

Deposition Testimony of:

Jeff Wolfe

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Page 8:19 to 9:17

00008:19 Q. Okay. We're going to start the
20 deposition by talking a little bit about your
21 expert reports. We'll come back to them.
22 I've marked the expert report of Jeff Wolfe,
23 dated September 23rd, 2011 as Exhibit 7556,
24 and I've marked the rebuttal report of Jeff
25 Wolfe, dated November 7th, 2011 as
00009:01 Exhibit 7557. Are these your two expert
02 reports in this matter, sir?
03 A. Yes, they are.
04 Q. Okay. I'm going to start off by
05 first asking you, have you rendered any other
06 expert reports in this particular matter?
07 A. No, I have not.
08 Q. Are you in the process of
09 drafting any additional materials in this
10 matter?
11 A. No.
12 Q. Have you reviewed any additional
13 records, documents, transcripts, other
14 evidence since the date of your rebuttal
15 report, November 7th, 2011?
16 A. There have been a few new
17 depositions that I've looked at, yes.

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00010:14 Q. Okay. Prior to April 20th, 2010
15 had you ever been aboard the Deepwater
16 Horizon?
17 A. Not that I recall. I've been on
18 lots of rigs, but I don't think Deepwater
19 Horizon was ever one of them.
20 Q. Since April 20th, 2010 have you
21 been on any Transocean rigs?
22 A. Yes, I have.
23 Q. Which ones?
24 A. The Nautilus.

Page 13:05 to 13:06

00013:05 Now, how long were you on the Nautilus?
06 A. Around six hours, I would say.

Page 13:21 to 14:24

00013:21 Q. There is a photograph in your
22 report, I think it's Figure 7. If you'll
23 turn to Figure 7, please.
24 A. Page 36.
25 Q. Right. Is that a photograph of

00014:01 the Nautilus, by chance?
02 A. This is a photograph of the
03 Deepwater Horizon.
04 Q. Okay. And --
05 A. That was taken previously.
06 Q. Okay. That's -- that's what I
07 wanted to check. In some other deposition we
08 used this photograph with the witness, and
09 counsel for Transocean objected that -- that
10 it wasn't the Deepwater Horizon. So it's
11 important that I cover this point. Is it
12 your testimony, then -- first of all,
13 Figure 7 is part of your original expert
14 report, correct?
15 A. That is correct.
16 Q. And you chose Figure 7 to
17 represent a view of the driller's cabin on
18 Deepwater Horizon?
19 A. Yes.
20 Q. Okay. And you can -- you can
21 tell the Court in this deposition that
22 Figure 7 is a photograph of the driller's
23 shack or cabin on Deepwater Horizon?
24 A. That's correct.

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00016:18 Q. What areas of the Nautilus did
19 you visit during those six hours?
20 A. We -- we spent some time on the
21 bridge. We spent some time on the -- in the
22 driller's console, engine rooms, and beyond
23 that it was more or less a -- the Nautilus
24 was very similar in layout, not -- not exact,
25 but very similar in main deck layout, and so
00017:01 we spent some time looking at -- at the main
02 deck layout and -- and looking at paths that
03 people probably would have used in the
04 evacuation.

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00018:05 visit to the Nautilus. Can -- can I safely
06 assume that within the two expert reports,
07 the September 23 and the November 7 reports,
08 that these two reports contain all of your
09 opinions in this matter?
10 MR. JOHNSON: Object to form.
11 A. I would say they contained all
12 of my opinions up until the date of the
13 reports and material that was available to
14 that date.
15 Q. (BY MR. HAYCRAFT) Okay. So
16 certainly the two reports contain all of your

17 opinions, expert or otherwise in this matter,
18 up through and including November the 7th?
19 A. That's correct.
20 Q. Sitting here today, almost
21 exactly three weeks after the rebuttal report
22 was published, do you have any new or
23 different or modified opinions from what
24 you've expressed in these two reports?
25 A. No.

Page 19:12 to 19:18

00019:12 Q. (BY MR. HAYCRAFT) Is it fair to
13 say, Mr. Wolfe, that if you are presented
14 with new or different information, you may
15 indeed modify your opinions?
16 A. It would -- it would have to be
17 something pretty substantial, because I'm --
18 I'm very confident in what I've concluded.

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00026:20 Q. (BY MR. HAYCRAFT) All righty.

Page 26:23 to 27:07

00026:23 you questions in general. What's your
24 educational background? How far did you get
25 in school?
00027:01 A. I have a high school diploma and
02 a few courses at night school at a junior
03 college, but I never completed a -- any sort
04 of formal degree program.
05 Q. Okay. So you don't have an
06 associate's degree?
07 A. No, I do not.

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00027:14 Q. All right. When did you join
15 the Coast Guard?
16 A. 1981.
17 Q. Okay. Obviously, sometimes we
18 lawyers ask obvious and perhaps silly
19 questions, but I'll ask one, anyway. I take
20 it from that description that you're not a
21 professional engineer, correct?
22 A. I'm not a professional engineer.
23 Q. Okay. You're not a naval
24 architect, correct?
25 A. I'm not a naval architect.
00028:01 Q. Do you hold any -- any
02 licenses -- maritime licenses for -- for sea

03 faring purposes from any nation -- nation?
04 A. No, I don't.
05 Q. Are you -- do you hold any
06 cert- -- certification in marine surveying?
07 A. Can you be more specific about
08 what sort of surveying?
09 Q. Marine surveying of yachts and
10 ships. Do you hold any professional
11 certification for surveying vessels of any
12 sort?
13 A. Yes.
14 Q. What -- what's that
15 certification?
16 A. I attended a ISM auditor's
17 course in roughly -- it was around 2000 as
18 part of the -- part of my Coast Guard
19 training.
20 Q. Okay. Did you get a
21 certification from the ISM auditor's course?
22 A. As a lead auditor.
23 Q. When -- when was that issued?
24 A. It -- around the 2000 time
25 frame.
00029:01 Q. Who gave the course?
02 A. It was either taught by Lloyd's
03 or DNV. It was -- I mean, it was a Coast
04 Guard contracted training in their training
05 center in Yorktown, and they hired this
06 entity as a contractor to come in and teach
07 the course.
08 Q. Yorktown, Virginia?
09 A. Yorktown, Virginia, yes, sir.
10 Q. How many days or weeks was that
11 course?
12 A. It was five days.
13 Q. Were they eight-hour days?
14 A. Eight hours plus homework.
15 Q. Okay. And have you done any
16 other ISM trainings after that course in
17 approximately 2000?
18 A. Formal training?
19 Q. Right.
20 A. For ISM only?
21 Q. Correct.
22 A. No.
23 Q. Do you have any licenses as a --
24 can you hold -- do you hold -- hold yourself
25 out in your regular marketing CV as a
00030:01 qualified marine surveyor?
02 MR. JOHNSON: Objection; form.
03 A. I'm a qualified -- I was --
04 before I retired from the Coast Guard I was
05 a -- a double ended qualified marine
06 inspector.

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00030:16 Q. If -- if someone said I have an
17 offshore supply vessel and I need a hull and
18 condition survey, are you a licensed surveyor
19 entitled to conduct such a survey and sign
20 your name to it, would you be able to say
21 yes?
22 A. I can do the survey, but I do
23 not have a license as a surveyor.
24 Q. You were in the Coast Guard from
25 1981 until what retirement date?
00031:01 A. June 1st of 2008.
02 Q. Okay. And that's 20 --
03 A. 27.
04 Q. 27 years. And you retired as a
05 Lieutenant Commander?
06 A. That's correct.
07 Q. What was your first rank in the
08 Coast Guard?
09 A. I was enlisted as an E-1.
10 Q. Have you -- have you ever been
11 to the -- well, I take it you're not a
12 graduate of the Coast Guard Academy, correct?
13 A. I'm not a graduate.
14 Q. Okay. What was your -- when did
15 you go -- when did you become an officer in
16 the Coast Guard?
17 A. I -- I promoted from E-1 to E-7
18 and then from E-7 I was commissioned as a
19 chief warrant officer and promoted from W-2
20 to W-4, and then I was selected for a direct
21 commission program to lieutenant.
22 Q. Okay. I'm going to fill in a
23 few years in there. When -- when did you
24 become a CWO?
25 A. 1990 approximately. '89 or '90.
00032:01 Q. Okay. And when were you
02 commissioned as a lieutenant?
03 A. 2002.
04 Q. Okay. And then did you go from
05 lieutenant to lieutenant commander?
06 A. Yes.
07 Q. When did you become lieutenant
08 commander?
09 A. Around 2006.
10 Q. Okay. So you acted in the
11 capacity -- you could be called lieutenant
12 commander from 2006 until June 1st, 2008?
13 A. Yes.
14 Q. Did you retire on your own
15 volition after 27 years?
16 A. Yes.
17 Q. Do you receive any pension from
18 the Coast Guard?

19 A. Yes.
20 Q. I see from your -- you're an --
21 Appendix 1 CV that you -- you became a senior
22 marine inspector, and you put the years 1997
23 to 2000 out of MSO New Orleans; is that
24 right?
25 A. From 2000 -- from -- marine
00033:01 inspector -- no, that would have been back
02 in '97.
03 Q. Right, I see that.
04 A. I'm sorry.
05 Q. Maybe I didn't say that. But it
06 shows senior marine inspector MSO New Orleans
07 September '97 to May 2000, right?
08 A. That's correct.
09 Q. Was that your first position as
10 a offshore marine inspector?
11 A. No. When I arrived to the MSO I
12 was -- I was an inspector trainee.
13 Q. When did you arrive at MSO
14 New Orleans?
15 A. September of '97.
16 Q. Okay. So the senior marine
17 inspector on that line of your CV would be
18 the -- the senior position you held during
19 that '97 to 2000 time period?
20 A. Well, the way they -- the way
21 they distinguish that term is once you get --
22 once you've earned and completed your -- your
23 PQS training and you receive what they call a
24 major qual, which is either a hull or
25 machinery inspector, then you're -- you're
00034:01 deemed to be a senior inspector, senior
02 marine inspector.
03 Q. Okay. So you were a senior
04 marine inspector for just shy of three years?
05 A. That's correct. Well, I'm --
06 shouldn't -- maybe I shouldn't say it that
07 way. I was always a senior -- considered to
08 be a senior marine inspector. It's just that
09 what this shows is a job break between
10 general inspection duties of various types of
11 vessels and some MODUs to being actually
12 responsible for the offshore area of MSO
13 New Orleans.
14 Q. So when you were a senior -- in
15 the years '97 to year 2000 you would be a
16 senior marine inspector visiting all -- all
17 types of vessels within the MSO jurisdiction?
18 A. Well, when you say -- yes,
19 within the MSO jurisdiction, including their
20 jurisdiction in South America and the
21 Caribbean.
22 Q. MSO New Orleans encompasses part
23 of the Gulf of Mexico?

24 A. MSO New Orleans has a zone in
25 the Gulf of Mexico, yes.

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00037:03 Q. So during that time frame, '97
04 to 2000, would you have had senior marine
05 inspection duties for offshore, DP MODUs or
06 self-propelled MODUs?
07 A. I -- I assisted the -- what was
08 the incumbent of the chief of officer
09 activities. I assisted him in conducting
10 inspections.
11 Q. He would be the one who would
12 sign any letters of compliance?
13 A. Either one of us could do that,
14 but -- but he would be the lead inspector.
15 Q. Okay. Now, starting in May of
16 2000 you became chief -- the offshore
17 activities MSO New Orleans May 2000, June of
18 2004, is that correct?
19 A. That's correct, when he retired.

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00038:03 Q. Okay. So did -- did the duties
04 stay the same; that is, chief offshore
05 activities appears to suggest you then worked
06 in the zone -- the Gulf of Mexico zone out of
07 MSO New Orleans, correct?
08 A. There and -- and in those days,
09 we still had a few U.S.-flagged MODUs that
10 were working especially in Mexico, Trinidad.
11 So I would inspect those as well.
12 Q. Were -- were you chief of --
13 when you were chief offshore activities, did
14 your jurisdiction also include ships and
15 barges in the Port of New Orleans area?
16 A. I was -- I was strictly focused
17 on offshore, the offshore industry at that
18 point.
19 Q. Okay. So -- so we can safely
20 say that beginning in June 2004 as chief of
21 offshore activities out of MSO New Orleans,
22 your responsibilities included either
23 inspection yourself or oversight of
24 inspection of -- of -- of MODUs of one sort
25 or another, correct?
00039:01 A. MODUs as well as OSVs and -- as
02 I said again, if I was going to, let's say,
03 for example, Mexico to inspect a MODU and
04 there was a couple of OSVs that were also due
05 for inspection, I would -- I would do those
06 as well.

07 Q. Okay. So the geographical
08 territory in your job as chief offshore
09 inspection included what foreign states?
10 A. Mexico, all of South America.
11 I -- let me rephrase that. The East Coast of
12 Mexico and then all of Central and South
13 America and -- and the greater Caribbean.
14 Q. And then also the zone in the
15 Gulf of Mexico that MSO New Orleans was
16 responsible for?
17 A. Right.
18 Q. All right. So how many -- with
19 U.S. Chief, how many inspectors worked
20 with -- within that group or detail or team
21 to cover that territory?
22 A. I had one full time, and then
23 there were three or four other guys that had
24 MODU qualification that I would -- that I
25 would use when we were actually doing
00040:01 inspections, but they weren't physically in
02 the same office with me.
03 Q. Okay. So during that time
04 period, 2000 to '04, you had that geographic
05 territory, including offshore supply vessels,
06 MODUs in the geographic region you just
07 described?
08 A. Yes.
09 Q. And in addition to OSVs, MODUs,
10 would any -- and jackups would be considered
11 a MODU?
12 A. That's correct.
13 Q. So we've talked about
14 self-propelled MODUs. We've talked about
15 dynamically positioned vessels. What -- what
16 is a jackup? What's the terminology for a
17 jackup in a -- if MODU is associated with a
18 jackup?
19 A. Well, the -- the term is a
20 self-elevating mobile offshore drilling unit.
21 Q. Okay. Self -- self-elevating,
22 and MODU?
23 A. Self-elevating.
24 Q. And those are towed to their
25 location, correct?
00041:01 A. Generally, yes.
02 Q. Okay. And OSVs, any -- what
03 about crew boats, inspected crew boats, are
04 those -- would they be within that
05 jurisdiction of that office?
06 A. If -- if -- if there was a --
07 like an OSV, I didn't -- I didn't schedule
08 crew boats on a daily basis, but if I
09 happened to be -- if we were running short on
10 inspectors, for example, and -- we were -- we
11 were all considered to be kind of bullpen

12 inspectors. So -- so, yeah, during that time
13 frame, I did all sorts of -- of shipping,
14 just not as frequently as I had done it
15 before.

16 Q. Uh-huh. Then you moved in 2004
17 through June 2008 to chief offshore
18 compliance AQS CG district. How did your job
19 duties change at that point?

20 A. Well, I didn't do -- I didn't do
21 near as many inspections as I -- as I had
22 been doing at a working MSO. It was more of
23 a -- an oversight and -- and working toward
24 building or strengthening or modifying the --
25 the regulatory regime, but -- but my
00042:01 territory covered all of the areas of the
02 Gulf of Mexico that had active offshore
03 activities.

04 Q. All right. In other words, you
05 weren't just -- you were Eighth District, not
06 MSO New Orleans?

07 A. That's correct.

08 Q. Okay. And you mentioned you're
09 not sure whether you -- you have no present
10 memory of ever boarding, yourself, the
11 Deepwater Horizon between the years 2001 and
12 2008, fair?

13 A. That's -- I don't recall.

14 Q. Okay. Fair to say, though, that
15 if -- assuming the Deep- -- Deepwater Horizon
16 was operating either under the flag of Panama
17 or the flag of the Republic of the Marshall
18 Islands between 2001 and your date of your
19 retirement in 2008, that the Deepwater
20 Horizon was within your jurisdiction
21 regulatorily?

22 A. From -- from 2004 to 2008, yes.

23 Q. Okay. In 2000 -- between 2001
24 and June 2004 when you were chief offshore
25 activities, if -- if we assume for the
00043:01 purposes of this question that the Deepwater
02 Horizon was within the geographic zone that
03 MSO New Orleans covered, would she have been
04 within your regulatory jurisdiction during
05 that time frame?

06 A. Had she been operating within
07 the zone, yes.

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00043:14 Q. Okay. So fair to say, then,
15 that at least at some point during the latter
16 years that Deepwater Horizon operated in the
17 Gulf of Mexico, you personally had regulatory
18 oversight over Deepwater Horizon?
19 MR. JOHNSON: Objection; form.

20 A. If -- if you're asking was she
21 within the geographic boundaries of the
22 Eighth Coast Guard, yes, district, yes.

Page 45:10 to 46:15

00045:10 Q. A -- do you -- do you hold any
11 maritime license as a -- as an engineer of
12 any level?
13 A. No, I do not.
14 Q. Do you hold any deck officer
15 licenses?
16 A. No, I do not.
17 Q. Have you ever commanded a vessel
18 at sea?
19 A. No, I have not.
20 Q. Have you ever been the shoreside
21 supervisor of a person who commands a vessel
22 at sea?
23 A. No.
24 Q. And in looking at this resume, I
25 couldn't determine whether you had ever
00046:01 served in any seaman's capacity for the Coast
02 Guard. One -- one item possibly triggers
03 that. It says USCG CUTTER ACUSHNET, various
04 shipboard engineering duties, June '81 to
05 June '84.
06 It appears that possibly during
07 that time frame you worked aboard a ship; is
08 that fair to say?
09 A. Yes.
10 Q. The Cutter Acushnet?
11 A. Yes.
12 Q. And that's A-c-u-s-h-n-e-t.
13 Where was the Acushnet
14 stationed?
15 A. In Gulfport, Mississippi.

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00047:11 Q. Uh-huh. What was the highest
12 position on Acushnet that you ever filled?
13 A. First-class petty officer.
14 Q. Did the Acushnet have a captain?
15 A. Yes, it did.

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00048:10 asked this, but there was a captain aboard
11 the cutter?
12 A. Yes, yes.
13 Q. Was there -- was there -- were
14 there two captains at any one time?

15 A. No.

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00048:21 Q. Did a Coast Guard admiral ever
22 come aboard while you were docked?
23 A. Yes.
24 Q. During the period of time when
25 the Coast Guard admiral would come aboard,
00049:01 who was the captain of the ship?
02 A. Was still the captain.
03 Q. Was it important for you as a
04 first-class petty officer to know who was the
05 commander of your ship?
06 A. Yeah, it would be very important
07 to recognize the captain, yes, in a military
08 setting.
09 Q. Okay. Have you ever been a
10 seaman aboard any civilian ship?
11 A. No, I have not.
12 Q. After you left the Acushnet in
13 June of '84, did you ever work as a full-time
14 seaman aboard any other Coast Guard ship?
15 A. No.
16 Q. Do you have any expertise in
17 drilling?
18 A. I do not have expertise in
19 drilling. I'm familiar with the general

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00049:22 Q. Okay. Do you intend to offer
23 any expert opinions in the field of drilling
24 in this case?
25 A. No, I don't.
00050:01 Q. Same question for well design.
02 A. No. No, no opinion.
03 Q. Have you ever been to well
04 control school?
05 A. I've been to a well control
06 school, yes.
07 Q. Was it a -- a fundamentals of
08 well control or a supervisor's level of well
09 control school?
10 A. It was fundamentals.
11 Q. How long did the course take?
12 A. I think it was -- if I recall,
13 it was three or four days.
14 Q. Did you get a certificate from
15 the institution holding the school?
16 A. Well, it was part of the -- the
17 school, we used to refer to it as MODU U. It
18 was the offshore inspectors course in
19 Lafayette. So, yes, you got a certificate

20 for completing the -- but it was -- it was --
 21 that was a three-week course. So you got one
 22 certificate, and the well control was just
 23 one element of the overall training.
 24 Q. Did I -- did I -- was that three
 25 classroom days of MODU U or well control?
 00051:01 A. Yes.
 02 Q. What was the institution that
 03 put on the well control portion?
 04 A. Randy Smith Drilling School.
 05 Q. Okay. Did you have a booklet or
 06 materials that were handed out by the Randy
 07 Smith group on fundamentals of well control?
 08 A. Yes.
 09 Q. The fundamentals of well control
 10 book as well as the classroom experience
 11 showed you what a well was, what a casing
 12 was, what a drill string was, what a blowout
 13 preventer was?
 14 A. Yes.
 15 Q. Among other things?
 16 A. Among other things.
 17 Q. Yeah. And did you -- did you
 18 have any hands-on training at Randy Smith?
 19 A. They have a simulator.
 20 Q. So you have a console showing --
 21 A. Returns and -- yes.
 22 Q. And you -- you can -- you knew
 23 the -- a basic principle was the driller
 24 needs to monitor the returns to make sure
 25 what's going in the wellbore, that the same
 00052:01 amount is coming out, right?
 02 A. That's correct.
 03 Q. You need to -- you need to
 04 monitor that, right?
 05 A. That's correct.
 06 Q. And who's in charge of well
 07 control on a drilling rig?
 08 A. Typically the -- typically the
 09 driller, but not every rig uses the same --
 10 the same terminology. In some -- some
 11 drilling rigs they may call him the
 12 toolpusher.
 13 Q. And did you remember -- do you
 14 re- -- what year was MODU U for you?
 15 A. I would have gone in '97.

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00052:19 Q. (BY MR. HAYCRAFT) MODU U
 20 was '97 for you?
 21 A. As a student, yes.
 22 Q. Right. So your well control,
 23 three days, would have been during that time
 24 in '97?

25 A. That's correct.
 00053:01 Q. Okay. In the well control
 02 school, either the simulation or the
 03 materials or the classroom education, did you
 04 learn that the driller or the driller
 05 equivalent must monitor the well at all
 06 times?
 07 A. Yes.
 08 Q. And that monitor means
 09 constantly monitor?
 10 MR. JOHNSON: Objection; form.
 11 A. It means that -- that -- in my
 12 mind, it means that he must be continually
 13 aware of the condition of the well.
 14 Q. (BY MR. HAYCRAFT) Okay. And do
 15 you know what a -- from the '97 course, do
 16 you presently know what a kick in a wellbore
 17 is?
 18 A. Yes.
 19 Q. It's the intrusion of well
 20 fluids into the wellbore, un- -- an unwanted
 21 influx of hydrocarbons into the wellbore,
 22 correct?
 23 A. Yes.
 24 Q. And left uncontrolled, a kick
 25 can grow over time, correct?
 00054:01 MR. JOHNSON: Objection; form.
 02 A. That's correct.
 03 Q. (BY MR. HAYCRAFT) And then a
 04 kick left unchecked, uncontrolled can become
 05 ultimately a blowout, correct?
 06 A. Yes.

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00054:12 Q. Okay. Do you have any intention
 13 in this case of offering expert opinions on
 14 blowout preventers?
 15 A. None.
 16 Q. Have you ever had a dynamic
 17 positioning course?
 18 A. No.
 19 Q. Do you have any licensing as a
 20 dynamic positioning officer or operator?
 21 A. No.
 22 Q. Have you ever attended any
 23 schools in fire and gas detection systems on
 24 board offshore vessels?
 25 A. Well, I've attend -- I don't --
 00055:01 I don't know if I would use the term
 02 "school," but certainly that was part of
 03 our -- our inspector's training that was held
 04 in Yorktown to -- to understand fire and gas
 05 systems, yes.
 06 Q. If -- would you be able to hold

07 yourself out today as a certified ISM
 08 auditor?
 09 A. I wouldn't market myself as a
 10 ISM auditor, not because -- not because I
 11 couldn't do it. I don't want to be an ISM
 12 auditor.
 13 Q. Okay. Well, put a -- put aside
 14 whether you want to or not. Could you with
 15 your current credentials hold yourself out in
 16 your marketing position as a certified ISM
 17 auditor?
 18 A. I would have to -- I would have
 19 to research the recency requirements. I
 20 don't know that there is a -- there is a
 21 recency requirement for an auditor. So I
 22 would be hesitant to market myself without
 23 fully researching that.
 24 Q. You're aware that there may be a
 25 recency requirement?
 00056:01 A. There may be a recency. I'm not
 02 sure.

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00056:10 while we were doing inspections, we weren't
 11 doing an ISM audit, but certainly the ISM
 12 system was something that we would -- we
 13 would look at.

Page 56:20 to 59:02

00056:20 Q. (BY MR. HAYCRAFT) Before that,
 21 how many DP MODU inspection or exams,
 22 examinations, had you personally conducted
 23 either as a junior person or the senior
 24 person?
 25 A. DP MODUs, I don't know, probably
 00057:01 eight or ten different MODUs. They -- prior
 02 to 2004, the -- the deepwater activity was --
 03 was just developing, and -- and the drill
 04 ship was -- which are DP as well, but that
 05 was pretty much the preferred option in the
 06 Gulf in those days.
 07 Q. Well, let me make sure I've got
 08 some -- some idea from reading this record
 09 of -- you said eight or ten -- my question
 10 would have been how many DP MODUs did you
 11 personally inspect either in the junior or
 12 senior role, and then you said eight or ten,
 13 and then you said different MODUs. And so I
 14 just need to get clarity on sort of --
 15 A. Well, if --
 16 Q. -- you know where I'm going, I
 17 want numbers of MODUs, DP, drill ship,

18 whatever, did you personally do an exam or an
19 inspection?
20 A. Well, like I say, depending --
21 depending on how you've -- how you've phrased
22 the question, the -- the Deepwater Horizon is
23 a classic example, that oftentimes they would
24 stay in the Gulf for long periods of time.
25 So while it may be eight or ten different
00058:01 MODUs, you may inspect the same one three or
02 four times.
03 Q. Uh-huh. So is your -- is your
04 answer that you've personally been involved
05 in an inspection or an examination of eight
06 or ten different DP MODUs, meaning any one of
07 those eight or ten, you might have been
08 aboard more than once; is that -- do I --
09 A. Yeah, if you -- if you -- when
10 you say dynamically positioned, if you're
11 including drill ships in that as well.
12 Q. Yes. So eight or ten?
13 A. Eight or ten.
14 Q. Okay. But you don't presently
15 remember whether Deepwater Horizon was one of
16 them?
17 A. To the best of my knowledge, it
18 wasn't.
19 Q. In this case when were you
20 retained to -- to start reviewing materials,
21 do work?
22 A. In August of this year.
23 Q. Okay. So your expert report of
24 September 23 was -- was after approximately
25 seven or eight weeks of work?
00059:01 A. Seven or eight weeks of very
02 intense work, yes.

Page 61:02 to 61:18

00061:02 Q. (BY MR. HAYCRAFT) Okay. Did --
03 do you bill the same in this matter as you
04 bill in your other consulting work for -- for
05 your L.L.C.?
06 A. Well, I -- you have to
07 understand, I have long-term agreements,
08 multi-year agreements with a -- with a -- a
09 major Norwegian company. So based on those
10 long-term agreements, then, yes, my rates are
11 a little less than they are in this case.
12 Q. What is -- what is your current
13 rate for those -- for that Norwegian offshore
14 company?
15 A. 150 an hour.
16 Q. Okay. What is your rate in this
17 matter?
18 A. 350 an hour.

Page 63:07 to 63:13

00063:07 Q. Were you asked in -- in the
 08 period August or September or through the
 09 present date to review the licenses of -- the
 10 license or licenses of Captain Kuchta?
 11 A. I won't say I was asked. I knew
 12 they were available in a deposition exhibit,
 13 and I -- I certainly looked at them.

Page 64:01 to 65:23

00064:01 Q. Yeah. Would you agree with me,
 02 sir, that as a maritime expert in this
 03 matter, it would be important to review the
 04 licensing of the seagoing persons aboard the
 05 ship involved in the casualty you're
 06 investigating?
 07 MR. JOHNSON: Objection; form.
 08 A. Yes, and I looked at the
 09 licenses.
 10 Q. (BY MR. HAYCRAFT) Okay. Well,
 11 specifically, did you look at
 12 Captain Kuchta's license?
 13 A. Yes, I did.
 14 Q. Did you look at Chief Mate David
 15 Young's license?
 16 A. Yes.
 17 Q. Did you look at -- at DPO Andrea
 18 Fleytas' license?
 19 A. No, I didn't.
 20 Q. Did you look at Yancy Keplinger,
 21 Sr., DPO's license?
 22 A. No, I didn't.
 23 Q. Did you look at Jimmy Harrell's,
 24 the OIM's license?
 25 A. Yes.
 00065:01 Q. What type of license was it?
 02 A. He had a -- his U.S. license
 03 used the term unrestricted mobile offshore
 04 drilling unit -- or "mobile offshore drilling
 05 unit unrestricted." And the -- I'm trying to
 06 think exactly how the Marshall Islands -- I
 07 don't remember the exact wording, but it
 08 was -- it was very clear that he was
 09 management level offshore installation
 10 manager.
 11 Q. Okay. Same question, Steve
 12 Bertone, chief engineer aboard Deepwater
 13 Horizon on April 20, did you look at his
 14 seagoing license?
 15 A. I didn't look at his license,
 16 no.

17 Q. Would you agree that the chief
18 engineer on a dynamically positioned MODU
19 should have a maritime license?
20 A. If he's filling the -- the safe
21 manning billet as the chief engineer, then,
22 yes, it would be requisite he have a
23 corresponding license.

Page 66:15 to 66:21

00066:15 Q. Okay. Have you -- in the past
16 few days, have you had a chance to re-read
17 your original and rebuttal expert reports?
18 A. Yes.
19 Q. Did you find any corrections
20 that you need to make?
21 A. No.

Page 81:08 to 82:11

00081:08 Q. (BY MR. HAYCRAFT) Okay. Is the
09 captain the commander of an FPSO in this
10 bullet point?
11 A. Well, it's -- it's a dual role.
12 It's -- he's the captain, of course, and
13 he -- he also has an OIM endorsement for a
14 production ship.
15 Q. But once the captain decides,
16 then that's the binding decision?
17 A. That's correct.
18 Q. And if you have a disconnect
19 system, but don't train the personnel how to
20 use the system, the system can't be properly
21 used, correct? That's true of any
22 technology.
23 A. I would generally agree with
24 that assessment.
25 Q. And if -- if you have a working
00082:01 disconnect system, but either there is --
02 there is disagreement among ship personnel
03 about whether it's time to use the
04 disconnect, you need to have someone who
05 makes a command decision, don't you?
06 A. Each -- each -- you have to
07 understand that we're talking about an FPSO
08 and an FPU here and not necessarily a -- a
09 drilling rig, but in the case of your -- your
10 general description, then, yes, I would agree
11 with -- with your general description.

Page 83:12 to 84:02

00083:12 Q. Were you -- well, strike that.

13 In your capacity the year before in -- in
14 June 2008 at the time of your retirement were
15 you a regulator who would have some influence
16 on regulatory enforcement and compliance for
17 FPSOs in the Gulf of Mexico?
18 A. If there would have been one at
19 that time, yes.
20 Q. And same question for FPU's?
21 A. Yes.
22 Q. What was your first consulting
23 job after retiring from the Coast Guard?
24 A. I went to work for BW offshore,
25 which is a Norwegian FPSO company, and
00084:01 they -- they delivered the first FPSO into
02 the Gulf of Mexico.

Page 84:13 to 84:25

00084:13 Q. Okay. How long after you
14 retired in June 2008 did you take up that
15 consulting position?
16 A. I retired on a -- a Friday, and
17 I went to work for them on Monday.
18 Q. Okay. And was that -- was that
19 in relation to their efforts to get their
20 FPSO approved by the regulators? In other
21 words, that was part of your job when you
22 began consulting with them?
23 A. They -- they had never operated
24 in the U.S. before and needed help
25 understanding the U.S. regulatory regime.

Page 85:18 to 86:05

00085:18 Q. Okay. So let's -- let me dig
19 down a little bit on that. We -- we've
20 talked about that position in general, and
21 now I want to get a little more specific.
22 From this bullet point I take it that you had
23 working within your -- your group 15
24 inspectors spread between the five field
25 offices, right?
00086:01 A. Yes.
02 Q. And the five field offices,
03 would those be the -- the five MSOs that you
04 told us about earlier?
05 A. That's correct.

Page 89:20 to 91:08

00089:20 A. Well, I -- I think I need to
21 clarify, because these 15, like I said, they
22 would not have a MODU inspection every day,

23 but they would be used -- remember, we talked
 24 about the bull pen type approach where you
 25 just have -- you have a pool of inspectors.
 00090:01 So given that, the number of ships in and out
 02 of the Houston Ship Channel every day that
 03 are inspected by Galveston, many, many, many.
 04 Out of -- in and out of the Mississippi River
 05 through New Orleans that are inspected by
 06 New Orleans, a huge number. So probably a
 07 couple of hundred throughout the district.

08 Q. Okay. Do you know -- can you
 09 tell us the difference between -- for a
 10 foreign-flagged MODU and a U.S.-flagged MODU
 11 the difference between visits by the Coast
 12 Guard for those two examples?

13 A. Well, the major -- the major
 14 difference is that the -- the foreign-flagged
 15 MODUs rely upon a -- a framework that's built
 16 around the IMO MODU code and potentially in
 17 another country's regulatory regime that they
 18 have -- that they have worked out with the
 19 Coast Guard. In a case of neither one of
 20 those, then they would be inspected as if
 21 they were U.S. flagged under the auspices of
 22 46 CFR subchapter IE or IA.

23 Q. So for the foreign flag MODU
 24 such as the Deepwater Horizon the Coast Guard
 25 offshore inspector under your -- under your
 00091:01 role as chief of offshore compliance would
 02 conduct what's known as an examination rather
 03 than an inspection?

04 A. That's generally a term that was
 05 kind of carried over from the port state
 06 control program. To me they were all
 07 inspections. There was really no
 08 distinction.

Page 92:16 to 93:18

00092:16 Q. (BY MR. HAYCRAFT) Well, let me
 17 ask you, Mr. Wolfe, as an expert in this case
 18 do you have any familiarity with the two-word
 19 term process safety?

20 A. Yes.

21 Q. Okay. What -- what's your --
 22 what's your interpretation of what process
 23 safety is?

24 A. Well, it generally -- it
 25 generally relates to functions and activities
 00093:01 that take place within a -- within a --
 02 within a workplace.

03 Q. And a workplace, in your
 04 understanding, can include a vessel such as
 05 Deepwater Horizon?

06 A. Yes.

07 Q. So there -- there is something
08 known as -- in your world and our world as
09 process safety concerning the workplace,
10 including the Deepwater Horizon, correct?

11 A. Yes.

12 Q. And then you understand what
13 personal safety is, don't you?

14 A. Yes.

15 Q. Slips, trips, hazards, dropped
16 objects, that sort of item, you understand
17 that?

18 A. Yes.

Page 95:05 to 95:10

00095:05 Q. Do you recall what my question
06 was? I said, which party had primary
07 responsibility for process safety and
08 personal safety aboard the rig Deepwater
09 Horizon?
10 MR. JOHNSON: Objection to form.

Page 95:12 to 95:16

00095:12 A. The -- the process. Primary
13 responsibility. For the process safety --
14 Q. (BY MR. HAYCRAFT) Yes.
15 A. -- I would say that the primary
16 responsibility was the operator.

Page 98:14 to 100:18

00098:14 Q. I'm going to read from the
15 30(b)(6) deposition of Mr. McMahan, starting
16 on Page 217, and the question is asked, "And
17 that says, quote, Leadership Guidance,
18 Transocean Leads the Rig Team, end quote.
19 "What does that mean?"
20 The witness answered, "That
21 means our strength in leadership needs to be
22 apparent over BP's when it comes to subject
23 matter around HSE. We need to be seen
24 leading, not following."
25 Did I read his testimony

00099:01 correctly?

02 A. Yes.

03 Q. And down on Page 218, the
04 question was, Just so I understand, the
05 bullet "Leadership Guidance, Transocean Leads
06 the Rig Team," Transocean was communicating
07 that it wanted to be in a leadership position
08 when it comes to health, safety and the
09 environment in terms of projecting that

10 leadership in the -- to the key supervisors
 11 on a rig that you've described, such as the
 12 OIM, the captain, the senior toolpusher,
 13 et cetera, correct?
 14 And the witness answered, "That
 15 is correct. Prior to this, BP had HSE
 16 personnel onboard at all times, and they
 17 tried to take prime seat in HSE matters. And
 18 we -- Transocean wanted to be in the position
 19 where we're leading and we used our systems,
 20 our HSE manual, not BP's."
 21 Did I read Mr. McMahan's
 22 testimony correctly?
 23 A. Yes.
 24 Q. And then the question followed,
 25 "And as I see in some later documents, BP was
 00100:01 receptive to Transocean taking the lead when
 02 it came to health, safety, and the
 03 environment on Transocean rigs for the
 04 supervisors that you described, correct?"
 05 His answer was "Yes," wasn't it?
 06 A. Yes.
 07 Q. And then the question was, "And
 08 Transocean believes strongly that it could
 09 take a leadership role and function
 10 effectively with that leadership role when it
 11 came to health, safety, and the environment
 12 on its rigs, correct?"
 13 And what was Mr. McMahan's
 14 answer to that question?
 15 A. He answered "Yes."
 16 Q. And then did he follow up with
 17 another word following the word "yes"?
 18 A. "Absolutely."

Page 101:01 to 102:20

00101:01 deposition testimony excerpt. Did you review
 02 the deposition of Adrian Rose in connection
 03 with the preparation of your expert report?
 04 A. I -- I looked at parts of his
 05 deposition, but certainly not the whole
 06 thing.
 07 Q. Why didn't you read the whole
 08 deposition?
 09 A. Because so much of it was not
 10 focused around the -- the marine systems that
 11 I was asked to review.
 12 Q. Okay. If you'll turn to tab 23
 13 of your binder, please. Do you see that to
 14 be an excerpt from the deposition of Adrian
 15 Rose?
 16 A. Yes.
 17 Q. And do you know who Adrian Rose
 18 is at the Transocean organization?

19 A. As I recall, he was -- well,
 20 I'll just say he was a pretty senior guy in
 21 the North American division, but I don't
 22 remember his exact title.
 23 Q. Fair to say, sitting here today,
 24 you don't recall that he was vice president
 25 quality, safety and environment for corporate
 00102:01 Transocean worldwide?
 02 A. Like I say, it -- I recall that
 03 he was a senior guy.
 04 Q. Okay. Let's turn to Page 413 of
 05 his deposition, and I'm going to read the
 06 question in the middle of the page, line 12.
 07 Jimmy Harrell, do you know who Jimmy Harrell
 08 is?
 09 A. He was the OIM.
 10 Q. Okay. Jimmy Harrell --
 11 "QUESTION: Jimmy Harrell had
 12 overall safety responsibility for the
 13 Deepwater Horizon on April 20th, 2010, didn't
 14 he?"
 15 Mr. Rose's answer, line 16, "He
 16 was the OIM, which has the responsibility for
 17 safety of that vessel."
 18 Did I read Mr. Rose's testimony
 19 accurately?
 20 A. Yes.

Page 103:01 to 103:08

00103:01 Q. Okay. Turn to tab 32 of your
 02 binder, please. If you'll turn to tab 32,
 03 you'll see Exhibit 4112, and in the copying
 04 process, I omitted a portion of the excerpts,
 05 and I'm going to show you the excerpts that I
 06 didn't include in the binder which I'm going
 07 to label as Exhibit 7560, which includes
 08 Article 17 of this drilling contract.

Page 104:09 to 107:11

00104:09 But my question is, if you look
 10 at tab 32 as well as 7560, do you agree with
 11 me, sir, that that's portions of the drilling
 12 contract between BP and Transocean?
 13 A. Yes, it appears to be part of
 14 the contract.
 15 Q. Okay. And did you review part
 16 of the contract, including these parts, in
 17 preparation of your expert reports in this
 18 matter?
 19 A. I think I read the -- I read
 20 Article 17.
 21 Q. Okay. Well, good. Let's start

22 with that, then. If we look at Article 17,
23 which for this deposition record will be
24 Exhibit 7560, but it's included in other
25 deposition exhibits that made it into the
00105:01 record in this case, including Deposition
02 Exhibit 4112.
03 Let's read out loud the first
04 sentence of 17.1 of Article 17, which
05 generally is titled "Safety."
06 Do I have that right, that
07 Article 17 is generally titled "Safety"?
08 A. Yes.
09 Q. Okay. And let me read the first
10 sentence, 17.1, and you follow along, all
11 right?
12 A. Yes.
13 Q. CONTRACTOR shall have the
14 primary responsibility for the safety of all
15 its operations, shall take all measures
16 necessary or proper to protect the personnel
17 and facilities and, in addition, shall
18 observe all safety rules and regulations of
19 any governmental agency having jurisdiction
20 over operations conducted -- conducted
21 hereunder. Contractor shall place the
22 highest priority on safety while performing
23 the work.
24 I'm going to stop there, but
25 just ask you if I've read those sentences
00106:01 accurately so far?
02 A. Yes, you have.
03 Q. Okay. Looking at the very first
04 five or six words, could you read those one,
05 two, three, four, five, six, seven, eight
06 words out loud for us, please?
07 A. From what you just read?
08 Q. Yes.
09 A. "CONTRACTOR shall have the
10 primary responsibility for the safety of all
11 its operations."
12 Q. Okay. If we stop there, my
13 first question is, having read this --
14 portions of this contract prior to rendering
15 or publishing your expert reports, do you
16 understand who "CONTRACTOR" is in that
17 particular sentence?
18 A. The contractor is the operator
19 of the -- of the MODU.
20 Q. And in this case, who was that
21 on April 20th, 2010?
22 A. Transocean.
23 Q. So do you agree with me, sir,
24 that the drilling contract between Transocean
25 and BP placed the primary responsibility for
00107:01 the safety of its operations on Transocean?

02 MR. JOHNSON: Object to form.
 03 A. In terms of the wording in
 04 the -- in the contract, yes, but that was not
 05 the only governing -- the only governing
 06 guidance related to safety.
 07 Q. (BY MR. HAYCRAFT) Okay. But my
 08 question is the drilling contractor. You'd
 09 agree with that?
 10 MR. JOHNSON: Objection; form.
 11 A. Yes.

Page 108:12 to 109:14

00108:12 Q. (BY MR. HAYCRAFT) All right.
 13 Look at tab 23 again. Look at tab 23 again,
 14 since you don't remember. Okay. Do you see
 15 the page we read from earlier, 413?
 16 A. Yes.
 17 Q. And who did Adrian Rose say was
 18 primarily responsible for safety on the
 19 Deepwater Horizon?
 20 MR. JOHNSON: Objection to the form.
 21 A. Line 16, he says, "He was the
 22 OIM, which has the responsibility for the
 23 safety of that vessel."
 24 Q. (BY MR. HAYCRAFT) And who was
 25 "he"?
 00109:01 A. "He" meaning Jimmy Harrell.
 02 Q. And who was Jimmy Harrell?
 03 A. He was the OIM.
 04 Q. Do you remember the testimony we
 05 went over of Larry McMahan?
 06 A. Yes.
 07 Q. And who did he say had primary
 08 responsible -- responsibility for HSE matters
 09 on Deepwater Horizon?
 10 A. I believe he said that rested
 11 with Transocean.
 12 Q. Okay. Let's -- are you familiar
 13 with the ISM code?
 14 A. Yes.

Page 109:18 to 110:06

00109:18 Q. In your work with the Coast
 19 Guard and -- and subsequent in your
 20 consulting role, do you have familiarity with
 21 the ISM code?
 22 A. Like I say, I -- I haven't -- I
 23 have a familiarity with it, yes.
 24 Q. Okay.
 25 A. It's not something I do on a
 00110:01 daily basis.
 02 Q. Okay. Did you give opinions in

03 both your original and rebuttal reports
 04 regarding I- -- the interpretation of certain
 05 ISM code provisions?
 06 A. Yes, I did.

Page 112:04 to 113:05

00112:04 Q. Okay. Let me ask you this:
 05 Without looking at the ISM code -- and the
 06 reason I'm asking is because I'm interested
 07 in what you just know -- do you understand
 08 that ISM code is a process safety document?
 09 MR. JOHNSON: Object to the form.
 10 A. I'm not sure if I would call it
 11 a process safety document. It's a -- it's an
 12 international code that establishes safe
 13 operation for protection of people and the
 14 environment.
 15 Q. (BY MR. HAYCRAFT) And vessel?
 16 A. The vessel.
 17 Q. And property?
 18 A. Property, environment.
 19 Q. So in your -- in your role as an
 20 expert in this case, you don't have a view on
 21 whether the ISM code is a process safety
 22 document?
 23 MR. JOHNSON: Objection; form.
 24 A. No. My -- my review of the --
 25 of the ISM -- the largest part of my review
 00113:01 of the ISM was to recognize DNV's actions
 02 over a long period of time and recognize that
 03 they are, in fact, a responsible
 04 organization. I -- I had no -- I had no
 05 reason to second-guess them.

Page 113:11 to 114:02

00113:11 And my question is, is it your
 12 knowledge as a -- as a proposed expert in
 13 this matter that the ISM code stands as a
 14 process safety document?
 15 MR. JOHNSON: Objection; form.
 16 A. I -- I've never heard it
 17 referred to as a process safety document.
 18 Q. (BY MR. HAYCRAFT) Okay. Well,
 19 is it a document that is con- -- that has as
 20 its focus prevention of slips, trips, falls,
 21 and dropped objects?
 22 A. It has overall safety as its
 23 focus.
 24 Q. All right. It has a focus of
 25 process safety aboard ships that fall within
 00114:01 its jurisdiction, correct?
 02 MR. JOHNSON: Objection; form.

Page 114:04 to 115:18

00114:04 A. I've -- I've never heard it
 05 referred to as a process safety document.
 06 Q. (BY MR. HAYCRAFT) Okay. Well,
 07 that's -- that's really not my question. The
 08 ISM code in its language affects process
 09 safety, as you understand process safety?
 10 MR. JOHNSON: Objection; form.
 11 A. It -- it could have some effect,
 12 yes.
 13 Q. (BY MR. HAYCRAFT) Okay.
 14 A. But the code itself is -- is
 15 just -- it's a framework.
 16 Q. Right, it's a framework for
 17 safety on ships, correct?
 18 A. That's correct.
 19 Q. In fact, what -- what does ISM
 20 stand for?
 21 A. International Safety Management.
 22 Q. Okay. What does the word "code"
 23 mean?
 24 A. Code means it's part of SOLAS.
 25 Q. Okay. And SOLAS is
 00115:01 international law?
 02 A. Safety of Life At Sea.
 03 Q. And that's an international
 04 treaty?
 05 A. That's correct.
 06 Q. The United States is a signatory
 07 to that treaty?
 08 A. That's correct.
 09 Q. The Republic of the Marshall
 10 Islands is a signatory to that treaty?
 11 A. That's correct.
 12 Q. SOLAS is governing law for
 13 vessels flying the flag of the Marshall
 14 Islands, correct?
 15 A. That's correct.
 16 Q. And under SOLAS comes the ISM
 17 code, correct?
 18 A. Yes.

Page 116:02 to 117:17

00116:02 Q. All right. So for vessels
 03 operating in the Gulf of Mexico, the ISM code
 04 is law, correct?
 05 A. Not for all vessels. There is
 06 certain applicability standards.
 07 Q. Well, let's talk about MODU,
 08 self-propelled dynamically positioned, let's
 09 talk about FSOs, FPSOs, as well as OSVs,

10 inspected OSVs, would the ISM code be
 11 applicable to all of the above?
 12 A. It would be applicable to the
 13 FSOs. If you're describing FSO as a floating
 14 storage and offloading vessel, which we don't
 15 have any, but if we did in the Gulf, yes, it
 16 would apply. It would apply to
 17 self-propelled dynamically positioned MODUs.
 18 And depending on tonnage, it may or may not
 19 apply to OSVs.
 20 Q. All right. Now, between the
 21 shipowner and its customer, who has the
 22 responsibility for implementation and
 23 compliance with the ISM code?
 24 A. They normally rest with the
 25 shipowner.
 00117:01 Q. Well, you say "normally rest
 02 with the shipowner"?
 03 A. Well, there -- there could be
 04 some unique contracting language where the --
 05 where maybe the customer would provide
 06 assistance or -- but, no, the ultimate
 07 responsibility would always lie with the
 08 shipowner.
 09 Q. Okay. Well, let's now focus in
 10 on Deepwater Horizon, April 2010, Transocean
 11 is the operator, slash, owner of the
 12 Deepwater Horizon. BP is the customer for
 13 Deepwater Horizon. Who between those two
 14 entities had responsibility for
 15 implementation of and compliance with the ISM
 16 code?
 17 A. Transocean.

Page 118:05 to 118:15

00118:05 Q. (BY MR. HAYCRAFT) Mr. Wolfe, in
 06 April 2010 was Transocean required to have a
 07 safety management system in place and in
 08 effect for the Deepwater Horizon?
 09 A. Yes.
 10 Q. And was that required by the ISM
 11 code?
 12 A. It's required by SOLAS.
 13 Q. Which -- and is it also required
 14 by the ISM code?
 15 A. Yes.

Page 119:23 to 120:16

00119:23 Q. Let me direct your attention
 24 to -- turn to tab 35, please. Do you see
 25 tab 35?
 00120:01 A. Yes.

02 Q. This has been previously marked
03 in the deposition record as Exhibit 3789, and
04 let me ask you a preliminary question. Did
05 you review the entire document entitled MAHRA
06 Deepwater Horizon, sometimes referred to as
07 MAHRA, and its full name is Major Accident
08 Hazard Risk Assessment Deepwater Horizon?

09 A. I read the sections of it that
10 related to the marine operation. Since I was
11 not giving an opinion on well control or well
12 activities, I didn't read those sections.

13 Q. Well, did you understand that
14 the MAHRA was a risk assessment undertaken by
15 Transocean specific to Deepwater Horizon and
16 its activities in its daily operations?

Page 120:18 to 121:04

00120:18 A. The -- the MAHRA is a -- yes,
19 it's a -- it's a large, overarching document,
20 but there's parts of it that were beyond the
21 scope of my -- my report.

22 Q. (BY MR. HAYCRAFT) I -- I'm not
23 asking what parts were in or out your --
24 outside of your scope. My question is is the
25 MAHRA a document by which Transocean assessed
00121:01 major accident risks specific to the
02 Deepwater Horizon and its operations?

03 A. It was -- it was one of their
04 tools that they used, yes.

Page 122:03 to 122:22

00122:03 Q. Operations integrity case.

04 A. -- I really -- I can't recall.

05 Q. Okay. Well, let's look at
06 what's been put before you, Deposition
07 Exhibit 3789. Do you see in this document
08 that among the hazards that Transocean
09 identified specific to the Deepwater Horizon
10 was the hazard of a reservoir blowout?

11 A. Yes.

12 Q. Would it be fair to say from
13 your maritime perspective that a reservoir
14 blowout is a reasonably anticipated hazard to
15 be prevented and mitigated by the operator of
16 a DP semi-submersible drilling vessel?
17 MR. JOHNSON: Objection; form.

18 A. Yeah, I would -- I would -- I
19 would agree with that, but, here again, this
20 particular case here deals with -- it goes to
21 well control and those processes that I
22 didn't -- I didn't review.

Page 123:20 to 126:19

00123:20 Q. (BY MR. HAYCRAFT) According to
21 the document before you, did Transocean
22 anticipate the hazard of a reservoir blowout
23 and provide its personnel with both
24 prevention activities as well as mitigation
25 activities in the event that hazard came to

00124:01 pass?

02 MR. JOHNSON: Objection; form.

03 A. I can agree that they -- they --
04 that they identified the hazard. Now, how
05 this information was communicated to the crew
06 or who in the crew this information would
07 have been communicated to, at what level,
08 I -- I can't -- I -- I can't speculate.

09 Q. (BY MR. HAYCRAFT) Okay. Well,
10 would you agree with me, sir, that it would
11 be important for Transocean management,
12 assuming they performed this risk assessment,
13 transmit this information to the rig manager
14 performance, the rig manager asset, and to
15 the ship -- on-board ship management of the
16 Deepwater Horizon?

17 MR. JOHNSON: Objection; form.

18 A. I think generally I could agree
19 that -- that those particular roles that you
20 just identified would probably be in a -- in
21 that, but I -- I don't want to say
22 conclusively that would be all it would be
23 communicated to.

24 Q. (BY MR. HAYCRAFT) Should
25 include at least those people?

00125:01 A. I -- I would think that those
02 people, yes.

03 Q. And you don't want a risk
04 assessment to simply sit in the shelf of a
05 shoreside manager's office and not get out to
06 the field, correct?

07 MR. JOHNSON: Objection; form.

08 A. Well, I -- I mean, I think -- my
09 response to that would be is that if -- if
10 they had determined that all of these things
11 were already in place and understood, that
12 you wouldn't just give them more redundant
13 information.

14 Q. (BY MR. HAYCRAFT) Okay. Well,
15 let's -- let's look at the prevention
16 measures, and I'm going to go over this
17 quickly, because I'm not asking you for
18 details about the prevention man- --
19 prevention steps, but I'm going to -- I'm
20 going to number them one, two, three, four,
21 and five, okay?

22 A. Okay.

23 Q. Well control man- -- that's one.
24 Maintenance and testing of BP's, that's two.
25 Three is Instrumentation and indication of
00126:01 well status. Four is Hydrocarbon/Combustible
02 Gas detection system, and, five is Redundant
03 BOP controls.
04 Do you see that in the column
05 for prevention measures?
06 A. Yes, I do.
07 Q. And those are prevention
08 measures for the hazard identified by
09 Transocean as reservoir blowout, correct?
10 A. That's correct.
11 Q. Okay. Based on your review of
12 the materials in this case so far, who
13 between BP and Transocean had well control
14 procedures and training of drill crew and
15 well control as their responsibility?
16 MR. JOHNSON: Objection to the form.
17 A. The -- the actual day-to-day
18 activity of well control occurring on the
19 drill floor would be Transocean.

Page 128:11 to 128:19

00128:11 Q. Okay. Did you review the fire
12 and gas detection system aboard the Deepwater
13 Horizon in your role as an expert for
14 Transocean in this case?
15 A. The permanently installed?
16 Q. Yes.
17 A. Yes.
18 Q. Whose equipment was that?
19 A. Transocean.

Page 129:06 to 129:08

00129:06 Q. Would you agree that the ability
07 to move off station is a maritime activity
08 aboard the Deepwater Horizon?

Page 129:10 to 130:09

00129:10 A. That's -- that's not really a --
11 there is no short answer to that because
12 the -- the ability to move off station speaks
13 to the -- the marine systems, the -- the
14 propulsion, the electrical generation; but in
15 order to disconnect from the well to
16 facilitate that, that is traditionally a -- a
17 function related to protecting the integrity
18 of the well.
19 Q. (BY MR. HAYCRAFT) Are you

20 talking about the EDS system?
21 A. Yes.
22 Q. Are there EDS controls in the
23 bridge of the Deepwater Horizon?
24 A. Yes.
25 Q. Why did the ship -- why did the
00130:01 designer of the ship and/or the
02 owner/operator of the ship choose to have EDS
03 controls placed on the bridge?
04 A. Well, I -- I think they -- they
05 definitely saw the need for a redundant panel
06 and -- and, quite frankly, if you have to
07 choose between the CCR and the ECR, it's
08 probably the CCR's -- is a logical place to
09 put it.

Page 131:01 to 131:04

00131:01 Q. Having the ability to move off
02 station for a vessel tethered to a fuel
03 source is an important maritime
04 consideration; is it not?

Page 131:06 to 131:16

00131:06 A. If the -- if the blowout has
07 escalated to that level, then, yes, that may
08 be a -- a proper mitigation.
09 Q. (BY MR. HAYCRAFT) And the
10 marine crew has to be ready for that,
11 correct?
12 A. Ready to move off station --
13 Q. Yes.
14 A. -- to navigate --
15 Q. Uh-huh.
16 A. Yes.

Page 131:22 to 132:02

00131:22 A. Well, I know there were --
23 Transocean had -- if -- if -- if you're
24 including the EDS activation as part of that
25 functionability to move off station, the --
00132:01 the procedures were very clear that that was
02 the -- the driller's responsibility.

Page 132:07 to 132:12

00132:07 A. Here again, I -- their
08 responsibility is to prepare the vessel to
09 navigate away. It would be a function of
10 well control and -- and well integrity that
11 would fall to the drilling crew and not to

12 the bridge crew.

Page 132:18 to 133:01

00132:18 Q. Okay. Are you here to provide
19 expert opinions on the training,
20 qualifications, experience, and actions of a
21 marine crew aboard a ship such as the
22 Deepwater Horizon?
23 MR. JOHNSON: Object to the form.
24 A. To the extent that I have
25 reviewed their -- their activities of -- of
00133:01 that event, then -- then, yes.

Page 133:14 to 134:25

00133:14 Q. I'm -- I'm sorry, I appreciate
15 your telling me that, but my question is
16 should Transocean train its maritime crew
17 aboard the Deepwater Horizon in the ability
18 to move off station in the event of a
19 reservoir blowout?
20 A. I'm -- I'm not sure exactly what
21 your question is asking me. I -- I mean, I
22 think I've said clearly that, yes, they were
23 trained -- they were a marine crew. They
24 were trained to navigate the vessel away if
25 the drill crew were to tell them we need to
00134:01 EDS.
02 Q. Okay. So do -- if I hear your
03 answer -- and make sure I understand it and
04 tell me if I'm wrong. What you're saying is
05 no, the maritime crew, the marine crew, in
06 the mitigating activity of moving off
07 location in the event of a reservoir blowout
08 is contingent upon the drilling crew
09 directing them to do so; do I hear you
10 correctly?
11 MR. JOHNSON: Object to the form of
12 that question.
13 A. I don't think that's what I
14 said.
15 Q. (BY MR. HAYCRAFT) What did you
16 say?
17 A. Let me -- let me try it a
18 different way. Transocean had procedures in
19 place that dealt with disconnection from the
20 wellhead. In those procedures the marine
21 crew did not have duties and responsibilities
22 for the disconnect function, so therefore
23 I -- I don't know why you would train
24 somebody on something that they're not
25 responsible for executing.

Page 137:24 to 139:02

00137:24 Q. Okay. Based on your expertise
25 in this case, do you agree with me, sir, that
00138:01 on the console of each survival craft should
02 be a card that provides an escape direction
03 so that the craft will go perpendicular to
04 the -- to the rig at that location?
05 A. Yes.
06 Q. Do you agree -- did you know
07 that the survival craft on the Deepwater
08 Horizon were equipped with sprinklers?
09 A. Yes.
10 Q. Were you a -- do you know
11 whether or not the survival craft on
12 Deepwater Horizon were provided with positive
13 air pressure?
14 A. I'm going to back up to my
15 previous answer. You asked me do I know that
16 for a fact. I know that -- that on a MODU
17 you -- you will -- there is a requirement for
18 fully enclosed, fire protected life boats,
19 meaning fully enclosed means there is an air
20 supply and fire protected meaning there is a
21 sprinkler system.
22 Q. So at least it was required on
23 the Deepwater Horizon on the night of April
24 the 20th that the life -- the survival craft
25 be so equipped?
00139:01 A. Yes, that would have been a
02 requirement.

Page 140:20 to 140:25

00140:20 Q. Based on your review of the
21 materials in this matter, would you agree
22 with me that BP was justified in relying upon
23 Transocean to have the primary responsibility
24 for implementation and management of a safety
25 management system?

Page 141:12 to 142:20

00141:12 A. I think the way I'd respond to
13 that is that, yes, I understand that it was
14 Transocean's responsibility to implement a
15 safety management system. I think it would
16 be also incumbent on the operator to ensure
17 that it actually -- that it actually had been
18 implemented.
19 Q. (BY MR. HAYCRAFT) Okay. So it
20 was incumbent on BP to make sure that
21 Transocean had implemented a safety

22 management system for Deepwater Horizon?
23 A. I'm sure as part of their -- I
24 haven't seen this discussed -- maybe I have.
25 To -- to ensure that they had all of the
00142:01 requisite documents and that it had been --
02 their safety management system had been
03 accepted by the RO on behalf of the flag
04 state, I think that would be a BP function,
05 that they would -- they would ask for copies
06 of those certificates or view those
07 certificates.
08 Q. And you, in fact, know that BP
09 did that in this case, correct?
10 A. I -- I can't recall
11 specifically, but I'm quite -- I would --
12 that would be normal.
13 Q. Okay. And you've seen no
14 evidence in the record to suggest that BP did
15 not rely upon Transocean's presentation of
16 proper certificates from the RO regarding its
17 safety management system?
18 A. I -- I don't recall. There's
19 nothing that comes to mind at the moment
20 that -- that I would recall.

Page 143:09 to 143:24

00143:09 Q. (BY MR. HAYCRAFT) Okay. And
10 in -- in the case of the Coast Guard doing an
11 examination in the summer of 2009 on vessels
12 such as the Deepwater Horizon, the Coast
13 Guard inspectors who board the vessel rely
14 upon the presentation to them of the proper
15 certificates from the recognized organization
16 conducting those activities, ISM code review
17 aboard the vessel that's being examined,
18 correct?
19 A. I can't speak for the actions of
20 every individual inspector, but, yes, that
21 would be included on their -- in their
22 guidance documents for how to conduct the
23 inspection, would be to verify the -- the
24 safety management certificate -- certificate.

Page 144:08 to 144:17

00144:08 Q. Okay. We're going to talk for a
09 while about the command structure aboard the
10 Deepwater Horizon. Before we get started
11 down that road, I want to work on some
12 terminology. How do you -- I in depositions
13 and others, witnesses have sometimes used the
14 term "dual command" to describe the command
15 structure on the Deepwater Horizon. You've

16 heard that term, "dual command"?

17 A. Yes, I have.

Page 145:07 to 145:22

00145:07 Q. And so I'm -- I'm digging under
08 that a little bit to -- to make sure we don't
09 have a communication issue as we go down this
10 road.

11 So when I say "dual command" or
12 if I say "command structure," I'm generally
13 referring to the command structure as it
14 existed in April 2010 aboard the Deepwater
15 Horizon, and I may use e- -- one or either of
16 those terms, fair?

17 A. That's fair. I just need to
18 clarify that as my report -- or I guess it
19 was the rebuttal report stated, I don't
20 believe there was a dual command structure,
21 but -- but, yes, we're talking about the same
22 premise.

Page 146:03 to 146:14

00146:03 Let's talk about the command
04 structure on board Deepwater Horizon. Did --
05 do you understand and is it your expert
06 opinion that that is a command structure
07 imposed or placed or implemented aboard at
08 least the Deepwater Horizon by the management
09 of Transocean?

10 A. Well, I don't think they -- I
11 don't think they really had much of a choice
12 because the -- the Marshall Islands safe
13 manning certificate said they had to have a
14 master and an OIM.

Page 146:20 to 146:23

00146:20 But my first question is, the
21 command structure aboard Deepwater Horizon
22 was Transocean management policy, yes or no?
23 MR. JOHNSON: Objection; form.

Page 147:09 to 148:01

00147:09 Q. (BY MR. HAYCRAFT) Did you hear
10 my question?

11 A. The question, if I -- if I might
12 rephrase it, is you were asking me is it my
13 opinion that the manning structure on board
14 the Deepwater Horizon was implemented and
15 somehow a function of management.

16 Q. That's my question.
17 A. Well, and like I said, it --
18 certainly it was a function of management,
19 but they -- they had no -- in order to comply
20 with the Marshall Islands manning
21 requirements, that's what they had to do.
22 Q. Okay. They had to have an OIM
23 and a master on board, correct?
24 A. Those -- those are two separate
25 individuals as it -- as it relates to their
00148:01 safe manning certificate.

Page 148:07 to 148:16

00148:07 And so my question is, the
08 command structure in place aboard Deepwater
09 Horizon during the month of April 2010 was a
10 structure placed there and approved by
11 management of Transocean, correct?
12 MR. JOHNSON: Objection to form.
13 A. Yes, that's -- they would --
14 they would establish the manning structure in
15 accordance with the requirements that they
16 were subject to.

Page 149:02 to 149:23

00149:02 Q. Okay. Well, let's talk about
03 that. Just off the top of your head, the
04 minimum safe manning certificate issued by
05 the Republic of the Marshall Islands
06 classified the Deepwater Horizon as a -- as a
07 self-propelled MODU; did it not?
08 A. The original?
09 Q. The original that was in place
10 on April the 20th, 2010.
11 A. Yes.
12 Q. And that safe -- minimum safe
13 manning certificatedid not require the
14 presence of both an OIM and a master,
15 correct?
16 A. The certificate -- the
17 certificate did not, but it's -- it's -- in
18 the Marshall Islands report, as they point
19 out, that was a clerical error, but I -- I
20 think Transocean certainly could look at the
21 Marshall Islands manning document and -- and
22 realize that, yes, they were, in fact,
23 expected to have a master and an OIM.

Page 150:14 to 151:06

00150:14 Q. Okay. Well, you understand that

15 they realized their discrepancy, "they" being
 16 the Marshall Islands, after April the 20th,
 17 2010, right?

18 A. Yes.

19 Q. Okay. Well, my question to you
 20 was in your -- in your review of materials in
 21 preparation of your expert reports, did you
 22 learn that Transocean understood before April
 23 the 20th that Republic of the Marshall
 24 Islands made an error in their minimum safe
 25 manning certificate?

00151:01 A. Yes, I believe they did, and
 02 that's why they had it manned in accordance
 03 with the new one.

04 Q. The new one that was issued or
 05 corrected after the accident, right?

06 A. That's correct.

Page 151:11 to 152:15

00151:11 The minimum safe manning
 12 certificate as described in the Marshall
 13 Islands legal documents re- -- refers to the
 14 manning requirements for a DP vessel, right?

15 A. The newer one?

16 Q. Right.

17 A. That's correct.

18 Q. Okay. And that minimum safe
 19 manning certificate has two positions
 20 relevant to our current discussion. It has
 21 the master position and it has the OIM
 22 position listed, correct?

23 A. That's correct.

24 Q. Okay. And is it your testimony
 25 as an expert in this case that because both
 00152:01 of those positions are listed on the minimum
 02 safe manning certificate for a DPV that the
 03 operator of said vessel has to have each of
 04 them be in command of different aspects of
 05 the vessel?

06 A. The word -- the word "command,"
 07 understand from my -- from my mil- --
 08 military background, there was only one
 09 person in command.

10 Q. Who was in command on Deepwater
 11 Horizon during the afternoon of April the
 12 20th?

13 A. Captain Kuchta.

14 Q. Okay. Did he know that?

15 A. Yes, he knew it.

Page 152:19 to 153:04

00152:19 I'm going to hand you the next

20 numbered exhibit, which will be 7561. Okay.
21 I -- I've excerpted in 7561 the maritime --
22 excuse me, the marine notice from RMI
23 No. 7-038-2. Do you see that?
24 A. Yes.
25 Q. And if we turn to Schedule DPV,
00153:01 which is Page 7 of 30, although I've only
02 excerpted relevant pages, but you see Page 7
03 of 30?
04 A. Yes, I do.

Page 153:13 to 156:15

00153:13 Q. Okay. And you see that for a
14 dynamically positioned DP unit and drilling
15 ship, that application would include the
16 Deepwater Horizon, correct?
17 A. That's correct.
18 Q. When you -- when you're on
19 location or doing a field move, you have to
20 have a master on board; do you not?
21 A. Yes.
22 Q. And you have to have an offshore
23 installation manager on board, correct?
24 A. That's correct.
25 Q. And when you're underway, you
00154:01 have to have a master, but you don't have to
02 have an offshore installation manager,
03 correct?
04 A. That's correct.
05 Q. Okay. On -- on April the 20th,
06 during the afternoon, was the Deepwater
07 Horizon on location?
08 A. It was on location.
09 Q. Was that vessel under Coast
10 Guard regulations underway?
11 A. That's -- that's a point of much
12 recent debate. There -- there is a -- there
13 is a concept that's -- that's underway, not
14 making way, which is a relatively new concept
15 for -- for people to get their hands around.
16 Q. Okay. Well, would you agree
17 with me, sir, that, indeed, the Deepwater
18 Horizon during the afternoon of April the
19 20 -- April the 20th, 2010, was underway,
20 although not making way?
21 A. They were on location, underway,
22 not making way.
23 Q. And at that time, they were
24 exposed to the marine environment?
25 A. Yes.
00155:01 Q. At that time they were more than
02 50 miles from the nearest point of land,
03 give/take 10 or 20?
04 A. Yes.

05 Q. Okay. And they were, in fact,
06 on a location that had water depth of 5,000
07 or so feet, correct?
08 A. Plus or minus.
09 Q. Okay. And at that point, under
10 the Marshall Islands regulation for minimum
11 safe manning that we're looking at, the
12 vessel had to have a master, for sure, right?
13 A. Yes.
14 Q. But it did not have to have an
15 OIM, correct?
16 A. At Mississippi -- at Mississippi
17 Canyon 252?
18 Q. Right.
19 A. Yes, they had to have an OIM.
20 Q. Okay. Under Marshall Islands
21 regulations because they were, quote, on
22 location?
23 A. That's correct.
24 Q. Okay. Who's on top in the
25 minimum safe manning certificate regulation?
00156:01 A. The master.
02 Q. Okay. Does -- does that
03 regulation that we're looking at,
04 Exhibit 7561, say that on dynamically
05 positioned drilling vessels that both the OIM
06 and the master are in charge -- are the
07 persons in charge for particular operations?
08 A. Does the Marshall Islands state
09 that?
10 Q. Uh-huh.
11 A. I don't believe so, but I need
12 to look through it.
13 I don't -- I don't see it here
14 in this document, but maybe I'm trying to
15 read it too fast.

Page 157:07 to 158:10

00157:07 Q. Okay. In the -- would you agree
08 that as a marine expert reviewing the
09 activities aboard the Deepwater Horizon on
10 April the 20th, that one of the things for
11 that marine person to do, for that marine
12 expert to do is to look at whether all the
13 crew members were appropriately qualified and
14 licensed?
15 A. I think I read -- I would -- I
16 would agree that, yes, that's something
17 appropriate to do, but I'm quite certain that
18 I read somebody's deposition that -- that had
19 attested to the fact that they had checked
20 all the licenses and everybody was --
21 everybody had the appropriate STCW
22 credentials and licenses.

23 Q. Well, I'm specifically asking
 24 you about a particular crew member who held
 25 the position of chief engineer aboard
 00158:01 Deepwater Horizon on April the 20th, his name
 02 is Steve Bertone, and I'm asking you as a
 03 marine expert in this matter whether Steve
 04 Bertone -- Bertone had an STCW qualification.
 05 MR. JOHNSON: Objection; form.
 06 A. I -- just based on the fact that
 07 I did not discover that he -- that he didn't,
 08 I would have to say that, yes, I probably
 09 reviewed that and was comfortable that his
 10 documents were -- were in order.

Page 158:15 to 159:12

00158:15 Q. Well, if the chief engineer
 16 aboard the Deepwater Horizon in April -- on
 17 April 20th, 2010, was acting as chief
 18 engineer, but did not have a STCW
 19 qualification or certificate, would the
 20 vessel be operating in violation of its
 21 minimum safe manning certificate issued by
 22 the Republic of the Marshall Islands?
 23 MR. JOHNSON: Objection; form.
 24 A. I would say that according to
 25 their documents, yes, the STCW would be
 00159:01 required.
 02 Q. (BY MR. HAYCRAFT) So if
 03 Mr. Bertone did not possess such a
 04 certificate, then -- then the ship would be
 05 in violation of the SM- -- safe manning --
 06 minimum safe manning certificate, correct?
 07 MR. JOHNSON: Objection; form.
 08 A. If he was required to have a
 09 STCW certificate where -- if I'm reading
 10 this -- reading and understanding this policy
 11 correct, then, yes, he would need STCW
 12 certificates.

Page 164:12 to 166:18

00164:12 Q. (BY MR. HAYCRAFT) Well,
 13 wouldn't you agree with me, sir, that in the
 14 command structure of the Deepwater Horizon,
 15 the master was subservient to the OIM?
 16 A. No.
 17 Q. To whom did the master report on
 18 board the Deepwater Horizon?
 19 A. When they were on location,
 20 he -- when you say "report," you mean on a
 21 daily basis?
 22 Q. To whom did he report in the
 23 hierarchical structure at Deepwater Horizon?

24 In the command structure at Deepwater
25 Horizon, to whom did the master report?

00165:01 A. When they were on location, he
02 reported to the -- to the OIM, but that --
03 like I say, that didn't change the fact that
04 he was still the captain. It's just that
05 they were engaged in an industrial activity
06 at that time.

07 Q. Uh-huh. Do you know of any ship
08 in the fleet of Coast Guard ships that has a
09 command structure whereby the PIC shifts
10 depending on the function of a ship?

11 A. On a Coast Guard ship?

12 Q. Right.

13 A. No, I'm not aware of one.

14 Q. Let's talk, for example, about a
15 buoy tender. The Coast -- you know -- you
16 may not have worked aboard one or in
17 connection with one, but you know the Coast
18 Guard employs buoy tenders on the inland
19 river system --

20 A. That's correct.

21 Q. -- and -- and harbors?

22 A. Yes.

23 Q. And the buoy tender has a very
24 specific function of maintaining buoys in
25 navigable waterways, correct?

00166:01 A. That's correct.

02 Q. And there -- there are persons
03 aboard the buoy tender who are expert in the
04 placement, the pulling up of a buoy, and the
05 maintenance of a buoy and then the
06 replacement of a buoy, right?

07 A. Yes.

08 Q. And those buoys have to be
09 placed in a very exact location, right?

10 A. Yes.

11 Q. So that mariners can engage in
12 safe navigation relying upon the buoy system,
13 right?

14 A. That's correct.

15 Q. But the buoy tender employed by
16 the Coast Guard has one person in charge at
17 all times, right?

18 A. The master.

Page 168:02 to 168:13

00168:02 Q. That's -- that's really my
03 question. As chief of the offshore
04 compliance group at the Coast Guard Eighth
05 District, were you aware of the specific
06 details of Transocean or any other company
07 that employed the same command structure
08 where the PIC would be the OIM under certain

09 circumstances and the designated PIC under
10 certain other circumstances would be the
11 master? And my question is did you
12 specifically know that when you were chief
13 offshore compliance at the Coast Guard?

Page 168:15 to 171:22

00168:15 A. I don't -- I don't recall
16 getting into that level of detail.
17 Q. (BY MR. HAYCRAFT) You -- let's
18 look at Page 8 of your expert report, your
19 original September 17th report. Page 8.
20 Okay. Are you there?
21 A. Yes.
22 Q. Let's take a look at two
23 sentences under "Chain of Command" and go
24 into some detail on them. Your first
25 sentence states, "I have concluded that the
00169:01 command structure as established on the
02 Deepwater Horizon was appropriate and in
03 accordance with industry standards as well as
04 all applicable laws and regulations."
05 Did I read that correctly?
06 A. Yes.
07 Q. Is that still your opinion
08 today?
09 A. Yes, it is.
10 Q. Okay. In the regulations --
11 you've got a footnote 46 after the word
12 "regulations," correct?
13 A. That's correct.
14 Q. Okay. And if you look at
15 footnote 46, you see that it references the
16 RMI marine notice No. 7-038-2, right?
17 A. Yes.
18 Q. And you remember that we looked
19 at Exhibit 7561 before we left for lunch; do
20 you recall that?
21 A. Yes.
22 Q. Okay. And if you'll -- we'll go
23 back over, just for getting this ball
24 rolling. If we go to the schedule DPV and
25 you see in the column labeled "On
00170:01 Location/Field Move," it shows both a master
02 and an OIM in the roster of persons required
03 under the minimum safe manning certificate
04 for that category of vessels, correct?
05 A. That's -- that's correct.
06 Q. Okay. And your -- your sentence
07 that's footnoted for 46 says that the command
08 structure as established is, quote, In
09 accordance with -- and then dot, dot, dot --
10 all applicable laws and regulations, period,
11 end quote, right? The dot, dot, dot, I left

12 out the words "with industry standards."
13 A. Okay.
14 Q. I want to focus on applicable
15 laws and regulations in that sentence.
16 A. Okay.
17 Q. You cited the -- the information
18 that's included in Exhibit 7561, correct?
19 A. That's correct.
20 Q. Okay. So if we -- we look at
21 your sentence, all -- or your phrase, "all
22 applicable laws and regulations" and then
23 look at the source that you cite for that, we
24 see that it's the Marshall Islands minimum
25 safe manning requirements for vessels as the
00171:01 document title, correct?
02 A. That's correct.
03 Q. Okay. And the -- the -- the
04 question that I asked you before lunch
05 remains the same. Can you show me in the
06 column where it says "On Location/Field
07 Moves" where it says that the master is the
08 person in charge for certain activities and
09 the offshore installation manager is the
10 person in charge for certain activities?
11 Where in that column does it -- does it make
12 that delineation?
13 A. Well, they don't -- I mean, they
14 don't use the term "person in charge" at all
15 in that column.
16 Q. Right. So the answer is there
17 is nothing in that column that delineates the
18 person in charge between the master and the
19 offshore installation manager, is there?
20 MR. JOHNSON: Objection; form.
21 A. In -- in this column "person in
22 charge" is not -- is not mentioned.

Page 172:09 to 175:10

00172:09 Q. Okay. Now, let's look at the
10 second sentence of that same paragraph in
11 your report on Page 8. The next sentence
12 states, "I also note the Marshall Islands
13 Deepwater Horizon Marine Casualty
14 Investigation concluded that there is no
15 indication that any confusion regarding the
16 chain of command was a causal factor in the
17 casualty," period and then footnote 47.
18 Did I read that correctly?
19 A. Yes.
20 Q. Okay. I think that is, in fact,
21 a direct quote from the RMI report, but if
22 you look at tab -- tab 38 in your binder,
23 we'll find the relevant page that you cite,
24 which is Page 58. And be careful in flipping

25 the big book.

00173:01 Yeah, then turn. You see tab 38
02 is a portion of the -- is the cover page and
03 then two pages from the RMI investigation
04 report?
05 A. Yes.
06 Q. Okay. And you cite to that in
07 your footnote 47 for the paragraph or the
08 sentence we just read, casualty investigation
09 report at Page 58. So we're looking at
10 Page 58 right now, aren't we?
11 A. Yes.
12 Q. We're going to go ahead for
13 clarity of the record and mark in your binder
14 that tab 38 as Exhibit 70 -- excuse me, 7562.
15 If you could just put that on the cover page,
16 and then we'll get started.
17 A. (Witness complies.)
18 Q. There you go. Now, looking at
19 the footnoted Page 58 and specifically
20 Paragraph 3.53, if you take a look at the
21 very last phrase after the comma, there are
22 the words, "There is no indication that any
23 confusion as to the chain of command was a
24 causal factor in the casualty."
25 Did I read that right?

00174:01 A. Yes.
02 Q. And is that, in fact, the same
03 words that are in your report on Page 8?
04 A. Yes.
05 Q. Okay. Read the very first
06 sentence of 3.53.
07 A. "As evidenced by testimony at
08 the Joint Investigation hearings, there were
09 instances of confusion regarding decision
10 making authority during the casualty."
11 Q. Okay. Here's my question:
12 That's what it says here in the RMI report,
13 which may or may not be admissible into
14 evidence. What I want to ask you about is
15 the factual particulars of that particular
16 sentence. In your review of the materials,
17 whether it be depositions of crew members,
18 whether it be statements by crew members to
19 Transocean during its investigation or
20 otherwise, did you make an independent
21 finding during your investigation that there
22 were, quote, instances of confusion regarding
23 decision making authority during the
24 casualty, end quote?
25 A. I think there was some

00175:01 depositions that -- that indicated at least
02 on some -- some individuals they might have
03 had some confusion, but they were not the
04 individuals that were involved in the -- in

05 the management of the event from the bridge
06 perspective and -- and overwhelmingly, the --
07 the vast majority of the deposition made
08 reference to the station bill and -- and the
09 fact that they understood that the captain
10 was in charge during the -- during the event.

Page 177:18 to 178:11

00177:18 ex- -- well, first, let me ask you this: In
19 your experience have you ever been part of a
20 serious emergency situation?
21 A. Not -- not an actual emergency,
22 but, of course, when -- when we would conduct
23 inspections, we would try to make the drills
24 as -- as likely as possible and -- and part
25 of that analysis or that determination of the
00178:01 crew's response would be to -- to evaluate
02 how those in charge reacted to the drill
03 scenarios as they either escalated or
04 stabilized.
05 Q. Would you agree with me, sir,
06 that based -- my assessment of what you just
07 said is that in order to successfully
08 confront an emergency, it's important to be
09 trained?
10 A. Training is -- is very
11 important --

Page 178:15 to 179:07

00178:15 A. Okay. Training is very
16 important to recognize the actions that are
17 necessary in various emergency situations,
18 yes.
19 Q. And the same question, and it's
20 probably -- could be the same in your own
21 mind, but drilling or drills are important in
22 order to have some tools when confronted with
23 an actual emergency, correct?
24 A. That's -- that's really the --
25 the main reason why we -- we have
00179:01 requirements to conduct drills.
02 Q. Uh-huh. And have you ever in
03 your training and experience heard -- heard
04 the adage or the statement that every minute
05 counts in an emergency?
06 A. I've -- I've heard that term
07 before, yes.

Page 179:16 to 180:12

00179:16 Q. Okay. In -- in your report did

17 you prepare a time line of minute-by-minute
18 events on -- on the Deepwater Horizon
19 beginning at any point the evening of April
20 the 20th, 2010?
21 A. I didn't -- I didn't prepare
22 a -- a specific time line, but, again,
23 evaluating all of the various accounts either
24 through Coast Guard witness statements or
25 through other deposition testimony, I reached
00180:01 a conclusion that -- that the events unfolded
02 very rapidly.
03 Q. Okay. And -- and what I want to
04 put a -- a -- I want to make sure I
05 understand the parameters of your testimony
06 in this regard. Is some -- some experts,
07 some investigations have -- have done a
08 specific time line, literally 9:40, 9:41, and
09 before and after those particular time
10 hashes. And my question is did you do that?
11 A. No, I did not. I did not
12 establish specific times.

Page 183:16 to 184:04

00183:16 Q. (BY MR. HAYCRAFT) Okay. From a
17 marine perspective would you agree with me
18 that the -- the spewing of well fluids above
19 the rotary table and up into the derrick was
20 a significant event?
21 A. It would have been definitely a
22 significant event primarily for the drill
23 crew, but certainly in the greater context
24 of -- of the operation of the rig, yes, that
25 would have been a significant event.
00184:01 Q. Okay. It's -- it's in- -- it's
02 a significant event from the safety of the
03 ship; is it not?
04 A. Yes.

Page 184:08 to 187:18

00184:08 Q. Okay. It's not a significant
09 event?
10 MR. JOHNSON: Objection. Let him
11 answer.
12 MR. HAYCRAFT: I'm going to.
13 A. It's -- if -- if the well
14 control is such that that's all you get is a
15 spewing of mud, that would be a significant
16 event enough to have concern, but it would
17 not -- if you're able to get the -- the well
18 back under control and -- there would be no
19 inherent danger from that.
20 Q. (BY MR. HAYCRAFT) So it's your

21 testimony as an expert in this case that the
22 spewing of mud from the riser above the
23 rotary table and into the derrick may or may
24 not have been a significant event from a
25 marine perspective?

00185:01 MR. JOHNSON: Object to the form.

02 A. Again, from the -- from the
03 marine crew's response, that's not something
04 that they would be responsible for
05 determining next actions, course of actions,
06 but that's not to minimize -- anytime you
07 have any kind of well situation, it's -- it's
08 an area of concern.

09 Q. (BY MR. HAYCRAFT) Okay. In the
10 emergency -- have you reviewed the emergency
11 response manual for Transocean for the
12 Deepwater Horizon?

13 A. Yes, I have.

14 Q. Would you consider that a
15 significant docu- -- document for the marine
16 side of the case?

17 A. Yes.

18 Q. Okay. And does that emergency
19 response manual contain a section devoted to
20 emergency disconnect sequencing -- sequences?

21 A. If I -- if I recall correctly,
22 that would be in Chapter 7, Chapter 12.
23 They -- they identify 12 different scenarios
24 related to EDS.

25 Q. And one of those is a well

00186:01 control situation?

02 A. Yes.

03 Q. And -- and, in fact, during
04 that -- in that scenario there is -- there is
05 alert statuses that the DPO and others on --
06 and the bridge crew are supposed to be aware
07 of, correct?

08 A. I don't remember the specifics
09 of each one of the 12 cases. I would have to
10 look at that column and see exactly what the
11 anticipated actions were.

12 Q. From your perspective in -- with
13 your 27 years in the Coast Guard, mud spewing
14 up into the top of the derrick may or may not
15 be a significant event?

16 MR. JOHNSON: Objection to the form.

17 A. No, I -- I think that I replied
18 to that a minute ago that -- that it -- it
19 would be a -- it would be a significant event
20 from a -- from a lot of different
21 perspectives, but it may not -- I think
22 the -- I'm having a hard time understanding
23 what you mean by "significant."

24 Q. (BY MR. HAYCRAFT) No, I
25 don't -- it doesn't matter what I mean. I'm

00187:01 asking what -- whether you from -- as an
02 expert in this case with a Coast Guard and
03 marine background view in this scenario that
04 we know unfolded on the Deepwater Horizon
05 that night, that the spewing of drilling
06 fluids up into the derrick above the rotary
07 table was or was not a significant event from
08 a marine perspective.
09 MR. JOHNSON: Object to the form.
10 A. That would be a -- a significant
11 event for -- for everybody on the rig,
12 considering that the rig is -- is -- is in a
13 position, doing its work; and, yes, anytime
14 that you would have something like that
15 occur, you would always want to exercise
16 complete, due caution and -- I'm not sure
17 that we're on the same page with the term
18 "significant."

Page 189:06 to 189:13

00189:06 Q. Okay. Do you see that the title
07 of this slide is "General Responsibilities of
08 RMP (Marine)"? Do you see that?
09 A. Yes.
10 Q. Okay. Do you know what an RMP
11 at Transocean is?
12 A. I would go out on a limb and say
13 that's rig manager performance.

Page 189:18 to 189:20

00189:18 Q. (BY MR. HAYCRAFT) Look at the
19 fourth -- excuse me, the fifth bullet point
20 down and read it out loud for the record.

Page 189:23 to 190:19

00189:23 A. "Ensure Key Rig Personnel are
24 trained, competent and licensed in all safety
25 critical areas including Marine Licensing,
00190:01 DPO, Management of Major Emergency training,
02 Well Control, Stability, and Ballast Control
03 training."
04 Q. Now, based on your expertise in
05 this case, based on your 27 years of Coast
06 Guard experience specifically in relation to
07 your efforts in inspection of offshore
08 drilling structures, do you think that bullet
09 point No. 5 is an important aspect of safety
10 for rigs such as the Deepwater Horizon?
11 A. Well, it doesn't appear to me
12 that this would be -- I mean, I think they're

13 just -- comes across to me that they're
14 giving examples, because the -- for -- for
15 example, the -- the driller would have no
16 interest in ballast control training or
17 stability, and the marine crew would probably
18 have no need to attend a -- an extended well
19 control training.

Page 193:03 to 193:19

00193:03 Q. All righty. Did you review the
04 training record of Captain Kuchta?
05 A. Yes, I did.
06 Q. Was he trained in EDS?
07 A. I don't believe he was.
08 Q. Did he have authority in the
09 Transocean command structure to initiate EDS?
10 A. I'm trying to recall that
11 chapter out of the...
12 Q. Are you thinking about --
13 A. Well, I'm thinking about your
14 question. I mean, he was the master. He
15 certainly had the overriding authority to
16 initiate whatever action he felt was
17 necessary for the safety of the vessel or the
18 environment. I'm trying to recall if -- if
19 he had specific EDS training.

Page 194:03 to 195:17

00194:03 Okay. Well, let's see, you
04 were -- you were engaged in this matter to
05 review the seaworthiness of the Deepwater
06 Horizon, correct?
07 A. That's correct.
08 Q. Okay. Although this isn't a
09 memory contest, nothing is, would you agree
10 with me, sir, that the training record, the
11 qualifications, the licensing of the captain
12 of the ship is an important matter for that
13 expert to be aware of?
14 A. Yes. And I -- and what I'm
15 telling you is I am aware of it. I just
16 don't recall the specifics.
17 Q. Okay. So the specific question
18 was, and I'll state it again, was
19 Captain Kuchta trained in EDS, question mark?
20 A. I'm telling you, I -- right off
21 the top of my head, sitting here today, I
22 can't answer that. It's probably been weeks
23 since I've looked at that document,
00195:05 Here's the second question
06 related to Captain Kuchta. Put training over
07 here. We've just gone over that, and you

08 don't remember. Now the word is "authority."
09 Was Captain Kuchta authorized to initiate EDS
10 aboard the Deepwater Horizon that night?
11 A. I think that, yes, he would have
12 been. As the captain, he certainly had the
13 authority. I think it would be very
14 unconventional for him to initiate that
15 action without -- without some concurrence of
16 the -- of the well control experts. But,
17 yes, I'm quite certain he had the authority.

Page 196:15 to 199:12

00196:15 Q. But in the meantime, I'm going
16 to continue with Captain Kuchta and your
17 memory, did Captain Kuchta have major
18 emergency management training?
19 A. If -- well, depending on -- if
20 you're asking about the -- whether he had
21 been trained to -- in emergency response,
22 obviously his STCW training, Bridge Resource
23 Management training would cover that.
24 Q. Uh-huh.
25 A. But I am aware that there was
00197:01 a -- there was a specific Transocean
02 sponsored course, and I -- I -- I don't
03 believe he had attended that.
04 Q. Okay. Same question. Did
05 Captain Kuchta have any well control
06 training?
07 A. He obviously had some minor
08 level, because he had an OIM endorsement on
09 his license, which meant that he would have
10 had to attend the prerequisite five-day
11 course, but that -- that certainly wouldn't
12 make him an expert in well control.
13 Q. That's not my question. My
14 question was, as you apparently answered, did
15 he have any well control certification?
16 A. He had an OIM endorsement, and
17 part of that endorsement requires a five-day
18 well control school.
19 Q. Okay. Did you review
20 Transocean's computer printout of all of
21 Captain Kuchta's training?
22 A. Yes, that's the document I was
23 referring to.
24 Q. Why don't you turn to tab 18 in
25 your binder. It's been previously marked in
00198:01 the deposition record as Exhibit 3747.
02 And -- and it's a computer printout, and
03 you'll probably recognize it when you see it.
04 Tab 18.
05 Okay. You've -- the first page
06 has another individual because the second

07 page is where Captain Kuchta starts up. And
 08 you'll see it's chronological from most
 09 recent to if you go to the -- the last entry
 10 for Captain Kuchta, it's dated 1998.

11 So this training record shows
 12 Captain Kuchta's training from January 7,
 13 1998, through and including March 22, 2010,
 14 correct, sir?

15 MR. JOHNSON: Objection; form.

16 A. Yes, that's correct.

17 Q. (BY MR. HAYCRAFT) And you say
 18 you haven't reviewed that for several weeks?

19 A. It's -- it's been several weeks.

20 Q. Okay. You remember the four --
 21 or let's count. EDS, Major Emergency
 22 Management, well control, any of those three?
 23 Call it out if you see it.

24 A. Where he attended?

25 Q. Yeah, where he attended well
 00199:01 control school and got a certificate, where
 02 he attended Major Emergency Management class
 03 and/or school and got a certificate, or where
 04 he attended a course in EDS, Emergency
 05 Disconnect Procedures.

06 MR. JOHNSON: Objection; form.

07 A. I don't see any of those listed
 08 by name, as you've described them, and I
 09 don't know the -- the individual elements of
 10 each one of these courses, but there could
 11 have been, could have been something included
 12 in the DPO OJT syllabus, perhaps.

Page 201:15 to 201:19

00201:15 Q. (BY MR. HAYCRAFT) Was
 16 Captain Kuchta trained to EDS?

17 MR. JOHNSON: Objection; form.

18 A. No. According to his JIT
 19 testimony, no.

Page 202:21 to 203:21

00202:21 Q. Let's turn to tab 1 of your
 22 binder. We'll mark this as -- oh, it's
 23 already been marked as Exhibit 7673. And
 24 you'll see Article 94, "Duties of the flag
 25 State." Do you see that, sir?

00203:01 A. Yes.

02 Q. And you quote from this document
 03 in your expert report; do you not?

04 A. This is an excerpt from UNCLOS,
 05 I believe, right?

06 Q. Yes, it is. But you recognize
 07 it as an excerpt from UNCLOS?

08 A. Yes.
 09 Q. And that's all caps,
 10 U-N-C-L-O-S, that's the United Nations
 11 Convention For the Law of the Sea?
 12 A. That's correct.
 13 Q. Okay. You expressed your view
 14 earlier before lunch that, in your view, the
 15 captain of the ship and specifically here the
 16 Deepwater Horizon is always in command of the
 17 ship, correct?
 18 A. That's correct.
 19 Q. And "in command" means in charge
 20 of, doesn't it?
 21 A. Yes.

Page 205:08 to 206:15

00205:08 Look at subsection (b) of what
 09 is Paragraph 4, and let's read that out
 10 loud -- or I'll read that out loud together,
 11 you follow along: Each ship is in the charge
 12 of a master and officers who possess
 13 appropriate qualifications, in particular
 14 seamanship, navigation, communications in
 15 marine engineering and that the crew is
 16 appropriate in qualification and numbers for
 17 the type, size, machinery, and equipment of
 18 the ship.
 19 Did I read that correctly?
 20 A. Yes, you did.
 21 Q. Okay. And is that your
 22 understanding of what international maritime
 23 law requires; that is, each ship must be in
 24 the charge of a master?
 25 A. Yes.
 00206:01 Q. And that master must possess
 02 those appropriate qualifications, in
 03 particular seamanship, navigation, and so
 04 forth that's listed in that subsection (b),
 05 correct?
 06 MR. JOHNSON: Objection; form.
 07 A. Well, it says "a master and
 08 officers." So the master is probably not
 09 going to be an expert in marine engineering,
 10 but they talk about other officers.
 11 Q. (BY MR. HAYCRAFT) Okay.
 12 A. But, yes, it's --
 13 Q. But the ship always has to be in
 14 the charge of the master, correct?
 15 A. That's correct.

Page 208:12 to 211:04

00208:12 Q. Thank you. Now, do you remember

13 our discussion about the ISM code?
14 A. Yes.
15 Q. And you said you had some
16 familiarity with it?
17 A. Yes.
18 Q. Have you looked at Section 5.2
19 of the ISM code in the last few days?
20 A. Several times. What tab is it?
21 Q. It's tab 2. It's form -- it's
22 been marked previously as Exhibit 938. It's
23 on Page 14.
24 A. Yes.
25 Q. So you're familiar with the
00209:01 paragraph that's found at Section 5.2 of the
02 "Master's Responsibility and Authority"?
03 A. Yes.
04 Q. Do you understand that the
05 master of a vessel, including the Deepwater
06 Horizon, has to have the overriding authority
07 and responsibility to make decisions with
08 respect to safety and pollution prevention?
09 A. Yes.
10 Q. Okay. Back to the maritime act,
11 Section 811. Can you find in Section 811 or
12 in any other section of the maritime act a
13 provision that the offshore installation
14 manager should be the person
15 responsibility -- responsible for the safety
16 of the members of the crew and passengers, if
17 any?
18 A. Once again, the -- the term
19 "person in charge" or "OIM" is not -- is not
20 included here, but I think, in my opinion,
21 there has been a lot of confusion over
22 whether or not somehow having a person in
23 charge meant that the captain was no longer
24 in command.
25 Q. Okay. Well, you would agree
00210:01 that the Republic of the Marshall Islands
02 both -- certainly at least in the document we
03 have before us, the maritime act, makes no
04 provision for the OIM or offshore
05 installation manager to have the
06 responsibility for the safety of the crew and
07 the passengers, if any, correct?
08 A. The -- the OIM is there for a
09 very specific purpose. He is the guy who's
10 experienced, knowledgeable with the
11 activities related to the industrial function
12 of the vessel, and certainly as those
13 activities would have ramifications for the
14 overall safety, then he is the most
15 appropriate individual to -- to have
16 that responsibility on a day-to-day basis,
17 but that doesn't remove the captain's

18 overriding authority.
 19 Q. A-ha. So the -- the --
 20 certainly the OIM is a subject matter, very
 21 important subject matter expert on the
 22 Deepwater Horizon, correct?
 23 A. Yes.
 24 Q. Remember my question, though.
 25 It was does Section 811 of the Maritime Act
 00211:01 of the Republic of the Marshall Islands give
 02 safety responsibilities for the vessel to the
 03 OIM?
 04 A. No, it does not.

Page 211:17 to 212:10

00211:17 Q. Okay. Well, let's talk about
 18 that. Turn to tab 3, and that's been
 19 previously marked as Exhibit 939, and do you
 20 recognize that book?
 21 A. Yes.
 22 Q. That's the TO ISM/ISPS MODU
 23 Handbook?
 24 A. Yes.
 25 Q. That was in effect in
 00212:01 April 2010, wasn't it?
 02 A. Yes.
 03 Q. And if you'll -- if you'll turn
 04 to -- it's always hard to do pages, but it's
 05 not -- it's several pages in, maybe four or
 06 five. The way I always find it is I see the
 07 little org chart at the bottom of the page
 08 and above it I see an A and a B. Do you see
 09 that page?
 10 A. Yes, I do.

Page 213:10 to 214:18

00213:10 Q. Okay. Then turn back to the org
 11 chart page and Paragraphs A and B. Okay.
 12 I'm going to read aloud the first sentence of
 13 A and then I'm going to read aloud the first
 14 sentence of B and you follow along.
 15 A, The Master is the overall
 16 responsible person on the MODU when it is
 17 underway and, slash, or moving to an un- --
 18 to another location.
 19 Did I read that sentence
 20 correctly?
 21 A. Yes.
 22 Q. Now, let's read the first
 23 sentence of B. "The offshore installation
 24 manager (OIM) is the overall responsible
 25 person for the day to day operation of the
 00214:01 MODU while it is drilling and therefore must

02 work with the Master in ensuring safety
03 practices and environmental protections are
04 followed since most of the personnel on the
05 MODU work under his charge."
06 Did I read that sentence
07 correctly?
08 A. Yes.
09 Q. Go to tab 7. This has been
10 previously marked in the deposition record as
11 Exhibit 5299, and it is -- I'll represent to
12 you that it is a page from the first few
13 pages of the Transocean Deepwater Horizon
14 emergency response manual, and in the upper
15 right-hand corner, you'll see an insert that
16 shows the first page of that particular
17 document. Do you recognize that, sir?
18 A. Yes.

Page 215:11 to 217:09

00215:11 Q. And what does Transocean's
12 Deepwater Horizon org chart contained in the
13 Deepwater Horizon emergency response manual
14 say for the person in charge in the underway
15 mode?
16 A. It says, in the underway mode
17 the master is in charge.
18 Q. And who does Transocean's org
19 chart for the ERM in the Deepwater Horizon
20 say is in charge -- the person in charge when
21 the vessel is in the drilling mode?
22 A. Again, it says the OIM is in
23 charge, but the term "PIC" and "master" are
24 not synonymous terms.
25 Q. Okay. Is the master in charge
00216:01 of everything?
02 A. The master is overall
03 responsible.
04 Q. Okay. Well, my question was, is
05 the master in charge of everything?
06 A. He's in charge of the safety of
07 the vessel.
08 Q. Okay. So he's in charge of
09 everything that impacts safety in any way?
10 MR. JOHNSON: Objection; form.
11 A. He has the -- he has the
12 ultimate responsibility.
13 Q. (BY MR. HAYCRAFT) Okay. It's
14 his license that's at risk?
15 A. Yes.
16 Q. Okay. Now, you see on the org
17 chart who the top box is on the org chart?
18 A. Yes.
19 Q. Who is it?
20 A. Well, this one says the OIM, but

21 it doesn't -- it just says the Deepwater
 22 Horizon org chart.
 23 Q. Okay. All right. Well, that's
 24 what this org chart says, right?
 25 A. Yeah, and, obviously, this is
 00217:01 for on location.
 02 Q. All right.
 03 A. And not underway.
 04 Q. Uh-huh. You say "obviously."
 05 Where does it say that?
 06 A. Well, it just says underway the
 07 PIC, the master is in charge, in drilling
 08 mode the offshore installation manager is in
 09 charge.

Page 217:11 to 218:11

00217:11 Q. (BY MR. HAYCRAFT) Okay. Who
 12 reports to whom in the org -- org chart?
 13 MR. JOHNSON: Objection --
 14 Q. (BY MR. HAYCRAFT) That is,
 15 between the captain or the master and the
 16 OIM?
 17 MR. JOHNSON: Objection; form.
 18 A. I -- I have actually had quite a
 19 bit of struggle with this chart, and I can
 20 honestly tell you that it's probably not
 21 the -- the best drawn chart, but I -- but,
 22 again, inside the same Deepwater Horizon
 23 emergency response manual and in the
 24 operations manual, it constantly refers -- or
 25 I shouldn't say constantly. Consistently
 00218:01 refers to the master's overall authority.
 02 Q. (BY MR. HAYCRAFT) Okay. You
 03 say the emergency response manual contains a
 04 statement of the captain's overriding
 05 authority?
 06 A. It does.
 07 Q. Okay. This org chart, though,
 08 shows the master reporting to the OIM; does
 09 it not?
 10 A. Yeah, that's -- that's what it
 11 shows on the chart.

Page 218:16 to 219:07

00218:16 Q. (BY MR. HAYCRAFT) Okay. Turn
 17 to tab 5, please. Tab 5. That looks like a
 18 different tab. There you go. Tab 5 is
 19 Exhibit 5033. Do you see that, sir?
 20 A. Yes.
 21 Q. And if you turn the page, the
 22 Page 1 is the transmittal e-mail. Page 2, or
 23 the other side, is the actual document that

24 was attached to the transmittal e-mail. Do
 25 you see that, sir?
 00219:01 A. Yes.
 02 Q. Okay. And do you see that
 03 the -- the subject matter line that this DPO,
 04 senior DPO is transmitting to the captain of
 05 the Deepwater Horizon dated August 22, 2009.
 06 The subject matter line is "DWH PIC Letter"?
 07 A. Yes.

Page 219:20 to 229:14

00219:20 Q. Do you see that in this
 21 particular document that the senior DPO sent
 22 to the captain the statement was made that
 23 the, quote, OIM is the senior onboard
 24 manager, who reports directly to the
 25 shore-based Rig Manager.
 00220:01 That's spelled wrong, but did I
 02 read that right?
 03 A. Yes.
 04 Q. And then if you look down toward
 05 the bottom, there is a paragraph that states,
 06 quote, The "Person in Charge" is assigned the
 07 legal requirement to hold overriding
 08 authority in situations involving safety and
 09 pollution prevention based upon written
 10 procedures, policies, recognized industry
 11 safe working practice, relevant codes and
 12 standards. The Organizational Chart and
 13 approved Station Bill provide detailed
 14 information.
 15 Have I read that part correctly?
 16 A. Yes.
 17 Q. Okay. And do you see the line
 18 that's underlined at the very bottom?
 19 A. Yes, I see it.
 20 Q. Okay. What does it state?
 21 A. It says, "Well Control
 22 Operations are not an 'emergency' within the
 23 scope of this paragraph."
 24 Q. Okay. In reading the paragraphs
 25 on the Katy Williams attachment about the
 00221:01 master, the OIM various responsibilities and
 02 authorities, do you find that to be very
 03 clear?
 04 MR. JOHNSON: Object to form.
 05 A. It seems to be clear.
 06 Q. (BY MR. HAYCRAFT) So who is the
 07 person in charge during normal day-to-day
 08 operations, per this document?
 09 A. Well, in the first -- I mean,
 10 it -- it talks about the master being the
 11 person in charge during emergencies, as
 12 specified on the station bill, and then it

13 talks about their interpretation of what the
14 person in charge, what their responsibilities
15 are, but it never designates the OIM as the
16 person in charge.

17 Q. Okay. Go back to tab 7 and
18 Exhibit 5299, that org chart. And you know
19 this org chart is an official document of
20 Transocean, right?

21 A. Yes.

22 Q. And you see that the official
23 document found in the emergency response
24 manual has two different persons in charge,
25 depending on the circumstance, right?

00222:01 A. Yes.

02 Q. And you found this org chart to
03 be a little unclear, fair to say?

04 MR. JOHNSON: Objection; form.

05 A. Well, it -- like I say, I think
06 it indicates the -- the arrangement when the
07 rig is employed drilling wells, which it is
08 99.9 percent of the time.

09 Q. (BY MR. HAYCRAFT) And during
10 that 99.9, give or take, percent of time, who
11 is the person in charge?

12 A. The OIM.

13 Q. Do you think that org chart
14 clearly states that the master has overriding
15 authority?

16 A. I don't believe this org chart
17 does, no.

18 Q. Is -- do you understand what --
19 that a safety management system for any
20 entity, but here we're talking about
21 Transocean, that it's important for there to
22 be clarity in the written policies and
23 procedures of the organization?

24 A. Yes.

25 Q. And that part of what an ISM
00223:01 auditor does is looks at the clarity of key
02 documents in terms of assessing and
03 evaluating the safety management system of a
04 shipowner, correct?

05 A. That would be correct.

06 Q. And, in fact, the ISM code at
07 Section 5.2 demands that the shipowner
08 provide in its safety management system a
09 clear statement of the master's overriding
10 authority, correct?

11 A. That's correct.

12 Q. And that's a matter of maritime
13 law, correct?

14 A. That's correct.

15 Q. And that's something the United
16 States Coast Guard is concerned about as well
17 in terms of its inspection or its

18 examinations of offshore MODUs, correct?
19 A. For those that are subject to
20 the ISM code, yes.
21 Q. Right, which includes all
22 foreign-flagged vessels operating in -- in
23 the Gulf of Mexico?
24 A. Yes.
25 Q. Let's look at tab 6, which is
00224:01 previously marked in the deposition record as
02 Exhibit 5643. This document is -- I refer to
03 it as the integration memo. Have you seen
04 that before?
05 A. Yes, I have.
06 Q. And do you see down at the
07 bottom Adrian Rose is among the three
08 gentlemen who prepared this document?
09 A. That's correct.
10 Q. And do you remember he's a
11 high-up guy at Transocean?
12 A. Yes.
13 Q. And then you see that it was
14 approved by, among two gentlemen, a fellow
15 named Steven Newman. Do you recognize that
16 name?
17 A. Yes, I do.
18 Q. He's now the CEO of Transocean?
19 A. That's correct.
20 Q. Okay. And you see that this was
21 a operational guidance memo on the first day
22 of the merged company of GlobalSantaFe and
23 Transocean, right?
24 A. That's correct.
25 Q. Okay. And so Transocean, the
00225:01 now Transocean company wanted to be sure of
02 essentials being carried out throughout it's
03 now combined fleet, right? Essential
04 policies, I should say.
05 A. It's a -- it's a -- yes, it's a
06 merging or a -- or a clarification of those
07 policies.
08 Q. Okay. And if you'll turn, let's
09 see, one, two -- Page 3 of this particular
10 integration memo, there is a whole section
11 entitled "Marine Operations." Do you see
12 that?
13 A. Yes.
14 Q. Okay. And you -- you see
15 that -- that when you turn the page, you're
16 still dealing with marine operations, and
17 then you see a paragraph entitled "Rig
18 Operations." Do you see that?
19 A. Yes.
20 Q. And do you see "Rig Chain of
21 Command"?
22 A. Yes, I do.

23 Q. And you know what a chain of
24 command is on a ship, don't you?

25 A. Yes, I do.

00226:01 Q. Okay. Let's read together the
02 paragraph that starts the offshore man- --
03 the offshore installation manager, okay.
04 Follow along with me. Quote, The Offshore
05 Installation Manager will remain overall
06 responsible for the health, safety and
07 welfare of all persons, and all activities
08 conducted onboard their respective rig. The
09 OIM is authorized and obligated to take
10 whatever actions he considers necessary to
11 prevent injury, loss of life, damage to
12 equipment/structure, and/or loss of rig and
13 well operation integrity.

14 Did I read that correctly?

15 A. Yes, you did.

16 Q. Okay. If I had substituted the
17 word master for offshore installation
18 manager, would -- would such a document
19 comply with Section 5.2 of the ISM code?

20 MR. JOHNSON: Objection; form.

21 A. Well, I -- I'm not sure this was
22 a -- this was a document that would be --
23 that would become part of the safety
24 management system. This is...

25 Q. (BY MR. HAYCRAFT) When you said
00227:01 "this is" and then you paused, what were you
02 intending to say?

03 A. Well, this is -- this is -- this
04 deals with a specific integration, episode,
05 providing distinct direction while those
06 systems are merged and updated.

07 Q. Uh-huh. Okay. Keeping this --
08 keeping this sentence in front of you or
09 these sentences in front of you and
10 remembering back to the exhibit that we
11 introduced earlier that was the maritime act
12 1990 from the Republic of the Marshall
13 Islands and remember Section -- Section 811,
14 remember that?

15 A. Yes.

16 Q. Here we go. It's Exhibit
17 No. 7564, and turn the page to Section 811,
18 "Duties of the Master." Okay. Under the
19 maritime act of the Marshall Islands
20 Section 811 prescribes -- or describes the
21 duties of the master in subsection D as,
22 quote -- and I'll read the first part -- "The
23 master shall, among others, have the
24 following duties: D, to assume full
25 responsibility of the safety of the members
00228:01 of the crew and passengers, if any, and to
02 take all necessary and appropriate steps in

03 connection therewith."
 04 I read that right, didn't I?
 05 A. Yes.
 06 Q. Now, let's look back at the
 07 integration memo and Adrian Rose's and Steven
 08 Newman's and other's description of the chain
 09 of command on the Transocean rigs and see
 10 what similarities you see between that
 11 sentence and that integration memo and that
 12 law that's part of the flag states law for
 13 Deepwater Horizon.
 14 MR. JOHNSON: Objection; form.
 15 Q. (BY MR. HAYCRAFT) Do you see
 16 any similarities?
 17 MR. JOHNSON: Form.
 18 A. Some of the -- some of the
 19 language is consistent.
 20 Q. (BY MR. HAYCRAFT) Okay. In
 21 other words, what the Marshall Islands puts
 22 on the master, at least this integration memo
 23 appears to put on the offshore installation
 24 memo in terms of overall responsibility for
 25 the safety, health, and welfare of all
 00229:01 persons, correct?
 02 MR. JOHNSON: Objection; form.
 03 A. Yeah, and I don't -- you know, I
 04 don't know exactly how many -- I mean,
 05 this -- this refers there will be no changes
 06 on day one. I don't know how long this memo
 07 was in effect.
 08 Q. (BY MR. HAYCRAFT) Have you -- I
 09 think your -- your expert opinion was that
 10 there was -- there was no con- -- or among
 11 essential people there was no confusion about
 12 who's the person in charge, you under -- am I
 13 paraphrasing your opinion properly?
 14 A. That's a accurate paraphrase.

Page 231:17 to 237:14

00231:17 Q. Okay. Now, look at Yancy
 18 Keplinger's deposition, which we'll mark --
 19 or excerpts of his deposition, which we'll
 20 mark as 7566. Do you see that to be Yancy
 21 Keplinger's deposition?
 22 A. Yes.
 23 Q. And you know Yancy Keplinger was
 24 the senior DPO on duty during the evening of
 25 April 20th, 2010?
 00232:01 A. That is correct.
 02 Q. He was -- Andrea Fleytas or
 03 Fleytas was the DPO reporting to him that
 04 evening?
 05 A. Yes.
 06 Q. Okay. Look at Page 110 of his

07 deposition.
08 QUESTION: Let's talk about who
09 is in charge. Who was the person in charge
10 on DEEPWATER HORIZON back in April 2010?
11 Explain to me who was in charge of the
12 DEEPWATER HORIZON.
13 ANSWER: Well, when we're not
14 connected to the drill floor the Captain is
15 in charge. And we are -- and when -- and
16 when we are connected, the OIM is in charge.
17 Did I read that correctly?
18 A. Yes.
19 Q. Now, turn to the next tab, which
20 is the deposition excerpts of David Young,
21 and we'll put a sticker for Deposition
22 Exhibit 7567 on David Young's deposition
23 excerpts.
24 Did you read -- do you know who
25 David Young is?
00233:01 A. He's the chief mate.
02 Q. So he would be in the mar- -- on
03 the maritime side of the ship there is
04 captain and then chief -- chief mate as the
05 next officer, correct?
06 A. Correct.
07 Q. And the chief mate has to have a
08 maritime license, correct?
09 A. That's correct.
10 Q. Look at Page 196 of David
11 Young's deposition, and the question at
12 Line 11 is, "I'm going to read from Page 62
13 and 63 of the transcript" -- and the
14 questioner is referring to the -- to the MBI
15 or JIT transcript. "And, first, I'm going to
16 ask you if I'm reading it accurately and then
17 I'll ask you a followup question. From the
18 time you came on watch to the time you
19 departed the vessel, you evacuated from the
20 vessel, who was in charge of the HORIZON?
21 Your answer was the O -- the OIM is in charge
22 while connected and the captain would be in
23 charge of the emergency situation."
24 "QUESTION: So the captain is in
25 charge of the emergency situation whether
00234:01 it's connected or not connected?"
02 Your answer, no. He would be
03 dealing with the fire of it and the
04 evacuation end of it.
05 Question over on Page 197, "So
06 who is in charge of the vessel?"
07 "ANSWER: The OIM."
08 "QUESTION: From the time you
09 came on watch to the time you evacuated the
10 vessel?"
11 Your answer then was, "Yes."

12 And then the questioner says,
13 "And my first question is simply for you to
14 make sure that I read those two pages
15 correctly."
16 "ANSWER: It looks like you read
17 them correctly."
18 Okay. So you understand that
19 while we just read is -- is -- actually, it
20 was me -- well, I'm not sure who it was, but
21 somebody was asking David Young questions
22 about his prior testimony at the MBI. Do you
23 understand that so far?
24 MR. JOHNSON: Objection; form.
25 A. Okay.
00235:01 Q. (BY MR. HAYCRAFT) Now the
02 questioner says, "You just testified in this
03 proceeding that the Captain was in charge,
04 didn't you?"
05 And his answer is, "Yes."
06 And the question is, "Which is
07 correct, what you said a few months after
08 this tragedy or what your saying today?"
09 And Mr. Keplinger's answer was,
10 "The captain is in charge of the emergency
11 situation, which was the -- the navigational
12 and safety end of the vessel and the OIM for
13 the drilling end."
14 Did I read that correctly of
15 Mr. Keplinger's deposition testimony?
16 A. Yes.
17 MR. JOHNSON: Objection; form.
18 Q. (BY MR. HAYCRAFT) Now, I could
19 do this for a while longer, but you've seen
20 that we -- we read over David Hackney's
21 deposition testimony, Yancy Keplinger's
22 deposition testimony, and then we closed
23 with -- with Chief Mate David Young's
24 testimony. Do you follow me so far?
25 A. Yes.
00236:01 Q. It -- it sounds to me -- and I'm
02 asking you what your view is, not mine --
03 that at least among those three individuals
04 they had three different conceptions of who
05 was in charge at different times, fair to
06 say?
07 MR. JOHNSON: Objection; form.
08 A. Well, here again, I go back to
09 the -- to the distinction I made that the
10 person in charge is not synonymous with the
11 master.
12 Q. (BY MR. HAYCRAFT) Okay. Is the
13 master sometimes not the person in charge on
14 the Deepwater Horizon?
15 A. The master is sometimes not the
16 person in charge.

17 Q. Okay. And, for example, during
18 day to day drilling operations the master of
19 the Deepwater Horizon is not the person in
20 charge, correct?
21 A. He's not the person in charge,
22 but he's still the master.
23 Q. He becomes the person in charge
24 either when they get underway or during a,
25 quote, emergency, end quote, correct?
00237:01 MR. JOHNSON: Objection; form.
02 A. That's correct.
03 Q. (BY MR. HAYCRAFT) When in --
04 when, in your view, the evening of
05 December -- I keep saying that. When during
06 the evening of April the 20th did an
07 emergency begin to where the master became
08 the person in charge?
09 A. Well, I can't -- again, I can't
10 give you a specific time, but -- but
11 obviously when -- when they started seeing
12 the -- the mud and/or the first gas alarm,
13 then that would be the beginning of the
14 emergency.

Page 238:06 to 238:22

00238:06 A. Well, I think the -- the
07 document that -- that most of the crew would
08 be familiar with would not be -- would not be
09 those documents where those -- where those
10 types of descriptions are written. That's
11 not what they would focus.
12 Q. (BY MR. HAYCRAFT) It's your
13 testimony that the rest of the crew would be
14 focused on the station bill and not these
15 other documents?
16 A. The station bill would be the
17 premier.
18 Q. Do you think Yancy Keplinger,
19 David Young, and David Hackney were aware of
20 the station bill?
21 A. I believe they would have had to
22 be aware of the station bill.

Page 241:06 to 242:25

00241:06 Q. Okay. You mention that David
07 Hackney and David Young whose testimony we
08 just read and the DPO Yancy -- Senior DPO
09 Yancy Keplinger all would be most focused on
10 the station bill. Do you recall that
11 testimony?
12 A. Yes.
13 Q. Okay. Are you suggesting to the

14 Court that David Hackney, David Young, and
 15 senior DPO Yancy Keplinger would not be
 16 familiar with the Transocean Deepwater
 17 Horizon emergency response manual?
 18 A. No.
 19 Q. Okay. If they were familiar
 20 with that, do you think they would have
 21 looked at the organizational chart?
 22 MR. JOHNSON: Objection; form.
 23 A. I -- I can't -- I can't say what
 24 sections are -- if they knew the entire
 25 document intimately and what they would have
 00242:01 focused on.
 02 Q. (BY MR. HAYCRAFT) Okay. Well,
 03 I know you can't know what they actually
 04 focused on, but is there any part of the
 05 emergency response manual that Yancy
 06 Keplinger, David Hackney, or David Young
 07 should ignore in their preparation for their
 08 professions?
 09 MR. JOHNSON: Objection; form.
 10 A. No, I wouldn't -- I wouldn't
 11 suggest that.
 12 Q. (BY MR. HAYCRAFT) So you're not
 13 suggesting to the Court that they should
 14 ignore the person in charge designation on
 15 the org chart of the Deepwater Horizon
 16 emergency manual?
 17 A. No, I'm not suggesting that.
 18 Q. Let's look at tab 16. This has
 19 been previously marked as Exhibit 3163. Do
 20 you see that's guidance for auditors to the
 21 ISM code, sir?
 22 A. Yes.
 23 Q. Have you read that before or
 24 parts of that before?
 25 A. Yes, I have.

Page 243:08 to 243:13

00243:08 Q. Turn to Page 57 and 58 of that
 09 guide -- of that guidance for auditors to the
 10 ISM code, and you'll see a description of
 11 guidance for Section 5.2 or Paragraph 5.2 of
 12 the ISM code. Do you see that on Page 57 and
 13 58?

Page 243:19 to 245:13

00243:19 Q. I can instantly see your
 20 confusion. Okay. It's Page 23 and 24 of 57
 21 in the actual page numbering of the document.
 22 I'm used to seeing Bates numbers like 57, 58.
 23 A. Okay.

24 Q. Okay. Have you read this
25 section of the guidance materials for DNV
00244:01 auditors?
02 A. Yes, I have.
03 Q. Do you see that there is a
04 sentence under the box that directly quotes
05 5.2 there is a sentence that reads, quote,
06 The overriding authority of the Master
07 applies to all circumstances?
08 Do you see that?
09 A. Yes, I see that sentence.
10 Q. It sounds like, from what I'm
11 hearing from you, "that's you agree with that
12 statement, that, quote, the overriding
13 authority of the Master applies to all
14 circumstances." In other words, you and the
15 guidance materials for DNV are consistent on
16 that point, correct?
17 A. That's correct.
18 Q. And if you turn the page to the
19 last two paragraphs where there is some
20 italicized language, and I'll read it out
21 loud and you follow along. "It is a common
22 misperception that the overriding authority
23 of the Master applies to emergencies only.
24 Hence, the statement should make it clear
25 that the overriding authority of the Master
00245:01 is not limited to emergency situations. It
02 applies to all circumstances affecting safety
03 and prevention of pollution."
04 And I'll skip the second
05 sentence, unless you -- you feel a need to
06 read it. But do you understand that the DNV
07 guidance materials for ISM code auditors
08 under their -- under their direction tell
09 their auditors that a statement of the
10 captain's overriding authority in an -- in an
11 emergency situation does not suffice for
12 compliance with ISM code Section 5.2?
13 A. Can you ask that question again?

Page 245:22 to 246:04

00245:22 A. If it said only emergency
23 situations, then that would not be
24 consistent.
25 Q. (BY MR. HAYCRAFT) Okay. In
00246:01 other words, that would not be in compliance
02 with 5.2, would it?
03 A. It -- it will not reflect the
04 intent of 5.2.

Page 246:18 to 247:05

00246:18 Q. Okay. In other words, if you
19 were in the role of an ISM auditor and you --
20 you saw a statement where the master has
21 overriding authority in an emergency or while
22 the ship is actually going from Point A to
23 Point B, but the OIM is otherwise the person
24 in charge, you as an ISM auditor would raise
25 questions about that statement and
00247:01 Section 5.2 of the ISM code?
02 A. I would go back to my -- to my
03 understanding that the term "person in
04 charge" is not synonymous with the term
05 "master."

Page 247:25 to 249:23

00247:25 Q. (BY MR. HAYCRAFT) Well, you
00248:01 would agree that the overriding authority of
02 the master to comply with article --
03 Section 5.2 of the ISM code should be clear
04 that the overriding authority applies to all
05 circumstances, correct?
06 A. Yes.
07 Q. Okay. Let's look at Tab 15, and
08 if you'll -- if you'll turn -- there is a
09 couple of different places to look. This --
10 this document has already been introduced
11 into the deposition record as Exhibit 1768,
12 and it's signed by David McKay, who we've
13 already discussed that you know. It shows
14 that he did a survey of -- on April 16th,
15 2009, at least on this -- the first page of
16 this in globo document; do you see that?
17 A. Yes.
18 Q. Okay. If you turn to the third
19 page in, and then also several pages beyond,
20 you'll see a list of observations and/or
21 descriptions of conditions, and the same
22 Paragraph No. 8 is located in two different
23 documents and the -- the Bates numbered pages
24 of the two different places are 9327 and
25 9333, and if you could just hold them such
00249:01 that you can -- you can see both at the same
02 time, okay? Are you with me?
03 A. Yes.
04 Q. Okay. And you see that they
05 both state as follows, As previously
06 observed, the statement of mas- -- the
07 statement of master's authority is still
08 not -- I can't read anymore -- is still not
09 clearly and completely stated within the
10 company safety management system.
11 And if -- you know, looking at
12 the two renditions of that observation, you
13 see that those are -- are written identically

14 in those two pages in this in globo exhibit,
15 correct?
16 A. Yes.
17 Q. And you understand from your
18 review of the materials in the case that
19 the -- the words at the beginning of the
20 sentence we just read, "as previously
21 observed," that this was something that the
22 DNV ISM code examiner in connection with both
23 Transocean and the Deepwater Horizon had --

Page 250:01 to 252:15

00250:01 Q. (BY MR. HAYCRAFT) -- had picked
02 up on, right?
03 A. Yes.
04 Q. In other words, 2009 wasn't the
05 first time that the DNV had questions about
06 the company safety management system policy
07 regarding the master's overriding authority,
08 right?
09 A. No.
10 MR. JOHNSON: Objection to the form.
11 Q. (BY MR. HAYCRAFT) Do you know
12 what steps Transocean took after this
13 observation in late 2000 -- mid to late 2009
14 occurred and entered the official records of
15 Transocean, what steps were taken during the
16 last few months of 2009 or the first three or
17 four months of 2010 to correct the -- the
18 problem that DNV had pointed out?
19 MR. JOHNSON: Objection; form.
20 A. I -- I don't recall from -- if
21 I've read anything that described specific
22 actions that they took. I could have, but I
23 don't recall it.
24 Q. (BY MR. HAYCRAFT) Do you agree,
25 sir, that the majority of DP self-propelled
00251:01 MODUs in the -- in the worldwide fleet, that
02 the master and the OIM are the same person,
03 that it's a combined position on a number of
04 companies' vessels?
05 MR. JOHNSON: Objection; form.
06 A. I -- I think -- I think there's
07 both.
08 Q. (BY MR. HAYCRAFT) Right,
09 both --
10 A. With -- okay.
11 Q. I'm sorry, I -- I jumped in on
12 you, and I apologize. I really did. So you
13 say there's both?
14 A. Different companies, some have
15 separated, some have it as one individual.
16 Q. You had mentioned earlier that
17 for Republic of the Marshall Islands and

18 compliance with the safe -- Minimum Safe
 19 Manning requirements, that because they've
 20 identified a master and an OIM on a DPV
 21 scheduled vessel, that somehow RMI requires
 22 that those -- those positions be held by two
 23 separate people? Did I hear you correctly?
 24 A. Two different individuals on the
 25 safe manning certificate, yes.
 00252:01 Q. Okay. So that's your testimony?
 02 I just want to make sure I've got your
 03 opinion straight.
 04 A. (Nodding head.)
 05 Q. Okay. So under -- if a vessel
 06 is flagged under the Republic of the Marshall
 07 Islands, it would be your expert opinion that
 08 if that company chose to combine the position
 09 of OIM and master in the same manner, or
 10 woman, that that would be a violation of the
 11 safe manning -- Minimum Safe Manning
 12 certificate issued to that ship if it was a
 13 scheduled DPV vessel?
 14 MR. JOHNSON: Objection; form.
 15 A. That's my understanding.

Page 252:19 to 254:01

00252:19 Q. (BY MR. HAYCRAFT) Turn to
 20 tab 13. I want to cover ground that I
 21 skipped a few minutes ago after lunch.
 22 Tab 13 is going to be marked as an excerpt
 23 from the 30(b)(6) deposition of Kongsberg,
 24 K-o-n-g-s-b-e-r-g, Maritime through the
 25 person of Alaric Durkan, D-u-r-k-a-n, and
 00253:01 we'll identify that as Exhibit 7568 on this
 02 deposition record.
 03 Did you read Mr. Durkan's
 04 deposition testimony regarding the Kongsberg
 05 Simrad safety system?
 06 A. Yes, I did.
 07 Q. Okay. The excerpt that I've
 08 picked is on Page 50, and I'm just going to
 09 read out loud and I'm going to read really
 10 quickly, so follow along with me.
 11 "Is it correct for me, then, to
 12 say from Exhibit 1122, that neither Andrea
 13 Fleytas, Yancy Keplinger, or Curt Kuchta have
 14 taken, according to Kongsberg Maritime's
 15 records, a course in Simrad safety systems?"
 16 And then his answer was, "That
 17 is correct."
 18 And then my last question was,
 19 "Does Kongsberg Maritime certify any other
 20 vendors to teach Kongsberg safety systems,
 21 fire and gas and ESD systems?"
 22 And his answer on behalf of

23 Kongsberg was, "No."
 24 Did I read that excerpt
 25 correctly, sir?
 00254:01 A. Yes.

Page 254:16 to 255:23

00254:16 Q. (BY MR. HAYCRAFT) Well, does
 17 this refresh your recollection that those
 18 three individuals did not have Kongsberg
 19 Simrad training?
 20 MR. JOHNSON: Objection; form, as to
 21 the safety.
 22 Q. (BY MR. HAYCRAFT) Kongsberg
 23 safety systems, fire and gas, and ESD
 24 systems. Does that refresh your
 25 recollection?
 00255:01 A. Yes. And I -- I don't recall if
 02 I made any such statement that they had
 03 attended Kongsberg training or had not, for
 04 that matter.
 05 Q. Okay. Do you recall what
 06 Ms. Fleytas and Mr. Keplinger's reaction was
 07 to the multiple combustible gas alarms going
 08 off that evening?
 09 A. Their reaction, Fleytas hit the
 10 general alarm.
 11 Q. Okay. And what was their
 12 reaction to initiating any ESD functions?
 13 Did they take quick and prompt, trained and
 14 drilled action that evening?
 15 MR. JOHNSON: Objection; form.
 16 A. Related to any ESD activations
 17 at that point? Yes, I believe they did.
 18 Q. (BY MR. HAYCRAFT) You've read
 19 Andrea Fleytas' testimony?
 20 A. Yes, I have.
 21 Q. You've read Yancy Keplinger's
 22 testimony?
 23 A. Yes, I have.

Page 257:18 to 259:01

00257:18 Q. Did any maritime crew member
 19 attend any of the safety drills recorded in
 20 Exhibit 571?
 21 MR. JOHNSON: Whether that's in these
 22 documents, Don?
 23 Q. (BY MR. HAYCRAFT) Whether
 24 it's in -- you know, if you'll notice, just
 25 for introduction purposes, each one has a
 00258:01 list of attendees; do you see that? You can
 02 turn to each and every page, and you'll see a
 03 chart that looks the same. It's a list of

04 attendees. And thumb your way through it one
 05 by one, one by one, one by one. Look at the
 06 chart of attendees and tell me whether any
 07 maritime personnel attended any of those
 08 drills.
 09 MR. JOHNSON: Objection; form.
 10 Q. (BY MR. HAYCRAFT) Looks like
 11 you're about halfway through the stack. Have
 12 you found any maritime personnel attending
 13 any of those safety drills?
 14 A. I'm not seeing any names that I
 15 recognize as maritime.
 16 Q. Well, you -- okay. Names.
 17 A. Or title.
 18 Q. Okay. The document has both the
 19 name of the person and the job position,
 20 right?
 21 A. That's correct.
 22 Q. So if there was a DPO, a
 23 captain, a chief mate, you would be able to
 24 identify it even if you didn't know what the
 25 person's name is, right?
 00259:01 A. That's correct.

Page 261:12 to 262:16

00261:12 Q. (BY MR. HAYCRAFT) Well,
 13 speaking of content, would you turn to what's
 14 been -- what's Bates numbered the bottom
 15 right-hand corner the last four digits are
 16 7546. Please turn to that one, and we'll --
 17 we'll go over it in some detail. 7546. Are
 18 we there?
 19 A. I'll get it.
 20 Q. Okay. Just sort of consistent
 21 with what we've been talking about. Do you
 22 see the names and positions of the persons in
 23 attendance on that particular date?
 24 A. Yes, I do.
 25 Q. Do you see any marine personnel
 00262:01 on the list of attendees?
 02 A. No.
 03 Q. Now, look up to the comments
 04 section which details the drill in question.
 05 I'll read it out loud, follow along.
 06 "Discuss roles and
 07 responsibilities with the crew. Also discuss
 08 kick during cement jobs. Kicks that
 09 occurring while cementing are the results of
 10 reducing the hydrostatic pressure during the
 11 operation. Well have been lost due to
 12 improperly designed cement slurries and
 13 spacers."
 14 Did I read that section
 15 correctly on this drill report?

16 A. Yes, you did.

Page 263:17 to 265:02

00263:17 Q. Turn to tab 30 in your binder,
18 please. And that page has been previously
19 marked as Exhibit 4647. Are we together on
20 that?
21 A. Yes.
22 Q. Okay. And you see that this is
23 from -- I think you mentioned earlier that
24 the emergency response manual for Deepwater
25 Horizon had a number of sections devoted to
00264:01 Emergency Disconnect Procedures, right?
02 A. That's correct.
03 Q. And this is one of those
04 sections, isn't it?
05 A. I think this is the introductory
06 page to those sections.
07 Q. Right, it's Section 12,
08 subsection 2, right, in the manual?
09 A. That's correct.
10 Q. Okay. And do you see that --
11 like you say, it's an introduction, and it
12 says "General Considerations," and it talks
13 about DP alert levels, and then there is this
14 sentence in the first paragraph.
15 "The Deepwater Horizon crews
16 will strictly adhere to these Alert Actions,
17 and EDS drills will be executed weekly."
18 Did I read that sentence
19 correctly?
20 A. Yes.
21 Q. Okay. In your review of
22 materials related to your expert opinions
23 provided in your expert reports, did you find
24 any evidence that any EDS drills were
25 executed weekly on Deepwater Horizon?
00265:01 A. I don't recall seeing any drill
02 reports related to EDS drills.

Page 265:16 to 266:07

00265:16 Q. (BY MR. HAYCRAFT) Okay. Do
17 you -- can you point me to any witness or any
18 document -- well, first, let me ask you, have
19 you reviewed thousands of pages of
20 depositions?
21 A. Thousands is --
22 Q. Who knows how many, but at least
23 thousands?
24 A. -- a understatement.
25 Q. Okay. And probably thousands of
00266:01 pages of -- boxes full of documents or CDs

02 full of documents, right?
 03 A. Yes.
 04 Q. Have you found a document or a
 05 witness who validates that EDS drills were
 06 conducted weekly on Deepwater Horizon?
 07 A. No, I haven't.

Page 269:10 to 270:06

00269:10 A. Well, you would typically have a
 11 person in charge designation letter that
 12 would have -- have multiple names on it
 13 covering reliefs and -- in other words, each
 14 person would not have their own letter.
 15 Q. Okay. Well, you cite this
 16 section in your report. If we look up at
 17 Footnote 1 and the text for person 1, says,
 18 "Coast Guard regulations applicable to
 19 foreign flag MODUs operating on the OCS
 20 mandate that the owner or operator designate,
 21 by title and in order of succession, the
 22 persons on an OCS facility" -- and I'm going
 23 to stop there just to point out, you
 24 underlined the word "persons" there, right?
 25 A. Yes.
 00270:01 Q. And did you underline the word
 02 "persons" because it's in the plural?
 03 A. It was only to indicate, like I
 04 said, that typically you would find one
 05 letter with multiple names of those who are
 06 deemed by the -- to be persons in charge.

Page 271:25 to 272:14

00271:25 Q. Okay. Do you recall in the
 00272:01 maritime experts proffered by BP in this
 02 case, Mr. Mitchell and Mr. "Bat," that they
 03 cite a chart where a survey of offshore rigs
 04 and the designation of the master and how the
 05 person in charge question is taken care of by
 06 companies other than Transocean in the world?
 07 Do you recall that chart?
 08 A. I remember the chart. I don't
 09 remember the details of it.
 10 Q. And that chart clearly shows
 11 that even if you take away Transocean, some
 12 other operators also employ their command
 13 structure on drilling rigs, right?
 14 A. That's correct.

Page 277:04 to 277:17

00277:04 Q. Okay. Hopefully not to your

05 surprise, I've read your reports in this
 06 case, and I did not find any opinions related
 07 to Halliburton's conduct; is that correct?
 08 A. No opinion at all.
 09 Q. Okay. And I did not find any
 10 opinions related to Sperry's conduct; is that
 11 correct?
 12 A. Not at all.
 13 Q. Okay. Do you intend to offer
 14 any opinions related to the conduct of either
 15 Halliburton or Sperry in relation to the
 16 Deepwater Horizon or the Macondo well?
 17 A. Not at this point.

Page 278:23 to 280:04

00278:23 Q. And if you'll turn to Page 15 of
 24 your report, there is a Section C and it's
 25 entitled "Safety Culture."
 00279:01 A. Yes.
 02 Q. In this section of your report
 03 you opine that the Deepwater Horizon crew
 04 demonstrated a strong safety culture; is that
 05 correct?
 06 A. That's correct.
 07 Q. And you are aware of the August
 08 2009 BP audit that was conducted on the
 09 Deepwater Horizon, correct?
 10 A. Yes, I am.
 11 Q. Okay. In fact, you discuss this
 12 audit on Pages 22 and 23 of your report; is
 13 that correct?
 14 A. Yes.
 15 Q. Now, if you will, turn to ex- --
 16 tab 3 of your binder, which is Exhibit 1887.
 17 Is this, in fact, the audit?
 18 A. It looks to be the complete
 19 audit, yes.
 20 Q. Did you consider this audit in
 21 forming your opinions?
 22 A. Yes, I did.
 23 Q. On Page 2 of this audit, are if
 24 you'll go to the fourth bullet point, there
 25 is a reference, and I'll quote, overdue
 00280:01 planned maintenance considered excessive.
 02 390 jobs, amounting to 35, 45 man-hours; do
 03 you see that?
 04 A. Yes.

Page 281:09 to 282:10

00281:09 Q. Okay. Do you know if all of
 10 these maintenance jobs, the 390 jobs were
 11 resolved by April 20th, 2010?

12 A. I don't -- I don't know that all
 13 these 390 jobs were placed on the audit
 14 follow-up plan, but I do know that the
 15 results of the audit with the exception of --
 16 of a handful of items were, in fact,
 17 completed prior to April 20.

18 Q. When you say the results of the
 19 audit were completed, what do you mean by
 20 that?

21 A. Well, the -- basically, the
 22 spreadsheet that went along with the item,
 23 the -- the audit -- the individual items that
 24 had to be addressed.

25 Q. So this spreadsheet was
 00282:01 completed?

02 A. With the exception of, I think
 03 it was 7 or 8 items --

04 Q. Okay.

05 A. -- prior to April 20th.

06 Q. Okay. Now, your report -- if
 07 you'll hold your place here and go to Page 22
 08 of your report. Your report references 70
 09 discrepancies that were marine related.

10 A. Yes.

Page 282:21 to 285:04

00282:21 Q. Okay. So these 70 marine
 22 related items, were they a subset of the 390
 23 items that were identified in the audit?
 24 MR. JOHNSON: Objection; form.

25 A. I don't -- I don't believe I
 00283:01 ever saw a listing of what the 390 supposedly
 02 overdue items were specifically. I don't
 03 know how many of them would have been marine
 04 related, how many of them would have been
 05 part of the industrial system.

06 Q. (BY MS. FAGAN) How did you go
 07 about identifying the 70 marine related
 08 items?

09 A. From the spreadsheet that was
 10 generated with the report.

11 Q. You concluded that 63 of 70
 12 marine related items were completed over a
 13 five-month period, correct?

14 A. That's correct.

15 Q. Do you know what happened to the
 16 other 320 items that were identified in the
 17 audit?

18 MR. JOHNSON: Objection to form.

19 A. I don't know what -- what
 20 those -- I think with the audit I think --
 21 well, no, I don't know.

22 Q. (BY MS. FAGAN) Okay. And why
 23 didn't you analyze those items in the

24 follow-up to those items?
 25 A. I analyzed the issue from --
 00284:01 from deposition testimony of -- of those on
 02 the rig that described the -- the transition
 03 process from IMPACT to -- to RMS, and I
 04 concluded that -- that it was a general
 05 understanding that, yes, in fact, it would
 06 take awhile to work out some of these
 07 duplicates and -- and redundancies.
 08 Q. Okay. So in evaluating and
 09 forming your opinion of Transocean's safety
 10 culture is it fair to say you didn't find it
 11 significant to analyze the other 320 items?
 12 MR. JOHNSON: Object to the form.
 13 A. My assessment of the safety
 14 culture was -- was in large part based on
 15 what people who had been on the rig, not --
 16 not only just current workers on the rig, but
 17 those who had been on the rig previously from
 18 not only Transocean, but other companies and
 19 there was a -- there was a very -- very
 20 recognizable pattern that people felt the
 21 Deepwater Horizon was a safe place to -- to
 22 work.
 23 Q. (BY MS. FAGAN) Okay. So in
 24 analyzing Transocean's safety culture and
 25 their response to the audit, you did not
 00285:01 analyze 320 of the 390 items, correct?
 02 MR. JOHNSON: Objection to form.
 03 A. From the RMS system, no, I did
 04 not.

Page 285:08 to 287:17

00285:08 Q. (BY MS. FAGAN) And, in fact,
 09 you don't know how many of the 320 items were
 10 completed prior to the blowout, do you?
 11 A. No.
 12 MR. JOHNSON: Objection to form.
 13 Q. (BY MS. FAGAN) Okay. So you
 14 wouldn't dispute with me, would you, that 31
 15 of those items were well control issues that
 16 were still outstanding on the day of the
 17 blowout, would you?
 18 MR. JOHNSON: Objection to form.
 19 A. I could not -- I haven't looked
 20 at that. I couldn't see whether they were or
 21 weren't.
 22 Q. (BY MS. FAGAN) Okay. On
 23 Page 24 of your report you reference that
 24 there were numerous findings and TOs,
 25 ModuSpec report that required additional
 00286:01 maintenance. Is that correct?
 02 A. Yes.
 03 Q. Do you recall what they were?

04 A. There again, I went through a --
 05 I went through a process, and another
 06 spreadsheet was developed as a result of that
 07 audit and -- or that inspection, and I went
 08 through and focused on the marine-related
 09 systems and components.
 10 Q. Okay. Well, sitting here today,
 11 can you remember what any of them were
 12 specifically?
 13 MR. JOHNSON: Objection; form.
 14 A. No, I...
 15 Q. (BY MS. FAGAN) Okay. Do you
 16 remember how many there were?
 17 A. I don't remember the exact
 18 number. I -- I don't even want to speculate
 19 on ballpark. I mean, it's been quite some
 20 time since I looked at that spreadsheet.
 21 Q. Okay. Do you know why the
 22 maintenance wasn't done?
 23 MR. JOHNSON: Objection; form.
 24 A. No.
 25 Q. (BY MS. FAGAN) Can you rule out
 00287:01 that any of these maintenance items played a
 02 role in the blowout?
 03 MR. JOHNSON: Objection; form.
 04 A. The -- the maintenance items
 05 related to the marine systems, I don't
 06 believe any of them had -- I can't speak to
 07 the others.
 08 Q. (BY MS. FAGAN) Okay. So then
 09 the findings in TO's ModuSpec report that
 10 required additional maintenance, do you --
 11 can you rule out that any of those items
 12 played a role in the blowout?
 13 MR. JOHNSON: Objection; form.
 14 A. If they were included, if they
 15 were part of the marine system, I would be --
 16 I would be of the opinion that they had no
 17 contribution to the blowout.

Page 287:25 to 288:04

00287:25 Q. (BY MS. FAGAN) Okay. So those
 00288:01 that don't relate, do you have an opinion as
 02 to whether those items could or could not
 03 have played a role in the blowout?
 04 A. I have no opinion.

Page 288:19 to 289:06

00288:19 Q. (BY MS. FAGAN) Okay. Do you
 20 consider yourself an expert on personal
 21 safety in the oil and gas industry?
 22 A. Personal safety, yes.

23 Q. Okay. And if so, what qualifies
 24 you?
 25 A. 13, what, 14 years working
 00289:01 offshore for an agency that exists to enhance
 02 safety.
 03 Q. Okay. Anything else?
 04 A. And -- and the various training
 05 that I received as part of that -- part of
 06 that program, the marine safety program.

Page 290:16 to 291:07

00290:16 Q. (BY MS. FAGAN) What process
 17 safety measures did you evaluate in
 18 evaluating Transocean's culture on the rig?
 19 MR. ROY: Objection; form.
 20 A. Their HSE programs, their --
 21 their various permit to work programs, those
 22 would be the -- the main ones, and their --
 23 and their safety record.
 24 Q. (BY MS. FAGAN) In evaluating
 25 their safety record, what period of time did
 00291:01 you evaluate?
 02 A. Well, I know they had gone seven
 03 years without a lost time incident, which is
 04 a pretty amazing feat in this industry.
 05 Q. Now, that's a personal safety
 06 record, lost time incidents, correct?
 07 A. I would believe so, yes.

Page 292:13 to 294:11

00292:13 Q. What personal safety measures
 14 were in place on the Deepwater Horizon?
 15 A. I don't know, it was -- there
 16 was a -- I mean, obviously, it's -- it's
 17 common in the industry there were -- there
 18 were PPE requirements, there was permit to
 19 work system, there was a job planning,
 20 there -- there was two safety meetings a day,
 21 there were weekly safety meetings, there was
 22 a large focus on dropped objects, and there
 23 was regular reporting.
 24 Q. Can you identify or recall any
 25 process safety measures that were in place on
 00293:01 the Deepwater Horizon?
 02 MR. ROY: Objection; form.
 03 MR. HAYCRAFT: Join.
 04 A. Well, that's -- that's where
 05 I -- the -- trying to separate those two,
 06 because oftentimes those -- they intermix.
 07 Part of the process safety would -- would be
 08 those same types of stop work programs, work
 09 planning programs that I talked about, those

10 would be processes leading to -- to safety.

11 Q. (BY MS. FAGAN) Okay. Who was
12 accountable for personal safety of those on
13 the rig?

14 A. When you say "accountable," you
15 mean ultimately accountable or how -- how
16 do -- how do I think that people who worked
17 on the Deepwater Horizon viewed
18 accountability?

19 Q. How would you define accountable
20 in that instance?

21 A. They were -- they were --
22 everybody who worked there was responsible
23 for personal safety, not only for themselves,
24 but for others.

25 Q. Okay. And then from an
00294:01 organizational standpoint who was ultimately
02 accountable for personal safety of those on
03 the rig?

04 A. Well I think certainly the OIM,
05 the captain would play a role in that and
06 then certainly Jerry Canducci and -- and
07 Jimmy Moore would be involved in that safety,
08 managing those safety systems.

09 Q. And are those same individuals
10 within the organization, are those
11 responsible for process safety on the rig?

Page 294:13 to 296:01

00294:13 A. I couldn't -- I couldn't say. I
14 mean, certainly when you look at the -- the
15 work planning, work stop, work permit,
16 then -- then obviously Jerry Canducci would
17 be -- he would have a pretty significant
18 role, but then so would -- so would Paul
19 Johnson and -- and other members.

20 Q. (BY MS. FAGAN) Okay. Who had
21 the ultimate decision-making authority over
22 the Deepwater Horizon and the Macondo well
23 operations?

24 MR. JOHNSON: Objection; to the form.

25 A. Can you -- I'm going to -- I'm
00295:01 afraid I'm going to have to ask you to be
02 more specific. Related to what decisions?

03 Q. (BY MS. FAGAN) Operations. So
04 who had the day-to-day decision-making
05 authority on operations on the Deepwater
06 Horizon?

07 A. A minute ago you said for the
08 Macondo well. So now we're talking just the
09 operations on the rig?

10 Q. Just the Deepwater Horizon
11 operations, uh-huh. I'll break it down.

12 A. Day to day. Well, obviously the

13 OIM was -- was certainly -- played a huge
 14 role in planning the activities that were
 15 going to occur on board. The -- the captain
 16 was ultimately responsible and worked -- they
 17 worked as a team as part of a -- a larger
 18 team to achieve those -- those goals. But
 19 then certainly the -- the operator also had a
 20 lot of influence into what activities would
 21 or wouldn't take place and the scheduling for
 22 the -- for the horizon.

23 Q. Okay. And when you refer to the
 24 operator, are you referring to BP?

25 A. BP was the operator of record,
 00296:01 yes.

Page 297:02 to 298:15

00297:02 Q. (BY MS. FAGAN) Okay. Your
 03 report, going to Page 16, goes into this
 04 concept of time out for safety.

05 A. Yes.

06 Q. Which is also known in some
 07 in- -- some industries as stop work
 08 authority?

09 A. That's correct.

10 Q. Okay. And on Page 16 you
 11 state -- you say, "During rig operations,
 12 everyone has an authority, indeed an
 13 obligation, to stop work if an activity poses
 14 a safety risk of any magnitude."

15 Is that correct?

16 A. Yes.

17 Q. And you call that time out for
 18 safety, correct?

19 A. That's correct.

20 Q. Help me understand this concept.
 21 Who do you believe this time out for safety
 22 applies to? Is it just the drilling crew?

23 A. No, it applies to any activity
 24 that's taking place anywhere on the rig.

25 Q. Who can exercise this time out
 00298:01 for safety?

02 A. Anybody on the rig.

03 Q. So Transocean personnel?

04 A. Not only Transocean personnel.

05 Q. MI personnel?

06 A. Could.

07 Q. Or Cameron personnel?

08 A. Could.

09 Q. BP personnel?

10 A. Could.

11 Q. Under what circumstances could
 12 someone outside of Transocean exercise time
 13 out for safety?

14 A. If they observed an unsafe work

15 process.

Page 302:06 to 303:21

00302:06 Q. (BY MS. FAGAN) Okay. As we
07 previously discussed, the overview portion of
08 your opening report discusses the scope of
09 your opinions, and you stated that you are
10 not addressing the well control event,
11 correct?

12 A. That's correct.

13 Q. I believe that's on Page 2, if
14 you want to look at it. And then on Page 5
15 of your rebuttal report, which is the second
16 tab in your binder, you state that the
17 Deepwater Horizon organizational structure
18 did not cause confusion and thus did not
19 cause any delay in the bridge crew's
20 emergency response or contribute in any way
21 to the catastrophic events of the blowout,
22 correct?

23 A. That's correct.

24 Q. How did you conclude that the
25 organizational structure did not contribute
00303:01 in any way to the blowout if you didn't
02 analyze well control?

03 A. There was -- I think what I
04 was -- what I was addressing there in -- in
05 my rebuttal was the premise that had been
06 presented in another expert report that
07 somehow indicated that the failure of the
08 marine crew on the bridge to act in a more
09 expeditious manner somehow contributed to the
10 blowout.

11 Q. But --

12 A. So I was not making a -- I
13 certainly was not -- I see your concern
14 there, but I certainly was not making a
15 comment about the well control effort. I
16 was -- I was addressing the -- the allegation
17 that somehow the marine crew had contributed.

18 Q. So then do you have any opinions
19 on causation of the catastrophic events of
20 the blowout?

21 A. None at all.

Page 304:07 to 305:05

00304:07 Q. (BY MS. FAGAN) Okay. So do you
08 believe that the organizational structure did
09 or did not cause confusion?

10 A. I -- I believe it did not cause
11 confusion.

12 Q. Okay. And have -- do you have

13 an opinion that it did not contribute in any
 14 way to the blowout?
 15 A. I don't -- I don't find any
 16 evidence where the dual command structure was
 17 involved in the blowout.
 18 Q. Have you attempted to analyze
 19 causation of the blowout?
 20 A. No.
 21 Q. Have you examined any of the
 22 factors that caused the blowout?
 23 A. I've -- I've looked at -- I've
 24 looked at several different reports that --
 25 that dealt with that issue, and I don't see
 00305:01 where the bridge crew had -- from what I
 02 understand from those reports, meaning the
 03 Marshall Islands, the -- the Bly report,
 04 the -- Transocean's own internal report, I
 05 don't see where the bridge crew...

Page 306:05 to 306:24

00306:05 Q. (BY MS. FAGAN) And I'm trying
 06 to understand how you came to reach that
 07 conclusion if you didn't analyze the causes
 08 of the blowout.
 09 A. Maybe I should say I didn't
 10 render an opinion on the causes of the
 11 blowout, but it's not like I was not
 12 cognizant of what other reports had
 13 indicated.
 14 Q. Okay. So then you don't have an
 15 opinion as to whether the organizational
 16 structure of Transocean on the Deepwater
 17 Horizon was a causal factor or was not a
 18 causal factor in the blowout, correct?
 19 MR. JOHNSON: Objection to the form.
 20 A. That's correct.
 21 Q. (BY MS. FAGAN) And why is it
 22 that you didn't analyze the facts and
 23 circumstances of the well control event in
 24 analyzing Transocean's safety?

Page 307:01 to 307:13

00307:01 MR. JOHNSON: Objection; form.
 02 A. (Continuing) I'm not a well
 03 control expert.
 04 Q. (BY MS. FAGAN) Did you consider
 05 the functionality of equipment in making your
 06 assessments of Transocean's safety culture?
 07 MR. JOHNSON: Objection; form.
 08 A. Marine equipment.
 09 Q. (BY MS. FAGAN) Why did you
 10 limit it to marine equipment?

11 A. Because I'm not a -- I'm not an
12 expert on the industrial -- specialized
13 industrial systems.

Page 307:16 to 307:24

00307:16 Q. Did you consider the blowout
17 preventer functionality in reviewing TO's
18 conduct?
19 A. No, no.
20 Q. And why not? Was that the same
21 reason, that you didn't have the expertise to
22 do so?
23 A. I'm certainly not a blowout
24 preventer expert.

Page 309:03 to 309:21

00309:03 Q. Okay. Do you feel qualified to
04 grade Transocean's personal safety on the
05 Deepwater Horizon?
06 A. Yes.
07 Q. Okay. And how would you grade
08 it?
09 A. Well, I think it's addressed in
10 the safety culture. Everybody whoever --
11 that I could get ahold of their depositions,
12 anybody who had ever been on the rig found it
13 to be -- found those responsible to be very
14 safety conscious, and they had nothing but
15 good things to say about the safety culture
16 on the -- on the Horizon.
17 Q. Okay. And you feel qualified to
18 make that assessment?
19 A. Based on my -- based on my last
20 14, 15 years in the offshore marine safety
21 program, yes.

Page 311:05 to 311:23

00311:05 With that in mind, do you find
06 that this license is a proper license for
07 Jimmy Harrell to be OI -- to serve as OIM
08 under the S- -- under the Minimum Safe
09 Manning certificate issued by the Republic of
10 the Marshall Islands for the Deepwater
11 Horizon?
12 A. I -- I have to be honest with
13 you, I can barely read his license. It's...
14 Q. Okay.
15 A. But if I recall, it had OIM at a
16 management level.
17 Q. Okay. Well, let's -- let's

18 assume your recollection is correct for
 19 purposes of my next question. Would that
 20 then be a proper license under the safe
 21 manning -- Minimum Safe Manning certificate
 22 issued by the Marshall Islands?
 23 A. Yes.

Page 314:15 to 316:09

00314:15 Q. So it's your opinion that by
 16 having Jimmy Harrell as the OIM and PIC
 17 during day-to-day operations, that he was the
 18 person in charge of the vessel, although
 19 Captain Kuchta, when he was aboard was the
 20 person in command of the vessel?
 21 MR. JOHNSON: Objection; form.
 22 A. That's correct.
 23 Q. (BY MR. HAYCRAFT) Okay. And
 24 you don't think having one person being in
 25 charge of the vessel and the other person
 00315:01 being in command of the vessel creates any
 02 confusion, is that your opinion?
 03 A. I think I'll restate what I said
 04 earlier. I think there might have been a
 05 couple of people that maybe were a bit
 06 confused, but the -- the marine crew that was
 07 involved on April the 10th or April the 20th
 08 of 2010, I don't believe they were confused.
 09 Q. Okay. That's your opinion about
 10 whether they were confused or not. But they
 11 understood, in your opinion, that there could
 12 be two different people at the same time, one
 13 in charge of the vessel and the other in
 14 command of the vessel, and those two
 15 individuals being two completely separate
 16 human beings, right?
 17 MR. JOHNSON: Objection; form.
 18 A. That's correct.
 19 Q. (BY MR. HAYCRAFT) But it's your
 20 opinion that didn't cause any confusion on
 21 the bridge crew, right?
 22 A. That's correct.
 23 MR. JOHNSON: Objection; form.
 24 Q. (BY MR. HAYCRAFT) Except for a
 25 couple of people who testified otherwise?
 00316:01 MR. JOHNSON: Objection; form.
 02 Q. (BY MR. HAYCRAFT) Correct?
 03 MR. JOHNSON: Form.
 04 A. I think the confusion was the
 05 point at which...
 06 Q. (BY MR. HAYCRAFT) The confusion
 07 was the point at which?
 08 A. At which the master assumed his
 09 PIC role.

Page 320:10 to 321:09

00320:10 Q. Your expert opinion as found in
11 your expert reports and as you're testifying
12 today does not address causation of the
13 blowout itself, correct?
14 A. That's correct. In other words,
15 I'm not commenting on anything that may or
16 may not have taken place downhole.
17 Q. Okay. Now, let's talk about
18 things taking place above the surface of the
19 seabed and also look at things taking place
20 above the surface of the sea. Do you
21 understand what the EDS does on the Deepwater
22 Horizon --
23 A. Yes.
24 Q. -- what its function is?
25 A. Yes.
00321:01 Q. Is its function as intended to
02 allow the LMRP to disconnect from the lower
03 stack or the BOP?
04 A. Once the -- once the BOP has --
05 has closed and the -- then the LMRP would
06 disconnect, yes.
07 Q. And part of the EDS sequence is
08 the closing of the BOP?
09 A. That's correct.

Page 321:18 to 322:12

00321:18 Q. And what the EDS allows or its
19 function allows is that in certain defined
20 situations, the Deepwater Horizon can power
21 away, can drift away, can otherwise remove
22 itself from the well in an emergency,
23 correct?
24 A. That's correct.
25 Q. I mean, it's called the
00322:01 emergency disconnect system, right?
02 A. That's correct.
03 Q. And the -- one of the actions
04 that was possible -- I'm not saying whether
05 it could have been done, was practical, but
06 I'm just asking for your expert opinion. One
07 of the possible activities aboard the
08 Deepwater Horizon at some point after the
09 well lost control and the blowout, however
10 defined, began, one of the options available
11 to the crew of the Deepwater Horizon was to
12 disconnect from the well, correct?

Page 322:14 to 322:17

00322:14 A. Yes, I believe the -- the
15 driller certainly had that understanding and
16 responsibility based on Transocean
17 procedures.

Page 323:03 to 324:03

00323:03 Q. (BY MR. HAYCRAFT) That's who I
04 mean, "the crew" -- how many -- by the way,
05 you know there were 126 persons on board the
06 evening of April the 20th, 2010?
07 A. That's correct.
08 Q. And do you understand that
09 approximately two-thirds to three-fourths of
10 those persons on board Deepwater Horizon were
11 Transocean crew members?
12 A. As I recall, it's 70 something,
13 maybe, 60 -- high 60s, 70s, yes.
14 Q. Okay. So most of the crew
15 members aboard the Deepwater Horizon were
16 Transocean employees, correct?
17 A. That's correct.
18 Q. And the drilling crew was all
19 Transocean employees; was it not?
20 A. The actual drilling crew
21 employed by Transocean, of course, yes, they
22 would have been drill -- they would have been
23 Transocean employees, but there are other
24 people who participate in that activity.
25 Q. Okay. And the bridge personnel,
00324:01 those were all Transocean employees; were
02 they not?
03 A. They were.

Page 326:02 to 326:11

00326:02 Q. Okay. Now, let's go back to the
03 EDS. Is it your testimony that the master
04 was not authorized to initiate an EDS
05 sequence?
06 A. I -- I certainly believe he had
07 the authority, but I think what I said
08 earlier today, and I -- and I still will
09 stick to that is that it's not something that
10 he would arbitrarily decide to do without
11 seeking input from his experts.

Page 328:05 to 328:10

00328:05 Q. (BY MR. HAYCRAFT) Sir, here's
06 the question again: Would you agree with me
07 that on the night of April 20th, the EDS
08 sequence stood as an opportunity to save the

09 ship and her crew?
10 MR. JOHNSON: Objection; form.

Page 328:12 to 328:14

00328:12 A. The -- there was an EDS system
13 installed that as one of its functions, yes,
14 it could have potentially disconnected, yes.

Page 332:03 to 332:12

00332:03 Q. (BY MR. HAYCRAFT) What is the
04 function of the EDS on the Deepwater Horizon?
05 A. It's primarily -- its primary
06 function is to protect the integrity of the
07 wellhead, and it's most --
08 Q. What is -- sir, what does the
09 word "disconnect" mean to you, sitting here
10 today as an expert in this case?
11 A. Disconnect means disconnect, but
12 primarily --

Page 332:16 to 332:23

00332:16 A. (Continuing) Primarily it's
17 used and its -- it's installed on dynamically
18 positioned drilling rigs to protect the --
19 the wellhead in case of a drive-off or a loss
20 of power.
21 Q. (BY MR. HAYCRAFT) Okay. Does
22 it also have a function during a well control
23 situation?

Page 332:25 to 333:03

00332:25 A. I just don't think that I have
00333:01 enough experience with the EDS system to talk
02 about all of the background, development
03 theory related to -- to EDS.

Page 339:08 to 339:15

00339:08 Q. Okay. If at any point after the
09 bridge saw mud shooting up into the derrick
10 and before the first explosion, someone,
11 whether the driller or anyone else authorized
12 to do so, had commanded the initiation of the
13 EDS sequence, do you believe in your expert
14 opinion that the disconnect device would have
15 worked?

Page 339:17 to 339:18

00339:17 MR. JOHNSON: Objection; form. Clearly
18 outside the scope.

Page 340:13 to 342:13

00340:13 A. I can't speculate whether it
14 would have worked or would not have worked
15 because I haven't studied the EDS system on
16 the Deepwater Horizon.
17 Q. (BY MR. HAYCRAFT) So you
18 limited your studies to not include whether
19 activation of the EDS in a timely manner
20 might have lessened this tragedy; do I
21 understand that correctly?
22 MR. JOHNSON: Objection; form.
23 A. Yes, you understand that
24 correctly because it's -- it's a function of
25 the -- the drilling operation, the well
00341:01 control operation, and I did not analyze
02 that.
03 Q. (BY MR. HAYCRAFT) Right, you
04 didn't consider that to be a maritime
05 function, right?
06 A. There is no involvement in this
07 procedure that you showed me that involves
08 anybody from the marine crew other than --
09 Q. Well, that's --
10 A. -- other than the DPO needs to
11 advise the captain.
12 Q. Okay. So it's Transocean's
13 procedure that you're talking about here;
14 that is, that only the driller is authorized
15 to do the EDS, fair to say?
16 MR. JOHNSON: Objection to form.
17 A. No, there's -- there's other --
18 there's other language. This is only one
19 page out of the document.
20 Q. (BY MR. HAYCRAFT) Well, I -- I
21 thought I understood your testimony be -- to
22 be that only the driller and the people
23 involved in any well control operation were
24 authorized to initiate the EDS sequence in
25 the event of an emergency.
00342:01 MR. JOHNSON: Objection to form.
02 Q. (BY MR. HAYCRAFT) Did I hear
03 you incorrectly? Or did I rephrase your
04 testimony incorrectly?
05 MR. JOHNSON: Objection; form.
06 A. I think you could have, because
07 I think I said previously that certainly the
08 captain has the overriding authority, and if
09 he chose to do that, he could; but I don't
10 believe based on these procedures and -- I

11 don't believe it would be appropriate for him
 12 to arbitrarily make a decision to E- -- EDS
 13 without talking to his well control experts.

Page 342:23 to 344:02

00342:23 Q. Right. A captain should make
 24 sure he's well informed about the activities
 25 on his ship so that he can make a command
 00343:01 decision in a timely manner; would you agree
 02 with that?
 03 A. I agree with that.
 04 Q. Okay. And the captain of a ship
 05 to save the -- the life of his crew members
 06 and the safety of the ship as well as protect
 07 the environment needs to be well informed and
 08 make good, timely decisions, correct?
 09 A. I believe that's correct.
 10 Q. And he needs to know that he or
 11 she is in command of the entire vessel to
 12 make those command decisions, doesn't he or
 13 she?
 14 A. Yes.
 15 Q. And a command decision on the
 16 Deepwater Horizon on the night of April the
 17 20th could have been to initiate the EDS
 18 sequence, correct?
 19 A. It could have been. I think
 20 there is very clear evidence that that is
 21 exactly what they were trying or attempting
 22 to do from the bridge, was to speak to the
 23 drill floor and try to -- because they had
 24 been called and said we have a well control
 25 event and -- and that's what they were doing.
 00344:01 They were seeking that -- that information to
 02 be well informed.

Page 344:07 to 345:09

00344:07 Q. Okay. And, in fact, Chris
 08 Pleasant asked the captain three different
 09 times if he should initiate EDS; did he not?
 10 MR. JOHNSON: Objection; form.
 11 A. I don't -- I -- I don't know if
 12 it was three. I am aware that he did ask the
 13 captain should he EDS.
 14 Q. (BY MR. HAYCRAFT) Right. And,
 15 in fact, the captain told him, Chris
 16 Pleasant, the subsea engineer, calm down,
 17 we're not EDSing, that's true, isn't it?
 18 MR. JOHNSON: Objection; form.
 19 A. I'd have to read -- I'd have to
 20 go back and re-read the testimony to see if
 21 those were the exact words, but it was

22 something to that effect.
23 Q. (BY MR. HAYCRAFT) Uh-huh. Did
24 the OIM have time-out for safety
25 responsibilities and obligations?
00345:01 A. Yes.
02 Q. Did the toolpusher, senior tool
03 pusher, have those same obligations?
04 A. Yes.
05 Q. Did the driller have those same
06 obligations?
07 A. Yes.
08 Q. Assistant driller?
09 A. Yes.

Page 345:22 to 346:07

00345:22 Q. But, in general, the safety
23 philosophy that you opine about in your
24 expert report is that if that thought entered
25 their minute, then they should call a
00346:01 time-out for safety, correct?
02 A. Everybody on the rig is
03 empowered to do that.
04 Q. Including the toolpusher, the
05 OIM, the driller, the senior toolpusher,
06 et cetera, correct?
07 A. Yes.

Page 347:17 to 347:21

00347:17 Q. Would you agree that in your two
18 reports, you've cited to the RMI
19 investigation report a number -- quite a
20 number of times, more than ten?
21 A. Probably, yes.

Page 348:04 to 349:04

00348:04 Q. Well, let me ask you a leading
05 question, then. Isn't it true that the
06 source of data that the -- major source of
07 the data for the RMI report was the contents
08 of the JIT MBI hearings?
09 MR. JOHNSON: Object; form.
10 A. I see references to MBI
11 testimony, yes.
12 Q. (BY MR. HAYCRAFT) So you agree
13 that the majority of the data points that
14 form the RMI bases was the JIT MBI testimony
15 and documents?
16 MR. JOHNSON: Objection; form.
17 A. I can't say the majority because
18 I haven't -- I haven't evaluated the -- I

19 mean, there are certainly -- there are
20 certainly references to MBI testimony, but to
21 say that's the majority of the report, I --
22 I'm not prepared to say that.
23 Q. (BY MR. HAYCRAFT) All right.
24 Let me ask you another question, then,
25 totally unrelated. Do you remember my
00349:01 question about whether you found any evidence
02 of weekly EDS drills? Do you remember my
03 question along those lines?
04 A. Yes.

Page 349:21 to 350:01

00349:21 I
22 mean, obviously, they're not going to
23 actually function the EDS system. So it
24 would be like a tabletop discussion type
25 drill, because you certainly wouldn't
00350:01 disconnect from the well on a weekly basis.

Page 350:20 to 350:24

00350:20 Q. Okay. Did you find any evidence
21 that they did any sort of a drill, table --
22 tabletop exercise or otherwise in your review
23 of materials for this case?
24 A. Not yet.

Page 352:24 to 355:15

00352:24 Q. Okay. Did -- you did -- you
25 just told me you read the deposition of Steve
00353:01 Sutton?
02 A. Yes.
03 Q. He took your place?
04 A. Yes.
05 Q. Okay. So he would -- he's -- at
06 least in 2009 was the chief offshore
07 inspection Eighth Coast Guard District?
08 A. I think they changed the name of
09 the job. They completely changed -- I was a
10 uniformed -- they talked about me retiring as
11 a lieutenant commander this morning. He's a
12 federal civil service employee. So the --
13 the job description was rewritten. I think
14 it has a different title now, but, in
15 essence, it was the -- yeah, the legacy job
16 after I left.
17 Q. Okay. I'm reading from Page 56
18 and I'll go on to Page 57 of Mr. Sutton's
19 deposition.
20 "QUESTION: Can you describe to

21 me the difference in scope between a Coast
 22 Guard inspection and a Coast Guard
 23 examination?"
 24 And he responded, "A Coast Guard
 25 inspection is typically more thorough."
 00354:01 And then the question, "Can you
 02 describe in what ways?"
 03 "On a foreign vessel, it's much
 04 more of an oversight job, where you look at
 05 certificates that attest to the condition of
 06 a vessel, certificates that attest to the
 07 level of qualification of the crew, and then
 08 you perform spot checks to verify that
 09 there's nothing to indicate that the vessel
 10 is not in conformance with the certificates."
 11 My question is, does that sound
 12 like an accurate description from your
 13 perspective of -- of what a Coast Guard
 14 examination is as opposed to a Coast Guard
 15 inspection?
 16 A. I wouldn't -- spot checks, I
 17 think, is -- would have to be clarified, but
 18 that -- that roughly described the activities
 19 on a foreign-flagged vessel, yes.
 20 Q. Okay. And the Deepwater Horizon
 21 in June or July of 2009 was a foreign-flagged
 22 vessel, was it not?
 23 A. That's correct.
 24 Q. And so you would accept
 25 Mr. Sutton's corporate testimony on behalf of
 00355:01 the United States as accurate in describing
 02 that the Deepwater Horizon in the summer of
 03 2009 was the subject of an examination rather
 04 than an inspection?
 05 A. I -- you know, I can't -- I
 06 can't say how in depth that -- that Odom and
 07 his team decided or decided not to go, but --
 08 but, yes, the general approach of spot checks
 09 is a -- is a known approach for
 10 foreign-flagged vessels.
 11 Q. Okay. Okay. Now, you
 12 remember -- you just mentioned
 13 Lieutenant Odom. He was the inspector, the
 14 leader of that team.
 15 A. Yes.

Page 355:24 to 357:08

00355:24 the certificate of compliance itself, but I'm
 25 going to read from the deposition of him, he
 00356:01 who actually did it.
 02 What I'm getting at is you
 03 don't -- this is Page 187 and 188.
 04 "What I'm getting at is you
 05 don't do your own independent evaluation to

06 ensure that the rig meets all the
 07 requirements of the ISM code other than
 08 checking for the documents and certification
 09 associated with the code?"

10 And Odom's answer was, quote,
 11 That is correct. We don't conduct an ISM
 12 audit or anything outside the scope of doing
 13 our deck walk and doing our engineering walk.
 14 If we start to see a lot of deficiencies or
 15 things that would indicate there might be a
 16 failure of the ISM system on board, then we
 17 have the authority to look further into it.
 18 But for a port state control exam, we just do
 19 it strictly through documentation checks and
 20 looking at the material condition of the
 21 vessel.

22 Does the testimony of Mr. Odom
 23 strike you as an accurate description of his
 24 view of doing a foreign-flagged MODU
 25 examination?

00357:01 A. Yes.

02 Q. And after Mr. Odom and his team
 03 left the Deepwater Horizon after their four-
 04 to six-hour visit, did they revisit the rig
 05 at any time between that date in the summer
 06 of 2009 and April 20, 2010?

07 A. I don't believe they ever went
 08 back.

Page 357:18 to 358:24

00357:18 Q. Right. So, in other words, the
 19 Coast Guard makes a one-day stop for four to
 20 six hours, checks the certificates, does
 21 their walk-around as described by Mr. Odom,
 22 at some point thereafter issue a certificate
 23 of compliance, but that record does not
 24 record what may or may not happen from that
 25 time of the visit to any other time, correct?

00358:01 In other words, it's a view of that point in
 02 time, correct?

03 A. It's a snapshot, that's correct.

04 Q. Okay. So when you say that --
 05 in your reports that the Deepwater Horizon on
 06 April the 20th was in compliance, as
 07 demonstrated by the certificate of compliance
 08 issued by the Coast Guard in July 2009, is
 09 what you are saying is that document had not
 10 expired yet?

11 A. That document had not expired.
 12 There had not been -- as -- as far as I know,
 13 there had not been any issue that would have
 14 caused the Coast Guard to return and
 15 potentially revoke that certificate.

16 Q. Did -- did -- did this -- did --

17 does an examination by a person like Mr. Odom
18 back when you were chief, is that an
19 announced inspection or examination?
20 A. They're usually scheduled, yes.
21 Q. In other words, the vessel
22 subject to the -- the examination knows that
23 it's about to occur?
24 A. Yes.

Page 361:06 to 362:17

00361:06 Q. (BY MR. HAYCRAFT) Turn to
07 tab 4, please. Have you seen this document
08 before? It's marked as Exhibit 942 in the
09 deposition record.
10 A. Yes, I've seen it.
11 Q. Okay. Isn't it true that this
12 document states for reporting information
13 that the master reports to the offshore
14 installation manager?
15 A. Yes.
16 Q. And if you'll turn to tab 7
17 again, which is Exhibit 5299 in the
18 deposition record, do you remember this org
19 chart?
20 A. Yes.
21 Q. Do you remember it's from the
22 emergency response manual for the Deepwater
23 Horizon?
24 A. Yes.
25 Q. And you remember that on this
00362:01 org chart, it shows that the master reports
02 to the offshore installation manager; does it
03 not?
04 MR. JOHNSON: Objection; form.
05 A. There is -- it's -- it is an
06 illustration of the -- of the -- it's an
07 organizational chart.
08 Q. (BY MR. HAYCRAFT) And on that
09 organizational chart, the master reports to
10 the OIM, correct?
11 MR. JOHNSON: Objection; form.
12 A. I would say that -- that that's
13 what is shown on the chart, but it doesn't
14 differentiate -- obviously, when -- when
15 they're -- when they're in the drilling mode,
16 they are there to support the drilling
17 activity.

Page 363:17 to 364:01

00363:17 Q. Well, I -- since I only have --
18 I've got -- taking one extra minute, but I
19 only have a minute and 30 seconds to go.

20 You'll agree, then, based on what you've just
21 pondered, that this org chart lacks clarity
22 in your own mind?
23 MR. JOHNSON: Objection; form.
24 A. This chart is -- I think
25 could -- could use further clarification,
00364:01 yes.

Page 367:07 to 367:17

00367:07 Have you identified any evidence
08 that there was confusion on the bridge of the
09 Deepwater Horizon on April 20th, 2010, as to
10 who was in command of the vessel following
11 the first explosion?
12 A. No, I haven't.
13 Q. Do you believe that there was
14 confusion on the bridge on April 20th, 2010,
15 following the first explosion as to who was
16 in command of the vessel?
17 A. No.