS FIRM, LLP
303 South Broadway, Suite 410
Tarrytown, NY 10591
(212) 943-2470

MARRINAN & MAZZOLA MARDON, P.C.
26 Broadway, 17th Floor
New York, NY 10004
(212) 425-3240

June 16, 2014

VIA FACSIMILE (212-435-7555)

Secretary
The Port Authority of New York and New Jersey
Attn: FOI Administrator
225 Park Avenue South
17th Floor New York, NY 10003

Re: Freedom of Information Code Request

Dear Sir or Madam:

The undersigned firms are counsel to New York Shipping Association, Inc. and the International Longshoremen's Association, AFL-CIO. We are writing to request information pursuant to the Freedom of Information Code of the Port Authority of New York and New Jersey ("PANYNJ") for the production of information within the records of the PANYNJ. Specifically, we request the following information:

- All e-mails sent by Patrick J. Foye to Walter Arsenault, from January 1, 2010, to the present;
- All e-mails sent by Patrick J. Foye to Ronald Goldstock, from January 1, 2010, to the present;
- All e-mails sent by Patrick J. Foye to Phoebe Sorial, from January 1, 2010, to the present;
- All e-mails sent by Phoebe Sorial to Patrick J. Foye, from January 1, 2010, to the present;
- All e-mails sent by Ronald Goldstock to Patrick J. Foye, from January 1, 2010, to the present;

FOI Administrator

2

June 16, 2014

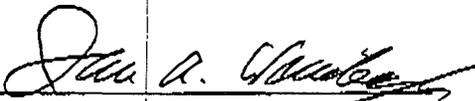
- All e-mails sent by Walter Arsenault to Patrick J. Foye, from January 1, 2010, to the present;
- All written correspondence sent by Patrick J. Foye to Walter Arsenault, from January 1, 2010, to the present;
- All written correspondence sent by Patrick J. Foye to Ronald Goldstock, from January 1, 2010, to the present;
- All written correspondence sent by Patrick J. Foye to Phocbe Sorial, from January 1, 2010, to the present;
- All written correspondence sent by Phoebe Sorial to Patrick J. Foye, from January 1, 2010, to the present;
- All written correspondence sent by Ronald Goldstock to Patrick J. Foye, from January 1, 2010, to the present; and
- All written correspondence sent by Walter Arsenault to Patrick J. Foye, from January 1, 2010, to the present.

We request that the requested records be e-mailed to iweinberger@lambosfirm.com. Please inform us by e-mail concerning the portions that can be e-mailed and advise us of the cost for reproducing the remainder of the records requested. If you have any other questions or concerns, do not hesitate to contact Ian A. Weinberger. Thank you.

Very truly yours,

THE LAMBOS FIRM, LLP

MARRINAN & MAZZOLA MARDON, P.C.

By 
 Donato Caruso
 Ian A. Weinberger
 303 South Broadway, Suite 410
 Tarrytown, New York 10591

By 
 Kevin Marrinan
 John Sheridan
 26 Broadway, 17th Floor
 New York, New York 10004

Counsel to New York Shipping Association, Inc.

Counsel to International Longshoremen's Association, AFL-CIO

A0028201

THE PORT AUTHORITY OF NY & NJ

July 28, 2014

FOI Administrator

Mr. Donato Caruso
The Lambos Firm, LLP
303 South Broadway, Suite 410
Tarrytown, NY 10591

Re: Freedom of Information Reference No. 15005

Dear Mr. Caruso:

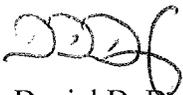
This is in response to your June 16, 2014 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for copies of the following records: All e-mails sent by Patrick J. Foye to Walter Arsenault from January 1, 2010 to the present. All e-mails sent by Patrick J. Foye to Ronald Goldstock from January 1, 2010 to the present. All e-mails sent by Patrick J. Foye to Phoebe Sorial from January 1, 2010 to the present. All e-mails sent by Phoebe Sorial to Patrick J. Foye from January 1, 2010 to the present. All e-mails sent by Ronald Goldstock to Patrick J. Foye from January 1, 2010 to the present. All e-mails sent by Walter Arsenault to Patrick J. Foye from January 1, 2010 to the present. All written correspondence sent by Patrick J. Foye to Walter Arsenault from January 1, 2010 to the present. All written correspondence sent by Patrick J. Foye to Ronald Goldstock from January 1, 2010 to the present. All written correspondence sent by Patrick J. Foye to Phoebe Sorial from January 1, 2010 to the present. All written correspondence sent by Phoebe Sorial to Patrick J. Foye from January 1, 2010 to the present. All written correspondence sent by Ronald Goldstock to Patrick J. Foye from January 1, 2010 to the present. All written correspondence sent by Walter Arsenault to Patrick J. Foye from January 1, 2010 to the present.

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/15005-O.pdf>. Paper copies of the available records are available upon request.

Certain material responsive to your request is exempt from disclosure pursuant to exemptions (1) and (5) of the Code.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy
FOI Administrator

225 Park Avenue South, 17th Floor
New York, NY 10003
T: 212 435 3642
F: 212 435 7555

PANYNJ

From: Foye, Patrick
Sent: Thursday, October 31, 2013 7:43 AM
To: John Nardi (JNardi@NYSA.net.org); Ipsig@verizon.net
Cc: Baroni, Bill; Larrabee, Richard; Lombardi, Dennis; 'Arsenault, Walter'; Ma, John
Subject: Follow up Meeting

As I have discussed with both of you following yesterday's meeting with NYSA and a number of its members, I am convening a working session here next week with representatives of NYSA and WCNYH. Ron Goldstock will invite his NJ colleague. I would like to meet late morning on Wednesday.

We will distribute a draft agenda by Monday. Please confirm that Wednesday works. Ron Goldstock will invite Commissioner Gilhooly and Walter Arsenault. John Nardi will invite a small number of his members and Susan Winfree. Based on yesterday's discussion, I am heartened that all parties agree on the importance of putting people to work in good paying jobs on both sides of the harbor as soon as possible in compliance with applicable law and in furtherance of a diverse work force representative of the communities in which the PA container terminal operations are located. In that regard, the WCNYH's approval of over 50 pre-qualified new employees and the existence of at least another 50 pre-qualified individuals from Workforce 1 Career Centers located in both New York and New Jersey, who are available for immediate training, is very good short-term news.

In response to my question back in August, the NYSA stated to the PA and the WCNYH that the WCNYH was not in any way responsible for the Summer 2013 hiring issues and well-publicized delays in the harbor. We all need to understand what has happened since then. Finally, we cannot have a repeat of the Summer 2013 fiasco and must be prepared for the expected retirement of 300 ILA members next Spring and for further changes in the workforce and expected increase in demand for more ILA labor over time.

Please let me know if you have questions. Diana Guzman in my office will follow up to schedule Wednesday's meeting.

Pat

Subject: Follow-Up NYSA Meeting
Location: 225 Park Avenue South - 15th Floor - Agenda Review Room

Start: Wed 11/6/2013 11:00 AM
End: Wed 11/6/2013 12:30 PM

Recurrence: (none)

Meeting Status: Not yet responded

Required Attendees: Larrabee, Richard; JNardi@NYSANET.ORG; Ipsig@verizon.net; Baroni, Bill; Lombardi, Dennis; 'Arsenault, Walter'; Ma, John

From: Foye, Patrick [<mailto:pfoye@panynj.gov>]
Sent: Thursday, October 31, 2013 7:43 AM
To: John Nardi; Ipsig@verizon.net
Cc: Baroni, Bill; Larrabee, Richard; Lombardi, Dennis; 'Arsenault, Walter'; Ma, John
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Please let me know if you have questions. Diana Guzman in my office will follow up to schedule Wednesday's meeting.

Pat

PANYNJ

From: Foye, Patrick
Sent: Wednesday, January 22, 2014 6:30 PM
To: 'Arsenault, Walter'
Cc: John J. Nardi (jnardi@nysanet.org); Susan Winfree (swinfree@NYSANET.ORG); dcaruso@lambosfirm.com; Sorial, Phoebe S.; Schoen, Jeffrey; Casey, John G.; 'cdarrell@NYSANET.ORG'; 'pwalsh@nysailafunds.net'
Subject: RE: Certifications

All good news for harbor, small step forward, thanks

From: Arsenault, Walter [mailto:warsenault@WCNYH.GOV]
Sent: Wednesday, January 22, 2014 5:35 PM
To: Foye, Patrick
Cc: John J. Nardi (jnardi@nysanet.org); Susan Winfree (swinfree@NYSANET.ORG); dcaruso@lambosfirm.com; Sorial, Phoebe S.; Schoen, Jeffrey; Casey, John G.; 'cdarrell@NYSANET.ORG'; 'pwalsh@nysailafunds.net'
Subject: FW: Certifications

Pat:

We have received certifications from representatives of the NYSA and ILA sponsoring 52 individuals, assuring us that they have created the pools called for in their hiring plan in a fair and nondiscriminatory manner and that the sponsored individuals were selected from those pools pursuant to that hiring plan, also in a fair and non-discriminatory manner, all in accordance with the laws of the United States and the states of New York and New Jersey dealing with equal employment opportunities. All parties agree that this is an interim solution during the pendency of the litigation, without prejudice to the legal positions and claims of the parties. The Commission will begin processing the sponsored individuals tomorrow.

Walter M. Arsenault
Executive Director
Waterfront Commission of New York Harbor
An Instrumentality of the States of New York and New Jersey
Office: 212-905-9201
Fax: 212-480-0587
Website: <http://www.wcnyh.org>

CONFIDENTIALITY NOTICE CLICK HERE: <http://www.wcnyh.org/confidentiality.htm>

From: John Nardi [mailto:JNardi@NYSANET.ORG]
Sent: Wednesday, January 22, 2014 3:09 PM
To: Arsenault, Walter; Sorial, Phoebe S.; Schoen, Jeffrey; Casey, John G.
Cc: Susan Winfree; Charles Darrell; Pat Walsh; Caruso, Dan
Subject: Certifications

Hello Walter,
Attached please find the certification for 52 individuals amended to reflect the changes indicated in Phoebe's Jan 20th email.
Regards
John Nardi

PANYNJ

Subject: Meeting w/NYSA/WFC
Location: Agenda Review Room - 225 Park Avenue South - 15th Floor

Start: Thu 11/14/2013 9:30 AM
End: Thu 11/14/2013 12:30 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Foye, Patrick
Required Attendees: Larrabee, Richard; 'JNardi@NYSANET.ORG'; 'Ipsig@verizon.net'; Baroni, Bill; Lombardi, Dennis; 'Arsenault, Walter'; Ma, John; 'Jim Pelliccio'
Optional Attendees: Randy Brown (jrbrown@metro-ila.com); Saporito, Andrew
Resources: *225PAS - CR 15-Agenda Review Room

PANYNJ

From: Foye, Patrick
Sent: Tuesday, April 15, 2014 2:00 PM
To: 'John Nardi'; 'Ronald Goldstock'; Larrabee, Richard; Lombardi, Dennis; 'Arsenault, Walter';
Ma, John
Cc: Foye, Patrick
Subject: FOIL
Attachments: BARONI - calendar entry.pdf

Gentlemen: the attached email I sent to each of you last November is being turned over by the PA to the NY Times today as a result of a FOIL request made some time ago for the calendar of the former Deputy Exec Director. The email was attached to the former DED's calendar and, as a result, I am informed is subject to disclosure.

I don't believe the email raises any issues and while I don't think it is especially newsworthy, if the email were to be printed above the fold on the front page of the Times in large type, I would be ok with that. I bring this to your attention not out of any sense of concern but to give you a heads up.

Best

Pat

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Location: 225 Park Avenue South - 15th Floor - Agenda Review Room

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Recurrence: (none)

Meeting Status: Not yet responded

Required Attendees: Larrabee, Richard; JNardi@NYSANET.ORG; Ipsig@verizon.net; Baroni, Bill; Lombardi, Dennis; 'Arsenault, Walter'; Ma, John

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Sent: Thursday, October 31, 2013 7:43 AM
To: John Nardi; Ipsig@verizon.net
Cc: Baroni, Bill; Larrabee, Richard; Lombardi, Dennis; 'Arsenault, Walter'; Ma, John
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PANYNJ

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Sent: Wednesday, January 22, 2014 5:35 PM
To: Foye, Patrick
Cc: John J. Nardi (jnardi@nysanet.org); Susan Winfree (swinfree@NYSANET.ORG); dcaruso@lambosfirm.com; Sorial, Phoebe S.; Schoen, Jeffrey; Casey, John G.; 'cdarrell@NYSANET.ORG'; 'pwalsh@nysailafunds.net'
Subject: FW: Certifications
Attachments: NYSA Jan 22 2014.pdf; ILA Jan 22 2014.pdf; Vets Jan 22 2014.pdf

Pat:

We have received certifications from representatives of the NYSA and ILA sponsoring 52 individuals, assuring us that they have created the pools called for in their hiring plan in a fair and nondiscriminatory manner and that the sponsored individuals were selected from those pools pursuant to that hiring plan, also in a fair and non-discriminatory manner, all in accordance with the laws of the United States and the states of New York and New Jersey dealing with equal employment opportunities. All parties agree that this is an interim solution during the pendency of the litigation, without prejudice to the legal positions and claims of the parties. The Commission will begin processing the sponsored individuals tomorrow.

Walter M. Arsenault
Executive Director
Waterfront Commission of New York Harbor
An Instrumentality of the States of New York and New Jersey
Office: 212-905-9201
Fax: 212-480-0587
Website: <http://www.wcnyh.org>

CONFIDENTIALITY NOTICE CLICK HERE: <http://www.wcnyh.org/confidentiality.htm>

From: John Nardi [mailto:JNardi@NYSANET.ORG]
Sent: Wednesday, January 22, 2014 3:09 PM
To: Arsenault, Walter; Sorial, Phoebe S.; Schoen, Jeffrey; Casey, John G.
Cc: Susan Winfree; Charles Darrell; Pat Walsh; Caruso, Dan
Subject: Certifications

Hello Walter,

Attached please find the certification for 52 individuals amended to reflect the changes indicated in Phoebe's Jan 20th email.

Regards

John Nardi

NYSA – ILA Recruitment Committee
333 Thornall Street, Suite 3A
Edison, NJ 08837

January 22, 2014

Jeffrey R. Schoen, Esq.
Director and Counsel
Division of Licensing & E.I.C.
Waterfront Commission of New York Harbor
39 Broadway – 4th Floor
New York, NY 10006-3003

Dear Mr. Schoen:

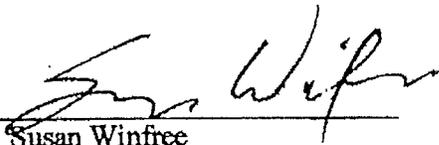
While neither New York Shipping Association, Inc. (NYSA) nor the International Longshoremen's Association, AFL-CIO (ILA) is the employer of any registered deep-sea longshoreman or checker or of any applicant for inclusion in the Deep-Sea Register, this general sponsorship letter is being submitted on behalf of NYSA and ILA to facilitate the inclusion in the Deep-Sea Register by the Commission of additional longshoremen and checkers desperately needed for cargo-handling operations in the Port. The submission of this letter is without prejudice to the legal positions and claims of NYSA and ILA in the pending litigation against the Commission in the federal district court in New Jersey.

As the two members of the NYSA-ILA Recruitment Committee, we are directly involved in overseeing on behalf of NYSA and the ILA the administering of the Recruitment and Hiring Plan (Hiring Plan) outlined in the collective bargaining agreement between NYSA and the ILA for the Port of New York and New Jersey.

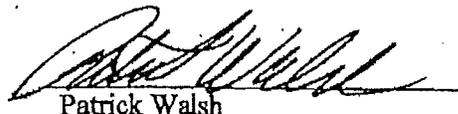
Attached to this letter is a list of 20 prequalified individuals for inclusion in the Deep-Sea Register in the longshore craft. All of these applicants are veteran referrals within the meaning of the Hiring Plan. We certify that in overseeing the administering of the Hiring Plan to the best of our knowledge each of these applicants has been selected in accordance with the Hiring Plan, which has been applied to everyone going through the Hiring Plan process according to its terms in a fair and non-discriminatory manner in accordance with the laws of the United States and the states of New York and New Jersey dealing with equal employment opportunities.

It is the understanding of NYSA and the ILA that the Commission has agreed to modify the certification provision of its Determination 35 during the pendency of the litigation and that the certification contained in this letter is acceptable to the Commission as stated by the Commission's Executive Director in his letter to NYSA's President, dated January 6, 2014.

Very truly yours



Susan Winfree
NYSA Vice President, Workforce Development
& Corporate Diversity Officer



Patrick Walsh
Executive Director of
Contractual Administration

NAME SS# ADDRESS PHONE

Daniel Pigna

Angelo Sciara

Exemption (1)

Carlos Vazquez

Matthew Dombrowsk

Steven Cabrera

Rafael Espinosa

Brian Flanagan

Ryan McCarthy

Adam Burd

Juan Castro

Ryan Blackman

Weihao Ye

Allan Cabrera

Kenneth French

Ryan Wares

Jeffrey R. Schoen, Esq.

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January 22, 2014

<u>NAME</u>	<u>SS#</u>	<u>ADDRESS</u>	<u>PHONE</u>
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Frank Mendez

Jevon Mintz

Exemption (1)

Leigh Burnett

Anita Collins

Frank Banghart



January 22, 2014

Jeffrey R. Schoen, Esq.
Director and Counsel
Division of Licensing & E.I.C.
Waterfront Commission of New York Harbor
39 Broadway – 4th Floor
New York, NY 10006-3003

Dear Mr. Schoen:

While New York Shipping Association, Inc. (NYSA) is not the employer of any registered deep-sea longshoreman or checker or of any applicant for inclusion in the Deep-Sea Register, NYSA is submitting this general sponsorship letter on behalf of its members to facilitate the inclusion in the Deep-Sea Register by the Commission of additional longshoremen and checkers desperately needed for cargo-handling operations in the Port. The submission of this letter is without prejudice to the legal positions and claims of NYSA in the pending litigation against the Commission in the federal district court in New Jersey.

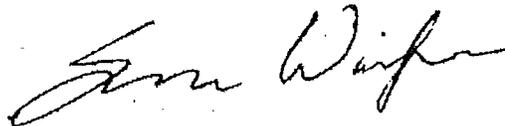
As NYSA's Vice President of Workforce Development, I am directly involved in overseeing on behalf of NYSA's members the administering of the Recruitment and Hiring Plan (Hiring Plan) outlined in the collective bargaining agreement between the NYSA and the International Longshoremen's Association, AFL-CIO (ILA) for the Port of New York and New Jersey.

January 22, 2014

Attached to this letter is a list of 16 prequalified individuals for inclusion in the Deep-Sea Register in the longshore craft. All of these applicants were referred by NYSA or its members. I certify that in overseeing the administering of the Hiring Plan to the best of my knowledge each of these applicants has been selected in accordance with the Hiring Plan, which has been applied to everyone going through the Hiring Plan process according to its terms in a fair and non-discriminatory manner in accordance with the laws of the United States and the states of New York and New Jersey dealing with equal employment opportunities.

It is NYSA's understanding that the Commission has agreed to modify the certification provision of its Determination 35 during the pendency of the litigation and that the certification contained in this letter is acceptable to the Commission as stated by the Commission's Executive Director in his letter to NYSA's President, dated January 6, 2014.

Very truly yours,



Susan Winfree
NYSA Vice President, Workforce Development
& Corporate Diversity Officer

cc: John Nardi
Patrick Walsh

Jeffrey R. Schoen, Esq.

3

January 22, 2014

<u>NAME</u>	<u>SS#</u>	<u>ADDRESS</u>	<u>PHONE</u>
Bernardo Pareja			

John Armwood

Exemption (1)

Tricia Smith

Nicholas Pratesi

Alexander Andrews

Kamil Abdelmassih

Peter Venuto

Jared Washington

Andre Bennett

Antonio Fernandes

Andretti Giordani

Jeffrey Waddell

Aisha Johnson

Keiia Mason

Ruquayyah Parker

Michael De Vito

NYSA-ILA FRINGE BENEFITS ESCROW FUND

77 WATER STREET - 16TH FLOOR
NEW YORK, NEW YORK 10005-4401

(212) 208.0220

January 22, 2014

Jeffrey R. Schoen, Esq.
Director and Counsel
Division of Licensing & E.I.C.
Waterfront Commission of New York Harbor
39 Broadway - 4th Floor
New York, NY 10006-3003

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As the Executive Director of Contractual Administration, I am directly involved in overseeing the administering of the Recruitment and Hiring Plan (Hiring Plan) outlined in the collective bargaining agreement between the New York Shipping Association, Inc. (NYSA) and the International Longshoremen's Association, AFL-CIO (ILA) for the Port of New York and New Jersey.

Attached to this letter is a list of 16 prequalified individuals for inclusion in the Deep-Sea Register in the longshore craft. All of these applicants are union referrals within the meaning of

Jeffrey R. Schoen, Esq.

2

January 22, 2014

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Very truly yours,

A handwritten signature in black ink, appearing to read "Patrick Walsh", written in a cursive style.

Patrick Walsh
Executive Director of Contractual Administration

cc: Susan Winfree

Jeffrey R. Schoen, Esq.

3

January 22, 2014

<u>NAME</u>	<u>SS#</u>	<u>ADDRESS</u>	<u>PHONE</u>
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Pedro Fuentes

Manuel Arroyo

Exemption (1)

Frederick Gunsch

Edward Aponte

Katherine Cruz

Jyrelle Johnson

Casey Cabrera

Terence O'Regan

Monica Serna

Richard Silvestri

Joseph Cavallaro

Luis Campoverde

William Flanagan

Sean Davis

Leo Bunion

Travis McCray

PANYNJ

From: Foye, Patrick
Sent: Friday, November 15, 2013 9:33 AM
To: John Nardi (JNardi@NYSAnet.org); 'psorial@wcnyh.gov'
Subject: Draft Minutes

John/Phoebe please distribute to your teams. This represents PA synthesis of respective drafts. We will take one set of comments from NYSA and WCNYH and will then distribute our final version. Please send your collected team comments by COB Monday. Thanks. Please let me know if you have questions.

Pat

MINUTES

**November 7, 2013 Meeting of
The Port Authority of New York and New Jersey
Waterfront Commission of New York Harbor
New York Shipping Association, Inc.**

Attendees:

The Port Authority of New York and New Jersey (PANYNJ)

Patrick J. Foye, Executive Director

William Baroni, Jr., Deputy Executive Director

Richard M. Larrabee, Director - Port Commerce Department

Andrew Saporito, Assistant Director - Port Business Development

John Ma, Chief of Staff to the Executive Director

David Wildstein, Director of Interstate Capital Projects

Waterfront Commission of New York Harbor (WCNYH)

Ronald Goldstock, New York Commissioner

Jan Gilhooly, New Jersey Commissioner

Walter M. Arsenault, Executive Director

Phoebe S. Sorial, General Counsel

New York Shipping Association, Inc. (NYSA)

John Nardi, President

Susan Winfree, Vice President, Workforce Development and Corporate Diversity Officer

Donato Caruso, Esq. - The Lambos Firm

New York Shipping Association Board Members

Anthony Ray, Executive Vice President - Maher Terminals, L.L.C.

Ian Cairns, Vice President - CMA-CGM (America), Inc.

Jim Pelliccio, President & CEO - Port Newark Container Terminal, L.L.C.

Three goals articulated by PANYNJ:

1. In this era of high unemployment rates, to put people to work as quickly as possible, subject to:
2. Adherence with applicable Federal and State laws, including the Waterfront Commission Act, in a manner that will improve the diversity of the longshore workforce;
3. Make progress (with the PANYNJ as a facilitator) in a non-public forum. Progress should be made outside of the press.

PANYNJ stated that the issue of labor shortages is of interest to both states. The Port must be efficient, and PANYNJ wants to provide a forum to develop remedies.

NYSA stated that it has recognized issues brought up by WCNYH over the past couple of years (e.g., no show/low show jobs, diversity). The new collective bargaining agreement is a major step in addressing those issues. NYSA is now anxious to implement that agreement. It has made a request to the WCNYH to open the register to add 532 longshoremen and 150 checkers given current labor shortages and anticipated retirements. NYSA stated that in the past, the ILA has controlled 100% of the hiring. It stated its concerns that if it goes back to the table with the ILA to re-negotiate or modify aspects of the hiring plan, it may lose everything else for which it bargained. NYSA believes that the ILA finally agrees that productivity needs to be increased in the Port.

Immediate Need for Labor/Prequalification Pool

WCNYH indicated that it accepts the need for the 532 longshore additions to the workforce, and has told the NYSA to send in individuals for prequalification. WCNYH reiterated that when it learned of the buyout in the newly negotiated contract, it immediately told the NYSA to begin sending those individuals that they want to hire so that they could be prequalified. Beginning in August, the Commission received, on a rolling basis, a total of 97 candidates to be prequalified. All of the 97 veteran candidates who have been referred by the NYSA to WCNYH for prequalification have been processed and there is no backlog. 56 of those candidates have been pre-qualified and are ready to be put to work immediately. Some individuals were not prequalified because they were not honorably discharged or because of prior criminal records. There are 22 requests for prequalification pending because the individuals did not appear for their fingerprinting appointments or due to outstanding military or criminal records.

WCNYH indicated there are 50 individuals (from New York and New Jersey workforce centers) who were previously prequalified that are ready to be put to work immediately. WCNYH reiterated that on October 16, 2013, it wrote to NYSA and advised that it would immediately open the deep sea longshoremen's register for 150 individuals, and that approximately 100 prequalified individuals were ready to be put to work immediately if there is an emergent need for labor. WCNYH indicated that it has been waiting for sponsorship letters from NYSA in order to begin registering those individuals.

PANYNJ pointed out that WCNYH has a solution for 100 people who could be put to work immediately.

NYSA indicated that it cannot employ the 50 individuals that were previously prequalified from the workforce centers because they were not recruited or selected in accordance with the CBA provisions. NYSA indicated that it stopped referring additional people for prequalification when WCNYH questioned the validity of the Recruitment and Hiring Plan. WCNYH indicated that it continued to prequalify individuals sent by NYSA pursuant to that Hiring Plan.

PANYNJ asked whether WCNYH would register those 56 individuals that had been sent by the NYSA for prequalification. WCNYH indicated that it would do so immediately upon receiving sponsorship letter from NYSA.

It was agreed that:

- The application for the registration of 532 additional longshoremen is approved without the necessity of a hearing.
- WCNYH will register the prequalified 56 individuals from the Veterans Pool who had been sent to WCNYH by the NYSA for prequalification upon receipt of sponsorship letters from employers members of NYSA.
- WCNYH will send the names of the other 50 prequalified individuals whom WCNYH had previously prequalified to NYSA to cross-check the names against the list of people provided by the NY and NJ Department of Labor One Stop Career Centers. Anyone on the list will be eligible to be processed as part of the pool of NYSA referrals.

NYSA indicated that it will also begin sending approximately 30 individuals to WCNYH per week for the next three to four weeks. Those individuals would be sent in accordance with the Hiring Plan.

The NYSA-ILA Recruitment and Hiring Plan was discussed by the parties in detail. That plan provides that the selection process for new hires will include three designated pools: military veterans (51%), ILA (25%), and NYSA/Employers (24%). A Recruitment Committee is established to create a pool of veterans. Every applicant will be vetted by an Employment Screening Committee, consisting of representatives from the terminal-operator Employer, the ILA and NYSA. Applicants are interviewed and evaluated by the committee based on Candidate Scoring Matrices (CSM). After passing drug and physical agility tests, candidates will be directed to WCNYH in rank order of their CSM scores.

WCNYH requested that the NYSA designate each individual's referral source who was being prequalified. WCNYH expressed concerns that, as stated by NYSA, the ILA had previously controlled 100% of hiring and that the referral percentages are just a way for ILA to pass through their applicants. WCNYH pointed out that overwhelming majority of the 97 candidates received thus far (who were part of the military veteran pool of referrals) were direct ILA referrals. Many of those individuals were not unemployed or underemployed veterans. The Port Authority discussed the initiatives of Governors Christie and Cuomo, and cited the number of underemployed/unemployed veterans in the states of New York and New Jersey. WCNYH indicated that it would accept the referral percentages if, in fact, the Hiring Plan is not simply a way for the ILA to pass on its own referrals.

NYSA indicated that for the past two years it has been referring individuals to the ILA due to the fact that prior to the most recent collective bargaining agreement, that was the only way for prospective new employees to be hired, and suggested that this might be the reason as to why the majority of the 97 candidates appeared to be ILA referrals. WCNYH indicated that each of the 97 were interviewed and not one person indicated that he or she was directed to the ILA by the NYSA.

NYSA indicated that due to various business reasons, including uncertainty in employment, it was understandable that individuals who are already employed would be seeking to be employed as longshoremen. NYSA indicated that it contacted various veteran referral services but did not receive any cooperation from them. PANYNJ stated that it was aware of numerous organizations that could readily supply the appropriate number of veteran candidates. Both PANYNJ and WCNYH questioned why ads were not placed and why the positions were not publically offered. NYSA indicated that, as in the past, they would then have to sort through thousands of applications. NYSA stated that currently, there are approximately 400 applications from military veterans.

PANYNJ inquired as to who was on the military veteran Recruitment Committee. WCNYH indicated that Susan Winfree from the NYSA is the only one on that committee. PANYNJ recommended that the Adjutant Generals of the National Guards of the States of New Jersey and New York, or their designees, be included on the committee to review the pool of candidates prior to being sent to WCNYH to review the validity of their status as veterans, in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan.

It was agreed that:

- The Adjutant Generals of the National Guards of the States of New Jersey and New York, or their designees, will be included on the military veteran Recruitment Committee.

- The Adjutant Generals will review the veteran referrals to ensure that they are eligible veterans, in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan. ensure that they were chosen because of their status as veterans and in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan. If it is determined that the individual is not a veteran in keeping with the underlying goals of the Hiring Plan, that person may be considered as part of the ILA pool.
- These agreed upon items are subject to obtaining the agreement of the ILA. The NYSA agreed to use their best efforts to obtain approval from the ILA.

NYSA/ILA Hiring Plan: Selection of Candidates Based on Referral Percentages

WCNYH indicated that, based on the language of the Hiring Plan, it understood that the percentages applied to the number of people who were referred by the three sources, not those who were actually selected. It was not until last month, in a meeting between WCNYH, NYSA and the ILA, was it explained that these were the percentages of individuals that would actually be selected. The three-pool selection method means that of the 532 longshoremen to be registered, 271 will be from the veterans pool, 133 will be from the ILA referral pool, and 128 from NYSA/Employer pool.

WCNYH stated that while it did not object to the Hiring Plan as written, the NYSA/ILA's implementation of it – based on their understood agreement, which WCNYH believes is not reflected in the language of the plan – could be problematic. WCNYH expressed the concern that the ILA would be able to circumvent the aim of the Employment Screening Committee and to bypass the scoring of candidates by submitting a small number of candidates. Candidates who meet only the minimum qualifications could be selected while military veterans and NYSA candidates undergo a competitive process.

NYSA indicated that the ILA will not agree to one pool, and that it was the intention of the parties to establish a three-pool system. If the language of the CBA indicates otherwise, NYSA stated that the parties would amend the CBA to provide for the three pools.

WCNYH detailed the history of the ILA's hiring practices, and that ILA locals do not represent the demographics of the surrounding geographical areas. WCNYH pointed out that in the past, when it was time for ILA and NYSA to each submit 50 individuals to be considered for prequalification, NYSA gave all of its referrals to the ILA. WCNYH is concerned that this will occur again and indicated that additional verification is needed.

NYSA objected to the necessity of presenting this historical perspective. PANYNJ pointed out that there is a New York State Division of Human Rights case pending against the NYSA and ILA on these issues.

PANYNJ indicated that the NYSA/Employers should be able to hire anyone who is qualified under the Hiring criteria – that this is a business decision – and that deference should be given to individuals referred by the NYSA according to the percentages in the plan. WCNYH therefore agreed to a three-pool system, but indicated that each pool had to be assembled in good faith, to allow for a competitive process. PANYNJ suggested that there be a bi-annual audit and certification requirement.

It was agreed that:

- There would be three separate pools from which individuals will be selected according to the percentages set forth in the NYSA-ILA Recruitment and Hiring Plan: Veterans Pool (51%), Union Pool (25%), and NYSA/Employer Pool (24%). Each of the three pools must be assembled in good faith to allow for a competitive process.
- Of the 532 additional longshoremen to be registered, 271 will be from the Veterans Pool, 133 from the Union Pool, and 128 from the NYSA/Employer Pool. As long as the three pools are assembled in good faith, WCNYH will accept the certifications of sponsoring employers for the 532 additional longshoremen and register all sponsored candidates who meet the standards for registration under the Waterfront Commission Act.
- The ILA pool will consist of a minimum of 266 candidates so that there will be a competitive CSM process. This requirement is subject to obtaining the agreement of the ILA, and the NYSA agrees that it would use its best efforts to obtain approval from the ILA.
- Potential candidates in the NYSA/Employers Pool may include referrals from member companies' management and union employees, as long as those union employees are not instructed by union officials to refer a candidate to the pool.
- The NYSA-ILA Employment Screening Committee will apply the procedure and Candidate Scoring Matrix (CSM) for each of the three pools. The NYSA will provide a semi-annual report to WCNYH describing the general description of the process and certifying that the scoring based on the CSM was done in a fair and consistent manner. The CSM's are being held by the NYSA under seal until it is approved by the NY State Division of Human Rights in connection with any conciliation compliance.
- The Commission's acceptance of a three-pool hiring system beyond these 532 individuals is dependent on the Commission's determination that the Recruitment and Hiring Plan was implemented correctly and appropriately in accordance with the agreement of the parties, and that there were, in fact, three separate referral sources.

Checkers/Maintenance Men

There was a discussion about 150 checkers requested by the NYSA/ILA. WCNYH is requiring justification for the additional 150 checkers, and indicated that the industry should allow current longshoremen

to apply for checkers positions, before bringing in people from outside the industry to fill those open positions. WCNYH stated that these are less strenuous, higher paying positions, and longshoremen who are already in the industry should be given the right of first refusal for the open checker positions.

NYSA indicated that, on average, it has spent approximately \$20,000 on training for each longshoremen over the course of his or her lifetime and that there is a business consideration that must be factored. Allowing longshoremen to fill open checker positions would not be in the best interest of the employers.

PANYNJ inquired whether this issue would be the proper subject for the public hearings.

The parties agreed that:

- WCNYH and NYSA will meet again under the auspices of the PANYNJ on November 14, 2013 to try to reach an agreement on issues relating to the appropriate number of checkers to be registered and whether longshoremen presently in the workforce should be transferred to the checker craft before bringing in people from outside the industry (checker issues) and issues relating to the hiring and registration of "A" registrant mechanics and other maintenance workers.
- If no agreement is reached by the parties prior to the next hearing date of November 18, 2013, public hearings will proceed regarding the issue of checkers, and the appropriate manner for the recruitment, referral, and selection of "A" registrant maintenance workers.
- The public hearing scheduled on November 14, 2013 will be cancelled.
- PANYNJ will issue a press release regarding the settlement discussions and will distribute a draft to the parties prior to issuance. No other statements will be made to the press.

PANYNJ

From: Sorial, Phoebe S. [psorial@WCNYH.GOV]
Sent: Tuesday, November 12, 2013 2:27 PM
To: Foye, Patrick
Cc: Goldstock, Ronald (personal); 'njjaygee@aol.com'; Arsenault, Walter; dcaruso@lambosfirm.com; jnardi@nysanet.org; swinfree@nysanet.org
Subject: FW: Emailing: 12155- Minutes of 11-7-13 Port Authority, WFC, et al. (A0024918).DOCX
Attachments: WCNYH Minutes of PA-WCNYH-NYSA 11.6.13 Mtg.docx; NYSA Minutes of PA-WCNYH-NYSA 11.6.13 Mtg.docx

Pat,

The parties have been unable to agree on the form and content of the minutes. I have therefore attached two sets - - one prepared by the Waterfront Commission and the other by the NYSA. The reasoning for each set is forth in the email exchange below.

Phoebe

Phoebe S. Sorial
General Counsel
Waterfront Commission of New York Harbor
An Instrumentality of the States of New York and New Jersey
Office: 212-905-9202
Fax: 212-480-0587
Website: <http://www.wcnyh.org>

CONFIDENTIALITY NOTICE CLICK HERE: <http://www.wcnyh.org/confidentiality.htm>

From: Sorial, Phoebe S.
Sent: Tuesday, November 12, 2013 12:12 PM
To: dcaruso@lambosfirm.com
Cc: jnardi@nysanet.org; swinfree@nysanet.org
Subject: RE: Emailing: 12155- Minutes of 11-7-13 Port Authority, WFC, et al. (A0024918).DOCX

Dan,

Thank you for your email. Attached please find a redlined version of the minutes that we sent to you on Friday incorporating the majority of your comments, along with a clean copy. As I advised you during our telephone discussion yesterday, we cannot agree to delete the discussions of the parties. It is our understanding that the minutes are not meant to be a legal document simply setting forth the agreement of the parties. Rather, they are to memorialize both the parties' discussions and agreements - - indeed, those are generally the purpose of minutes. Contrary to your email below, we have not included our discussions to rehash the parties' differences but, rather, have done so in order to avoid having to rehash our differences going forward. I think you will agree with me that our spirited discussion yesterday (in which you brought up various issues that were already discussed and agreed to) just emphasizes the importance of memorializing both our discussions and agreements.

We have prepared the minutes based on our notes and recollections of what transpired at the meeting. As I shared with you yesterday, while we believe that they are accurate, we would certainly be willing to consider your comments as to the statements contained, or to incorporate any additional statements made by the parties that you believe may have been omitted. We are still willing to do so, and ask that you advise as soon as possible whether you would like to do so. As I indicated yesterday, if we cannot agree on this issue we will have no other option but to send two different sets of minutes to the Port Authority. We would like to send the minutes out no later than 2pm today. Thanks.

Phoebe

Phoebe S. Sorial
General Counsel
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From: Caruso, Dan [<mailto:dcaruso@lambosfirm.com>]
Sent: Tuesday, November 12, 2013 9:27 AM
To: Sorial, Phoebe S.
Cc: John Nardi (jnardi@nysanet.org); Susan Winfree
Subject: FW: Emailing: 12155- Minutes of 11-7-13 Port Authority, WFC, et al. (A0024918).DOCX

Phoebe:

From NYSA's standpoint your draft of the minutes of the November 6 meeting are counterproductive. There is no need now to haggle over a selective transcript to rehash the parties' differences; we should just reconfirm what the parties have agreed to. Therefore, I have removed from your draft everything but the agreements reached. It would appear that there are one or two matters upon which we have a difference of opinion as to what was agreed. If we are unable to resolve those, then we should note those differences in the minutes and revisit them at the next meeting on November 14.

Dan

Donato Caruso
The Lambos Firm, LLP
303 South Broadway
Suite 410
Tarrytown, New York 10591

Tel. (212) 943-2470
Fax (212) 797-9213

This e-mail and its attachments may contain information which is confidential or privileged. If you are not the intended recipient, you may not use, copy, or disclose to anyone the information contained in this e-mail or its attachments. If you have received this e-mail in error, please inform the sender by reply e-mail, telephone, or fax, and delete it. Thank you.

From: Panzone, Mary Ann
Sent: Tuesday, November 12, 2013 9:24 AM
To: Caruso, Dan
Subject: Emailing: 12155- Minutes of 11-7-13 Port Authority, WFC, et al. (A0024918).DOCX

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MINUTES

November 7, 2013 Meeting of
The Port Authority of New York and New Jersey
Waterfront Commission of New York Harbor
New York Shipping Association, Inc.

Attendees:

The Port Authority of New York and New Jersey (PANYNJ)

Patrick J. Foye, Executive Director
William Baroni, Jr., Deputy Executive Director
Richard M. Larrabee, Director - Port Commerce Department
Andrew Saporito, Assistant Director - Port Business Development
John Ma, Chief of Staff to the Executive Director
David Wildstein, Director of Interstate Capital Projects

Waterfront Commission of New York Harbor (WCNYH)

Ronald Goldstock, New York Commissioner
Jan Gilhooly, New Jersey Commissioner
Walter M. Arsenault, Executive Director
Phoebe S. Sorial, General Counsel

New York Shipping Association, Inc. (NYSA)

John Nardi, President
Susan Winfree, Vice President, Workforce Development and Corporate Diversity Officer
Donato Caruso, Esq. - The Lambos Firm

New York Shipping Association Board Members

Anthony Ray, Executive Vice President - Maher Terminals, L.L.C.
Ian Cairns, Vice President - CMA-CGM (America), Inc.
Jim Pelliccio, President & CEO - Port Newark Container Terminal, L.L.C.

Three goals articulated by PANYNJ:

1. In this era of high unemployment rates, to put people to work as quickly as possible, subject to:
2. Adherence with applicable Federal and State laws in a manner that will improve the diversity of the longshore workforce; and
3. Make progress (with the PANYNJ as a facilitator) in a non-public forum outside of the press.

PANYNJ stated that the issue of labor shortages is of interest to both states. The Port must be efficient, and PANYNJ wants to provide a forum to develop remedies. With the assistance of the PANYNJ, the WCNYH and NYSA reached the following agreements in connection with the request of the NYSA-ILA Contract Board to the WCNYH to open the register to add 532 longshoremen and 150 checkers:

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- The application for the registration of 532 additional longshoremen is approved without the necessity for a hearing.
- Of the 532 additional longshoremen to be registered, 271 will be from the Veterans Pool, 133 from the Union Pool, and 128 from the NYSA/Employer Pool. The WCNYH will accept the certifications of sponsoring employers for these 532 additional longshoremen without challenge and register all sponsored candidates who meet the standards for registration under the Waterfront Commission Act.
- WCNYH will immediately register the prequalified 56 individuals from the Veterans Pool who had been sent to WCNYH by the NYSA for prequalification upon receipt of sponsorship letters from employer members of NYSA.
- WCNYH will send the names of the 50 individuals whom the WCNYH had previously prequalified to NYSA to cross-check the names against the list of people provided by the NY and NJ Departments of Labor One Stop Career Centers. Anyone on the list will be eligible to be processed as part of the NYSA/Employer Pool.
- There will be three separate pools from which individuals will be hired according to the percentages and procedures set forth in the NYSA-ILA Recruitment and Hiring Plan: Veterans Pool (51%), Union Pool (25%), and NYSA/Employer Pool (24%)
- The Adjutant Generals of the National Guards of the States of New Jersey and New York, or their designees, will review the individuals in the Veterans Pool compiled by the NYSA-ILA Recruitment Committee to ensure that they are eligible veterans under the NYSA-ILA Recruitment and Hiring Plan. This procedure is subject to obtaining the agreement of the ILA, and NYSA will use its best efforts to obtain approval from the ILA.
- Potential candidates in the NYSA/Employers Pool may include referrals from member companies' management and union employees.
- The ILA pool will consist of a minimum of 266 candidates. This requirement is subject to obtaining the agreement of the ILA, and NYSA will use its best efforts to obtain approval from the ILA.
- The NYSA-ILA Employment Screening Committee will apply the procedures and Candidate Scoring Matrix (CSM) for each of these pools.
- The NYSA will provide a semi-annual report to WCNYH describing the general description of the process and certifying that the scoring based on the CSM was done in a fair and consistent manner. The CSM's are being held by the NYSA under seal to be provided to the N.Y. State Division of Human Rights in connection with any conciliation compliance.

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- WCNYH and NYSA will meet again under the auspices of the PANYNJ on November 14, 2013, to try to reach an agreement on issues relating to the appropriate number of checkers to be registered and whether longshoremen presently in the workforce should be transferred to the checker craft before bringing in people from outside the industry (checker issues) and issues relating to the hiring and registration of "A" registrant mechanics and other maintenance workers.
- The checker issues are appropriate subjects for the scheduled public hearings under section 5-p of the Waterfront Commission Act if those issues are not resolved prior to the next hearing date of November 18, 2013.
- The public hearing scheduled for November 14, 2013 will be cancelled.
- PANYNJ will issue a press release regarding the settlement discussions. No other statements will be made to the press.

24918

MINUTES
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Waterfront Commission of New York Harbor
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Jim Pelliccio, President & CEO - Port Newark Container Terminal, L.L.C.

Three goals articulated by PANYNJ:

1. In this era of high unemployment rates, to put people to work as quickly as possible, subject to:
2. Adherence with applicable Federal and State laws, including the Waterfront Commission Act, in a manner that will improve the diversity of the longshore workforce;
3. Make progress (with the PANYNJ as a facilitator) in a non-public forum. While WCNYH has the right to hold public hearings, progress should be made outside of the press.

PANYNJ stated that the issue of labor shortages is of interest to both states. The Port must be efficient, and PANYNJ wants to provide a forum to develop remedies.

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NYSA stated that it has recognized issues brought up by WCNYH over the past couple of years (e.g., no show/low show jobs, diversity). While the new collective bargaining agreement is far from perfect, it addresses those issues. NYSA is now anxious to implement that agreement. It has made a request to the WCNYH to open the register to add 532 longshoremen and 150 checkers. NYSA is doing what it can to compile that group of people. NYSA stated that in the past, the ILA has controlled 100% of the hiring. It stated its concerns that if it goes back to the table with the ILA to re-negotiate the hiring plan, it may lose everything else for which it bargained. NYSA believes that the ILA finally agrees that productivity needs to be increased in the Port.

Immediate Need for Labor/Prequalification Pool

WCNYH indicated that it accepts the need for the 532 longshore additions to the workforce. WCNYH reiterated that when it learned of the buyout in the newly negotiated contract, it immediately told the NYSA to begin sending those individuals that they want to hire so that they could be prequalified. Beginning in August, the Commission received, on a rolling basis, a total of 97 candidates to be prequalified. All of the 97 veteran candidates who have been referred by the NYSA to WCNYH for prequalification have been processed and there is no backlog. 56 of those candidates have been pre-qualified and are ready to be put to work immediately. Some individuals were not prequalified because they were not honorably discharged or because of prior criminal records. There are 22 requests for prequalification pending because the individuals did not appear for their fingerprinting appointments or due to outstanding military or criminal records.

WCNYH indicated there are 50 individuals (from New York and New Jersey workforce centers) who were previously prequalified that are ready to be put to work immediately. WCNYH reiterated that on October 16, 2013, it wrote to NYSA and advised that it would immediately open the deep sea longshoremen's register for 150 individuals, and that 100 prequalified individuals were ready to be put to work immediately if there is an emergent need for labor. WCNYH indicated that no response was received from the NYSA, and that since then, it has been waiting for sponsorship letters from NYSA in order to begin registering those individuals.

PANYNJ pointed out that WCNYH has a solution for 100 people who could be put to work immediately. It questioned the NYSA as to why it has not requested that WCNYH register the 100 prequalified individuals so that they could be immediately put to work to alleviate any labor shortages.

NYSA indicated that it cannot employ the 50 individuals that were previously prequalified from the workforce centers because they were not recruited or selected in accordance with the CBA provisions. NYSA indicated that it stopped referring additional people for prequalification when WCNYH questioned the validity of the Recruitment and Hiring Plan and referred to it as a "sham." WCNYH indicated that it continued to prequalify individuals sent by NYSA pursuant to that Hiring Plan.

PANYNJ asked whether WCNYH would register those 56 individuals that had been sent by the NYSA for prequalification. WCNYH indicated that it has been waiting for NYSA's

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directive to register those individuals for three weeks, and that it would do so immediately upon receiving sponsorship letter from NYSA.

It was agreed that:

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- WCNYH will register the prequalified 56 individuals from the Veterans Pool who had been sent to WCNYH by the NYSA for prequalification upon receipt of sponsorship letters from employers members of NYSA.
- WCNYH will send the names of the other 50 prequalified individuals whom WCNYH had previously prequalified to NYSA to cross-check the names against the list of people provided by the NY and NJ Department of Labor One Stop Career Centers. Anyone on the list will be eligible to be processed as part of the pool of NYSA referrals.

NYSA indicated that it will begin sending 30 individuals to WCNYH per week for the next three to four weeks. Those individuals would be sent in accordance with the Hiring Plan.

NYSA/ILA Recruitment and Hiring Plan: Veteran Recruitment and Selection

The NYSA-ILA Recruitment and Hiring Plan was discussed in detail. That plan provides that the selection process for new hires will include three designated referral sources: military veterans (51%), ILA (25%), and NYSA/Employers (24%). A Recruitment Committee is established to create a pool of veterans. Every applicant will be vetted by an Employment Screening Committee, consisting of representatives from the terminal-operator Employer, the ILA and NYSA. Applicants are interviewed and evaluated by the committee based on Candidate Scoring Matrices (CSM). After passing drug and physical agility tests, a designated number of candidates will be directed to WCNYH in rank order of their CSM scores.

WCNYH requested that the NYSA designate each individual's referral source who was being prequalified. WCNYH expressed concerns that, as stated by NYSA, the ILA had previously controlled 100% of hiring and that the referral percentages are just a way for ILA to pass through their applicants. WCNYH pointed out that overwhelming majority of the 97 candidates received thus far (who were part of the military veteran pool of referrals) were direct ILA referrals. Many of those individuals were not unemployed or underemployed veterans. Of those submitted, some individuals were making six figure salaries and were just looking for part-time work. One in particular (a bartender at an establishment frequented by ILA members), had served in the reserves for less than one year. WCNYH discussed the initiatives of Governors Christie and Cuomo, and cited the number of underemployed/unemployed veterans in the states of New York and New Jersey. WCNYH indicated that these are not the types of individuals who should be awarded jobs as part of the veteran initiative promulgated by the NYSA/ILA. WCNYH indicated that it would accept the referral percentages if, in fact, the Hiring Plan is not a subterfuge - - simply a way for the ILA to pass on its referrals.

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NYSA indicated that for the past two years it has been referring individuals to the ILA, and suggested that this might be the reason as to why the majority of the 97 candidates were ILA referrals. WCNYH indicated that each of the 97 were interviewed not one person indicated that he or she was directed to the ILA by the NYSA. As an example, one individual, a former Marine, went to an employment center and was told that they were no longer accepting applications for veterans. However, he was accepted when he went to an 1804-1 shop steward and was among the 97 individuals initially submitted for prequalification. There was general agreement that that should not have occurred.

NYSA indicated that due to various business reasons, including uncertainty in employment, it was understandable that individuals who are already employed would be seeking to be employed as longshoremen. NYSA indicated that it contacted various veteran referral services but did not receive any cooperation from them. PANYNJ stated that it was aware of numerous organizations that could readily supply the appropriate number of veteran candidates. Both PANYNJ and WCNYH questioned why ads were not placed and why the positions were not publically offered. NYSA indicated that, as in the past, they would then have to sort through thousands of applications. NYSA stated that currently, there are approximately 400 applications from military veterans.

PANYNJ inquired as who was on the military veteran Recruitment Committee. WCNYH indicated that Susan Winfree is the only one on that committee. PANYNJ recommended that the Adjutant Generals of the National Guards of the States of New Jersey and New York, or their designees, be included on the committee to review the pool of candidates prior to being sent to WCNYH to determine if they were true veterans and to evaluate their referral source.

It was agreed that:

- The Adjutant Generals of the National Guards of the States of New Jersey and New York, or their designees, will be included on the military veteran Recruitment Committee.
- The Adjutant Generals will review the veteran referrals to ensure that they were chosen because of their status as veterans and in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan, and that they are not merely candidates of the ILA who happen to be veterans. If it is determined that the individual is merely an ILA referral, that person may be considered as part of the ILA pool.
- These agreed upon items are subject to obtaining the agreement of the ILA. The NYSA agreed to use their best efforts to obtain approval from the ILA.

NYSA/ILA Hiring Plan: Selection of Candidates Based on Referral Percentages

WCNYH indicated that, based on the language of the Hiring Plan, it understood that the percentages applied to the number of people who were referred by the three sources, not those who were actually selected. It was not until last month, in a meeting between WCNYH, NYSA and the ILA, was it explained that these were the percentages of individuals that would actually

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be selected. The three-pool selection method means that of the 532 longshoremen to be registered, 271 will be veterans, 133 will be from the ILA referrals, and 128 from NYSA/Employer referrals, even if they had lower CSM scores than candidates in other pools.

WCNYH stated that while it did not object to the Hiring Plan as written, the NYSA/ILA's implementation of it – based on their understood agreement, which WCNYH believes is not reflected in the language of the plan – is problematic. WCNYH expressed the concern that the ILA would be able to circumvent the aim of the Employment Screening Committee and to bypass the scoring of candidates by submitting a small number of candidates. Candidates who meet only the minimum qualifications could be selected while military veterans and NYSA candidates undergo a competitive process.

NYSA indicated that the ILA will not agree to one pool, and that it was the intention of the parties to establish a three-pool system. If the language of the CBA indicates otherwise, NYSA stated that the parties would amend the CBA to provide for the three pools.

WCNYH detailed the history of the ILA's discriminatory hiring practices, and that ILA locals do not represent the demographics of the surrounding geographical areas. WCNYH pointed out in the past, when it was time for ILA and NYSA to each submit 50 individuals to be considered for prequalification, NYSA gave all of its referrals to the ILA. While the ILA supplied an all-white pool (except for one individual who was the brother of an NYSA employee), the NYSA still certified that the selection of each of those individuals was done in a fair and nondiscriminatory manner. WCNYH is concerned that this will occur again and indicated that additional verification is needed.

NYSA objected to the necessity of presenting this historical perspective, until PANYNJ pointed out that there is a Division of Human Rights case pending against the NYSA and ILA on these issues.

PANYNJ indicated that the NYSA/Employers should be able to hire anyone – that this is a business decision – and that deference should be given to individuals referred by the NYSA according to the percentages in the plan, even those individuals have a lower CSM score than an individual in the military veteran pool. WCNYH therefore agreed to a three-pool system, but indicated that each pool had to be assembled in good faith, to allow for a competitive process (e.g., the ILA may not submit 133 of the candidates it wants hired along with 133 candidates with extensive criminal backgrounds who would be necessarily precluded from selection). PANYNJ suggested that there be a bi-annual audit and certification requirement.

It was agreed that:

- There would be three separate pools from which individuals will be selected according to the percentages set forth in the NYSA-ILA Recruitment and Hiring Plan: Veterans Pool (51%), Union Pool (25%), and NYSA/Employer Pool (24%). Each of the three pools must be assembled in good faith to allow for a competitive process, to allow consideration by the Employment Screening Committee in the same manner for each individual in the three pools.

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- Of the 532 additional longshoremen to be registered, 271 will be from the Veterans Pool, 133 from the Union Pool, and 128 from the NYSA/Employer Pool. As long as the three pools are assembled in good faith, WCNYH will accept the certifications of sponsoring employers for the 532 additional longshoremen and register all sponsored candidates who meet the standards for registration under the Waterfront Commission Act.
- The ILA pool will consist of a minimum of 266 candidates so that there will be a competitive CSM process. This requirement is subject to obtaining the agreement of the ILA, and the NYSA agrees that it would use its best efforts to obtain approval from the ILA.
- Potential candidates in the NYSA/Employers Pool may include referrals from member companies' management and union employees, as long as those union employees are not instructed by union officials to refer a candidate to the pool.
- There will be a certification from the NYSA that each of the individuals in the NYSA pool was not an ILA referral.
- The NYSA-ILA Employment Screening Committee will apply the procedure and Candidate Scoring Matrix (CSM) for each of the three pools. The NYSA will provide a semi-annual report to WCNYH describing the general description of the process and certifying that the scoring based on the CSM was done in a fair and consistent manner. The CSM's are being held by the NYSA under seal until it is approved by the NY State Division of Human Rights in connection with any conciliation compliance.
- The Commission's acceptance of a three-pool hiring system beyond these 532 individuals is dependent on the Commission's determination that the Recruitment and Hiring Plan was implemented correctly and appropriately in accordance with the agreement of the parties, and that there were, in fact, three separate referral sources.

Checkers/Maintenance Men

There was a discussion about 150 checkers requested by the NYSA/ILA. WCNYH is requiring justification for the additional 150 checkers, and indicated that the industry should allow current longshoremen to apply for checkers positions, before bringing in people from outside the industry to fill those open positions. WCNYH stated that these are less strenuous, higher paying positions, and longshoremen who are already in the industry should be given the right of first refusal for the open checker positions.

NYSA indicated that, on average, it has spent approximately \$20,000 on training for each longshoremen over the course of his or her lifetime and that there is a business consideration that must be factored. Allowing longshoremen to fill open checker positions would not be in the best interest of the employers.

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PANYNJ inquired whether this issue would be the proper subject for the public hearings.

The parties agreed that:

- WCNYH and NYSA will meet again under the auspices of the PANYNJ on November 14, 2013 to try to reach an agreement on issues relating to the appropriate number of checkers to be registered and whether longshoremen presently in the workforce should be transferred to the checker craft before bringing in people from outside the industry (checker issues) and issues relating to the hiring and registration of "A" registrant mechanics and other maintenance workers.
- If no agreement is reached by the parties prior to the next hearing date of November 18, 2013, public hearings will proceed to determine the appropriate number and means of selection for checkers, and the appropriate manner for the recruitment, referral, and selection of "A" registrant maintenance workers.
- The public hearing scheduled on November 14, 2013 will be cancelled.
- PANYNJ will issue a press release regarding the settlement discussions. No other statements will be made to the press.

PANYNJ

From: Sorial, Phoebe S. [psorial@WCNYH.GOV]
Sent: Friday, November 15, 2013 9:43 AM
To: Foye, Patrick; John Nardi (JNardi@NYSAnet.org)
Subject: RE: Draft Minutes

Thanks Pat. We will review and comment.

Phoebe S. Sorial
General Counsel
Waterfront Commission of New York Harbor
An Instrumentality of the States of New York and New Jersey
Office: 212-905-9202
Fax: 212-480-0587
Website: <http://www.wcnyh.org>

CONFIDENTIALITY NOTICE CLICK HERE: <http://www.wcnyh.org/confidentiality.htm>

From: Foye, Patrick [mailto:pfoye@panynj.gov]
Sent: Friday, November 15, 2013 9:33 AM
To: John Nardi (JNardi@NYSAnet.org); Sorial, Phoebe S.
Subject: Draft Minutes

John/Phoebe please distribute to your teams. This represents PA synthesis of respective drafts. We will take one set of comments from NYSA and WCNYH and will then distribute our final version. Please send your collected team comments by COB Monday. Thanks. Please let me know if you have questions.

Pat

MINUTES

November 7, 2013 Meeting of
The Port Authority of New York and New Jersey
Waterfront Commission of New York Harbor
New York Shipping Association, Inc.

Attendees:

The Port Authority of New York and New Jersey (PANYNJ)

Patrick J. Foye, Executive Director

William Baroni, Jr., Deputy Executive Director

Richard M. Larrabee, Director - Port Commerce Department

Andrew Saporito, Assistant Director - Port Business Development

John Ma, Chief of Staff to the Executive Director

David Wildstein, Director of Interstate Capital Projects

Waterfront Commission of New York Harbor (WCNYH)

Ronald Goldstock, New York Commissioner

Jan Gilhooly, New Jersey Commissioner

Walter M. Arsenault, Executive Director

Phoebe S. Sorial, General Counsel

New York Shipping Association, Inc. (NYSA)

John Nardi, President

Susan Winfree, Vice President, Workforce Development and Corporate Diversity Officer

Donato Caruso, Esq. - The Lambos Firm

New York Shipping Association Board Members

Anthony Ray, Executive Vice President - Maher Terminals, L.L.C.

Ian Cairns, Vice President - CMA-CGM (America), Inc.

Jim Pelliccio, President & CEO - Port Newark Container Terminal, L.L.C.

Three goals articulated by PANYNJ:

1. In this era of high unemployment rates, to put people to work as quickly as possible, subject to:
2. Adherence with applicable Federal and State laws, including the Waterfront Commission Act, in a manner that will improve the diversity of the longshore workforce;
3. Make progress (with the PANYNJ as a facilitator) in a non-public forum. Progress should be made outside of the press.

PANYNJ stated that the issue of labor shortages is of interest to both states. The Port must be efficient, and PANYNJ wants to provide a forum to develop remedies.

NYSA stated that it has recognized issues brought up by WCNYH over the past couple of years (e.g., no show/low show jobs, diversity). The new collective bargaining agreement is a major step in addressing those issues. NYSA is now anxious to implement that agreement. It has made a request to the WCNYH to open the

register to add 532 longshoremen and 150 checkers given current labor shortages and anticipated retirements. NYSA stated that in the past, the ILA has controlled 100% of the hiring. It stated its concerns that if it goes back to the table with the ILA to re-negotiate or modify aspects of the hiring plan, it may lose everything else for which it bargained. NYSA believes that the ILA finally agrees that productivity needs to be increased in the Port.

Immediate Need for Labor/Prequalification Pool

WCNYH indicated that it accepts the need for the 532 longshore additions to the workforce, and has told the NYSA to send in individuals for prequalification. WCNYH reiterated that when it learned of the buyout in the newly negotiated contract, it immediately told the NYSA to begin sending those individuals that they want to hire so that they could be prequalified. Beginning in August, the Commission received, on a rolling basis, a total of 97 candidates to be prequalified. All of the 97 veteran candidates who have been referred by the NYSA to WCNYH for prequalification have been processed and there is no backlog. 56 of those candidates have been pre-qualified and are ready to be put to work immediately. Some individuals were not prequalified because they were not honorably discharged or because of prior criminal records. There are 22 requests for prequalification pending because the individuals did not appear for their fingerprinting appointments or due to outstanding military or criminal records.

WCNYH indicated there are 50 individuals (from New York and New Jersey workforce centers) who were previously prequalified that are ready to be put to work immediately. WCNYH reiterated that on October 16, 2013, it wrote to NYSA and advised that it would immediately open the deep sea longshoremen's register for 150 individuals, and that approximately 100 prequalified individuals were ready to be put to work immediately if there is an emergent need for labor. WCNYH indicated that it has been waiting for sponsorship letters from NYSA in order to begin registering those individuals.

PANYNJ pointed out that WCNYH has a solution for 100 people who could be put to work immediately.

NYSA indicated that it cannot employ the 50 individuals that were previously prequalified from the workforce centers because they were not recruited or selected in accordance with the CBA provisions. NYSA indicated that it stopped referring additional people for prequalification when WCNYH questioned the validity of the Recruitment and Hiring Plan. WCNYH indicated that it continued to prequalify individuals sent by NYSA pursuant to that Hiring Plan.

PANYNJ asked whether WCNYH would register those 56 individuals that had been sent by the NYSA for prequalification. WCNYH indicated that it would do so immediately upon receiving sponsorship letter from NYSA.

It was agreed that:

- The application for the registration of 532 additional longshoremen is approved without the necessity of a hearing.

- WCNYH will register the prequalified 56 individuals from the Veterans Pool who had been sent to WCNYH by the NYSA for prequalification upon receipt of sponsorship letters from employers members of NYSA.
- WCNYH will send the names of the other 50 prequalified individuals whom WCNYH had previously prequalified to NYSA to cross-check the names against the list of people provided by the NY and NJ Department of Labor One Stop Career Centers. Anyone on the list will be eligible to be processed as part of the pool of NYSA referrals.

NYSA indicated that it will also begin sending approximately 30 individuals to WCNYH per week for the next three to four weeks. Those individuals would be sent in accordance with the Hiring Plan.

NYSA/ILA Recruitment and Hiring Plan: Veteran Recruitment and Selection

The NYSA-ILA Recruitment and Hiring Plan was discussed by the parties in detail. That plan provides that the selection process for new hires will include three designated pools: military veterans (51%), ILA (25%), and NYSA/Employers (24%). A Recruitment Committee is established to create a pool of veterans. Every applicant will be vetted by an Employment Screening Committee, consisting of representatives from the terminal-operator Employer, the ILA and NYSA. Applicants are interviewed and evaluated by the committee based on Candidate Scoring Matrices (CSM). After passing drug and physical agility tests, candidates will be directed to WCNYH in rank order of their CSM scores.

WCNYH requested that the NYSA designate each individual's referral source who was being prequalified. WCNYH expressed concerns that, as stated by NYSA, the ILA had previously controlled 100% of hiring and that the referral percentages are just a way for ILA to pass through their applicants. WCNYH pointed out that overwhelming majority of the 97 candidates received thus far (who were part of the military veteran pool of referrals) were direct ILA referrals. Many of those individuals were not unemployed or underemployed veterans. The Port Authority discussed the initiatives of Governors Christie and Cuomo, and cited the number of underemployed/unemployed veterans in the states of New York and New Jersey. WCNYH indicated that it would accept the referral percentages if, in fact, the Hiring Plan is not simply a way for the ILA to pass on its own referrals.

NYSA indicated that for the past two years it has been referring individuals to the ILA due to the fact that prior to the most recent collective bargaining agreement, that was the only way for prospective new employees to be hired, and suggested that this might be the reason as to why the majority of the 97 candidates appeared to be ILA referrals. WCNYH indicated that each of the 97 were interviewed and not one person indicated that he or she was directed to the ILA by the NYSA.

NYSA indicated that due to various business reasons, including uncertainty in employment, it was understandable that individuals who are already employed would be seeking to be employed as longshoremen. NYSA indicated that it contacted various veteran referral services but did not receive any cooperation from them. PANYNJ stated that it was aware of numerous organizations that could readily supply the appropriate number of veteran candidates. Both PANYNJ and WCNYH questioned why ads were not placed and why the

positions were not publically offered. NYSA indicated that, as in the past, they would then have to sort through thousands of applications. NYSA stated that currently, there are approximately 400 applications from military veterans.

PANYNJ inquired as who was on the military veteran Recruitment Committee. WCNYH indicated that Susan Winfree from the NYSA is the only one on that committee. PANYNJ recommended that the Adjutant Generals of the National Guards of the States of New Jersey and New York, or their designees, be included on the committee to review the pool of candidates prior to being sent to WCNYH to review the validity of their status as veterans, in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan.

It was agreed that:

- The Adjutant Generals of the National Guards of the States of New Jersey and New York, or their designees, will be included on the military veteran Recruitment Committee.
- The Adjutant Generals will review the veteran referrals to ensure that they are eligible veterans, in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan. ensure that they were chosen because of their status as veterans and in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan. If it is determined that the individual is not a veteran in keeping with the underlying goals of the Hiring Plan, that person may be considered as part of the ILA pool.
- These agreed upon items are subject to obtaining the agreement of the ILA.. The NYSA agreed to use their best efforts to obtain approval from the ILA.

NYSA/ILA Hiring Plan: Selection of Candidates Based on Referral Percentages

WCNYH indicated that, based on the language of the Hiring Plan, it understood that the percentages applied to the number of people who were referred by the three sources, not those who were actually selected. It was not until last month, in a meeting between WCNYH, NYSA and the ILA, was it explained that these were the percentages of individuals that would actually be selected. The three-pool selection method means that of the 532 longshoremen to be registered, 271 will be from the veterans pool, 133 will be from the ILA referral pool, and 128 from NYSA/Employer pool.

WCNYH stated that while it did not object to the Hiring Plan as written, the NYSA/ILA's implementation of it – based on their understood agreement, which WCNYH believes is not reflected in the language of the plan – could be problematic. WCNYH expressed the concern that the ILA would be able to circumvent the aim of the Employment Screening Committee and to bypass the scoring of candidates by submitting a small number of candidates. Candidates who meet only the minimum qualifications could be selected while military veterans and NYSA candidates undergo a competitive process.

NYSA indicated that the ILA will not agree to one pool, and that it was the intention of the parties to establish a three-pool system. If the language of the CBA indicates otherwise, NYSA stated that the parties would amend the CBA to provide for the three pools.

WCNYH detailed the history of the ILA's hiring practices, and that ILA locals do not represent the demographics of the surrounding geographical areas. WCNYH pointed out that in the past, when it was time for ILA and NYSA to each submit 50 individuals to be considered for prequalification, NYSA gave all of its referrals to the ILA. WCNYH is concerned that this will occur again and indicated that additional verification is needed.

NYSA objected to the necessity of presenting this historical perspective. PANYNJ pointed out that there is a New York State Division of Human Rights case pending against the NYSA and ILA on these issues.

PANYNJ indicated that the NYSA/Employers should be able to hire anyone who is qualified under the Hiring criteria – that this is a business decision – and that deference should be given to individuals referred by the NYSA according to the percentages in the plan. WCNYH therefore agreed to a three-pool system, but indicated that each pool had to be assembled in good faith, to allow for a competitive process. PANYNJ suggested that there be a bi-annual audit and certification requirement.

It was agreed that:

- There would be three separate pools from which individuals will be selected according to the percentages set forth in the NYSA-ILA Recruitment and Hiring Plan: Veterans Pool (51%), Union Pool (25%), and NYSA/Employer Pool (24%). Each of the three pools must be assembled in good faith to allow for a competitive process.
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- The ILA pool will consist of a minimum of 266 candidates so that there will be a competitive CSM process. This requirement is subject to obtaining the agreement of the ILA, and the NYSA agrees that it would use its best efforts to obtain approval from the ILA.
- Potential candidates in the NYSA/Employers Pool may include referrals from member companies' management and union employees, as long as those union employees are not instructed by union officials to refer a candidate to the pool.

- The NYSA-ILA Employment Screening Committee will apply the procedure and Candidate Scoring Matrix (CSM) for each of the three pools. The NYSA will provide a semi-annual report to WCNYH describing the general description of the process and certifying that the scoring based on the CSM was done in a fair and consistent manner. The CSM's are being held by the NYSA under seal until it is approved by the NY State Division of Human Rights in connection with any conciliation compliance.
- The Commission's acceptance of a three-pool hiring system beyond these 532 individuals is dependent on the Commission's determination that the Recruitment and Hiring Plan was implemented correctly and appropriately in accordance with the agreement of the parties, and that there were, in fact, three separate referral sources.

Checkers/Maintenance Men

There was a discussion about 150 checkers requested by the NYSA/ILA. WCNYH is requiring justification for the additional 150 checkers, and indicated that the industry should allow current longshoremen to apply for checkers positions, before bringing in people from outside the industry to fill those open positions. WCNYH stated that these are less strenuous, higher paying positions, and longshoremen who are already in the industry should be given the right of first refusal for the open checker positions.

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PANYNJ inquired whether this issue would be the proper subject for the public hearings.

The parties agreed that:

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- If no agreement is reached by the parties prior to the next hearing date of November 18, 2013, public hearings will proceed regarding the issue of checkers, and the appropriate manner for the recruitment, referral, and selection of "A" registrant maintenance workers.
- The public hearing scheduled on November 14, 2013 will be cancelled.
- PANYNJ will issue a press release regarding the settlement discussions and will distribute a draft to the parties prior to issuance. No other statements will be made to the press.

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AUTHORITY OF NEW YORK AND NEW JERSEY AND AFFILIATES. IF YOU BELIEVE YOU HAVE
RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY THE SENDER IMMEDIATELY,
PERMANENTLY DELETE THIS E-MAIL (ALONG WITH ANY ATTACHMENTS); AND DESTROY ANY
PRINTOUTS.

PANYNJ

From: Foye, Patrick
Sent: Monday, November 18, 2013 1:29 PM
To: 'psorial@WCNYH.GOV'
Cc: 'JNardi@NYSAnet.org'
Subject: Re: Draft Minutes

Phoebe thanks for your forbearance. Will review these and come back.

From: Sorial, Phoebe S. [mailto:psorial@WCNYH.GOV]
Sent: Monday, November 18, 2013 01:13 PM
To: Foye, Patrick
Cc: jnardi@nysanet.org <jnardi@nysanet.org>
Subject: RE: Draft Minutes

Pat,

We have reviewed the PA's synthesis, and note the omission of most or all of our discussions pertaining to (1) specific prequalification candidates (e.g., those making six figure salaries, barmaid at ILA establishment, former Marine); (2) historical context (NYSA's prior submission of an all-white pool aside from one NYSA relative); and (3) lack of response from the NYSA re registration of prequalified candidates. We believe that these discussions are important and would, of course, prefer the original minutes prepared by the Waterfront Commission. However, in the interest of collaboration and in order to move this process forward, we will defer to the PA's minutes, with the attached revisions. Our comments are for the most part minimal. Thanks.

Phoebe

Phoebe S. Sorial
General Counsel
Waterfront Commission of New York Harbor
An Instrumentality of the States of New York and New Jersey
Office: 212-905-9202
Fax: 212-480-0587
Website: <http://www.wcnyh.org>

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From: Foye, Patrick [mailto:pfoye@panynj.gov]
Sent: Friday, November 15, 2013 9:33 AM
To: John Nardi (JNardi@NYSAnet.org); Sorial, Phoebe S.
Subject: Draft Minutes

John/Phoebe please distribute to your teams. This represents PA synthesis of respective drafts. We will take one set of comments from NYSA and WCNYH and will then distribute our final version. Please send your collected team comments by COB Monday. Thanks. Please let me know if you have questions.

Pat

MINUTES

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The Port Authority of New York and New Jersey
Waterfront Commission of New York Harbor
New York Shipping Association, Inc.

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The Port Authority of New York and New Jersey (PANYNJ)

Patrick J. Foye, Executive Director

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Waterfront Commission of New York Harbor (WCNYH)

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Three goals articulated by PANYNJ:

1. In this era of high unemployment rates, to put people to work as quickly as possible, subject to:
2. Adherence with applicable Federal and State laws, including the Waterfront Commission Act, in a manner that will improve the diversity of the longshore workforce;
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The NYSA-ILA Recruitment and Hiring Plan was discussed by the parties in detail. That plan provides that the selection process for new hires will include three designated pools: military veterans (51%), ILA (25%), and NYSA/Employers (24%). A Recruitment Committee is established to create a pool of veterans. Every applicant will be vetted by an Employment Screening Committee, consisting of representatives from the terminal-operator Employer, the ILA and NYSA. Applicants are interviewed and evaluated by the committee based on Candidate Scoring Matrices (CSM). After passing drug and physical agility tests, candidates will be directed to WCNYH in rank order of their CSM scores.

WCNYH requested that the NYSA designate each individual's referral source who was being prequalified. WCNYH expressed concerns that, as stated by NYSA, the ILA had previously controlled 100% of hiring and that the referral percentages are just a way for ILA to pass through their applicants. WCNYH pointed out that overwhelming majority of the 97 candidates received thus far (who were part of the military veteran pool of referrals) were direct ILA referrals. Many of those individuals were not unemployed or

underemployed veterans. The Port Authority discussed the initiatives of Governors Christie and Cuomo, and cited the number of underemployed/unemployed veterans in the states of New York and New Jersey. WCNYH indicated that it would accept the referral percentages if, in fact, the Hiring Plan is not simply a way for the ILA to pass on its own referrals.

NYSA indicated that for the past two years it has been referring individuals to the ILA due to the fact that prior to the most recent collective bargaining agreement, that was the only way for prospective new employees to be hired, and suggested that this might be the reason as to why the majority of the 97 candidates appeared to be ILA referrals. WCNYH indicated that each of the 97 were interviewed and not one person indicated that he or she was directed to the ILA by the NYSA.

NYSA indicated that due to various business reasons, including uncertainty in employment, it was understandable that individuals who are already employed would be seeking to be employed as longshoremen. NYSA indicated that it contacted various veteran referral services but did not receive any cooperation from them. PANYNJ stated that it was aware of numerous organizations that could readily supply the appropriate number of veteran candidates. Both PANYNJ and WCNYH questioned why ads were not placed and why the positions were not publically offered. NYSA indicated that, as in the past, they would then have to sort through thousands of applications. NYSA stated that currently, there are approximately 400 applications from military veterans.

PANYNJ inquired as who was on the military veteran Recruitment Committee. WCNYH indicated that Susan Winfree from the NYSA is the only one on that committee. PANYNJ recommended that the Adjutant Generals of the National Guards of the States of New Jersey and New York, or their designees, be included on the committee to review the pool of candidates prior to being sent to WCNYH to review the validity of their status as veterans, in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan.

It was agreed that:

- The Adjutant Generals of the National Guards of the States of New Jersey and New York, or their designees, will be included on the military veteran Recruitment Committee.
- The Adjutant Generals will review the veteran referrals to ensure that they are eligible veterans, in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan. ensure that they were chosen because of their status as veterans and in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan. If it is determined that the individual is not a veteran in keeping with the underlying goals of the Hiring Plan, that person may be considered as part of the ILA pool.
- These agreed upon items are subject to obtaining the agreement of the ILA. The NYSA agreed to use their best efforts to obtain approval from the ILA.

NYSA/ILA Hiring Plan: Selection of Candidates Based on Referral Percentages

WCNYH indicated that, based on the language of the Hiring Plan, it understood that the percentages applied to the number of people who were referred by the three sources, not those who were actually selected. It was not until last month, in a meeting between WCNYH, NYSA and the ILA, was it explained that these were the percentages of individuals that would actually be selected. The three-pool selection method means that of the 532 longshoremen to be registered, 271 will be from the veterans pool, 133 will be from the ILA referral pool, and 128 from NYSA/Employer pool.

WCNYH stated that while it did not object to the Hiring Plan as written, the NYSA/ILA's implementation of it – based on their understood agreement, which WCNYH believes is not reflected in the language of the plan – could be problematic. WCNYH expressed the concern that the ILA would be able to circumvent the aim of the Employment Screening Committee and to bypass the scoring of candidates by submitting a small number of candidates. Candidates who meet only the minimum qualifications could be selected while military veterans and NYSA candidates undergo a competitive process.

NYSA indicated that the ILA will not agree to one pool, and that it was the intention of the parties to establish a three-pool system. If the language of the CBA indicates otherwise, NYSA stated that the parties would amend the CBA to provide for the three pools.

WCNYH detailed the history of the ILA's hiring practices, and that ILA locals do not represent the demographics of the surrounding geographical areas. WCNYH pointed out that in the past, when it was time for ILA and NYSA to each submit 50 individuals to be considered for prequalification, NYSA gave all of its referrals to the ILA. WCNYH is concerned that this will occur again and indicated that additional verification is needed.

NYSA objected to the necessity of presenting this historical perspective. PANYNJ pointed out that there is a New York State Division of Human Rights case pending against the NYSA and ILA on these issues.

PANYNJ indicated that the NYSA/Employers should be able to hire anyone who is qualified under the Hiring criteria – that this is a business decision – and that deference should be given to individuals referred by the NYSA according to the percentages in the plan. WCNYH therefore agreed to a three-pool system, but indicated that each pool had to be assembled in good faith, to allow for a competitive process. PANYNJ suggested that there be a bi-annual audit and certification requirement.

It was agreed that:

- There would be three separate pools from which individuals will be selected according to the percentages set forth in the NYSA-ILA Recruitment and Hiring Plan: Veterans Pool (51%), Union Pool (25%), and NYSA/Employer Pool (24%). Each of the three pools must be assembled in good faith to allow for a competitive process.
- Of the 532 additional longshoremen to be registered, 271 will be from the Veterans Pool, 133 from the Union Pool, and 128 from the NYSA/Employer Pool. As long as the three pools are assembled in good

faith, WCNYH will accept the certifications of sponsoring employers for the 532 additional longshoremen and register all sponsored candidates who meet the standards for registration under the Waterfront Commission Act.

- The ILA pool will consist of a minimum of 266 candidates so that there will be a competitive CSM process. This requirement is subject to obtaining the agreement of the ILA, and the NYSA agrees that it would use its best efforts to obtain approval from the ILA.
- Potential candidates in the NYSA/Employers Pool may include referrals from member companies' management and union employees, as long as those union employees are not instructed by union officials to refer a candidate to the pool.
- The NYSA-ILA Employment Screening Committee will apply the procedure and Candidate Scoring Matrix (CSM) for each of the three pools. The NYSA will provide a semi-annual report to WCNYH describing the general description of the process and certifying that the scoring based on the CSM was done in a fair and consistent manner. The CSM's are being held by the NYSA under seal until it is approved by the NY State Division of Human Rights in connection with any conciliation compliance.
- The Commission's acceptance of a three-pool hiring system beyond these 532 individuals is dependent on the Commission's determination that the Recruitment and Hiring Plan was implemented correctly and appropriately in accordance with the agreement of the parties, and that there were, in fact, three separate referral sources.

Checkers/Maintenance Men

There was a discussion about 150 checkers requested by the NYSA/ILA. WCNYH is requiring justification for the additional 150 checkers, and indicated that the industry should allow current longshoremen to apply for checkers positions, before bringing in people from outside the industry to fill those open positions. WCNYH stated that these are less strenuous, higher paying positions, and longshoremen who are already in the industry should be given the right of first refusal for the open checker positions.

NYSA indicated that, on average, it has spent approximately \$20,000 on training for each longshoremen over the course of his or her lifetime and that there is a business consideration that must be factored. Allowing longshoremen to fill open checker positions would not be in the best interest of the employers.

PANYNJ inquired whether this issue would be the proper subject for the public hearings.

The parties agreed that:

- WCNYH and NYSA will meet again under the auspices of the PANYNJ on November 14, 2013 to try to reach an agreement on issues relating to the appropriate number of checkers to be registered and

whether longshoremen presently in the workforce should be transferred to the checker craft before bringing in people from outside the industry (checker issues) and issues relating to the hiring and registration of "A" registrant mechanics and other maintenance workers.

- If no agreement is reached by the parties prior to the next hearing date of November 18, 2013, public hearings will proceed regarding the issue of checkers, and the appropriate manner for the recruitment, referral, and selection of "A" registrant maintenance workers.
- The public hearing scheduled on November 14, 2013 will be cancelled.
- PANYNJ will issue a press release regarding the settlement discussions and will distribute a draft to the parties prior to issuance. No other statements will be made to the press.

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PANYNJ

From: Sorial, Phoebe S. [psorial@WCNYH.GOV]
Sent: Monday, November 18, 2013 1:14 PM
To: Foye, Patrick
Cc: jnardi@nysanet.org
Subject: RE: Draft Minutes
Attachments: PANYNJ Minutes 11.6.13 Mtg.docx

Pat,

We have reviewed the PA's synthesis, and note the omission of most or all of our discussions pertaining to (1) specific prequalification candidates (e.g., those making six figure salaries, barmaid at ILA establishment, former Marine); (2) historical context (NYSA's prior submission of an all-white pool aside from one NYSA relative); and (3) lack of response from the NYSA re registration of prequalified candidates. We believe that these discussions are important and would, of course, prefer the original minutes prepared by the Waterfront Commission. However, in the interest of collaboration and in order to move this process forward, we will defer to the PA's minutes, with the attached revisions. Our comments are for the most part minimal. Thanks.

Phoebe

Phoebe S. Sorial
General Counsel
Waterfront Commission of New York Harbor
An Instrumentality of the States of New York and New Jersey
Office: 212-905-9202
Fax: 212-480-0587
Website: <http://www.wcnyh.org>

CONFIDENTIALITY NOTICE CLICK HERE: <http://www.wcnyh.org/confidentiality.htm>

From: Foye, Patrick [mailto:pfoye@panynj.gov]
Sent: Friday, November 15, 2013 9:33 AM
To: John Nardi (JNardi@NYSAnet.org); Sorial, Phoebe S.
Subject: Draft Minutes

John/Phoebe please distribute to your teams. This represents PA synthesis of respective drafts. We will take one set of comments from NYSA and WCNYH and will then distribute our final version. Please send your collected team comments by COB Monday. Thanks. Please let me know if you have questions.

Pat

MINUTES

November 7, 2013 Meeting of

The Port Authority of New York and New Jersey

**Waterfront Commission of New York Harbor
New York Shipping Association, Inc.**

Attendees:

The Port Authority of New York and New Jersey (PANYNJ)

Patrick J. Foye, Executive Director

William Baroni, Jr., Deputy Executive Director

Richard M. Larrabee, Director - Port Commerce Department

Andrew Saporito, Assistant Director - Port Business Development

John Ma, Chief of Staff to the Executive Director

David Wildstein, Director of Interstate Capital Projects

Waterfront Commission of New York Harbor (WCNYH)

Ronald Goldstock, New York Commissioner

Jan Gilhooly, New Jersey Commissioner

Walter M. Arsenault, Executive Director

Phoebe S. Sorial, General Counsel

New York Shipping Association, Inc. (NYSA)

John Nardi, President

Susan Winfree, Vice President, Workforce Development and Corporate Diversity Officer

Donato Caruso, Esq. - The Lambos Firm

New York Shipping Association Board Members

Anthony Ray, Executive Vice President - Maher Terminals, L.L.C.

Ian Cairns, Vice President - CMA-CGM (America), Inc.

Jim Pelliccio, President & CEO - Port Newark Container Terminal, L.L.C.

Three goals articulated by PANYNJ:

1. In this era of high unemployment rates, to put people to work as quickly as possible, subject to:

2. Adherence with applicable Federal and State laws, including the Waterfront Commission Act, in a manner that will improve the diversity of the longshore workforce;
3. Make progress (with the PANYNJ as a facilitator) in a non-public forum. Progress should be made outside of the press.

PANYNJ stated that the issue of labor shortages is of interest to both states. The Port must be efficient, and PANYNJ wants to provide a forum to develop remedies.

NYSA stated that it has recognized issues brought up by WCNYH over the past couple of years (e.g., no show/low show jobs, diversity). The new collective bargaining agreement is a major step in addressing those issues. NYSA is now anxious to implement that agreement. It has made a request to the WCNYH to open the register to add 532 longshoremen and 150 checkers given current labor shortages and anticipated retirements. NYSA stated that in the past, the ILA has controlled 100% of the hiring. It stated its concerns that if it goes back to the table with the ILA to re-negotiate or modify aspects of the hiring plan, it may lose everything else for which it bargained. NYSA believes that the ILA finally agrees that productivity needs to be increased in the Port.

Immediate Need for Labor/Prequalification Pool

WCNYH indicated that it accepts the need for the 532 longshore additions to the workforce, and has told the NYSA to send in individuals for prequalification. WCNYH reiterated that when it learned of the buyout in the newly negotiated contract, it immediately told the NYSA to begin sending those individuals that they want to hire so that they could be prequalified. Beginning in August, the Commission received, on a rolling basis, a total of 97 candidates to be prequalified. All of the 97 veteran candidates who have been referred by the NYSA to WCNYH for prequalification have been processed and there is no backlog. 56 of those candidates have been pre-qualified and are ready to be put to work immediately. Some individuals were not prequalified because they were not honorably discharged or because of prior criminal records. There are 22 requests for prequalification pending because the individuals did not appear for their fingerprinting appointments or due to outstanding military or criminal records.

WCNYH indicated there are 50 individuals (from New York and New Jersey workforce centers) who were previously prequalified that are ready to be put to work immediately. WCNYH reiterated that on October 16, 2013, it wrote to NYSA and advised that it would immediately open the deep sea longshoremen's register for 150 individuals, and that approximately 100 prequalified individuals were ready to be put to work immediately if there is an emergent need for labor. WCNYH indicated that it has been waiting for sponsorship letters from NYSA in order to begin registering those individuals.

PANYNJ pointed out that WCNYH has a solution for 100 people who could be put to work immediately.

NYSA indicated that it cannot employ the 50 individuals that were previously prequalified from the workforce centers because they were not recruited or selected in accordance with the CBA provisions. NYSA indicated that it stopped referring additional people for prequalification when WCNYH questioned the validity of the Recruitment and Hiring Plan. WCNYH indicated that it continued to prequalify individuals sent by NYSA pursuant to that Hiring Plan.

PANYNJ asked whether WCNYH would register those 56 individuals that had been sent by the NYSA for prequalification. WCNYH indicated that it would do so immediately upon receiving sponsorship letter from NYSA.

It was agreed that:

- The application for the registration of 532 additional longshoremen is approved without the necessity of a hearing.
- WCNYH will register the prequalified 56 individuals from the Veterans Pool who had been sent to WCNYH by the NYSA for prequalification upon receipt of sponsorship letters from employers members of NYSA.
- WCNYH will send the names of the other 50 prequalified individuals whom WCNYH had previously prequalified to NYSA to cross-check the names against the list of people provided by the NY and NJ Department of Labor One Stop Career Centers. Anyone on the list will be eligible to be processed as part of the pool of NYSA referrals.

NYSA indicated that it will also begin sending approximately 30 individuals to WCNYH per week for the next three to four weeks. Those individuals would be sent in accordance with the Hiring Plan.

NYSA/ILA Recruitment and Hiring Plan: Veteran Recruitment and Selection

The NYSA-ILA Recruitment and Hiring Plan was discussed by the parties in detail. That plan provides that the selection process for new hires will include three designated pools: military veterans (51%), ILA (25%), and NYSA/Employers (24%). A Recruitment Committee is established to create a pool of veterans. Every applicant will be vetted by an Employment Screening Committee, consisting of representatives from the terminal-operator Employer, the ILA and NYSA. Applicants are interviewed and evaluated by the committee based on Candidate Scoring Matrices (CSM). After passing drug and physical agility tests, candidates will be directed to WCNYH in rank order of their CSM scores.

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PANYNJ inquired as who was on the military veteran Recruitment Committee. WCNYH indicated that Susan Winfree from the NYSA is the only one on that committee. PANYNJ recommended that the Adjutant Generals of the National Guards of the States of New Jersey and New York, or their designees, be included on the committee to review the pool of candidates prior to being sent to WCNYH to review the validity of their status as veterans, in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan.

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that of the 532 longshoremen to be registered, 271 will be from the veterans pool, 133 will be from the ILA referral pool, and 128 from NYSA/Employer pool.

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NYSA objected to the necessity of presenting this historical perspective. PANYNJ pointed out that there is a New York State Division of Human Rights case pending against the NYSA and ILA on these issues.

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- The Commission's acceptance of a three-pool hiring system beyond these 532 individuals is dependent on the Commission's determination that the Recruitment and Hiring Plan was implemented correctly and appropriately in accordance with the agreement of the parties, and that there were, in fact, three separate referral sources.

Checkers/Maintenance Men

There was a discussion about 150 checkers requested by the NYSA/ILA. WCNYH is requiring justification for the additional 150 checkers, and indicated that the industry should allow current longshoremen to apply for checkers positions, before bringing in people from outside the industry to fill those open positions. WCNYH stated that these are less strenuous, higher paying positions, and longshoremen who are already in the industry should be given the right of first refusal for the open checker positions.

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MINUTES

November 7~~6~~, 2013 Meeting of
The Port Authority of New York and New Jersey
Waterfront Commission of New York Harbor
New York Shipping Association, Inc.

Attendees:

The Port Authority of New York and New Jersey (PANYNJ)

Patrick J. Foye, Executive Director
William Baroni, Jr., Deputy Executive Director
Richard M. Larrabee, Director - Port Commerce Department
Andrew Saporito, Assistant Director - Port Business Development
John Ma, Chief of Staff to the Executive Director
David Wildstein, Director of Interstate Capital Projects

Waterfront Commission of New York Harbor (WCNYH)

Ronald Goldstock, New York Commissioner
Jan Gilhooly, New Jersey Commissioner
Walter M. Arsenault, Executive Director
Phoebe S. Sorial, General Counsel

New York Shipping Association, Inc. (NYSA)

John Nardi, President
Susan Winfree, Vice President, Workforce Development and Corporate Diversity Officer
Donato Caruso, Esq. - The Lambos Firm

New York Shipping Association Board Members

Anthony Ray, Executive Vice President - Maher Terminals, L.L.C.
Ian Cairns, Vice President - CMA-CGM (America), Inc.
Jim Pelliccio, President & CEO - Port Newark Container Terminal, L.L.C.

Three goals articulated by PANYNJ:

1. In this era of high unemployment rates, to put people to work as quickly as possible, subject to:
2. Adherence with applicable Federal and State laws, including the Waterfront Commission Act, in a manner that will improve the diversity of the longshore workforce;
3. Make progress (with the PANYNJ as a facilitator) in a non-public forum. Progress should be made outside of the press.

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Immediate Need for Labor/Prequalification Pool

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WCNYH indicated there are 50 individuals (from New York and New Jersey workforce centers) who were previously prequalified that are ready to be put to work immediately. WCNYH reiterated that on October 16, 2013, it wrote to NYSA and advised that it would immediately open the deep sea longshoremen's register for 150 individuals, and that approximately 100 prequalified individuals were ready to be put to work immediately if there is an emergent need for labor. WCNYH indicated that it has been waiting for sponsorship letters from NYSA in order to begin registering those individuals.

PANYNJ pointed out that WCNYH has a solution for 100 people who could be put to work immediately.

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- The application for the registration of 532 additional longshoremen is approved without the necessity of a hearing.
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- WCNYH will send the names of the other 50 prequalified individuals whom WCNYH had previously prequalified to NYSA to cross-check the names against the list of people provided by the NY and NJ Department of Labor One Stop Career Centers. Anyone on the list will be eligible to be processed as part of the pool of NYSA referrals.

NYSA indicated that it will also begin sending approximately 30 individuals to WCNYH per week for the next three to four weeks. Those individuals would be sent in accordance with the Hiring Plan.

NYSA/ILA Recruitment and Hiring Plan: Veteran Recruitment and Selection

The NYSA-ILA Recruitment and Hiring Plan was discussed by the parties in detail. That plan provides that the selection process for new hires will include three designated pools: military veterans (51%), ILA (25%), and NYSA/Employers (24%). A Recruitment Committee is established to create a pool of veterans. Every applicant will be vetted by an Employment Screening Committee, consisting of representatives from the terminal-operator Employer, the ILA and NYSA. Applicants are interviewed and evaluated by the committee based on Candidate Scoring Matrices (CSM). After passing drug and physical agility tests, candidates will be directed to WCNYH in rank order of their CSM scores.

WCNYH requested that the NYSA designate each individual's referral source who was being prequalified. WCNYH expressed concerns that, as stated by NYSA, the ILA had previously controlled 100% of hiring and that the referral percentages are just a way for ILA to pass through their applicants. WCNYH pointed out that an overwhelming majority of the 97 candidates received thus far (who were part of the military veteran pool of referrals) were direct ILA referrals. Many of those individuals were not unemployed or underemployed veterans.

The Port Authority discussed the initiatives of Governors Christie and Cuomo, and cited the number of underemployed/unemployed veterans in the states of New York and New Jersey. WCNYH indicated that it would accept the referral percentages if, in fact, the Hiring Plan is not simply a way for the ILA to pass on its own referrals.

NYSA indicated that for the past two years it has been referring individuals to the ILA due to the fact that prior to the most recent collective bargaining agreement, that was the only way for prospective new employees to be hired, and suggested that this might be the reason as to why the majority of the 97 candidates appeared to be ILA referrals. WCNYH indicated that each of the 97 were interviewed and not one person indicated that he or she was directed to the ILA by the NYSA.

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NYSA indicated that due to various business reasons, including uncertainty in employment, it was understandable that individuals who are already employed would be seeking to be employed as longshoremen. NYSA indicated that it contacted various veteran referral services but did not receive any cooperation from them. PANYNJ stated that it was aware of numerous organizations that could readily supply the appropriate number of veteran candidates. Both PANYNJ and WCNYH questioned why ads were not placed and why the positions were not publically offered. NYSA indicated that, as in the past, they would then have to sort through thousands of applications. NYSA stated that currently, there are approximately 400 applications from military veterans.

PANYNJ inquired as who was on the military veteran Recruitment Committee. ~~WCNYH-NYSA~~ indicated that Susan Winfree from the NYSA is the only one on that committee. PANYNJ recommended that the Adjutants Generals of the National Guards of the States of New Jersey and New York, or their designees, be included on the committee to review the pool of candidates prior to being sent to WCNYH to review the validity of their status as veterans, in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan.

It was agreed that:

- The Adjutants Generals of the National Guards of the States of New Jersey and New York, or their designees, will be included on the military veteran Recruitment Committee.
- The Adjutants Generals will review the veteran referrals to ensure that they are eligible veterans, in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan. ~~ensure that they were chosen because of their status as veterans and in furtherance of the goals of the NYSA-ILA Recruitment and Hiring Plan.~~ If it is determined that the individual is not a veteran in keeping with the underlying goals of the Hiring Plan, and is merely an ILA referral who happens to be a veteran, that person may be considered as part of the ILA pool.
- These agreed upon items are subject to obtaining the agreement of the ILA. The NYSA agreed to use their best efforts to obtain approval from the ILA.

NYSA/ILA Hiring Plan: Selection of Candidates Based on Referral Percentages

WCNYH indicated that, based on the language of the Hiring Plan, it understood that the percentages applied to the number of people who were referred by the three sources, not those who were actually selected. It was not until last month, in a meeting between WCNYH, NYSA and the ILA, was it explained that these were the percentages of individuals that would actually be selected. The three-pool selection method means that of the 532 longshoremen to be registered, 271 will be from the veterans pool, 133 will be from the ILA referral pool, and 128 from NYSA/Employer pool.

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WCNYH stated that while it did not object to the Hiring Plan as written, the NYSA/ILA's implementation of it – based on their understood agreement, which WCNYH believes is not reflected in the language of the plan – could be problematic. WCNYH expressed the concern that the ILA would be able to circumvent the aim of the Employment Screening Committee and to bypass the scoring of candidates by submitting a small number of candidates. Candidates who meet only the minimum qualifications could be selected while military veterans and NYSA candidates undergo a competitive process.

NYSA indicated that the ILA will not agree to one pool, and that it was the intention of the parties to establish a three-pool system. If the language of the CBA indicates otherwise, NYSA stated that the parties would amend the CBA to provide for the three pools.

WCNYH detailed the history of the ILA's hiring practices, and that ILA locals do not represent the demographics of the surrounding geographical areas. WCNYH pointed out that in the past, when it was time for ILA and NYSA to each submit 50 individuals to be considered for prequalification, NYSA gave all of its referrals to the ILA. WCNYH is concerned that this will occur again and indicated that additional verification is needed.

NYSA objected to the necessity of presenting this historical perspective. PANYNJ pointed out that there is a New York State Division of Human Rights case pending against the NYSA and ILA on these issues.

PANYNJ indicated that the NYSA/Employers should be able to hire anyone who is qualified under the Hiring criteria – that this is a business decision – and that deference should be given to individuals referred by the NYSA according to the percentages in the plan. WCNYH therefore agreed to a three-pool system, but indicated that each pool had to be assembled in good faith, to allow for a competitive process. PANYNJ suggested that there be a bi-annual audit and certification requirement.

It was agreed that:

- There would be three separate pools from which individuals will be selected according to the percentages set forth in the NYSA-ILA Recruitment and Hiring Plan: Veterans Pool (51%), Union Pool (25%), and NYSA/Employer Pool (24%). Each of the three pools must be assembled in good faith to allow for a competitive process.
- Of the 532 additional longshoremen to be registered, 271 will be from the Veterans Pool, 133 from the Union Pool, and 128 from the NYSA/Employer Pool. As long as the three pools are assembled in good faith, WCNYH will accept the certifications of sponsoring employers for the 532 additional longshoremen and register all sponsored candidates who meet the standards for registration under the Waterfront Commission Act.
- The ILA pool will consist of a minimum of 266 candidates so that there will be a competitive CSM process. This requirement is subject to obtaining the agreement of the ILA, and the NYSA agrees that it would use its best efforts to obtain approval from the ILA.

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- Potential candidates in the NYSA/Employers Pool may include referrals from member companies' management and union employees, as long as those union employees are not instructed by union officials to refer a candidate to the pool.
- There will be a certification from the NYSA that the union employees' referrals in the NYSA/Employers Pool were not referred by, or at the instruction of, union officials.
- The NYSA-ILA Employment Screening Committee will apply the procedure and Candidate Scoring Matrix (CSM) for each of the three pools. The NYSA will provide a semi-annual report to WCNYH describing the general description of the process and certifying that the scoring based on the CSM was done in a fair and consistent manner. The CSM's are being held by the NYSA under seal until it is approved by the NY State Division of Human Rights in connection with any conciliation compliance.
- The Commission's acceptance of a three-pool hiring system beyond these 532 individuals is dependent on the Commission's determination that the Recruitment and Hiring Plan was implemented correctly and appropriately in accordance with the agreement of the parties, and that there were, in fact, three separate referral sources.

Checkers/Maintenance Men

There was a discussion about 150 checkers requested by the NYSA/ILA. WCNYH is requiring justification for the additional 150 checkers, and indicated that the industry should allow current longshoremen to apply for checkers positions, before bringing in people from outside the industry to fill those open positions. WCNYH stated that these are less strenuous, higher paying positions, and longshoremen who are already in the industry should be given the right of first refusal for the open checker positions.

NYSA indicated that, on average, it has spent approximately \$20,000 on training for each longshoremen over the course of his or her lifetime and that there is a business consideration that must be factored. Allowing longshoremen to fill open checker positions would not be in the best interest of the employers.

PANYNJ inquired whether this issue would be the proper subject for the public hearings.

The parties agreed that:

- WCNYH and NYSA will meet again under the auspices of the PANYNJ on November 14, 2013 to try to reach an agreement on issues relating to the appropriate number of checkers to be registered and whether longshoremen presently in the workforce should be transferred to the checker craft before bringing in people from outside the industry (checker issues) and issues relating to the hiring and registration of "A" registrant mechanics and other maintenance workers.
- If no agreement is reached by the parties prior to the next hearing date of — November 18, 2013, public hearings will proceed regarding the issue of checkers, and the

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appropriate manner for the recruitment, referral, and selection of "A" registrant maintenance workers.

- The public hearing scheduled on November 14, 2013 will be cancelled.
- PANYNJ will issue a press release regarding the settlement discussions and will distribute a draft to the parties prior to issuance. No other statements will be made to the press.

PANYNJ

From: Foye, Patrick
Sent: Friday, November 08, 2013 10:23 AM
To: 'psorial@WCNYH.GOV'; 'JNardi@NYSAnet.org'
Subject: Re: Waterfront Commission Public Hearings

Phoebe ok here, thanks

From: Sorial, Phoebe S. [<mailto:psorial@WCNYH.GOV>]
Sent: Friday, November 08, 2013 09:57 AM
To: jnardi@nysanet.org <jnardi@nysanet.org>; Foye, Patrick
Subject: Waterfront Commission Public Hearings

We would like to send the following statement to various members of the press today to advise that the 11/14 hearing has been cancelled. Please let me know if you have any issues. Thanks.

"As you may know, the Waterfront Commission and the New York Shipping Association met this week to resolve some of the issues that necessitated the public hearings. The hearing scheduled for November 14, 2013 has been cancelled as a result of the progress made thus far. The next hearing is scheduled for Monday, November 18, 2013. Attached is a press release issued by the Port Authority yesterday regarding the parties' settlement discussions. The parties have agreed not to make any additional statements to the press."

Phoebe

Phoebe S. Sorial
General Counsel
Waterfront Commission of New York Harbor
An Instrumentality of the States of New York and New Jersey
Office: 212-905-9202
Fax: 212-480-0587
Website: <http://www.wcnyh.org>

CONFIDENTIALITY NOTICE CLICK HERE: <http://www.wcnyh.org/confidentiality.htm>

PANYNJ

From: Sorial, Phoebe S. [psorial@WCNYH.GOV]
Sent: Friday, November 08, 2013 9:57 AM
To: jnardi@nysanet.org; Foye, Patrick
Subject: Waterfront Commission Public Hearings

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RONALD GOLDSTOCK
JAN H. GILHOOLY
COMMISSIONERS

WATERFRONT COMMISSION OF NEW YORK HARBOR
39 BROADWAY
NEW YORK, N.Y. 10006-3003
(212) 742-9380
FAX (212) 480-0587

WALTER M. ARSENAULT
EXECUTIVE DIRECTOR

May 25, 2012

Via Email and First Class Mail.

Mr. Joseph Curto
Co-Chairman NYSA-ILA Contract Board
New York Shipping Association, Inc.
333 Thornall Street, Suite 3A
Edison, New Jersey 08837

Re: Waterfront Commission of New York Harbor - Drug and Alcohol Testing

Dear Mr. Curto:

Please accept this correspondence in response to your letter dated May 21, 2012 (a copy of which is attached hereto) and in furtherance of our subsequent telephone discussions with regard to subpoenas served by the Commission compelling certain individuals to submit to drug and alcohol testing. You contend that neither the Waterfront Commission Act ("Act") nor the Commission's regulations contain any provisions authorizing such testing, and have asked for the purpose, legal basis or specifics of the "program."

As an initial matter, the Commission has not, as you indicate, initiated a "program" of issuing subpoenas to longshore workers to compel their submission to drug and alcohol testing. Rather, the Commission – working with its law enforcement partners – has, in its capacity as a law-enforcement and regulatory agency, compelled certain individuals who have been identified as chronic substance abusers who frequently work under the influence of drugs or alcohol to submit to testing in connection with, or as a result of, the Commission's ongoing investigations.¹ Such investigations are specifically authorized by the Act, which directs the Commission "to make investigations, collect and compile information concerning waterfront practices generally within the port of New York district and upon all matters relating to the accomplishment of the objective of this compact." Article IV, Section 8, codified at N.J.S.A. 32:23-10(11). In such circumstances, the Commission, which is empowered by the Act "to administer oaths and issue subpoenas to compel the attendance of witnesses and the giving of testimony and the production of other evidence," has properly acted according to its statutory authority in doing so. Article IV, Section 8, codified at N.J.S.A. 32:23-10(8).

¹ In your follow-up email dated May 24, 2012, you asked what the Commission will do if an individual is discovered to have been under the influence of drugs or alcohol. In such cases, administrative charges are filed against that individual in accordance with the Act, an administrative hearing is held before an administrative law judge and, if the Commission's charges are proven at the hearing, the Commission will either suspend that individual from the waterfront, or revoke his or her registration. This determination is made on a case-by-case basis.

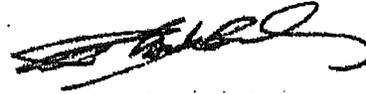
WATERFRONT COMMISSION OF NEW YORK HARBOR

Joseph Curtò
May 25, 2012 – Page 2

As you are aware, one of the Commission's critical objectives is to ensure that the presence of registered individuals at the piers or other waterfront terminals in the Port of New York district does not constitute "a danger to the public peace or safety." N.J.S.A. 32:23-29(c). Given the inherent danger of longshore work, the obvious threat posed by impaired individuals to their safety and that of others should be of great concern to the New York Shipping Association ("NYSA"), International Longshoreman's Association ("ILA") and collectively, to the NSA-ILA Contract Board. The Commission, which has been determinedly working to remove such individuals from the waterfront, is deeply troubled by your apparent protest of our efforts to safeguard the Port from those who pose a danger to themselves or others. Indeed, this position actually contravenes the interests of each and every stevedore that is represented by the NYSA.

Likewise, the sentiments of your union counterparts, as expressed in your letter, are completely unfounded. The Commission's testing of certain individuals has not and should not replace or supplant the industry's drug and alcohol program, and we have not "alter[ed] that program at will." There is no second program, and the Commission's investigations should not interfere with management's efforts to implement and/or improve any collectively bargained program. Any such program of random testing should be implemented by the Contract Board to ensure safe operations on the waterfront.

Very truly yours,



Phoebe S. Sorial
General Counsel

cc: Walter M. Arsenault, Executive Director
NYSA-ILA Contract Board
Patrick Foye, Executive Director, The Port Authority of NY & NJ


**New York Shipping
Association, Inc.**



*New York / New Jersey
Port Employers and Ocean Carriers*

www.nysa.net

May 21, 2012

Phoebe S. Sorial, Esq.
General Counsel
Waterfront Commission of New York Harbor
39 Broadway, 4th Floor
New York, NY 10006

Dear Ms. Sorial:

It has come to my attention that the Waterfront Commission of New York Harbor has initiated a program of issuing subpoenas to longshore workers to compel their submission to drug-and-alcohol testing by the Commission. The subpoenas have been served upon these employees while they are at work on the docks. The subpoenas require them, at their own expense, to appear for drug testing at a facility in Brooklyn during the work week. This program has been disruptive to the employers in the port because it has pulled individuals off the job who are necessary to the productive operation of the terminals. Issues have been raised concerning the individuals' entitlement to be paid for the lost time.

It is surprising that after all these years the Commission is now taking it upon itself to conduct drug-and-alcohol testing. Neither the Waterfront Commission Act nor the Commission's regulations contain any provisions authorizing a testing program. In addition, the constitutionality of the program under due process principles is questionable in light of the absence of any standards that the Commission would have to meet before it could compel an individual to undergo and pay for these tests. Moreover, the Commission's actions raise serious questions concerning the propriety of its drug-and-alcohol testing program under applicable state law.

This issue has caused consternation at various NYSA-ILA Contract Board meetings. When asked, I am at a loss to explain the purpose, legal basis, or specifics of the Commission's program and ask you as General Counsel to the Commission to answer these serious questions for me. I would ask that you provide me with specific references to statutes, regulations, or other authorities that enable the Commission to engage in these testing activities.

New York Shipping Association, Inc.

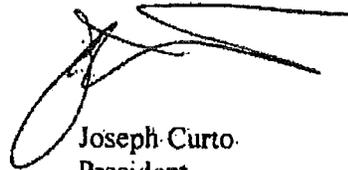
333 Thormal Street, Suite 3A • Edison, NJ 08837 • (732) 452-7800 | Tel | • (732) 452-6315 | Fax |

May 21, 2012

Also, the timing of the Commission's program is troubling because it is occurring at the time when longshore labor negotiations are in progress. An important aspect of these negotiations will involve management's efforts to improve the collectively bargained drug-and-alcohol program. The Commission's testing activities may actually work against management's bargaining objectives. Quite frankly, my union counterparts have voiced the sentiment that they see no reason to have an industry drug and alcohol program when the Commission can alter that program at will.

This matter is of utmost importance. I urge you to give it your immediate attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "Joseph Curto", with a large, sweeping flourish extending to the right.

Joseph Curto
President

cc: NYS-ILA Contract Board

PANYNJ

Subject: Meeting re: Maher Fallout and Labor Issues
Location: 225 Park Avenue South - ED's Conference Room

Start: Tue 8/6/2013 5:00 PM
End: Tue 8/6/2013 6:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Foye, Patrick
Required Attendees: Ma, John; Larrabee, Richard; 'JNardi@NYSANET.ORG'; 'lpsig@verizon.net'; 'Arsenault, Walter'
Optional Attendees: Lombardi, Dennis