

PILOT CASE SETTLEMENT MAY BE FELT NATIONWIDE

PETER TIRSCHWELL | Jun 11, 1996 8:00PM EDT

Excerpted from *The Journal of Commerce*

http://www.joc.com/pilot-case-settlement-may-be-felt-nationwide_19960611.html

The selection of new bar pilots for San Francisco Bay will become more open and objective under a recent court settlement that could affect pilot recruitment in other U.S. harbors.

As part of the settlement, the state board that regulates pilotage on the bay agreed to establish written criteria that it will use to decide who sits for its exam. The settlement ends a class-action case in which the board was accused of discrimination by a group of minority applicants who were not allowed to take the exam.

INVITED INTO PROGRAM

Depending on the number of openings in the pilot corps, top scorers in the competitive, semi-oral exam are invited to enter a one- to three-year training program.

Almost everyone who is admitted into the training program is eventually licensed as a pilot and earns a salary of nearly \$170,000 a year.

The case was brought in 1994 by Rene Peinado, a Latino-licensed master who said he was barred from taking the exam throughout the late 1980s and early 1990s, while others with less seagoing experience were accepted.

The settlement contains a denial by the board that it discriminated.

"There was never, ever any intent to discriminate or exclude. There was only an intent to get the best," said Gregg Waugh, San Francisco Bar Pilot president.

NOTICE TO BE PUBLISHED

The Board of Pilot Commissioners also agreed to publish a notice whenever it is accepting applications for the training program. Mr. Peinado will be allowed to sit for the exam after completing 300 additional days sailing as a chief mate or master on a deep-water vessel or towboat, 250 of which have to be as a master.

Mr. Peinado and his lawyers contend that by allowing cronyism to run rampant, the pilot selection system in San Francisco is not dissimilar to others throughout the United States. Pilot groups have long been accused of being closed societies.

"Hopefully, this case will bring attention to those closed groups that really need to be opened up in order to get the best qualified people for the job," Mr. Peinado said.

With average salaries of \$175,000 to \$200,000 a year, pilot jobs are among the most sought after and prestigious in the U.S. maritime industry. There are about 1,000 pilots working in the United States today.

GROUP DEFENDED

Capt. Jack Sparks, president of the American Pilot Association, disagreed that pilot groups are closed shops. He said the pilotage profession has made substantial progress to recruit minorities in recent years.

He noted that pilot boards in Florida, New York and Pennsylvania advertise in minority publications whenever openings became available.

As a result of that and other efforts, 12 women and at least 11 African Americans have either become pilots or been accepted into training programs over the last few years.

'KEENLY AWARE'

"On the whole, the American pilot associations are keenly aware of the minority situation in this country and are making an effort to bring minorities in," he said.

Mr. Peinado brought the class-action suit on behalf of himself and an undisclosed number of other minorities who were also denied the chance to take the exam.

The settlement created a \$60,000 fund for qualified minority applicants whose applications were turned down.

FUND CREATED

State pilot associations have generally been immune to charges of discrimination under a 1947 U.S. Supreme Court decision that rejected the claim of a plaintiff seeking entry into the New Orleans pilot group.

Mr. Peinado brought his claim under various provisions of California law and the state constitution.

Since his case created a set of objectives that are spelled out in writing and approved by a court, it is available as a guide for other pilot boards seeking to reform their own selection criteria, his lawyer said.

TO AID OTHER BOARDS

"Other pilot boards will be able to see a set of standards approved by a court that are constitutionally sufficient to provide for fair and nondiscriminatory pilotage," said Daniel Berkley, an attorney representing the plaintiffs.

While many state pilot boards may be taking steps to open up their selection processes, pilot associations themselves handle recruitment under guidelines set by state boards in many regions, according to "Minding the Helm," a landmark study on U.S. pilotage published by the National Research Council in 1994.

In those situations, the prestigious jobs are most likely to be handed out to friends and relatives of current pilots, critics say.

NATIONAL GUIDELINES URGED

Without addressing discrimination, the study recommended that national minimum guidelines be set up to guide admissions into pilot groups.

"Guidelines would help ensure that the best and most qualified applicants are chosen for training," the report said.

Despite the requirements the settlement imposes on the pilot board, the process of selecting pilots will always be somewhat subjective because out on the water a trainee either has the poise and confidence to become a pilot, or he doesn't, Mr. Waugh said.

Judging whether a person has those qualities is fundamentally a subjective judgment, he said.

"Taking the exam (and getting a top score) wins you the right to show your stuff (on board ship as a trainee). The training program will find you out," he said