

SENIOR CONSTABLE UPSTON

Q1 This is an electronically recorded interview between Senior Constable David Upston of the Sydney Water Police and Maurice Contessi on Saturday, the 13th of the 3rd, 1999 at 10 Swan Street, North Hobart, Tasmania. The time on my watch is now 4.11pm. And also present in the room and seated to my immediate left is Detective Senior Constable Stuart Gray from Bega Detectives. Mr Contessi, would you agree that we, prior to the commencement of this interview, we discussed certain matters that Senior Constable Gray and myself are making inquiries into the 1998 Sydney to Hobart Yacht Race in relation to matters either directly or indirectly involved in the race?

A Yes, that's correct, David.

Q2 O.K. For the purpose of the record, would you please state your full name, address, date of birth and occupation?

A Maurice Contessi, live at 10 Swan Street, North Hobart, my date of birth is the 21st of the 3rd, '58 and I work in the building industry.

Q3 O.K. Mr Contessi, do you agree that prior to the commencement the interview we also mentioned that your vessel, Liquid Asset was in the Sydney to Hobart Yacht Race and you made application to participate in the race and that application was successfully admitted and, and you continued through the race?

A That's right, David.

Q4 O.K. How many crew did you have on board your vessel?

A There were six, the crew consisted of six people.

Q5 O.K. And just for the purposes, could you tell me your yachting history and your, your involvement in yachting?

A I've only been sailing for six years, in that time I've sailed from Queensland to Hobart, from Adelaide to Hobart. I've crammed a lot of sailing in that period, I've only competed in two Sydney Hobarts but probably done more in six years than a lot of people would do in 16.

Q6 O.K. I'll show you a document here labelled, "Application for Entry, 1998 Sydney to, Telstra Sydney to Hobart Yacht Race", with the name on the entry form as Liquid Asset. Your name is also on the front of that entry form. Is that correct?

A That's right.

Q7 O.K. I'd show you a section on that entry form where it, you wish to enter the Sydney to Hobart Yacht Race under a PHS rating, category.

A That's correct, David.

Q8 Right. Can you please explain to me what your understanding of PHS means?

A Well, it's a, just a division of entry where you have to fulfil a criteria to be eligible to compete, but there is no certificate in relation to the IMS category, you just have to fulfil a criteria and the discretion of the organisers who either allow it or not

allow to compete.

Q9 O.K. Could you tell me where that differs from IMS nomination?

A Well, to my understanding every boat that competes under IMS is measured and statistics are physically calculated for each boat, both sails, by sails and hull. This performance handicap, the way I understand it, relies a certain amount on grandfather and known performance of vessels.

Q10 O.K. And do you know what the stability index is for a category 1 race of this type, with an IMS rating?

A 115 degrees.

Q11 O.K. And is there another, an allowance made and do you, for that grandfathering effect and what, what the angle of stability is on that?

A I believe that the grandfathering limit is 110 degrees stability index.

Q12 And are you aware that these grandfathering and stability indexes are strictly adhered to?

A Well, to my knowledge there's, there might be a little bit of a deviation between boats, but basically they're, they'd, I'd imagine that they'd run fairly true from vessel to vessel.

Q13 O.K. I show you a document that has been, it's a letter dated the 19th of October, '98, it, it appears on the right-hand side to have your name and address and then also signed by yourself. Is that your document that you forwarded to a particular place?

A Yes, David, that, that's a document that I did forward.

Q14 Can you explain what the document is about?

A Well, part of the criteria for being accepted under the performance handicap is that you show some sort of evidence that your boat meets the stability index, and this document I believe goes some way in showing that.

Q15 O.K. Highlighted in yellow apart from your vessel's name, Liquid Assets, two, are figures, 117.7 from a vessel and another 120.0. Can you explain what those figures are?

A They're stability index figures of identical boats as mine, and it just, some anecdotal evidence that I gathered to put forward to show that the boats well and truly meet the stability index.

Q16 O.K. Who did you forward this document to?

A It was forwarded to the sailing office at the cruising yacht club.

Q17 That's the Cruising Yacht Club of Australia?

A That's right.

Q18 That's in Rushcutters Bay?

A That's right.

Q19 O.K. Now, I'll show you a notice, a document labelled, "Notice of race 1998, Telstra Sydney to Hobart, Telstra Cup. Cruising Yacht Club of Australia". Do you agree that that's the document I'm showing you now?

A Yes, it is.

Q20 And I'll now draw your attention to section 615, ..... in highlighted, for PHS category yachts. And

I'll also now draw your attention to 616C - - -

A M'mm.

Q20 - - - where it says, "Other information which clearly demonstrates that the", yachts, or, correction, "that the yacht meets requirement of the rule. The race committee will be the sole judge as to the acceptability of such information".

A Yes, that's correct.

Q21 O.K. So, you told me earlier that your vessel was admitted under the PHS certification?

A That's right, David.

Q22 O.K. Now, was your vessel ever measured under the IMS rating?

A No, this vessel wasn't, but the base had been built and designed since 1976 and I personally felt there was enough anecdotal evidence just by the fact that the base had met the stability criteria for the last 20 years. My previous boat was a Dunkerson 34, which I had ....., it was an identical hull and that had a stability index of 120 degrees.

Q23 Do you have any documentation that, to support that at all?

A I'm sure that the proper certificates would be available through the Cruising Yacht Club of Australia, because the boat was IMS rated, there must be some copy of that. I might have, but I can't locate them at this stage.

Q24 O.K. And what supporting information did you have, or

do you have that will suggest that your vessel would reach a stability index of not less than 110 degrees?

A Well, as I indicated my previous vessel was an identical boat which was measured and it had a stability index of 120. I've had problems with two other Dunkerson 34s, Stargazar and Tradition, and they both had stability indexes of well over 115 degrees, 170.7, and I think the other one was 123 degrees.

Q25 O.K. And do you have that documentation?

A I have copies of it here, yes.

Q26 O.K. Could I, we have that information or perhaps a photocopy and then later return it to you?

A Yes, by all means, David. This is information that's been formatted off IMS certificates, I can't locate the copies of the IMS certificates, but I'm sure you'd be able to locate copies because the boats had been measured at some stage.

Q27 O.K. So, as far as you're concerned, and what you'd be more than happy with, was that the club accepted your application form on the information that you supplied, and the letter to the CYCA where it, it mentions the rating of two other vessels - - -

A No, no, that wasn't adequate initially, they, they did discuss, they wanted some sort of written information from the designer who is now in Thailand, I phoned the designer, builder and he confirmed that the boat was designed to have no trouble meeting that criteria. Wasn't practical or convenient for him to forward a

letter but I do believe someone at the same office did speak to John Dunkerson and confirmed that.

Q28 O.K. And you don't know the result of that conversation, or in fact whether that conversation in fact did go ahead between Dunkerson and the CYCA?

A When I was informed from, at this stage Mark Aspinall was working through this for me, 'cause he had a ..... available, Mark indicated to me that they had spoken to him but no, I don't have any personal knowledge of the conversation.

Q29 O.K. So as far as you're aware, you're aware that the acceptability of your vessel to actually take part in the race was as a result of conversation with the builder and sufficient information that you forwarded up to the CYCA allowing your vessel to compete in the race?

A That's correct, David.

Q30 Constable Gray, have you got any questions?

DETECTIVE SENIOR CONSTABLE GRAY

Q31 Yeah, you mentioned before that the Dunkerson's 34s I believe?

A Yes.

Q32 May have a light mast, or a section of the mast that was light?

A No, what I was inferring, the boats are a very strong sea-worthy boat. They are known for their sea characteristics, we were talking about varying stability index, which would vary a few degrees, a

heavier section could reduce the stability index somewhat, but, you know, I'm not a naval architect but I don't believe that would be significant enough to drop it below the 115 degrees.

Q33 O.K. So is it the case that Liquid Asset did have a heavier mast section?

A Yes, the boat has a heavy duty rig.

Q34 O.K. And the previous two Dunkersons, did you own those?

A I owned, my previous boat was a Dunkerson 34, yes.

Q35 O.K. What was the name of that vessel?

A Take 5.

Q36 O.K. And the other - - -

A Which was, which was sailed under Puss in Boots in the Sydney to Hobart, 'cause you might have trouble finding that.

Q37 O.K. Now, so far as the other boat you used in your letter - - -

A Mm.

Q37 - - - what was the name of that boat, do you recall?

A Stargazer. There were two others, there was Take 5, which is Puss in Boots, Stargazer which I had a copy of the certificate, and there was also Tradition, another Dunkerson, I had, I didn't use that as an example but I had anecdotal evidence there.

Q38 O.K.

A I'm sure there are significant boats of that type that, I'd be surprised if you found one that didn't meet the



criteria actually.

Q39 If, when you initially sent your application form in to participate in the race. Who contacted you about the stability situation of your entry?

A I don't have a copy of the fax but it was, someone in the sailing office, yeah, I think Mark Aspinall, Mark Aspinall might recall, because Mark did carry on conversations on my behalf.

Q40 Right.

A Because it was during working hours and I was unavailable.

Q41 So it's the case that after your entry form was, was submitted somebody from the sailing club did in fact make contact with someone - - -

A Absolutely.

Q41 - - - in relation to that situation?

A Yes.

Q42 O.K. Now, Mark Aspinall, is it, Aspinall or -?

A Yes, Mark Aspinall's my navigator.

Q43 O.K. He's in Hobart, is he?

A He's my navigator for the race. Yes, I believe ..... yesterday.

Q44 O.K. Now, do you recall, seeing you weren't privy to that conversation you were then asked to prepare the necessary paperwork to submit to the sailing club.

A That's correct.

Q45 That's correct. O.K. Now, how would you have felt if you'd been refused entry on that letter alone?

A Well, quite frankly, as I said, since the boats have been racing since 1976 successfully and safely I would have felt that I'd been discriminated against based on, on evidence available.

Q46 Right.

A And the boat is not a one off thing, .....

Q47 Yeah.

A If anything I've gone out of the way to make sure, having owned one previously, that this boat is strong and safe, and, you know, that to me is always a criteria, that's why I sail this type of vessel.

Q48 Yeah.

A They're not the fastest boat in the world but they usually get you there.

Q49 Yeah. Would you have, would you have made application for appeal of some, some kind, had you been refused?

A Absolutely. I would have taken it further.

Q50 Would you have gone to the extent of having it IMS measured?

A I would have considered my options, I don't know whether the timing facility available to me would have allowed that.

Q51 Right.

A Because of the entry goes in the time organising the boat to be measured and getting the entries in, I think actually that we mightn't have been able to meet that criteria.

Q52 Nothing else.

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Q53 O.K. With the, Maurice, with the entry form and the entry date of, the, the finish cut off date - - -

A Yeah.

Q53 - - - you had all your paperwork in as far as that was concerned prior to that date?

A Yes, .....

Q54 And the letters that you sent on the 19th of October and then any other further documentation, was that accepted prior to the cut off date?

A The entry was in before the 22nd, and it was accepted before the entry closure date.

Q55 And then when they queried the, the stability index of the vessel, was that all queried after the cut off date?

A No, I believe that was resolved before the cut off date.

Q56 O.K. You mentioned earlier, again about the section of your, the section of your, your vessel, which being the mast section is a lot heavier. And for the layman where would that affect the stability index?

A Well, again, I'm not a naval architect but the riding forces in the boat are centred at the bottom of the boat in the keel, the more weight we have aloft reduces, there's a formula but I can't recall it, reduces the stability of the boat. It's, not only has to do with the weight, but where the weight's located in the mast, you know, this is my, I do have a heavy

-  
section in the boat, but I don't believe it's, it's  
overly heavy in that, that, you know, I think most of  
the weight's probably in the middle and halfway down,  
so, in the, with my own experience with the boats it  
certainly doesn't feel any less stiff than my previous  
boat, in fact ..... boat.

Q57 Keeping all that in mind and on the information that  
you supplied to the club under a PHS rating, which is  
performance, performance ratings, is it the case that  
a yacht could be altered either prior to or after the,  
the acceptance of a yacht to alter it's performance and  
it's not necessary to inform the club of that  
alteration?

A I don't, I don't quite follow that, I, with the  
displacement type boats, there isn't a lot you can do  
to, you're not ..... hulls to improve the  
performance, you know, they have a limited hull speed  
and really putting a little bit of weight out, you  
know, or doing those sorts of things to the boat,  
really don't increase the performance all that much, so  
-

Q58 Mm.

A Whilst there might be some things you can do, I don't  
know what they are.

Q59 Yeah. Well, basically what I'm saying is that if you  
had an old IMS certificate - - -

A M'mm.

Q59 - - - say of five years ago.

A Right.

Q60 And that boat entered a race under that IMS ruling, the certificate was not valid because of the time that had elapsed - - -

A Right.

Q60 - - - it may have read 115 degrees, which was the allowable stability index.

A Yes.

Q61 And in that time weight may have been taken out of the vessel for some particular reason.

A Right. To, to my knowledge the only way you can, the basic way you can reduce the stability is by pulling the weight out of the keel, now, that really isn't gonna help the performance of a boat of that type, I don't believe. And, you know, really, I can't see anyone doing that to a displacement boat, because they're, they have a fixed speed and, they don't sail well if you pull too much weight out of them because they're designed to race and sail at their water line, designed water line. I think evidence in the past has shown that boats that have been over light and are flat above the water line, just don't perform.

Q62 Well, say for example, the, let's move right away from there, ..... keel, a weight taken out of the keel, but heavier sails can be put on the vessel?

A Yes, yes.

Q63 They would all affect, would it not be right to say that they would all affect the stability index of the

boat?

A Heavier sails, if a boat has obtained heavier sails than what it's actually measured with, it could, yes, quite feasibly could affect stability rating. But what's happened in, the reality of the situation is that with modern materials it has gone the other way. We use lighter sails now, I certainly use lighter sails now than we used in the old boat. And, because of the weight factor and the way they cut them. So that the performance is improved ..... and the stability's increased. I can't see anyone wanting to race would want to increase the weight of their sail, it just doesn't make any sense.

Q64 Mm.

A But, yeah, I do take your point, 'cause there are some things you can do that will affect it, but, my point would be that if you have a look at enough of these boats that it's only marginal, they're only a few degrees between them and I don't feel that there would be such a great change unless you really did some, made some structural modifications.

Q65 All right. O.K.

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Q66 Can I just ask one thing. You said a second ago that from your experience, from your other two boats - - -

A M'mm.

Q66 - - - this boat you have now, which was actually in the race was - - -

A Yes.

Q66 - - - was just a .....?

A Yes.

Q67 If not more stiff than the other two. You based that on experience as opposed to technical knowledge?

A Yes.

Q68 Is that correct?

A I base it on my previous experience with the design. I've sailed, I've owned two of these boats and I've sailed on two very similar boats. But I also base it, part of the experience ..... goes into the way the boat responds to certain wind conditions. And I know, you know, I've been, with this boat, probably been through about 12 gales in three years and, and one storm. And I know through my own experience that the boat stands up to that particularly well. And that usually is an indication.

Q69 O.K.

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Q70 All right. Maurice, is there anything you'd like to add to the record of interview that, on anything that you'd like to say about the race or what happened during the race, your experience?

A All I can say is that in relation to the briefing I felt that the information, both the information received relating to the forecast was both inadequate and inaccurate. And that is one complaint I would have in relation to the briefing. I personally feel that,

you know, we do as much as we can do, I think everyone who goes to sea knows what the ocean can do, or should know, there's no excuse for not knowing what the ocean can do. And we prepare as well as we can. You know, my belief is that the, the race has a pretty good safety record considering you sail through one of the most treacherous pieces of water in the world. And in relation to safety, I think personally they're adequate, I would like to see a couple of things done differently. I know all my guys always carry strobe lights in case they are somehow dislodged from the boats. We, I would also like to see flotation devices built into the harnesses, as compulsory. But, there aren't a lot ....., I spent two and a half years getting this boat ready for this race, meeting safety standards, and I think they're adequate. I think they're, like every aspect of life, there are areas for improvement, but I certainly feel that we're on the right track. My personal belief is that it's not so much a safety as a, as a design issue with the boats.

Q71 Do you, do you or anyone else in your, in your crew ever discharged a flare?

A Have any of us discharged a flare. Yes, I've, on several occasions I've discharged flares.

Q72 Have any of you ever deployed a life raft before?

A No, I haven't, I believe that two of my other crew have.

Q73 All right. Are you aware of a safety demonstration



prior to the race held at the CYCA?

A I was, unfortunately weren't able to get there in time, it was a little bit earlier than I would have liked, I would have liked to have seen the raft demonstration more closer to the date, so more people could have benefited from that. I think that would have been a big bonus.

Q74 Can you see some benefit in compulsory training for those particular situations, i.e. flares and, and deployment of life rafts?

A Yes, I think that's, you know, from the skipper's point of view, I think that you try to gain as much knowledge and information as you can because, you know, we never forget that we're responsible for the people on our boats. And whilst you can gain a lot of information and experience I think the training aspect ..... I've done several ..... courses, none of them involved life rafts, but, yes, I'd be for that, absolutely.

Q75 O.K. O.K. The time on my watch is now 4.36. This interview is now completed.

INTERVIEW CONCLUDED