

25 September 2020

Capt. Joe Long  
Port Agent, Board of Pilot Commissioners, State of California  
President, San Francisco Bar Pilots Association  
Delivered via email to [portagent@sfbp.org](mailto:portagent@sfbp.org)

**Formal Request for Retraction of Public Statement**

Dear Capt. Long,

I write with respect to your unfortunate comments made at the regular monthly meeting of the State Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun (BOPC) of August 27, 2020. I respectfully request that you formally retract these objectionable comments in written correspondence to the BOPC and to rehabilitate the record.

At the August 27, 2020 BOPC meeting, in the course of your "Port Agent's Report" (Item #7), you addressed a number of items with respect to the current financial situation of the San Francisco Bar Pilots (SFBP) and discussions with various stakeholders in the state pilotage system, including the Pacific Merchant Shipping Association (PMSA). At that time, you alleged various facts, claims, and representations.

One such statement made specifically was your assertion that "PMSA was not being an honest broker" with respect to these negotiations. This statement is untrue and clearly intended to malign and impugn PMSA's reputation with the public generally and, specifically, with the members of the Board of Pilot Commissioners.

At the meeting of August 27<sup>th</sup>, on behalf of PMSA, I asked you to retract your statement which maligned the honesty of PMSA in these negotiations. Quite unfortunately, you offered no such retraction.

I write today to formally request a written retraction of your untrue assertion that that "PMSA was not being an honest broker." I would request that you address such retraction to the BOPC with apologies to PMSA and acknowledge that PMSA acted in its negotiations with SFBP in a manner which was honest, responsive, and in good faith.

The facts, of which you are well aware, are that PMSA honestly participated in a negotiation with SFBP. I personally engaged on behalf of PMSA in these direct negotiations and negotiations through an informal mediation with you and the SFBP Business Agent, along with the BOPC President and a tanker industry participant, which occurred prior to August 27, 2020. In these negotiations, PMSA asked for SFBP to provide specific information regarding SFBP revenues and expenses which had resulted in threats of a necessity to degrade services to vessels due to a lack of revenues. SFBP presented at a subsequent meeting the details of potential additional costs and operating expenses and other information regarding declines in the projected post-expense partnership profit distributions of SFBP to its members.

In response to the presentation of this information, and in exceptionally short-order so as to potentially meet the impending Legislative deadline for enactment, PMSA offered a draft concept framework to provide SFBP with new temporary revenue streams to be paid by industry through new one-time surcharges. Specifically, PMSA proposed for industry to pay for all potential new dispatch system upgrade and pilot boat deferred maintenance costs, and a no-cost multi-year bridge financing facility, to cover any other additional SFBP administrative costs, to be underwritten if necessary by industry through an additional 2% of Board Operations surcharges. The total benefits of this package as proposed were \$2.15 million in short term financial aid for SFBP for 2021-2022. PMSA's proposed concept of additional surcharges and financing would have provided new industry payments to pay for every dime of identified additional operating expenses presented by SFBP and avoided the continued threat by SFBP of service interruptions. SFBP acknowledged receipt of the offer but did not agree to PMSA's proposal.

While never intended to be made public, in order to defend ourselves from your baseless assertions that PMSA did not honestly or in good faith participate in negotiations with SFBP, I am producing here an attached copy of the Draft Concept proposal dated August 11, 2020.

PMSA requests that you execute full retraction of your comment as soon as possible and no later than by next Friday, October 2<sup>nd</sup>.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Mike Jacob', is written over a light blue horizontal line.

Mike Jacob  
Vice President & General Counsel

enclosure

cc: President Dave Connolly, Board of Pilot Commissioners  
Members, Board of Pilot Commissioners  
Allen Garfinkle, Executive Director, Board of Pilot Commissioners  
Stephanie Dougherty, California State Transportation Agency

## **Emergency Cash Flow Financing and Dispatch System Upgrade Surcharge**

Summary: \$2.15m Increase in Short-Term Revenues for San Francisco Bar Pilots to cover Operating Expenses through 2021-2022 through combination of surcharges to offset identified capital expenses and general operating expenses structured as both new revenues and as revenues repayable in future years

Goal: SFBP has identified pressure to maintain regular operating expenses and previously planned dispatch system upgrades through 2020-2021 in the face of declining revenues and general uncertainty due to COVID crisis, this credit facility and new revenue is intended to avoid any financial pressure on the SFBP to enact cuts to operating overhead which might result in a degradation of service to vessels and to simultaneously improve efficiency and reduce operating costs

- Proposal:
- 1/ Dispatch System Upgrade Surcharge**  
**TOTAL: \$800,000 (not to exceed)**
    - New revenues to offset planned costs
    - Rate of monthly collection for surcharge set by BOPC to recover costs
    - Surcharge effective January 1, 2021, sunset December 31, 2022
    - Language for implementation identical to current Nav Tech surcharge
  
  - 2/ Emergency Cash Flow Surcharge Withholding**  
**TOTAL: \$1,200,000 (not to exceed)**
    - SFBP authorized to withhold up to \$50,000/month of Board Operations Surcharge collections upon approval by BOPC staff
    - Withholding authorization effective Jan 1, 2021 to Dec 31, 2022
    - BOPC staff must confirm that withholding is used to offset SFBP-identified fixed asset overhead or employee salary expenses
    - Withholding to pay for Pilot Income distributions is disallowed
    - Withholding is approved for 24 months (i.e. surcharge collected in January 2021 is due and payable in January 2023, etc.)
    - No interest due to Board on withholding
    - BOPC remains free to adjust Board Operations Surcharge as it sees fit
    - BOPC operating reserve must be maintained at no less than 6 months of BOPC budget of FY at time of withholding authorization
    - Surcharge limit (HNC 1159.2(a)) increased from 7.5% to 9.5% effective January 1, 2021, sunset December 31, 2024
    - Language for implementation identical to current Nav Tech surcharge
  
  - 3/ One-time Pilot Boat Deferred Maintenance Surcharge**  
**TOTAL: \$150,000**
    - New revenues of \$150,000 for one-time deferred maintenance
    - Pilot Boat life extension surcharge language augmentation
    - Effective January 1, 2021, sunset December 31, 2021