

1 Filed 06 Dec. 2007

2 BEFORE THE BOARD OF PILOT COMMISSIONERS
3 FOR THE BAYS OF SAN FRANCISCO, SAN PABLO AND SUISUN
4

5 In re the Matter of the) Case No.: No. 07-01
6 Accusation Against:)
7 Captain JOHN J. COTA,)
8)

9
10 To: Captain JOHN J. COTA, Pilot on the Bays of San Francisco, San Pablo and Suisun, State
11 License No. 902-27:

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13 The Incident Review Committee of the Board of Pilot Commissioners for the Bays of San
14 Francisco, San Pablo and Suisun (hereinafter "the IRC" and "the Board," respectively), having
15 investigated the navigational incident described herein, under the authority of Section 1180.6 of the
16 California Harbors and Navigation Code (hereinafter "the Code") and Section 210 of the Board's
17 Regulations (Title 7, California Code of Regulations, § 210), makes the following accusation against
18 Captain John J. Cota (hereinafter "Captain Cota"), the Respondent,
19

20 **General Background**

- 21 1. At all times relevant, Captain Cota was the holder of Pilot License Number 902-27, issued on
22 February 1, 2007 by the Board pursuant to Chapter 4 of Division 5 the Code.
23
24 2. The Board has the authority to suspend or revoke a pilot license issued by it as provided by
25 Sections 1181 and 1182 of the Code.
26
27 3. Captain Cota has subjected his license to suspension or revocation in that, on 07 November
28 2007, while serving as the pilot of the outbound M/V COSCO BUSAN, he negligently caused the

1 allision of that vessel's port side with the fendering system of the "D" or "Delta" tower of the San
2 Francisco-Oakland Bay Bridge, as more fully described below.

- 3
4 4. The M/V COSCO BUSAN is a motor container vessel registered in Hong Kong. The vessel
5 has a gross registered tonnage of 65,301 GRT, a length of 901 feet, a beam of 131 feet, and at the
6 time of the allision had a draft of 39' 09" forward and 40' 04" aft. The vessel is configured with a
7 single, fixed pitch, right turning propeller and a 2,700 hp bow thruster.

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9 **BASIS OF ACCUSATION**

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11 5. At about 0600 on Wednesday, 07 November 2007, Captain Cota boarded the M/V COSCO
12 BUSAN at Oakland Berth 56 to act as its pilot for its transit from Berth 56 to sea. The vessel was
13 scheduled to sail at 0630.

- 14
15 6. Once aboard the vessel, Captain Cota was escorted to the bridge where he met the ship's
16 captain and bridge team, whose English skills were limited, as was their familiarity with the ship
17 and her navigation equipment.

- 18
19 7. Captain Cota was unfamiliar with the ship's electronic chart system and the markings thereon.
20 Additionally, Captain Cota had concerns regarding the operational status of the radars prior to
21 departure.

- 22
23 8. At 0748 the COSCO BUSAN left the safety of the berth under Captain Cota's guidance. At
24 the time of departure, he had reason to doubt whether the ship could proceed safely and he had
25 insufficient information about the level of visibility along his intended route. Under the
26 circumstances, the COSCO BUSAN's departure from Berth 56 was contrary to the guidelines in
27 the *San Francisco, San Pablo and Suisun Bays Harbor Safety Plan* ("HSP"), which provide for
28 various factors to be considered before moving a vessel (see Section XIV. Pilotage) and further

1 provide that: "Vessels within the Bay at a dock ... should not commence movement if visibility
2 is less than .5 nautical miles throughout the intended route, unless the operator's assessment of all
3 variables is that the vessel can proceed safely." HSP at pp. 5 and 43.

4
5 9. Once clear of the berth and in mid-channel, Captain Cota directed the assist tug,
6 REVOLUTION, to put up a line to the ship's stern and follow the ship with a slack line. He
7 planned to let the tug go once they were out of the estuary.

8
9 10. Captain Cota ordered "Half Ahead" when the ship exited the Oakland Inner Harbor Entrance
10 Channel. That engine order would bring the ship's speed under prevailing circumstances to about
11 11 knots as the ship would be stemming a one-knot flood current. The engine order remained at
12 Half Ahead for about 7 minutes, at which time Captain Cota ordered "Full Ahead." The ship
13 allided with the bridge less than 3 minutes after the Full Ahead bell.

14
15 11. During the period that the ship was at Half Ahead, the visibility in the approach to the bridge
16 was reduced to about 0.1 nm, the ship's radar pictures deteriorated to the point that Captain Cota
17 lost confidence in them, and he lost situational awareness to accurately assess the vessel's
18 position, although he had the means to do so.

19
20 12. Under the circumstances, prudence and compliance with Inland Navigation Rules 6, 7 and 19
21 would have dictated that Captain Cota reduce speed and/or proceed to Anchorage 9 rather than
22 continue to attempt to transit under the bridge between the Delta and Echo towers, which he could
23 not see on radar and which were not visible due to the dense fog.

24
25 13. The Bay Bridge has a fixed green light with 3 white lights in a vertical line on the bridge and a
26 radar beacon (RACON) above the center of the channel between the Delta and Echo towers. In
27 addition, there is a nun buoy with a radar reflector on each side of the Delta Tower, fog horns on
28 both the Delta and Echo towers and a bell marking the Charlie tower of the bridge. As the pilot

1 with local knowledge, Captain Cota should have ensured that the lookout had been properly
2 instructed as to what to look and listen for and what to report prior to approaching the bridge.
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4

- 5 14. Captain Cota failed to make full use of all available resources, including the tug
6 REVOLUTION, which remained tethered to the stern and thus useless to him, of the Coast Guard
7 Vessel Traffic Service, which could have provided more information as to his position and
8 heading if he had requested it, and of his ship's lookout, who could have provided information on
9 the bridge's fog signals and lights if the lookout had been properly instructed.
10

11 **DAMAGES CAUSED BY ALLISION**

- 12 15. As a direct result of Captain Cota's piloting, the vessel struck the fendering system
13 surrounding the Delta Tower, damaging the ship and the bridge's fendering system, and spilling
14 an estimated 58,000 gallons of fuel oil from the ship's fuel tanks, which were ruptured by the
15 allision. The resulting property damage and damage to the marine environment is estimated in the
16 tens of millions of dollars.
17

18 **ACCUSATION OF MISCONDUCT**

- 19
20 16. Captain Cota's conduct, under all the circumstances described herein, constituted
21 "misconduct" within the meaning of HNC Section 1181(g), which states in relevant part:
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23 The license of a pilot or inland pilot may be revoked or suspended before its
24 expiration only for reasons of misconduct, which shall include, but not be limited
25 to, the following:

26(g) Negligently, ignorantly, or willfully running any vessel on shore, or
27 otherwise rendering it liable to damage, or otherwise causing injury to
28 persons or damage to property....

1 Captain Cota's conduct also violated the provisions of Title 7, California
2 Code of Regulations, Section 219(t), (u) and (v) which state in relevant part:

3 (t) A pilot ... shall not, through ignorance, willfulness or neglect, run a
4 vessel on shore, or otherwise render a vessel liable for damage to persons,
5 property or the marine environment during the performance of his or her
6 duties as a pilot...;

7 (u) A pilot ... shall always obey the applicable Rules of the Road for the
8 navigation of vessels and shall, under all circumstances, perform his or her
9 duties in a manner so as not to endanger persons, property or the marine
10 environment or cause damage...; and

11 (v) While engaged in any piloting activity, a pilot ... shall obey all
12 applicable laws and conduct himself or herself so as not to cause injury or
13 damage to persons, property or the marine environment.

14 17. Captain Cota's misconduct as described above warrants the suspension or revocation of his
15 pilot license.

16 WHEREFORE, you are notified that the Board will determine whether revocation or
17 suspension of your pilot license, or other appropriate sanction, should be imposed. You are further
18 notified that: Unless a written request for a hearing signed by you or on your behalf is delivered or
19 mailed to the agency within 15 days after the accusation was personally served on you or mailed to
20 you, the Board may proceed upon the accusation without a hearing. Your request for a hearing may
21 be made by delivering or mailing the enclosed form entitled Notice of Defense, or by delivering or
22 mailing a notice of defense as provided by Section 11506 of the California Government Code, to:

23 BOARD OF PILOT COMMISSIONERS
24 FOR THE BAYS OF SAN FRANCISCO, SAN PABLO AND SUISUN
25 Pier 9, Suite 102
26 San Francisco, CA 94111

27 You may, but need not, be represented by counsel at any or all stages of these proceedings.
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1 If you desire the names and addresses of witnesses or an opportunity to inspect and copy the
2 items mentioned in Section 11507.6 of the Government Code in the possession, custody or control of
3 the agency, you may contact:

4 GARY R. GLEASON (SB#136167)
5 FARBSTEIN & BLACKMAN
6 A Professional Corporation
7 411 Borel Avenue, Suite 425
8 San Mateo, California 94402-3518
9 TEL: (650) 554-6200

10 The hearing may be postponed for good cause. If you have good cause, you are obliged to
11 notify the agency or, if an administrative law judge has been assigned to the hearing, the Office of
12 Administrative Hearings, 1515 Clay St., Suite 206, Oakland, CA 94612 (fax no. 510-622-2743). You
13 must give notice within 10 working days after you discover the good cause. Failure to give notice
14 within 10 days will deprive you of a postponement.

15 Dated: December 06, 2007

16 By THE INCIDENT REVIEW COMMITTEE

17 _____/s/_____
18 Commissioner Gunnar Lundeberg
19 Public Member

20 _____/s/_____
21 Captain P. A. Moloney
22 Executive Director, Member