

**SELECTION APPEAL COMMITTEE STAFF REPORT ON APPEALS TO THE  
SIMULATOR EXAM, 2022**

**The Selection Appeal Committee is meeting today to hear appeals to the simulator module to the selection exam.**

**The appeal of Drew Butterfield**

Captain Butterfield contends that the difference between the paper chart and what was displayed on the ECDIS caused him to lose points based on his choice to go south of both North and South Holomen Islands. He contends that he would not have planned that route as a possible route had he seen the depths displayed that he saw on the ECDIS and he believes he ran aground solely based on this discrepancy.

I contend that the planned route of going south of North Holomen and South Holomen Islands was never a viable route. The gap on the paper chart provided to the candidates shows an approximate 600 foot gap between the two high spots to the east of North Holomen Island, which would have called for very precise navigation to pass between. Even if a candidate was lucky or skillful enough to successfully pass between these two high spots, the rate of turn of the candidate's vessel YUKON was such that he would have run aground on Rison Island shortly thereafter, causing the candidate to lose even more points.

There did exist an issue where the ECDIS did display charted depths in meters rather than feet, as displayed on the paper chart. This was because the only electronic charts we could obtain for this area showed the depths in meters. This discrepancy did not cause the grounding nor would the discrepancy made the route less viable. The route was a poor choice whether the depth was expressed in feet or meters. Each candidate was given an opportunity to view the ECDIS during a dry run in the simulator on Wednesday, June 8, 2022, where they could have seen that the ECDIS display was in meters, but this candidate clearly stated he made his route plans based on the paper chart, which did not display a viable route south of the islands.

He further requests that all the highest possible points for all challenges from the Nyborg Bridge to the grounding site be awarded based on his choice to go south of both islands. He made a poor planning choice and the committee should not award him points he did not earn based on the grounding.

**The appeal of Robert Fronenbroek**

Captain Fronenbroek has based his appeal, on a variety of rationale.

First, he focused on how the judgment of the evaluators might have been negatively impacted by the long day and amount of evaluations that took place during the day. He noted that the time slot for his evaluation was delayed by three hours. I would note that in an effort to not fatigue the evaluators, we employ twice as many as called for, so that each team of evaluators has an approximate 30-minute break between simulations to rest. I contend this would be sufficient to reduce evaluator fatigue so that their judgment is not impaired.

Secondly, he would like the Selection Appeal Committee to place themselves in the shoes of the evaluators, and supplant the sixty established evaluation criteria with his written explanation of how he met the seven elements that the exam is based upon. The seven elements are represented within the exam in proportion to the Job Analysis conducted by CalHR. The simulator is used as a tool to examine those necessary skills under the stress of time pressure. The committee should not simply read how a candidate thought he brought those skills to the table after the fact, when the evaluators were present in the simulator to witness the performance of the candidate.

Third, and lastly, he criticized the process of the simulation being a flawed tool for deciding what candidates move on, rather than an interview where he could introduce himself, and tell someone about his experience level. He was frustrated that, after investing much time and effort, his fate was decided in 27 minutes.

The exam, in its current form, was designed as a response to a lawsuit in which the Board was criticized for doing exactly what Captain Fronenbroek suggests – based solely on an interview. The simulator was added to have the exam be more objective than an interview would be alone. It may not be a perfect tool, but it is one that has been established as a purposeful and unique method of critiquing a candidate's skill set in real time. If the Board's method of selecting candidates is to be reviewed and modified, an appeal to the exam is not the proper forum for that discussion.

### **The appeal of James Barton**

Captain Barton's appeal rests on his perception that he was unfairly evaluated during the simulator exercise due to bias and discrimination because one of the evaluators was a San Francisco Bar Pilot, and that the cut-off score for the exercise is determined after the candidates have completed the exam.

Captain Barton continues to cite various reasons for his perception of bias and discrimination, which we contend have no impact on the impartiality, equitable, and fair nature of this exam.

His main argument rests on two factors. First, that a San Francisco Bar Pilot was one of the evaluators for his exam and that this person acted with either conscious or unconscious bias. His second argument is that because the exam is scored after candidates have taken the exam, and members of the San Francisco Bar Pilots participated in the Angoff session determining the cut-score, that the process introduced bias that unfairly affected his exam.

On the first point, we have three evaluators by law. One of those is a licensee from our jurisdiction, one a state-licensed pilot from another jurisdiction, and third an independent mariner with command experience. While the licensee from our jurisdiction did score Captain Barton lower than the other two evaluators, when you remove his scoring and average the scores of the other two evaluators, it does not elevate Captain Barton to a passing score.

To Captain Barton's second argument, the Angoff session being conducted after the candidates have completed the exam allows for the introduction of bias against him. This argument exhibits

a lack of knowledge of how the Angoff session is conducted. During the Angoff session, subject matter experts (SME's), in this case 12, are asked by a psychometrician to assign a value of difficulty to each challenge in the exam. If a challenge had two points available (as all of our challenges did), the SME could assign a number, in quarter point increments, of the value a minimally qualified pilot candidate should do on that challenge. For example, if the SME thought all minimally qualified candidates should be able to easily complete a challenge, they would give that challenge a "2". If another SME thought the same challenge was more difficult, they would award it a 1.0 or 1.25, or even a zero. These values were determined independently by each SME and averaged into a number for that challenge. All sixty challenges in the exam were rated in this manner by all 12 SME's and then aggregated into a cut score.

Captain Barton argues that a biased SME could possibly recall a challenge that Captain Barton did poorly on and give that challenge an unreasonably high value. That argument is specious as it assumes that an SME would recall how one candidate out of 27 did on a particular question, and it ignores the fact that a particular SME is only determining 1/12 of the cut score for that challenge, and that the cut score that emerged from the Angoff session would affect all candidate equally.

### **The appeal of Cole Davis**

Captain Cole's appeal is based on the concept that to be successful in the exam, one must reach the finish area of the exam, and to do so requires a candidate to progress at an unsafe speed. This is simply not the case. A candidate can acquire enough points during the simulation by choosing a safe speed and meeting a sufficient number of challenges successfully without reaching the terminal at the end of the exam.

Captain Davis incorrectly continues with this narrative by measuring the distance to the end terminal in the exam and divides by the time allotted for the exam (27 minutes) and concludes that a candidate would have to proceed at full ahead throughout the simulation to achieve a passing score. This is not an accurate assessment of the exam process.

He further posits that meeting the SCRAP HAULER (encountered at or after clearing the Nyborg Bridge) safely requires a port to port to be safe and avoid crossing ahead of the other vessel and doing so puts the candidate at such a disadvantage as to make success on the exam not possible. This is also not the case, as I recall there was at least one candidate who met the SCRAP HAULER port to port and completed the exam successfully.

### **The appeal of Captain Sabbath**

Captain Sabbath's appeal is based on his allegation that there were scoring errors in the exam. He cites as evidence of this that he achieved a high score on the written test and that the discrepancy between his written test score and simulator score give rise to the likelihood that there must have been scoring errors.

As an example of where scoring errors may have occurred, he cites a malfunction in the simulation, where the simulator, following a collision, had to restarted and the candidate was

instructed to face aft during the restart. He, without evidence, alleges that his scoring was negatively impacted.

The candidates were instructed to face aft during restarts of the simulator to prevent them from gaining an advantage over other candidates, by allowing them to study the ECDIS screen during a restart or by studying the chart during the time it took to restart. In all cases the candidate were placed in a better position following a restart than they were in prior to the restart, and all evaluators were properly trained to evaluate the candidate from the starting point of each restart. There was no negative impact other than the points lost by the candidate having the collision or grounding prior to the restart.

### **The appeal of Captain Johnson**

Based on Captain Johnson's initial appeal letter of June 17, 2022, this segment of his appeal lacks any appeal of a specific element of the exam. Instead he attempts to use an ad hominem attack on the Executive Director in an attempt to create a margin of error that does not exist.

Captain Johnson's appeal centers on alleged miscommunication during a phone call where I provided him with his scoring on the exam and the cut score. He appears to have confused my explanation of how the cut score was arrived at (modified Angoff session) using the 2019 exam as an example (where the cut score was 52), with the information I was providing him about the 2022 exam.

During that phone call, I did provide him with his actual score on the exam and the actual cut score for the 2022 exam. That was the whole reason for the call.

He further argues that the reset that took place after his collision with the SCRAP HAULER disadvantaged him. The resets are designed to place the candidate's vessel in a safe position to enable them to successfully complete the exercise. I am not aware of a reset that disadvantaged a candidate, but to the contrary, most improved the condition of the candidate.

In Captain Johnson's second appeal letter, dated July 27, 2022, following his examination of the evaluation materials, Captain Johnson lists eight separate area he would like to appeal on:

- 1) #12: This appears to have identified a clerical error in scoring, which if corrected would add 2 points to the raw score (0.67 to the scaled score), bringing the scaled score to 54.34.
- 2) #15: Here Captain Johnson is questioning the basis for the evaluation point, arguing that his accurate ETA was a better response than the one sought in the exam, which was for the candidate to not focus on calculating an ETA, but to delegate the task to another bridge team member. We cannot allow candidates to dictate what skills or action are better than those sought in the design of the exam. Here Capt. Johnson argues that his computing an accurate ETA should be a better choice than delegating the Captain to do so. That is contrary to what is being evaluated.
- 3) #26: Here Captain Johnson is asking you to place yourself in the shoes of the evaluator, and question their judgment. His only basis for this is that one evaluator noted, in the

margins adjacent to another evaluation point, that he called the Happy Island Ferry. In a review of the video, while he called the Ferry, there was no clear understanding and Captain Johnson determined visually that there was no risk of collision. As this was a “Coms” question, he did not satisfy the evaluation criteria for additional points. Question #26 has very clear criteria and all three evaluators marked “ineffective” on this point.

- 4) #29: Here Capt. Johnson argues that because two of the three evaluators gave him points for his lowering of the mast, and that the third evaluator noted a question mark on this challenge, he should be awarded the two points for that evaluator as well. While we instruct all the evaluators to act independently, it is possible that one evaluator did not hear the communication or felt that the timing was wrong. Candidate did call for the mast to be lowered, but it was very close to buoy 17, if not past it. If the evaluator missed the communication, and the other evaluators were correct, candidate would gain 0.67 points.
- 5) #40 Playback indicates that candidate passed more than 2 ship beams to port and should be awarded the two points from Evaluator Morrison. (0.67 points)
- 6) #43: Here again, the candidate questions the validity of the question. This question is a BRM question and no matter how accurate the ETA he provided when queried, the evaluators were looking for the candidate to utilize the bridge team rather than calculate it himself. Anything less than utilizing the bridge team should not be awarded full credit on this challenge.
- 7) #44: Here again, candidate wants you to put yourself in the shoes of evaluators who were in the room. We encourage evaluators to act independently of one another, and if an evaluator did not feel that an action was related to the challenge, they would have scored it accordingly. Just because a candidate was going “half ahead” in the vicinity of the oil boom, if they didn’t indicate somehow that they were cognizant of the boom, they would not have gotten credit for it. In the case of the missing mark on the sheet, we cannot assume it would have been equivalent to other evaluators judgments.
- 8) #2: Here again candidate wants you to change the test. He argues that what he did should be as good as what is called for by the challenge. That is not the test. He clearly (by a review of the video) did not blow the whistle and this is the only way he would have gotten the extra point. By attempting to call both VTS and the sailboats does not replace blowing the whistle.

Respectfully Submitted,

Allen Garfinkle  
Executive Director