

**BEFORE THE BOARD OF PILOT COMMISSIONERS FOR THE
BAYS OF SAN FRANCISCO, SAN PABLO, AND SUISUN**

In re the Allision of the P/V RUBY)
PRINCESS with Pier 27, San Francisco on)
July 6, 2023)
Pilot: Captain Dustin Slack.)
_____)

The Board of Pilot Commissioners (Board) commenced a hearing on this matter at its meeting of May 23, 2024. The meeting was conducted in person, at the Board’s office at 660 Davis Street in San Francisco, California. Present at the hearing were the following Commissioners: President Karen Tynan, presiding, and Commissioners Robert Carr, Einar Nyborg, and Sam Rodriguez. Also present as a non-voting member of the Board was Stephanie Dougherty, representing Toks Omishakin, Secretary of the California State Transportation Agency. The Incident Review Committee (IRC) was represented by Executive Director Allen Garfinkle. Captain Dustin Slack was also present and was represented by his counsel, Rex Clack. Executive Director Garfinkle introduced the report of the IRC into evidence as well as additional documentary evidence. Mr. Garfinkle addressed the Board concerning the IRC report and responded to questions. Mr. Clack and Capt. Slack also addressed the Board concerning the IRC report, its recommendations, and the incident generally, and responded to questions. At the conclusion of the hearing, the public record was closed and the Board adjourned to closed session to deliberate.

Having considered the evidence and the statements of Executive Director Garfinkle, Capt. Slack, and Capt. Slack’s counsel Rex Clack, the Board makes the following determinations:

FINDINGS

1. On the morning of July 6, 2023, the P/V RUBY PRINCESS (hereinafter RUBY PRINCESS) was inbound from sea to Pier 27, San Francisco. The piloting job was assigned to Captain Dustin Slack. The ship was due at the pilot station at 0445 hours, and was scheduled to berth at Pier 27, portside to, at approximately 0615.

2. Captain Slack boarded the RUBY PRINCESS at approximately 0443 hours. He was escorted to the bridge where introductions were made. Captain Slack and the master of the RUBY PRINCESS, Captain Mario Toni, conducted a master/pilot information exchange, which included a detailed review of the transit. Captain Toni relayed there were no vessel deficiencies. This was not the first time Captain Slack and Captain Toni had worked together. Based on their prior working relationship and past practice, it was understood that Captain Toni would take the conn when the ship stopped off Pier 23 (adjacent and just south of the intended berth at Pier 27) and ready to back in. The discussion of the route included specifics about the ebb current that would be encountered off Pier 27.

3. At 0452 hours, as the ship approached the Bar Channel, Captain Slack assumed the conn.

4. Shortly after passing beneath the Golden Gate Bridge, Captain Slack contacted the tugs assigned to the vessel, the DELTA LINDA and the VALOR. The DELTA LINDA was instructed to put a line up on the starboard bow, and the VALOR was to shadow the port quarter without putting up a line.

5. Between the Golden Gate Bridge and Alcatraz Island, the bridge team discussed the RUBY PRINCESS's maneuver to the berth. This discussion included the ship's captain assuming the conn once the ship was stopped off Pier 23 and transferring the ship control systems (engines and thrusters) from the center console on the bridge to the port wing control station. All of the ship's officers present on the bridge participated in this conference and acknowledged the planned maneuver.

6. At approximately 0600 hours, Captain Slack maneuvered the ship to a position off Pier 23, at which time Captain Toni transferred the bridge controls to the station on the port wing control station and assumed the conn. This was announced to all members on the bridge team and was acknowledged by the pilot and crew.

7. After the change of conn, the ship began moving astern, rotating to port, with the VALOR pushing full on the port quarter. During the maneuver, the ship slowed its sternway and began moving ahead. Captain Slack was concerned that the ship was not moving out of the ebb current quickly enough and shared this concern with Captain Toni.

8. With the ship moving ahead, the effect of the ebb current continued to push the ship laterally (or sideways) towards Pier 27. Captain Slack advised Captain Toni to abort the approach. Captain Toni agreed and put both engines ahead and both rudders hard to port.

9. Although both engines were ordered full ahead, they were slow to respond, and the ship did not gain headway. The VALOR could not overcome the force of the ebb current, and to prevent the tug from becoming caught between the pier and the ship, Captain Slack shifted the VALOR further forward along the hull and resumed having the VALOR push full.

10. At approximately 0606 hours, the port quarter of the ship made unintended contact with Pier 27. Shortly thereafter, the ship began to gain headway. Once the ship was clear of Pier 27, Captain Slack reassumed the conn and the controls were shifted back to the center console of the bridge.

11. Captain Slack then maneuvered the ship back into position off Pier 23. With the bridge controls shifted back to the port wing control console, Captain Slack then commenced the backing maneuver and retained the conn until the ship was clear of the ebb current.

12. Once clear of the current, but after observing that the RUBY PRINCESS had made unintended contact with Pier 27, Captain Slack once again relinquished the conn to Captain Toni, who took the conn and moored the ship to Pier 27 without further incident.

CONCLUSIONS

1. Section 1181 of the Harbors and Navigation Code (the "Code") provides that a pilot's license may be suspended or revoked for reasons of "misconduct." In situations of pilot misconduct, the Board may file an accusation seeking suspension or revocation of the pilot's license after a formal hearing under section 11500 and following of the Government Code. (See Harb. & Nav. Code, §§ 1181, subd. (a), 1182; tit. 7, Cal. Code Regs., § 210, subd. (e)(1).) In situations where the Board does not seek suspension or revocation of a pilot's license, it may, after an informal hearing, take other types of corrective action as provided in section 210, subdivision (e)(2)-(7) of the Board's regulations.

2. Section 1181 of the Code specifies a range of actions that constitute “misconduct,” including “negligently, ignorantly, or willfully running a vessel on shore, or otherwise rendering it liable to damage or otherwise causing injury to persons or damage to property.” (§ 1181, subd. (g).) Further, section 210, subdivision (h)(5) of the Board’s regulations lists “negligently performing duties related to vessel navigation” as a type of misconduct.

3. The negligence standard of care calls for an evaluation whether a pilot exercised that degree of care and skill possessed by the “average pilot.”

4. Importantly, a finding of misconduct is not necessary for the Board to order action that will reduce the potential for similar incidents occurring in the future. Section 210, subdivision (e)(2) of the regulations confers broad discretionary authority on the Board to “[terminate] the matter on such terms and conditions as the Board considers acceptable.” Further, pursuant to section 1180.6, subdivision (a)(5) of the Code, following consideration of the evidence, the Board is empowered to “take any other action,” as provided in the related regulations.

5. From the evidence presented, it is not clear that the “average pilot” would have performed better than did Captain Slack under these circumstances. By passing the conn to the master of the RUBY PRINCESS, Capt. Slack engaged in a frequent and customary practice of San Francisco bar pilots while docking passenger ships at the San Francisco passenger terminal berths. Because this has been a customary practice for many decades, and conforms with Capt. Slack’s training and experience as a pilot, the Board cannot find negligence on behalf of the pilot for allowing the master to take the conn for docking.

6. The Board however, does admonish Capt. Slack that this custom, though somewhat routine, contradicts the compulsory nature of state pilotage regulations in the State of California. To allow a vessel master to dock a vessel in San Francisco Bay shows a willingness to allow that master to operate the vessel on the state pilot’s license. As such, the utmost care and oversight of the master by the pilot must be expected to ensure a safe maneuver of the vessel and in order to protect the safe navigation objectives of the pilotage regulations.

7. Here, it was found in the Voyage Data Recorder (VDR) review that the engine and thruster use by the master was contrary to safe and efficient ship handling with the objective of rotating and backing the RUBY PRINCESS out of

the current and into the slack water in the shadow of Pier 23. In the progression of this maneuver by the master, Capt. Slack failed to recognize that the master was mishandling his vessel's engine and thrusters, which caused the vessel's rotation to stall and prevented the sternway needed to back into safe water. This lack of awareness may have been caused by the position Capt. Slack occupied, which prevented full view of the controls and indicators. The Board finds that this lack of awareness may have been contributory to the incident.

8. While the foregoing appears to be causal in the resulting accident, Capt. Slack, observing that the master's maneuvering was ineffective, ordered an abort to the maneuver. The engines were ordered ahead but were sluggish in responding, and appeared to take several minutes to provide the revolutions per minute (RPM) requested. In this regard, the Board further finds that the vessel machinery or its management may have contributed to the incident. It is expected that vessel equipment will be ready for emergency use even during routine docking. Docking at Pier 27 in San Francisco during ebb current is challenging and requires both efficient ship handling technique and immediate control of the ship's propulsion and thrusters.

9. While the Board finds that Capt. Slack's passing of the conn to the master may have been contributory to the incident, it further cannot find negligence because the RUBY PRINCESS's propulsion appeared to not ready for emergency use. Additionally, the IRC report did not adequately develop the condition of the propulsion system. Comments by the master to Capt. Slack after the incident indicated a sluggish propulsion response. The master called the engine room and asked that emergency propulsion be available for the successful second maneuver into the berth. Capt. Slack's order to abort the maneuver was given in adequate time to have prevented the incident, but the RUBY PRINCESS's propulsion was sluggish and unresponsive, as if there were not enough generators on line to increase the RPM of the propellers.

10. Finally, the Board also finds that Capt. Slack's passing of the conn to the master a second time, after observing that the RUBY PRINCESS had allided with Pier 27, is more concerning, but does not constitute negligence or misconduct.

11. Considering all of the evidence presented, we conclude that the pilot's actions here are insufficient to constitute "misconduct" or "negligence" within the meaning of the Code and the Board's regulations.

12. Regardless of whether this incident involved “misconduct” or “negligence,” however, there is a need for the pilots to review how and why this incident occurred and to consider means of avoiding similar incidents in the future.

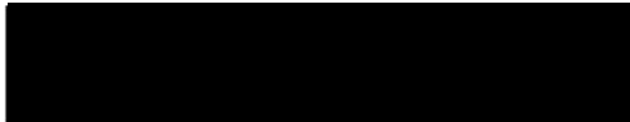
ORDER

1. The Board will issue a letter of serious concern to Captain Slack regarding his error in passing the conn to the master twice, one of which occurred after he observed damage to Pier 27 from the allision of the RUBY PRINCESS.

2. Captain Slack shall address the San Francisco Bar Pilots (SFBP) in an advisory/lessons learned fashion to educate the membership on the issue of passing the conn to a mariner who does not hold the appropriate state or federal pilot license.

3. The Board reserves the right to take action as needed to address the general issue of pilots’ practices in passing of the conn to a ship’s master at a later date.

DATED: June 27, 2024



KAREN TYNAN
President, Presiding