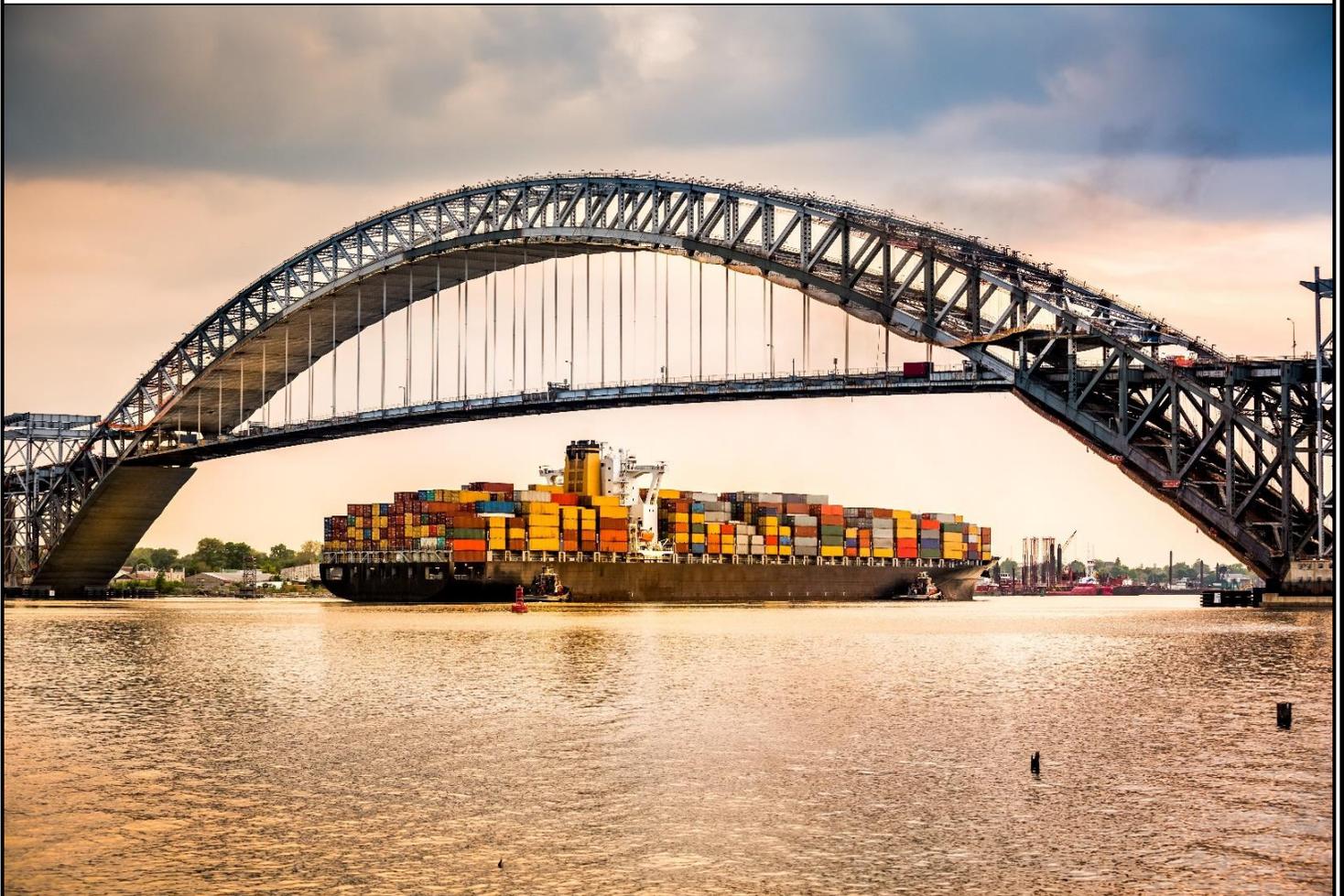


**WATERFRONT COMMISSION  
OF NEW YORK HARBOR  
ANNUAL REPORT**

**2013-2014**





To the Honorable Andrew Cuomo, Governor  
and the Legislature of the State of New York



To the Honorable Chris Christie, Governor  
and the Legislature of the State of New Jersey

## MESSAGE FROM THE EXECUTIVE DIRECTOR

“My father worked as a longshoreman, so I grew up knowing the dangers of the job. I can’t imagine how those risks are multiplied when people show up to work high on narcotics. But that is exactly what happened here, longshoremen abusing painkillers prescribed to them by a pill peddling doctor and a crooked chiropractor who conspired to rip off millions from insurance companies in a complex fraud scam. The number of oxycodone pills prescribed by the doctor in this case is a staggering 1,775,703 over four years, enough to cover 7 miles if you placed pill in front of pill . . . The one sure result of Operation Shore Thing is that dangerous amounts of oxycodone are no longer illegally flowing through Staten Island . . .”

- Richmond County District Attorney Daniel M. Donovan, Jr., announcing arrests on December 18, 2013 in the Waterfront Commission’s joint investigation, “Operation Shore Thing”

Three years ago, I was summoned to testify at a public hearing before the New Jersey Senate Economic Growth Committee regarding the need for the Waterfront Commission, and its impact on the competitiveness of the Port of New York-New Jersey. Representatives of the International Longshoremen’s Association, AFL-CIO (ILA) and the New York Shipping Association, Inc. (NYSA) testified that the Commission was one of the biggest obstacles to economic growth in the Port. Thomas Leonardis, who was then the President of ILA Local 1235, was one of those who testified. Brandishing a longshoreman’s bailing hook, Mr. Leonardis dramatically proclaimed that the Commission was “still living in 1953,” and was as obsolete as the hook, interested only in perpetuating outdated stereotypes about organized crime in the Port. That day, I testified that organized crime is still a major problem in the Port and indeed, there would be more indictments. Less than four months later, Mr. Leonardis was arrested and indicted for conspiracy and multiple counts of extortion on behalf of the Genovese crime family.

**This year, Mr. Leonardis and various other ILA union officials and members pled guilty to extortion conspiracy of their own rank and file members.** During their guilty pleas, they admitted to collecting tribute payments – based on actual and threatened force, violence and fear – in a 35-year scheme on behalf of the Genovese crime family. Without the Waterfront Commission’s oversight, organized crime figures repeatedly identified in this Report would be free to directly control and operate at the critical points of interstate and international shipping. The Commission’s presence has a strong deterrent effect, and substantially disincentives their placement directly in the Port, because attempts to do so expose those individuals, and their criminal source of employment, to law enforcement investigation. Removing this oversight, primarily through false claims of labor inefficiency, has long been a goal of organized crime.

As we reported in prior years, a change in culture will not come easily to an industry with a long and intractable history of corruption and racketeering. This Report extensively documents the corruption and entrenched organized crime influence that continues to thrive in the Port. Over the past year, the Commission and its law enforcement partners have unrelentingly prosecuted ILA officials and members for a variety of crimes and criminal enterprises, ranging from extortion, embezzlement of union funds, and even the protection of illegal oxycodone distribution in order to assure their own illegal supply. A notable example is the arrest of 9 individuals – including 5 longshoremen – as part of our joint investigation, “Operation Shore Thing,” for insurance fraud, the fraudulent dispensing of prescriptions for controlled substances, sale and possession of oxycodone and illegal gambling. This was a major takedown of a drug ring that was selling oxycodone to longshore workers who were operating heavy machinery on the docks. **Troublingly, the ILA referred one of those individuals to be prequalified as a dockworker the week after his arrest and indictment.**

It was also an eventful, yet tumultuous, year on the hiring front. On September 9, 2013, the NYSA-ILA Contract Board requested that the Commission approve the addition of 682 new longshore workers and checkers to the workforce. Before doing so, pursuant to the Commission’s well-established statutory authority, we asked the NYSA and ILA to address serious deficiencies in their proposed deep-sea hiring plan in order to ensure that employers are active, accountable participants in the hiring process. Given that the union, not the employers, has maintained complete control of hiring for the past sixty years, and in light of the continued corruption and lack of diversity among the membership of registered longshore workers in the various ILA locals, this was absolutely critical.

In November, the Commission met with the NYSA, ILA and other interested industry representatives to address the continued deficiencies in their proposed deep-sea hiring plan, and to develop a procedural mechanism to ensure that the plan is fairly administered. We also sought a fair hiring plan for maintenance and repair workers which, for the first time in history, would give a diverse group of men and women – unencumbered by organized crime influence – the once-denied opportunity to work in the Port. Under the current hiring framework for maintenance and repair workers, the ILA has the exclusive right to recruit, select and refer all prospective workers to Port employers. With rare exceptions, the employers can only hire those referred to them by the union. Employers have candidly admitted that they do not know how most of their employees were selected by the union.

The Commission’s efforts were not well-received. **Rather than work together with us to ensure that individuals were fairly recruited, referred, selected, trained and put to work in the Port as expeditiously as possible, the NYSA instead criticized the Commission for “moving the goalposts.”** On November 22, 2013, the ILA, NYSA and Metropolitan Marine Maintenance Contractors Association, Inc. (MMMCA), filed a federal lawsuit challenging our statutory authority to require fair and nondiscriminatory hiring in the Port, alleging that the Commission has “gone off the rails to pursue a future for itself that is well outside the purposes and goals that led to its creation.” Even though they acknowledge that the Waterfront Commission Compact created the Commission to eliminate corrupt hiring practices on the waterfront, they contend that this does not include the purposeful exclusion of racial and ethnic minorities and women. **The ILA, NYSA and MMMCA further allege that the Commission’s fair hiring requirements unlawfully interfere with their collective bargaining agreements, and that they should be allowed unfettered discretion to select the employees they want, regardless of the discriminatory impact.** Not only are they challenging the Commission’s recent diversity and inclusion initiatives, but they also seek to completely eradicate a critical provision of the Compact, “Section 5-p,” which empowers the Commission to safeguard fair and nondiscriminatory hiring in the Port.

That lawsuit, which unnecessarily delayed the hiring of much needed port workers, is currently pending.

Undeterred, on December 3, 2013, the Commission issued Determination 35, which opened the deep sea register for the requested new workers. We are closely monitoring the industry's referral and hiring practices, and have taken appropriate measures to ensure compliance. As detailed in this Report, even though the NYSA-ILA's new hiring plan calls for 51% of the new hires to be military veterans, veterans have consistently lagged behind ILA and NYSA referrals this year. The Commission continues to advocate on their behalf. In the interim, we have conducted well over a thousand background checks for candidates referred by the industry, and issued 303 registrations (279 longshore and 24 checkers).

In screening prospective workers, we are employing sophisticated intelligence techniques not only to detect prior criminality, but also to root out associations between applicants and organized crime figures. The overwhelming number of union referrals with organized crime ties is deeply concerning, and again underscores the importance of fair and transparent recruitment, referral and hiring. When those associations undermine the purpose of the Compact, we have barred those individuals from entering the Port workforce. This year, we also administratively removed several individuals from the workforce for such associations.

In our ongoing efforts to combat corruption and ensure Port efficiency, we are continuing to expose special compensation packages which have been doled out to certain workers, and to quantify their overall economic impact. As the Commission's recent public hearings revealed, the industry's hiring, training and promotion practices have led to no/low-work, no/low-show positions generally characterized by outsized salaries provided to a privileged class. And further, that those with such positions are overwhelmingly given to white males connected to organized crime figures or union leadership. The Commission has pledged to aid any company in its efforts to fight the work practices and extortive behavior that would be unacceptable to any legitimate business.

The revitalized Waterfront Commission is employing innovative techniques and strategic approaches in carrying its core mission to investigate, deter, combat and remedy criminal activity and influence in the Port and to ensure fair hiring and employment practices. The Commission is effectively performing its designated responsibilities under the Compact between the States of New York and New Jersey, with particular concern for the improvement of the overall economy and well-being of the Port district. This Report illustrates that public necessity exists for the continued registration of longshore workers, the continued licensing of those occupations and types of employment required to be licensed under the Compact, and the continued public operation of employment information centers.

I am pleased to present to you the 2013-2014 Annual Report of the Waterfront Commission of New York Harbor.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. Arsenault', with a large, sweeping flourish at the end.

Walter M. Arsenault  
Executive Director

# ANNUAL REPORT

## FISCAL YEAR 2013-2014



**WATERFRONT COMMISSION OF NEW YORK HARBOR**  
AN INSTRUMENTALITY OF THE STATES OF NEW YORK AND NEW JERSEY

## THE ENACTMENT OF THE BI-STATE WATERFRONT COMMISSION COMPACT

In 1949, Malcolm Johnson's twenty-four part series of articles for the New York Sun titled, "Crime on the Waterfront" won the Pulitzer Prize for Local Reporting. Those articles exposed the culture of corruption, extortion, racketeering and organized crime in the Port of New York-New Jersey and led directly to the creation of the Waterfront Commission of New York Harbor. The 1954 film, "On the Waterfront," based on these articles, depicted how a surplus of available labor provided the mobbed-up union leadership with the ability to control its membership. One of the movie's most memorable scenes portrays the morning "shape-up," in which hordes of dockworkers plead with the corrupt hiring boss for a job, and scramble to grab a token that would allow them to work. Only those members of the local who supported the corrupt union leaders and have agreed to "kick back" a portion of their wages are guaranteed a spot in one of the gangs.

Other conditions on the piers were just as bleak. With the blessing of organized crime, loansharks lurked on the docks, all too willing to "assist" the underpaid longshoreman in feeding his family or supporting his vices. The inability to repay these usurious loans resulted in a strengthening of the mob's grip on the piers and often in violent consequences for the longshoreman-borrower. Mob sanctioned bookmaking on the docks increased business for the loansharks. Cargo theft was rampant, and pier guards were unwilling or unable to contain it. Parasitic "public loaders" coerced truckers to hire them to load or unload trucks even though their services were not needed or desired. Stevedoring companies were forced to hire no-show workers and pay gratuities to union officials, or suffer wildcat strikes that could cripple their business.

This pervasive corruption on the waterfront in the Port was documented in the early 1950's in public hearings held by the New York State Crime Commission with the assistance of the New Jersey Law Enforcement Council. In testifying in favor of a bi-state Waterfront Commission Compact, New Jersey's Governor Alfred E. Driscoll described it as a "concerted drive against organized crime in the North Jersey-New York metropolitan area," and stated:

It was apparent that we were dealing with a single shipping industry operating in a single harbor bisected artificially by the accident of a historical boundary line between the two States. It was plain from the beginning that the only real solution would depend upon the creation of a single bistate agency to deal with this indivisible problem. . . . The present program which has been placed before the Congress for consent, under the compact clause of the Federal Constitution, is the product of the most cordial cooperation between the two States of New York and New Jersey. While roughly 70 percent of the longshoremen are employed along the waterfronts of the State of New York, the compact views the program as the equal responsibility of both States. It recognizes that organized crime does not respect State boundaries or economic statistics. . .

Governor Driscoll warned that the failure of Congress to act would:

. . . compel the two States to try to do individually what they can best do collectively and to establish two separate agencies, but that will never be a complete answer to this interstate problem. Ships dock in New Jersey, take on part of cargo, and then proceed to New York to take on additional cargo. Men who may work in New York on one day conceivably may work in New Jersey the next day. It is that area; that area is in fact a great metropolitan area and the regulations for the area ought to be the same irrespective of the fact that a State boundary line happens to bisect the harbor.

In August 1953, the States of New York and New Jersey, with the approval of the United States Congress and the President of the United States, enacted the bi-state Compact creating the Waterfront Commission of New York Harbor.

The overriding purpose of the Compact was to ensure that employers broke free from the iron-clad grip of the ILA, and took back their right to select for themselves those individuals that they wanted to hire on the waterfront. It shows that the shape-up method of hiring was repeatedly denounced as a “sham,” and the root of the evil and corrupt hiring practices that pervaded the waterfront. Under that system, employers did not actually select individuals they hired and paid - - they understood that when they needed labor, they had to go to the ILA for it. The shape-up was specifically shown to facilitate both criminal activity and racial discrimination in the Port. It was unequivocally condemned by those who advocated for the Compact’s approval, and who believed it was “highly desirable” to attain the elimination of racial discrimination.

## **THE PORT TODAY**

While the evils of the public loading racket have long since been eliminated, many of the other ills described above still exist, to some degree, on today’s waterfront. Over sixty years later, the ILA still exerts control over hiring in the Port. But now, instead of openly doing so through the antiquated shape-up system where an ILA-controlled dock boss selected men standing around him at the piers, the shape-up is memorialized in collectively bargained provisions that require employers to accept those that are sent to them by the ILA when they are in need of labor.

Individuals who lost their licenses or registrations through criminal convictions or misconduct still work on the waterfront in “non-covered” positions allowing them to continue receiving payment and exerting control. The Commission has been diligent in identifying these individuals and removing several of them. The new stevedoring applications will expedite the removal of such undesirables. Organized crime still exacts a tax through overpriced or non-existent services in the cleaning, trash removal, snow removal or repair industries forced upon companies. The Commission has a number of investigations currently active in this area.

Loan sharks and bookmakers, with the approval of organized crime, continue to prey on the workforce. The Commission, along with its law enforcement partners, has made significant arrests in both areas and has a number of active investigations as well. Cargo theft, often more sophisticated than in the past, is still a real problem. Workers’ compensation fraud, narcotics importation, and the illegal use of drugs, especially prescription medications, have been added to the enforcement picture.

While individual prosecutions and administrative and regulatory actions are required and necessary, these alone are insufficient to change a historically and presently corrupt industry. The Waterfront Commission is hopeful that the new collective bargaining agreements are a sign that the industry is ready to attempt new, innovative approaches that will reduce the opportunities for criminal activity while strengthening the economic viability and competitiveness of the Port.

## MISSION STATEMENT

The statutory mandate of the Waterfront Commission of New York Harbor is to investigate, deter, combat and remedy criminal activity and influence in the Port of New York-New Jersey, and to ensure fair hiring and employment practices, so that the Port and region can grow and prosper.

## COMMISSIONERS

The Commission is headed by a New Jersey and a New York Commissioner, appointed by the Governors of their respective states. The Commissioners bring with them extensive experience in criminal investigations and prosecutions, and an expansive knowledge of organized crime and corruption. After years of divisiveness, the Commissioners are aligned in their deep commitment to the Commission's objectives.



### **New York Commissioner Ronald Goldstock**

Ronald Goldstock served for thirteen years as Director of the New York State Organized Crime Task Force (OCTF), where he designed and developed the Independent Private-Sector Inspector General (IPSIG) program. Under his leadership, OCTF became a model agency for the control of organized and white collar crime, playing critical roles in the Cosa Nostra Commission, Lucchese and Gambino Family prosecutions, Cali Cartel drug and money laundering cases, and producing highly acclaimed analytic reports on corruption and racketeering in the construction and carting industries. In addition to providing IPSIG, expert witness, and investigative services to corporate, union and individual clients, he is also on the faculties of the Cornell, Columbia and New York University Law Schools. Mr. Goldstock, a graduate of Cornell University (A.B. 1966) and Harvard Law School (J.D. 1969), served as Inspector General of the U.S. Department of Labor, Director of the Cornell Institute on Organized Crime, and Chief of the Rackets Bureau in the New York County District Attorney's office. He also served as the advisor to several Secretaries of State for Northern Ireland on matters relating to para-military groups and international organized crime. Mr. Goldstock is a Past Chair and current Finance Officer of the ABA Criminal Justice Section. He was Past Co-chair of the CJS Special ABA Ethics 2000 Committee, Chair of the ABA Criminal Justice Standards Committee and Past Chair of the Investigative Function of the Prosecutor Task Force. He is a member of the Board of Directors of the New York Convention ("Javits") Center Operating Corporation and was a member of the Advisory Board of Project Rise of the International Brotherhood of Teamsters. Mr. Goldstock serves as a referee for the NYS Commission on Judicial Conduct, and has lectured, consulted, written, and testified as an expert witness on subjects related to organized and white-collar crime, corruption, RICO, the inspector general program, the prosecution function, labor racketeering, money laundering and compliance programs. He is the author of numerous articles related to organized crime and corruption, including, "On the Waterfront: RICO and Labor Racketeering."



### **New Jersey Commissioner Jan Gilhooly<sup>1</sup>**

Jan Gilhooly is a 29-year veteran of the U.S. Secret Service. During his career, he was assigned to the NY Field Office and the Presidential Protective and Inspection Divisions. He was also Special Agent in Charge of the NJ Field Office and supervised “Operation Firewall,” an international undercover organized crime cyber-investigation. Mr. Gilhooly worked in 55 countries and received 20 awards for performance and special acts. He served with the Dept. of Justice, and was also Inspector in Charge of U.N. 50, Inspector assigned to the White House Security Review, and the Law Enforcement Executive in Charge of OPSAIL 2000. In 2002, he supervised protective activities at Superbowl XXXVI and the Winter Olympics.

As the NJ DHS Protective Security Advisor, Mr. Gilhooly was the liaison to the DHS in Washington, DC and those NJ entities responsible for securing the state’s critical infrastructure. He is President and CEO of Archangel RTR, LLC, a consulting firm that provides risk/threat reduction services to clients, including Fortune 100 companies and foreign governments. In that capacity, he has led intelligence survey teams in the Middle East for US Intelligence agencies. Mr. Gilhooly was a security consultant to the FIFA games and the Site Coordinator at the 2012 Republican National Convention. He has lectured at police academies and academic institutions on stalking behavior, prediction of dangerousness, protective security measures and building law enforcement partnerships. He is a recognized expert in the areas of risk and threat assessment, major event security and interpretation of intelligence information, and is designated by the U.S. State Department as a subject matter expert in anti-terrorism matters. He has served on the Adjunct Faculty of Seton Hall University and has developed the “After the Badge” course to transition law enforcement executives to private industry.



### **New Jersey Commissioner Michael Murphy**

Michael Murphy is the former Prosecutor of Morris County, where he began the Bias Crimes Unit and structured the county’s first Human Relations Commission. In 1992, at the request of then U.S. Attorney Michael Chertoff, Mr. Murphy was deputized as a Special Assistant U.S. Attorney and successfully prosecuted Arthur and Irene Seale for the highly publicized kidnapping and murder of Exxon executive Sidney Reso. In 1994, working closely with the U.S. Department of State and the Jordanian government, he secured the conviction of Mohammed Abequa, a Morris County resident who murdered his wife, kidnapped his children, and fled to his native Jordan to escape justice. Mr. Murphy has served as President of the New Jersey Prosecutors Association, and

has chaired the Association’s Legislative Committee. He is the past Chairman of the Garden State Preservation Trust, and was both the Chairman and a member of the Board of Trustees of the Public Policy Center of New Jersey.

A graduate of Georgetown University and Seton Hall University School of Law with nearly forty years of practice, Mr. Murphy has served as a municipal attorney, municipal prosecutor, county prosecutor and public defender. In private practice, he specialized in the areas of land use, corporate litigation, products liability and white collar defense. He also served in the United States Merchant Marine, and through his service as a mariner, he developed a firsthand appreciation for the critical role the waterfront plays in the economy of the State of New Jersey, the State of New York, and beyond. Mr. Murphy has been involved in politics since the first gubernatorial campaign of his stepfather, two-term New Jersey Governor and Supreme Court Chief Justice Richard J. Hughes, and was candidate for Governor of New Jersey in 1997. Currently a Visiting Associate at the Eagleton Institute of Politics, Mr. Murphy has been called upon to appear as a guest commentator on Hardball with Chris Matthews, Lou Dobbs Tonight, CNBC, MSNBC, My 9, Fox, TruTV, NJN, New 12 NJ and other cable and radio outlets.

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<sup>1</sup> Commissioner Gilhooly served the Commission with distinction from February 2011 to June 2014. Though he is no longer Commissioner at the time of this Report’s release and did not participate in its preparation, he is directly responsible for, and played an integral role in, many of the accomplishments described herein.

## **OFFICERS**

### **Executive Director Walter M. Arsenault**

Walter M. Arsenault was appointed Executive Director on September 10, 2008. He is the grandson of a longshoreman and the son of a U.S. Customs Inspector and Supervisor who spent his career on the piers of New Jersey. Mr. Arsenault is a graduate of the Johns Hopkins University and Rutgers School of Law. He served as an Assistant Prosecutor in Bergen County, New Jersey from 1978 to 1984, where he was Chief of the Trial and Grand Jury Sections. Mr. Arsenault joined the New York County District Attorney's Office in 1984, where he served until 2003. He was the Chief of the Homicide Investigation Unit for most of his career there, and specialized in the investigation and prosecution of violent drug gangs. Mr. Arsenault also served as a Senior Trial Counsel in Trial Bureau 70 and investigated and prosecuted international narcotics smuggling and trafficking as a Senior Investigative Counsel in the Office of the Special Narcotics Prosecutor. In 2003, Mr. Arsenault was appointed First Deputy Commissioner of the New York City Department of Investigation. He oversaw that office's daily operations as well as leading high profile political corruption and organized crime investigations. He retired from city service in February 2008.

### **General Counsel Phoebe S. Sorial**

Phoebe S. Sorial was appointed General Counsel on May 10, 2010. Ms. Sorial is the chief legal advisor for the Commission. She is a graduate of Rutgers University and Rutgers School of Law, where she was the Managing Business Editor of the Computer and Technology Law Journal. In 2000, she served as a law clerk to the Honorable Rudy B. Coleman, retired Judge of the Appellate Division of the Superior Court of New Jersey, before joining a prominent New Jersey law firm. While in private practice, Ms. Sorial represented corporate clients, state agencies and public entities in complex litigation at local, national and international levels. She also counseled clients regarding internal matters, including securities compliance, employment practices and other corporate protocols. In 2008, Ms. Sorial joined a Florida government relations firm, where she advised of legal implications of firm strategies and focused on legislative advocacy, alliance building and crisis communications. Ms. Sorial is admitted to practice law in New York, New Jersey and Florida, as well as the U.S. District Court for the District of New Jersey, the Southern District of New York, the Middle and Southern Districts of Florida, and the U.S. Court of Appeals for the Second and Third Circuits.

## THE COMMISSION'S DIVISIONS

Responsibility for the everyday operations of the Commission lies with the Executive Director, who supervises the Commission's six divisions.

**Executive:** The Executive Division is comprised of the Executive Director, General Counsel, Commission Secretary, Comptroller and a Human Resources administrator. This Division's responsibilities include: assisting the Commissioners in the formulation and execution of policy; proposing legislation, regulations and resolutions; preparation of annual and special reports; providing legal advice to the Commissioners; conducting agency litigation and overseeing outside counsel when required; initiation of investigations; ordering hearings; media, public and government relations; conducting labor relations with agency unions; formulation of the annual budget; keeping of financial records and administration of group insurance plans; and maintaining the seal and official records of the Commission.

**Law, Licensing and Employment Information Centers:** This Division is headed by Director Jeffrey R. Schoen, with a Deputy Director of Licensing and E.I.C, John G. Casey. The Division's six assistant counsel conduct investigations into waterfront practices throughout the Port of New York-New Jersey. In addition to investigating applicants for licensing and registration to determine if they meet the legal standards set forth in the Waterfront Commission Act, these attorneys also investigate currently licensed persons and companies to ascertain if they have engaged in criminal activity in the Port and/or violations of the Act. They liaison and work in tandem with outside law enforcement and prosecutorial agencies to assist in developing criminal cases against targets. Administrative hearings are conducted by counsel to determine whether applications should be granted or denied and whether registrations and licenses should be suspended or revoked. In addition, they assist in responding to Article 78 and other appellate proceedings.

Licensing and Employment Information Centers in Newark, New Jersey and New York, New York process applications filed by individuals and firms required to be licensed or registered. The Licensing Division supervises the Telephonic Hiring Employment Information Center in Edison, New Jersey which oversees the hiring of longshore workers, checkers and pier guards in the port. The Licensing Division also makes employment information available to these dockworkers and administers the "decasualization program" which, pursuant to statute, removes from the longshore register those dock employees who, without good cause, fail to work or apply for work on a regular basis.

Due to the destruction of the Commission's New Jersey Field Office by Hurricane Sandy in October 2012, and after carefully considering the costs of flood remediation and reconstruction, the Commission leased new office space located at 1201 Corbin Street, Port Elizabeth, for its Licensing and Police personnel. Members of the Licensing Division moved into the new office in May 2014, and Police Division members began occupying the new space the following month.

**Police:** This Division is headed by Chief John Hennelly and presently staffed by three captains, five sergeants, twenty-four detectives and four civilian employees. All Commission police officers possess full police powers in both New York and New Jersey. The Police Division maintains field offices in Brooklyn, New York and Elizabeth, New Jersey. Waterfront Commission Police investigate criminal activity in the Port and violations of the Waterfront Compact; perform background checks of individuals and companies that have applied for registrations and licenses; review pier and waterfront terminal cargo protection and security procedures and maintain the Commission's investigative files. The Police Division has detectives serving on the following Task Forces: Federal Bureau of Investigation Organized Crime Task Force (Newark); Border Enforcement Security Task Forces (New Jersey and New York); New Jersey Attorney General's Organized Crime Task Force; and the El Dorado Money Laundering (New York City).

Captain Jeffrey Heinsen commands the Brooklyn Field Office, and Captain Thomas Alexander commands the Elizabeth Field Office. Captain Margaret Baldinger supervises Task Force personnel, oversees the Division's robust training programs and commands the New York office.

**Intelligence:** Formed in late 2009, this Division is led by Daniel Ramirez and staffed by two intelligence analysts. The Division retrieves, collects, analyzes and disseminates data at strategic, operational and tactical levels regarding organized crime and racketeering activities in the Port. Working closely in tandem with the Commission's IT Division, intelligence analysts have conducted hundreds of background checks on individuals and businesses, and telephonic record analyses central to ongoing investigations. They have initiated the arduous task of collecting and classifying years of police reports, surveillance photographs and other evidence. The Commission has established a network of analysts representing more than thirty law enforcement and intelligence agencies operating within the Port at the federal, state and local levels, to facilitate inter-agency cooperation and information sharing. This proactive networking has enabled the Commission to use its analytical capabilities to leverage the expertise of external agencies and keep pace with state of the art analytical tools and methodologies.

Additionally, the Intelligence Division now regularly attends weekly meetings hosted by the U.S. Coast Guard Sector New York, to identify and discuss with local, state and federal law enforcement agencies indications of security vulnerabilities and threats to the Port. In this forum, the Division reports estimations of organized criminal activity to port partners, while staying abreast of emerging port issues and best practices of operations security.

**Administration and Audit:** This Division, headed by Director Richard Carbonaro, provides the agency with important clerical and administrative support functions. It is responsible for the delivery and collection of quarterly assessments, the analysis of payments made, and the imposition of penalties and interest for late fees payments. Administration also assigns and monitors the work of the Commission's auditors, who review assessment payments made and perform compliance audits. During the 2013-2014 fiscal year, the Audit Division completed 16 payroll audits, 14 compliance audits, and 1 pre-licensing audit.

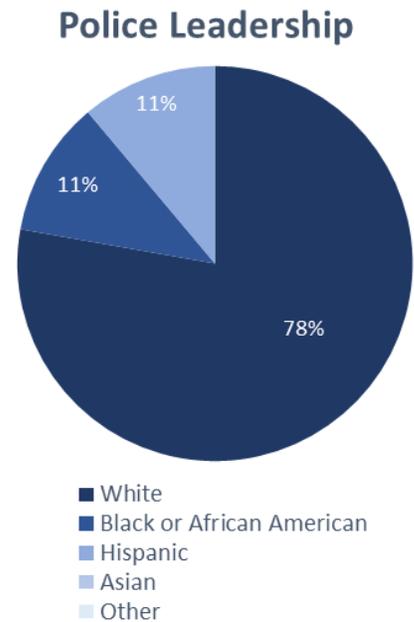
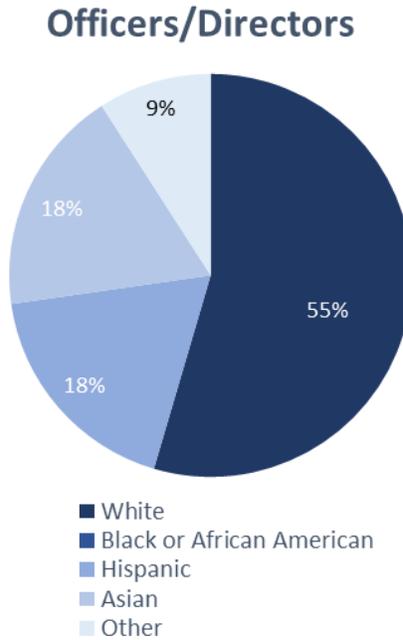
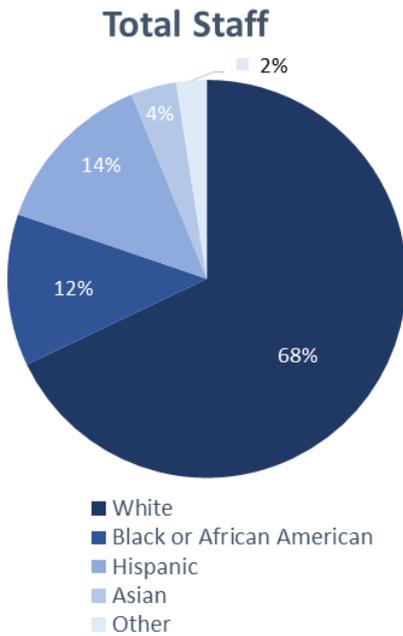
The Division also maintains the Commission's timekeeping, personnel and attendance records, and handles the Commission's mail, furniture and office supplies.

**Information Technology:** This Division is headed by Ariel Ventura. The IT Division provides the Commission with computer, data, voice and other support services. The proper functioning of the Commission's wide and local area computer networks and application data bases is entrusted to this Division.

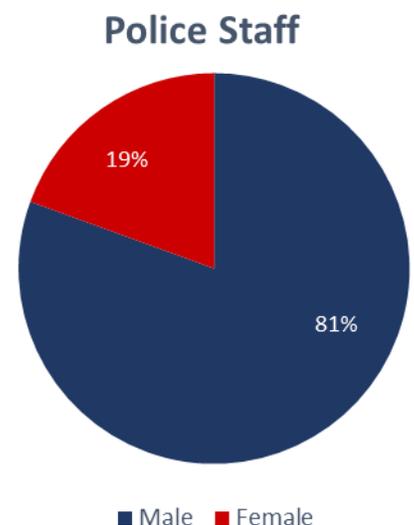
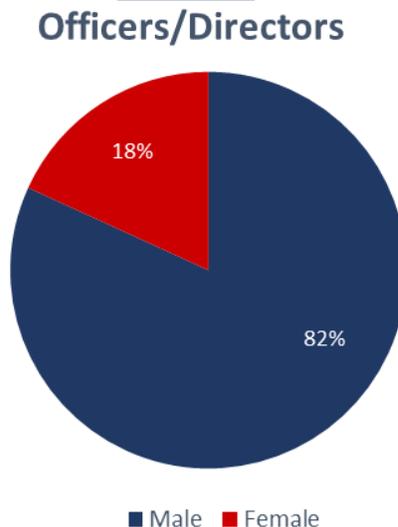
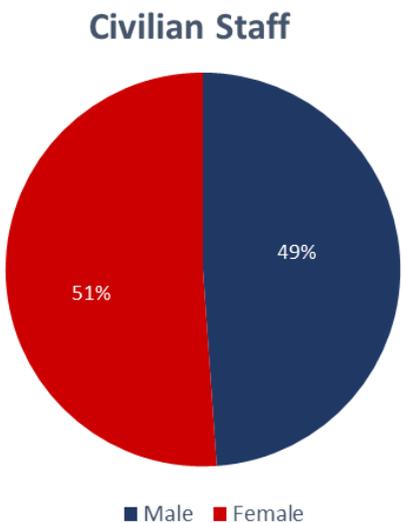
## DIVERSITY AND INCLUSION IN THE COMMISSION'S WORKFORCE

The Commission is deeply committed to a culture of diversity and inclusion in its workforce. Just five years ago – prior to the Commission's revitalization following the 2009 Report of the New York State Office of the Inspector General – all of its officers and directors were white, and its staff did not adequately reflect the rich diversity of the surrounding metropolitan region. Since then, we have taken extensive measures and made significant strides towards ensuring diversity and inclusion. This year, we are proud to report on our continued progress.

### Race/Ethnicity



### Gender



## **MEMBERSHIP IN ORGANIZATIONS**

The Commission and its staff maintain memberships with various law enforcement organizations which routinely network to provide training and share information and resources, to assist the Commission in fulfilling its statutory mission. These include:

New York Prosecutors Training Institute

Middle-Atlantic Great Lakes Organized Crime Law Enforcement Network (MAGLOCLEN)

International Association of Crime Analysts

International Association of Law Enforcement Analysts

U.S. Coast Guard – Field Intelligence Support Team (FIST)

National White Collar Crime Agency

Multi-jurisdictional Counter-drug Task Force

National Association of Attorneys General

International Association of Airport and Seaport Police

Police Executive Research Forum

New York State Association of Chiefs of Police

Association of Chiefs of Police, Essex County

Area Maritime Security Committee (AMSEC)

## **COMMISSION NOT FUNDED WITH TAX DOLLARS**

The Commission is not funded with tax dollars. By statute, and in lieu of any charges for the issuance of licenses or registrations, or for the use of Employment Information Centers, the Commission's budgeted expenses come from assessments on waterfront employers of persons utilized in the handling of waterborne cargo. Employers pay a maximum two-percent assessment on the wages of such employees.

During Fiscal Year 2013-2014, the Commission operated with a \$12,661,000 budget for ninety-seven employees, as approved by the Governors of New Jersey and New York.

## **CASH MANAGEMENT AND THRIFT**

The Commission takes seriously its responsibility to operate with thrift, accountability and efficiency. Even though the Waterfront Commission Act provides for appropriations from both states to balance the budget, the Commission has been successful in maintaining financial independence regardless of the unsteady stream of assessments and ever-increasing operating expenses outside of the Commission's control.

The Commission recorded a surplus of \$1.8 million, exceeding the budget plan by \$2.2 million, compared to \$415,000 budget deficit. \$1 million of the surplus was set aside to the postretirement benefit reserve, which was created to fund the Other Postemployment Benefits (OPEB) liability and was only 35% funded, due to the prior administration's failure to fulfill its fiscal obligations. The Commission closed the fiscal year ended June 30, 2014 with a fund balance of \$2.3 million. FY2013-2014 cash receipts were \$14.2 million, \$1.2 million (+9%) above budget and \$951,000 (+7%) above last year. This increase in cash receipts from last year was mainly due to the 8% increase in assessable payroll base from the previous year.

FY 2013-2014 expenditures totaled \$12.4 million, \$1.1 million under budget (equivalent to 8% of the approved budget). The savings included \$191,000 in regular payroll, \$297,000 in pension costs, \$135,000 in health benefits, and \$439,000 from various budget line items. The average FTE positions in FY 2013-2014 were 82, 4% under budget due to deferred hiring in anticipation of the rebuilding of its New Jersey field office, which was destroyed by Superstorm Sandy. The average headcount was at the lowest level since its creation in 1953.

## PORT STATISTICS

During calendar year 2014, the Port of New York-New Jersey, the Eastern seaboard's busiest port, handled 35.361 thousands of metric tons of waterborne cargo valued at \$ 179,504 million. The tonnage increased by 3.8 % and the dollar value increased by 4.0 % over 2013.

For 2014, 5,772.203 container units passed through the Port, an increase of 5.6 % over 2013. For the same 2014 period, 640,820 vehicles were imported or exported, a decrease of 14.3% over the prior year.

The Port's leading waterborne general cargo exports for the year 2014 (as calculated in metric tons) were wood pulp, plastics and vehicles. The leading general cargo imports (also in metric tons) were beverages, plastics and preserved food. The largest containerized cargo volumes for import were furniture, beverages, apparel, machinery and appliances. The largest containerized cargo volumes for export were paper, automobiles, scrap metal and automobile parts.

On June 30, 2014, the conclusion of the Commission's fiscal year, registered and licensed dock workers totaled 5,378, broken down into the following categories:

CATEGORY	#
"Deep Sea" Longshore workers	<b>2223</b>
Special Craft	<b>400</b>
Checkers	<b>705</b>
Workers registered under authority of the 1969 amendatory legislation to perform services incidental to the movement of waterborne freight, such as warehousing and maintenance work.	<b>2102</b>
Port Watchmen	<b>352</b>
Hiring Agents	<b>105</b>
Pier Superintendents	<b>351</b>
Telecommunications System Controllers	<b>8</b>
Longshore workers were decasualized by the Commission for failure to meet minimum work requirements in FY 2013-2014	<b>75</b>
Companies licensed as stevedores, (including 18 with permanent licenses), who have contracts or arrangements to move waterborne freight or to perform services incidental to the movement of waterborne freight.	<b>42</b>

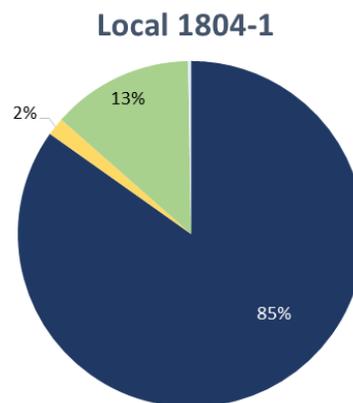
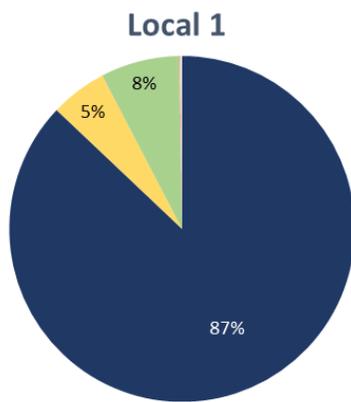
## DIVERSITY AND INCLUSION IN THE PORT WORKFORCE

Since its revitalization five years ago, the Waterfront Commission has taken great measures to combat the prevalent discriminatory hiring practices in the Port and to foster diversity and inclusion in the longshore workforce. Despite this, as illustrated below, the industry has made little progress in diversifying the membership of registered longshore workers and maintenance workers/mechanics in the various International Longshoremen’s Association locals.

**The diversity of the ILA locals is a critical component in assessing the industry’s hiring practices. In support of their purported diversity and inclusion initiatives, the ILA and NYSA cite to the overall diversity of incoming workers. But, as illustrated below, an overwhelming majority of incoming Black/African American workers are then placed into one predominantly Black/African American local in New Jersey – ILA Local 1233. In contrast, the highly-sought checker positions are predominantly given to white males, who become members of ILA checker Local 1.**

### DEEP SEA LONGSHORE WORKERS – DIVERSITY

ILA Local	White		Black		Hispanic		Asian		Other		Total
	#	%	#	%	#	%	#	%	#	%	
Local 1	592	87.1%	36	5.3%	50	7.4%	1	0.1%	1	0.1%	680
1233	63	8.3%	639	84.5%	45	6.0%	2	0.3%	7	0.9%	756
1235	601	72.5%	10	1.2%	206	24.8%	3	0.4%	9	1.1%	829
1814	84	77.8%	12	11.1%	10	9.3%	0	0.0%	2	1.9%	108
1588	205	73.5%	30	10.8%	38	13.6%	1	0.4%	5	1.8%	279
920	123	83.7%	13	8.8%	10	6.8%	1	0.7%	0	0.0%	147
824	72	80.9%	7	7.9%	7	7.9%	2	2.2%	1	1.1%	89
1804-1	302	84.8%	6	1.7%	47	13.2%	0	0.0%	1	0.3%	356
<b>Total</b>	<b>2042</b>	<b>62.9%</b>	<b>753</b>	<b>23.2%</b>	<b>413</b>	<b>12.7%</b>	<b>10</b>	<b>0.3%</b>	<b>26</b>	<b>0.8%</b>	<b>3244</b>



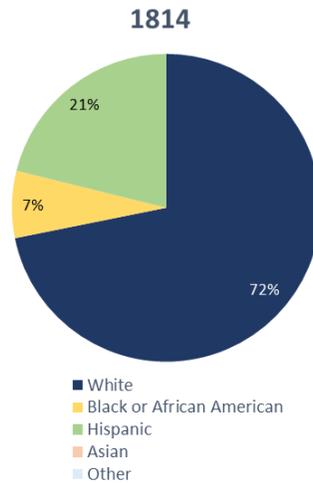
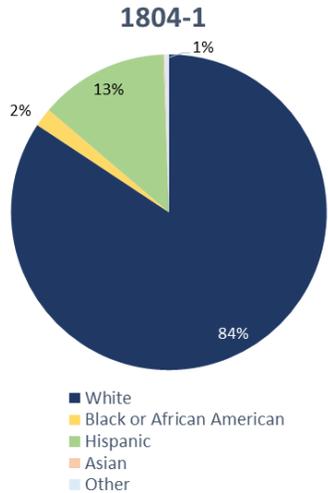
- White
- Black or African American
- Hispanic
- Asian
- Other

- White
- Black or African American
- Hispanic
- Asian
- Other

## MAINTENANCE WORKERS/MECHANICS – DIVERSITY

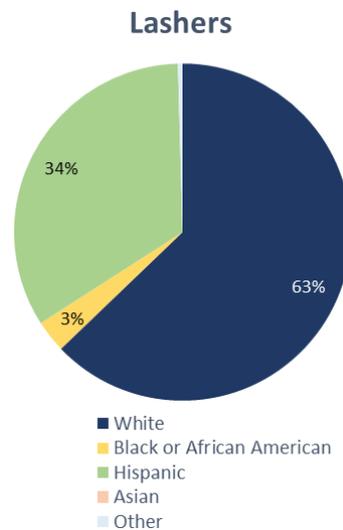
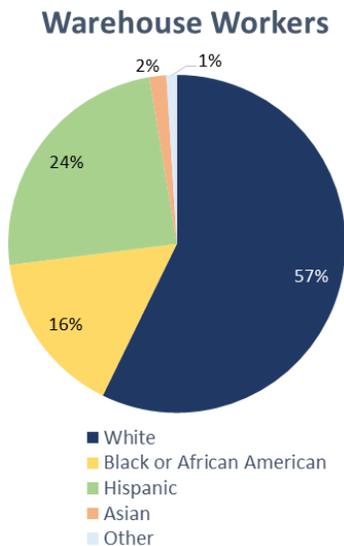
ILA Local	White		Black/African American		Hispanic		Asian		Other		Total
	#	%	#	%	#	%	#	%	#	%	
1804-1	618	84.3%	14	1.9%	97	13.2%	1	0.1%	3	0.4%	733
1814	51	71.8%	5	7.0%	15	21.1%	0	0.0%	0	0.0%	71
<b>Total</b>	<b>669</b>	<b>83.2%</b>	<b>19</b>	<b>2.4%</b>	<b>112</b>	<b>13.9%</b>	<b>1</b>	<b>0.1%</b>	<b>3</b>	<b>0.4%</b>	<b>804</b>

**GENDER: 1 FEMALE OUT OF 804 MAINTENANCE WORKERS/MECHANICS**



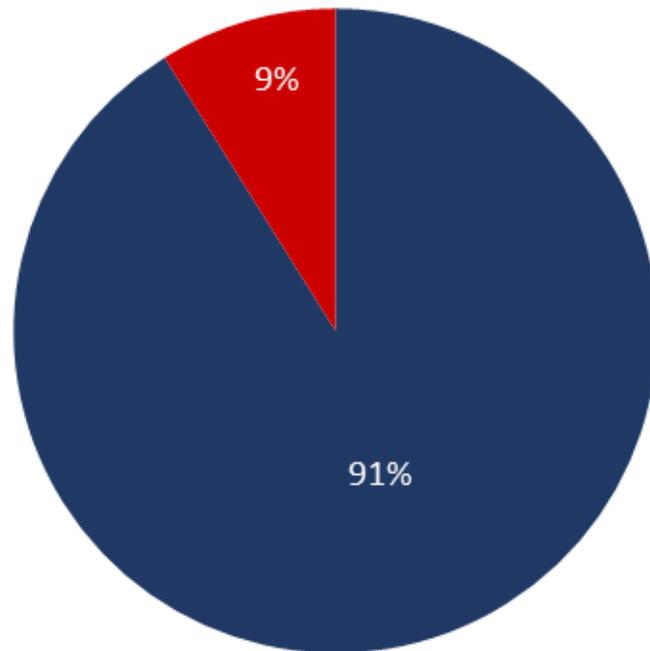
## WAREHOUSE WORKERS/LASHERS – DIVERSITY

Category	White		Black/African American		Hispanic		Asian		Other		Total
	#	%	#	%	#	%	#	%	#	%	
Warehouse workers	632	57.2%	174	15.8%	269	24.4%	18	1.6%	11	1.0%	1104
Lashers	142	62.8%	7	3.1%	76	33.6%	0	0.0%	1	0.4%	226
<b>Total</b>	<b>774</b>	<b>58.2%</b>	<b>181</b>	<b>13.6%</b>	<b>345</b>	<b>25.9%</b>	<b>18</b>	<b>1.4%</b>	<b>12</b>	<b>0.9%</b>	<b>1330</b>



## DEEP SEA LONGSHORE WORKERS – GENDER

Union Local	Male		Female		Not Identified		Total
	#	%	#	%	#	%	
Local 1	588	86.5%	92	13.5%	0	0.0%	680
1233	647	85.6%	109	14.4%	0	0.0%	756
1235	780	94.1%	49	5.9%	0	0.0%	829
1814	107	99.1%	1	0.9%	0	0.0%	108
1588	256	91.8%	23	8.2%	0	0.0%	279
920	138	93.9%	9	6.1%	0	0.0%	147
824	83	93.3%	6	6.7%	0	0.0%	89
1804-1	356	100.0%	0	0.0%	0	0.0%	356
<b>Total</b>	<b>2955</b>	<b>91.1%</b>	<b>289</b>	<b>8.9%</b>	<b>0</b>	<b>0.0%</b>	<b>3244</b>



■ Male ■ Female

## **“MOVING THE GOALPOSTS”**

### **THE WATERFRONT COMMISSION’S DIVERSITY AND INCLUSION INITIATIVES**

The Commission is deeply committed to diversifying the workforce in the Port and to balancing the supply of labor with available work. As detailed in this Report, for decades Port employers collectively bargained away their ability to fairly recruit, hire and train their own employees. The industry’s discriminatory referral and hiring practices have not only led to a lack of diversity and inclusion in waterfront employment, but also to the perpetuation of criminality and corruption. This year, the Commission is continuing to utilize every available statutory and regulatory initiative to work to overcome the prevalent discriminatory hiring practices, so that a diverse group of men and women who are unencumbered by organized crime influence are given the once-denied opportunity to work in the Port.

Section 5–p of the Waterfront Commission Compact requires Port employers to certify that the selection of each incoming longshore worker was made in a fair and non-discriminatory manner, in accordance with the requirements of the laws of the United States and the states of New York and New Jersey dealing with equal employment opportunities. This statutory provision allows the Commission to take any preemptive or corrective action to combat discriminatory hiring. It is the Commission’s principal means of overcoming the prevalent discrimination that continues in the Port.

#### **Prequalification Program**

Exercising its statutory authority under Section 5-p of the Compact, the Commission has continued to actively implement its prequalification program. As previously reported, we partnered with the Workforce 1 Career Centers run by the New York City Department of Small Business Services, as well as the New Jersey Department of Labor and Workforce Development, and assembled a racially diverse, prequalified group of men and women to work in the Port. Notably, those previously unemployed and underemployed individuals living in areas near the Port would not have historically had access to employment opportunities in the waterfront.

#### **The Commission’s Requirement that the Industry Develop and Implement A Fair and Nondiscriminatory Hiring Plan for Incoming Deep Sea Longshore Workers**

This year, further exercising its statutory authority under Section 5-p of the Compact, the Commission required – for the first time in history – that the NYSA and the ILA develop and implement a fair and non-discriminatory hiring plan for incoming deep-sea longshore workers. Previously, when the Commission first requested a hiring plan in March of 2011, the NYSA-ILA Contract Board proposed what was described as the “West Coast Model,” in which 50% of the new hires are union referrals, and 50% are employer referrals. Given the NYSA/ILA’s demonstrated discriminatory referral and hiring practices, the Commission rejected that plan and instead proposed that half of the workforce be recruited from the Workforce 1 Career Centers run by the New York City Department of Small Business Services, as well as the New Jersey Department of Labor and Workforce Development. That proposal was rejected by the NYSA-ILA Contract Board.

This round of hiring, in response to the Commission’s request, the NYSA-ILA Contract Board proposed a hiring plan in which the selection process for new hires would include three designated referral sources: Military Veterans (51%), ILA (25%) and (24%) NYSA/Employers. In a joint press release dated October 25, 2013, the NYSA’s President declared that, “[o]ne of the industry’s proudest accomplishments in the new contract is a hiring and recruiting plan to enhance diversity in the workforce. The industry will recruit new employees using a plan that calls for 51% of our new workforce to be comprised of military veterans while the balance will be NYSA referrals (24%) and ILA referrals (25%).” The ILA’s President indicated that, “[v]eterans bring a wide variety of skills, as well as a flexibility and adaptability that will enhance the industry’s workforce.” He further added that “[t]hose who served our nation should not have to battle for job opportunities at home.”

Following discussions between the Commission, the NYSA-ILA Contract Board and representatives of The Port Authority of New York & New Jersey, the Commission agreed to accept the proposed hiring plan as long as it was (1) implemented according to its terms; (2) not utilized as a means by which to deny particular groups of persons the opportunity to become longshore workers; and (3) not utilized as a subterfuge to permit a referral source to exceed the percentages allotted to it by the plan through the inclusion of its referrals in other referral pools.

Six months later, however, the NYSA's publicly posted hiring figures illustrated that the NYSA and ILA were frontloading their own referrals to the disadvantage of the veterans. In the Commission's April 22, 2014 press release, we called attention to that fact. **Even though the industry's hiring plan calls for 51% of those hired to be veterans, the NYSA and ILA had sent almost twice as many NYSA and ILA referrals to the Commission to be prequalified than veteran referrals.** Since then, the Commission has closely monitored the NYSA/ILA's referral and hiring practices, and has taken extraordinary efforts to ensure compliance with the hiring and training of military veterans. The Commission has had to forcefully advocate on behalf of veterans whose background checks have been cleared and are simply waiting for the NYSA and ILA to put them to work in the Port. While the NYSA and ILA's referrals will have the same technical seniority as those veteran candidates who are eventually hired, the industry's frontloaded referrals have received training and employment opportunities far in advance of the veterans.

### **The Commission's Regulation Amendment Requiring Fair and Nondiscriminatory Hiring Certification For Incoming Maintenance and Repair Workers**

Under the current framework of hiring maintenance and repair workers in the Port of New York-New Jersey, the NYSA and MMMCA (whose mission is to represent Port employers) have surrendered to the ILA the exclusive right and unfettered control to recruit and select potential workers to be hired. The union has the absolute right to use any method it desires in doing so. As a result, the employers' selection and sponsorship of incoming workers is only from a pool of individuals supplied to them by the union. These are not necessarily ILA members and indeed, rarely are.

This year, the Commission determined that this hiring method, reminiscent of the "shape-up" which is banned by the Compact, promotes the very same deleterious conditions expressly enumerated in the Compact, including the lack of a systematic method of hiring and the selection of employees by those who are neither responsive nor responsible to the employers. As illustrated in this Report, these discriminatory hiring practices have directly resulted in (1) the severe underrepresentation of women and people of color in the "A" Register, which includes maintenance and repair workers; and (2) the continued inclusion of those individuals with impermissible organized crime ties.

On September 9, 2013, to address continued discriminatory practices, the Commission adopted a Resolution which amended Section 4.4 (d) of the Commission's Rules and Regulations to require employers in the industry to submit a certification that the persons they are hiring have been selected in a fair and non-discriminatory basis, in accordance with state and federal equal employment opportunity laws. This was done to ensure that employers will be active, accountable participants in the process.

The Commission's concerted effort to combat the industry's prevalent discriminatory hiring practices and to require fair and transparent hiring has not been well received by the ILA, NYSA, or the MMMCA. The NYSA criticized the Commission for "moving the goalposts," and "creating chaos in the industry." As further detailed below, on November 22, 2013, in response to the Commission's initiatives, the ILA, NYSA and MMMCA filed a federal lawsuit alleging that the Commission has overstepped its statutory authority by requiring that hiring in the Port be done in a fair and non-discriminatory manner. They have further alleged that the Commission is improperly interfering with their collective bargaining rights by doing so. That complaint alleges that the Commission has "gone off the rails to pursue a future for itself that is well outside the purposes and goals that led to its creation."

## **DEEP SEA LONGSHORE WORKERS EARNINGS**

During FY 2013-2014, deep-sea longshore workers (including checkers and special craft) were paid \$464,698,968.06, including regular overtime wages, vacation and holiday benefits. The chart below reflects the earnings ranges of those longshore workers, who perform work involving the discharge or loading of general cargo vessels, and who comprise the “deep-sea register.” These earnings, which are reported by the New York Shipping Association, Inc., do not include additional container royalty payments.

<b>EARNINGS RANGE</b>	<b># OF EARNERS</b>
Over \$450,000	<b>2</b>
\$400,000 to \$450,000	<b>6</b>
\$350,000 to \$400,000	<b>16</b>
\$300,000 to \$350,000	<b>44</b>
\$250,000 to \$300,000	<b>119</b>
\$200,000 to \$250,000	<b>445</b>
\$150,000 to \$200,000	<b>849</b>
\$100,000 to \$150,000	<b>899</b>
\$75,000 to \$100,000	<b>338</b>
\$50,000 to \$75,000	<b>215</b>
\$25,000 to \$50,000	<b>127</b>
Below 25,000	<b>345</b>

## SPECIAL COMPENSATION PACKAGES

As previously reported, the Commission's March 2012 Special Report detailed its findings on the public hearings that were held concerning employment practices within the Port. The hearings revealed that the hiring, training and promotion practices of the industry led to low-show jobs, favoritism and nepotism, the abusive and illogical interpretation of collective bargaining agreements, and the impact of those practices both on the competitiveness of the Port and on the morale and career prospects of decent, hard-working Port employees. Connected individuals are awarded high paying, low-show or no-work special compensation packages, in some cases earning salaries in excess of \$500,000. Such positions were overwhelmingly given to white males connected to organized crime figures or union leadership.

Following the issuance of the Commission's Special Report, the then-President of the NYSA declared that, "[t]hese practices, many of which have been in place for more than fifty years, have made the port unnecessarily expensive and less competitive. Now is the time to address issues of excess staffing and hours of pay that are not commensurate with the work performed." The NYSA acknowledged that these special packages, which do not occur in other ports, were unacceptable:

**In the immediate case relating to the Port of New York and New Jersey, there are several legacy work practices in place which do not occur in other ports, creating inefficiencies and costs higher than the acceptable norm. Many of these work practices are decades old, so effecting an immediate change or reversal is extremely difficult. But if there is an acknowledgment that these practices do indeed need to be eliminated or changed, then we have already begun the process of change. These are but a few of the challenges we will face in the early part of the New Year.**

[Source: New York Shipping Association 2012 Annual Report, President's Message at page 2]

When the Commission's Special Report was first issued, none of the special compensation packages were memorialized in the industry's applicable collective bargaining agreements. This year, rather than eliminate or cap these special packages, the NYSA and ILA instead negotiated a 2013 Memorandum of Settlement of Local Conditions in the Port of New York-New Jersey, which guarantees special compensation packages to certain people. Those individuals are paid for hours not worked or hours worked by others.

Employers have admitted that hundreds of employees collectively receive millions of dollars each year for hours they never work. The Commission is in the process of identifying all of these special compensation packages, and has pledged to aid any company in its efforts to fight the work practices and extortive behavior that would be unacceptable to any legitimate business.

**FY 2013-2014 COMMISSION ACTION ON ADMINISTRATIVE PROCEEDINGS:  
PETITIONS, APPLICATIONS AND REVOCATIONS/SUSPENSIONS**

**Petitions**

<b>Petition Type</b>	<b>Denied</b>	<b>Granted</b>
For Reconsideration	0	0
For Leave to Reapply	0	1
For Rehearing	0	0
To Withdraw	0	0
To Remove Ineligibility	0	3
For Restoration	4	2
To Vacate Temporary Suspension	0	4
For Retention of Reinstatement	0	5
For Stay	0	0
To Surrender Registration	0	6
To Amend Determination	0	0
<b>Total</b>	<b>4</b>	<b>21</b>

**Applications for Licensure/Registration**

<b>Application Type</b>	<b>Denied</b>	<b>Granted</b>
Longshoreperson	0	1
Checker	0	1
Hiring Agent	0	0
Security Officer	0	0
Pier Superintendent	1	0
Stevedore	0	3
A – Register LS	2	7
Dispatcher (T.S.C.)	0	0
<b>Total</b>	<b>3</b>	<b>12</b>

**Suspension/Revocation Proceedings**

<b>Type of License or Registration</b>	<b>Revoked</b>	<b>Revoked w/ Leave to Reapply</b>	<b>Suspended*</b>
Longshoreperson (LS)	2	5	10
Checker	0	1	1
Hiring Agent	0	0	0
Security Officer	0	1	0
Pier Superintendent	0	1	1
Stevedore	0	0	0
A – Register LS	2	4	7
Dispatcher (T.S.C.)	0	0	0
<b>Total</b>	<b>4</b>	<b>12</b>	<b>19</b>

\*Includes summary proceedings and informal hearings



## THE YEAR IN REVIEW

This year, Commission investigations with our law enforcement partners resulted in arrests of 100 individuals on state and federal charges as well as the seizure of over 20 kilos of heroin, 759 kilos of cocaine, 16 kilos of marijuana, 100,091 Oxycodone pills, 57 grams of Bath Salts and 20 grams of Crystal Meth as well as the seizure of over \$15 million in proceeds from drug transactions, loan sharking and illegal gambling and the recovery of 133 stolen vehicles about to be exported. The Commission worked with the following law enforcement agencies on investigations and prosecutions:

- U.S. Attorneys' Offices for the Southern and Eastern Districts of New York, and the District of New Jersey
- U.S. Department of Justice – Organized Crime and Gangs
- U.S. Department of Labor – Office of the Inspector General
- U.S. Immigration and Customs Enforcement – El Dorado Task Force
- U.S. Immigration and Customs Enforcement – Homeland Security Investigations
- U.S. Drug Enforcement Administration
- U.S. Coast Guard Investigative Service
- Federal Bureau of Investigation
- New Jersey Attorney General's Office - Division of Criminal Justice
- New York County District Attorney's Office
- Queens County District Attorney's Office
- Richmond County District Attorney's Office
- Kings County District Attorney's Office
- Bergen County Prosecutor's Office
- Essex County Prosecutor's Office
- Hudson County Prosecutor's Office
- Middlesex County Prosecutor's Office
- New Jersey State Police
- New York City Police Department
- New Jersey State Commission of Investigation
- Leonia, New Jersey Police Department
- Newark, New Jersey Police Department
- Bayonne, New Jersey Police Department
- Essex County Sheriff's Office
- Hudson County Sheriff's Office
- New York State Workers' Compensation Board
- New York State Department of Financial Services
- New York State Health Department Bureau of Narcotics Enforcement
- New Jersey and New York BEST Teams
- The Port Authority of New York & New Jersey Inspector General's Office
- The Port Authority of New York & New Jersey Police Department



Workers' Compensation Board

## SIGNIFICANT CASES

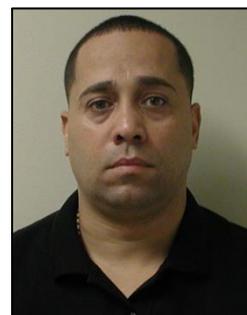
### **July 1, 2013: Pier Superintendent Suspended After His Arrest for Drugging a Woman and Possession of Ecstasy.**



Port Newark Container Terminal pier superintendent Steven Colucci, Jr. was suspended by the Commission following his arrest on June 20, 2013. Colucci was charged with the felony of assault in the second degree for knowingly placing a drug, substance or preparation in the drink of a woman that was capable of producing a stupor, unconsciousness or other physical impairment. Colucci was also charged with possessing the controlled substance MDMA, commonly known as ecstasy. Colucci was temporarily suspended pending an administrative hearing on these charges. The Kings County District Attorney's Office is prosecuting the criminal case.

### **August 5, 2013: Jersey City Police Officer Charged with Cargo Theft and Scheme to Rob Drug Courier.**

A Jersey City, New Jersey police officer appeared in the United States District Court for the District of New Jersey to face charges that he stole more than 600,000 cigarettes from a trailer and conspired to rob \$20,000 from a drug courier. Mario Rodriguez was charged with one count of cargo theft and one count of conspiracy to commit Hobbs Act extortion under color of official right. He was released on a \$250,000 bond and confined to home incarceration with electronic monitoring. The complaint also charges Anthony Roman with the conspiracy and one count of Hobbs Act extortion. Roman was arrested on August 2, 2013, and appeared in court the same day. He was released on a \$250,000 bond.



According to documents filed in the case and statements made in court, on July 3, 2013, Rodriguez and a confidential informant (CI) drove to a warehouse in Secaucus to break into a trailer, steal cigarettes and sell the stolen goods to the CI's associate. Law enforcement agents had previously parked the trailer at the warehouse and established surveillance of the area. After using bolt-cutters to cut the lock off of the trailer, Rodriguez and the CI loaded 50 cases containing approximately 600,000 cigarettes and six televisions from the trailer into their vehicle. As they drove the stolen items to a parking lot in Staten Island, New York, Rodriguez made several phone calls seeking buyers for the TVs. The pair met the CI's associate – actually an undercover officer – in the parking lot to get the \$5,000 payment for the cigarettes. Rodriguez kept \$3,000 of the cash and three of the TVs. On July 10, 2013, Rodriguez, the CI and an undercover law enforcement agent met in New Jersey and discussed the possibility of robbing a drug courier, who was actually another undercover officer. On July 24, 2013, the group met again in Staten Island to discuss the plan. The undercover officer told Rodriguez the courier would be delivering cocaine to them that day in exchange for a \$20,000 payment. Rodriguez suggested a Jersey City mall parking lot due to an absence of surveillance cameras and called his associate, Roman to help him with the robbery.

Later that day, Rodriguez and Roman drove an SUV to the location where the CI and the drug courier were parked. Law enforcement agents had already established surveillance and staged the car containing \$20,000 cash in a plastic bag. Rodriguez and Roman approached the car and identified themselves as law enforcement officers who were investigating the CI. They pretended to arrest the CI, threatened to arrest the drug courier and took the cash. Later that day, Rodriguez, the CI and the undercover agent met in a hotel room at a Pennsylvania casino to split the cash. The case is being prosecuted by the United States Attorney's Office for the District of New Jersey.

**Sept. 12, 2013: Former Secretary Treasurer of Local 1233 Sentenced to Jail for Embezzlement of Union Funds.**

Gregory “Ronnie” Taylor, the former Secretary Treasurer of ILA Local 1233, was sentenced in the United States District Court for the District of New Jersey to six months in jail, followed by six months of house arrest and three years of supervised release. Taylor was also ordered by the court to pay \$71,000 in restitution to Local 1233 for his role in the embezzlement of union funds. Taylor had pleaded guilty on February 6, 2013 to issuing a vacation check for \$7,852 to himself without authorization. Taylor also admitted that between 2007 and 2010, while secretary-treasurer, he embezzled a total of \$71,000 by improperly cashing duplicate paychecks, as well as other checks from the union’s operating account, including for unauthorized credit card expenditures. Taylor had been arrested on September 15, 2011 for stealing more than \$100,000 in union funds for his personal use. The case was investigated by the Waterfront Commission and the United States Department of Labor. The United States Attorney’s Office for the District of New Jersey prosecuted the case.



**Sept. 24, 2013: Longshoreman’s Registration Revoked After Conviction for Unlawful Possession of Firearm.**

Longshoreman James J. Sweigart was arrested after he was observed in a diner with a loaded .9mm semi-automatic handgun in the waistband of his pants. Sweigart had no license for the handgun. The Commission temporarily suspended Sweigart’s registration as a longshoreman on January 22, 2013 pending an administrative hearing on the charge. Sweigart then pleaded guilty to unlawful possession of a firearm on July 15, 201 in New Jersey Superior Court, Essex County. On September 9, 2013, Sweigart was sentenced to 3 years’ probation, 25 hours of community service and ordered to surrender his waterfront registration with prejudice. The Commission accepted that surrender and revoked his registration as a longshoreman. The Essex County Prosecutor’s Office prosecuted the matter.



**Oct. 16, 2013: Checker Sentenced to Jail for Conspiracy to Defraud the United States.**

Checker Vincent J. Fusella, Jr. was sentenced in the United States District Court for the Eastern District of New York to two months in jail and ordered with his brother Gerardo Fusella to pay more than \$1 million in restitution. Vincent Fusella had pleaded guilty on February 27, 2013 to conspiracy to defraud the United States under the first count of his thirty-one count indictment. Fusella admitted to concealing wages and failing to pay FICA taxes to the IRS on behalf of workers at two trucking companies he and his brother Gerardo Fusella owned – The Fusella Group, LLC and Alpine Investment Group, Inc. His brother was also sentenced, and received a forty-six month prison sentence. Vincent Fusella was arrested on December 22, 2011 and his license as a checker was suspended by the Commission that date pending an administrative hearing on the charges in the indictment. The United States Attorney’s Office for the Eastern District of New York prosecuted the criminal matter.



**Nov. 5, 2013: Pier Superintendent's License Revoked for Refusal to Take Commission Ordered Drug Tests.**



Red Hook Container Terminal probationary pier superintendent Thomas Griffith's license was revoked for refusing to take Commission-ordered urine and hair tests for drug use. He had previously been denied a pier superintendent's license in 2008 after it was found that he lacked the required good character and integrity because of prior drug use and false testimony about his drug use. In April 2012, on application of Red Hook Container Terminal, Griffith was issued a temporary, probationary license. Before permanent licensure, Griffith was ordered by the Commission to be tested for illegal drug usage, and had been advised that failure to appear would be considered a positive result and could result in the revocation of his license. He failed to appear. After a hearing on the charges, an administrative law judge found that Griffith failed to provide material evidence as required by the Commission, and lacked the requisite good character and integrity required of a pier superintendent. Citing his "historical penchant for fabrication by evasion" regarding his drug use, the administrative law judge recommended that Griffith's temporary license be revoked and that his application for a permanent license be denied. The Commission concurred.

**Dec. 17, 2013: Checker Surrenders Registration with Prejudice Following Charges that He Refused to Answer Material Questions While on Probation for Cocaine Use and Committed Frauds by Failing to Disclose Associations with Members and Associates of Organized Crime.**

The Commission ordered the removal of checker Albert Attanasio from the waterfront by accepting his withdrawal of application and surrender of registration with prejudice. Attanasio had been facing charges in an administrative hearing. Specifically, Attanasio was charged with using cocaine while on probation, and refusing to answer material questions during a Commission interview. He was also charged with committing fraud on his application for checker registration and in connection with a Commission interview by failing to disclose his knowledge of, and association with, members and associates of the Lucchese crime family.



**Dec. 17, 2013: Commission Denies Request for Reinstatement of Checker who Sold Oxycodone, Purchased Drugs from a Longshoreman, Abused Oxycodone Prescriptions, Used Heroin, and Committed Frauds.**



The Commission denied a request for reinstatement by checker Anthony Sellitti, who had been removed from the waterfront (decasualized) after failing to meet work and work availability requirements. The Commission found that Sellitti committed fraud, deceit, and misrepresentation in a sworn interview by failing to disclose that he and another longshoreman illegally sold oxycodone pills. He also committed fraud on his request for reinstatement in response to a question about his illegal use of drugs. The Commission found that Sellitti's abuse of oxycodone and his lack of commitment to rehabilitation indicated that he lacked good cause for reinstatement.

**Dec. 17, 2013: Maintenance Man's Registration Revoked for Refusal to Take Commission-Ordered Drug Test.** The Commission ordered the revocation of the registration of chassis mechanic Andre Tomaz as a maintenance man, after he refused to take a Commission-ordered hair test for drug use. Tomaz had been advised that failure to appear for the test would be considered a positive result and could result in the revocation of his registration. In 2012, the Commission had suspended Tomaz's registration as a maintenance man for fourteen days because, while registered as a maintenance man, he worked for a waterfront employer after using marijuana and cocaine. The Commission also found that he had operated a motor vehicle while under the influence of alcohol. The Commission ordered that, after completion of his suspension, Tomaz would be subject to a year of random drug and alcohol tests at his own expense. Tomaz violated that order by refusing to submit to a hair test for drug use. After a hearing on the charges, an Administrative Law Judge found that Tomaz failed to provide material evidence as required by the Commission. The Commission concurred with this finding, and found that Tomaz presented a danger to the public peace or safety by refusing to submit to the hair test and committing this offense following his 2012 suspension. In light of the foregoing, the Commission revoked Tomaz's registration as a maintenance man.



**Dec. 17, 2013: “Operation Shorething” Results in Arrests Of Nine Individuals Including Five Longshoremen in Pill Mill, Insurance Fraud and Gambling Rings.** Nine individuals, including five longshoremen, were arrested on indictments after a twenty-month investigation dubbed “Operation Shore Thing” into insurance fraud, the fraudulent dispensing of prescriptions for controlled substances, sale and possession of oxycodone and illegal gambling. Longshoremen Steven Alcaras, Christopher Galasso, Rosario Savastano, Joseph Favuzza and crane operator Nicholas Tornabene were immediately suspended by the Commission after their arrests. A tenth target of the investigation, crane mechanic Frank Pastore, died of a drug overdose shortly before the arrests. In addition to the longshoremen, Mihir Bhatt, a pain management doctor, Thomas Dinardo, a chiropractor, Rita Patel, a pharmacist and Charles Tornabene, the brother of longshoreman Nicholas Tornabene were also indicted and arrested. The International Longshoremen’s Association submitted Charles Tornabene for prequalification as a longshoreman the week after his arrest and indictment. The Commission denied his request for prequalification.

“Operation Shore Thing” commenced in March 2012, and included the use of confidential sources, undercover police officers, electronic surveillance and physical surveillance. The Commission acted following the indictment and arrests of the aforementioned longshoremen by a Richmond County grand jury for participating in a wide-ranging “pill mill” operation in New York and New Jersey. The indictments allege that these longshoremen received oxycodone prescriptions in exchange for helping pain management physician Dr Mihir Bhatt, chiropractor Dr. Thomas Dinardo, pharmacist Rita Patel and others, get paid tens of thousands of dollars by the Management-International Longshoreman Association Healthcare Trust Fund (“MILA”), for medical services that were never provided. MILA is the joint industry-labor organization that provides health care benefits to deep sea longshoremen, and is funded by assessments on cargo being loaded and unloaded in the Port. The longshoremen’s participation in the criminal enterprise allowed them to obtain oxycodone without examinations and, often, without even going to the doctor’s office. They, along with former maintenance man Anthony Pastore, then used and/or distributed this oxycodone. Furthermore, they conspired to commit a variety of other crimes, such as filing fraudulent documents with the Commission. Alcaras managed appointments and the picking up of prescriptions of oxycodone, for the other, separately indicted longshoremen, who

received prescriptions for oxycodone without exams by Bhatt or after perfunctory visits to his offices. Alcaras communicated with both Bhatt and Dinardo about the suitability for inclusion or exclusion of individual longshoreman as patients. Alcaras also communicated with Bhatt and Dinardo when longshoreman were needed at one of Bhatt's offices for fraudulent exams to justify further fraudulent billing of insurance companies, or to receive fraudulent doctor's notes to avoid losing their registration as longshoreman.

In 2013, Galasso filed false instruments with the Commission in order to avoid being decasualized. Specifically, Alcaras and Galasso requested doctor's notes from Bhatt and Dinardo for medical treatment of Galasso that did not occur, and instructed them on how the notes should be written. In addition to participating in the insurance fraud, some of the longshoreman also evaded drug tests at work, learning about them beforehand and using devices like prosthetics, cleansing drinks and synthetic urine to try and pass the test. The investigation also uncovered that several of the longshoreman also went to work under the influence of narcotics. Nicholas Tornabene also engaged in selling drugs. Longshoreman Joseph Favuzza was charged in a separate indictment with ten counts of promoting gambling. Favuzza had been previously suspended by the Commission on June 25, 2012 for separate felony assaults in New York and New Jersey. Recovered during the execution of search warrants were \$3 million in assets, as well as 12 pounds of gold and a quantity of oxycodone.



**Feb. 27, 2014: Twenty-Nine Charged in Takedown of International Carjacking/Theft Ring That Trafficked High-End Cars From New Jersey & New York to West Africa.** Twenty-nine men were charged in the takedown of a major international carjacking and stolen car trafficking ring that stole luxury cars in New Jersey and New York and shipped them to West Africa, where they can sell for prices in excess of new market value in the United States. Twenty-three individuals were arrested as multi-agency teams executed warrants on charges including first-degree racketeering, carjacking and money laundering. Approximately 160 stolen cars worth more than \$8 million were recovered in “Operation Jacked,” a 10-month investigation led by the New Jersey Division of Criminal Justice and the New Jersey State Police, assisted by The Port Authority of New York & New Jersey Police, ICE Homeland Security Investigations, and other agencies including the Waterfront Commission. Approximately 140 of the cars were recovered at the Port where members of the ring delivered them for shipment. The ring targeted high-end vehicles, particularly luxury SUVs. Twenty-seven of the recovered vehicles had been taken in carjackings, a majority of which involved a gun or other weapon, while the others were stolen from various locations where the thieves were able to steal them with one or more of their electronic keys or key fobs, which are critical to the resale value of the cars. Seven were charged as leaders of the criminal enterprise. Within the ring, individuals filled various roles, including carjacker, car thief, wheel man, fence, shipper and buyer. Carjackers and thieves, who worked in “theft crews,” would typically be paid \$4,000 to \$8,000 for a stolen car by street-level fences, who sold cars up the chain to higher-level fences. Shippers would load the cars into shipping containers, which were taken to ports for transport by ship to West Africa.

After vehicles were stolen, the theft crew typically would store the cars at various locations, including various parking garages, residential backyards and warehouses, to make sure they were not equipped with tracking devices that would lead law enforcement to them. Other times, members of the ring removed tracking devices from the cars. After a vehicle was sufficiently “cooled,” it was moved to a “fence.” The stolen cars typically moved through at least two levels of fences before reaching their ultimate destinations. Fences often used “wheel men” to move the stolen cars to different locations while negotiating purchase prices with other fences and potential buyers. The wheel men would move cars to and from storage locations, to shipping locations, and to buyers. While some cars were sold domestically, including in New Jersey, New York, Delaware, Connecticut and Massachusetts, most of them were shipped overseas. Shippers arranged for the vehicles to be loaded into shipping containers and transported to ports. They completed false bills of lading, misrepresenting the contents of the containers. Of the roughly 160 vehicles recovered, 140 were recovered at the Port. Investigators believe that additional vehicles were being moved by this criminal enterprise, beyond those recovered in the investigation. The ring operated in multiple counties in New Jersey, including Essex, Union, Morris, Monmouth, Middlesex, and Bergen Counties.

**March 11, 2014: Commission Denies Longshoreman’s Request for Reinstatement After Presenting Forged Doctor’s Notes and Committing Fraud in Interview.** The Commission denied the request for reinstatement of longshoreman Craig Montgomery, who was previously decasualized in September 2013 for failing to meet his work requirements. In support of his request, Montgomery submitted several forged notes purportedly from his doctor to excuse his absences from the Port. These notes contained altered dates in an attempt to show he appeared at the doctor’s office on the dates in question when in fact he did not.



Furthermore, Montgomery committed fraud, deceit or misrepresentation during his sworn Commission interview, when he falsely testified about his purported doctor’s visits.



**March 14, 2014: Brooklyn Woman Sentenced to More than Twenty-One Years in Prison for Shipment of More than \$2.5 Million Worth of Stolen Luxury Vehicles to Africa.**

A Brooklyn, New York, woman was sentenced to 262 months in prison for her role as the leader of a ring responsible for shipping dozens of stolen and carjacked luxury cars and SUVs worth more than \$2.5 million from New Jersey to Africa. Hope K. Kantete was convicted on June 28, 2013 of ten counts of transportation of stolen vehicles in interstate or foreign commerce and a single count of conspiracy to transport stolen vehicles in interstate or foreign commerce. Kantete was convicted after a three-week trial in the U.S. District Court for the District of New Jersey. The investigation revealed that Kantete employed other individuals who were responsible for purchasing stolen and carjacked vehicles from thieves operating in northern New Jersey and New York. Kantete then had individuals place new vehicle identification numbers on the stolen cars and create fraudulent title documents. After the documents were created, Kantete arranged to have the cars loaded onto shipping containers and sent to ports in West Africa. The cars could be re-sold in West Africa for at least twice their retail value in the United States. In addition to the prison term, Kantete was sentenced to three years of supervised release and ordered her to pay restitution of \$346,937, based on a loss estimated at \$2.5 million to \$7 million.

**March 20, 2014: Suspended Longshoreman Pleads Guilty to Promoting Gambling.**

Longshoreman Joseph Favuzza pleaded guilty to one count of promoting gambling in the second degree in Richmond County Supreme Court. Favuzza was previously indicted by a Richmond County grand jury, and arrested in December of 2013 as a part of “Operation Shore Thing,” the joint investigation by the Richmond County District Attorney’s Office, the NYPD Organized Crime Investigations Division, and Waterfront Commission into illegal gambling, insurance fraud, and oxycodone distribution on the docks and elsewhere. As a condition of his plea, Favuzza agreed to surrender of his registration as a longshoreman with prejudice. Favuzza had been suspended by the Commission since June 25, 2012 after his arrests on separate felony assaults in New York and New Jersey.



**March 27, 2014: Five Individuals Charged with Conspiring to Fraudulently Obtain Union Job for Organized Crime Underboss’ Son.**

Five men were charged in the United States District Court for the Eastern District of New York with conspiring to defraud the Newspaper and Mail Deliverers’ Union and Hudson News newsstands to obtain a union card and employment at the newsstands for the son of the alleged underboss of the Colombo family. A criminal complaint charged Benjamin Castellazzo Jr., Rocco Giangregorio, Glenn LaChance, Rocco Miraglia, aka “Irving,” and Anthony Turzio, aka “the Irish Guy,” with mail fraud conspiracy. In addition, a three-count indictment charged Thomas Leonessa, aka “Tommy Stacks,” with wire fraud, wire fraud conspiracy and theft and embezzlement from employee benefit plans in an unrelated scheme.



Benjamin Castellazzo, Jr. Thomas Leonessa, Jr.

The case was investigated by the U.S. Department of Labor’s Office of Labor Racketeering and Fraud Investigations and the Federal Bureau of Investigations, with assistance from the New York City Police Department, the New York County District Attorney’s Office and the Waterfront Commission. The cases are being prosecuted by the U.S. Department of Justice’s Organized Crime and Gangs Section.

**April 8, 2014: Commission Denies Former ILA Local 1233 Secretary/Treasurer's Request for Reinstatement to the Longshoreman's Register After Embezzlement Conviction.** The Commission denied the request for reinstatement by Gregory "Ronnie" Taylor, the former ILA Local 1233 Secretary/Treasurer (discussed above). Taylor was decasualized for failing to meet the work requirements. In support of his request, Taylor indicated that he failed to meet the work requirements because of his union responsibilities. The Commission denied Taylor's request for his failure to present good cause, since Taylor abused his position and breached his fiduciary duty and obligations to the members of the ILA Local 1233.



**April 22, 2014: Commission Revokes Longshore Registration of ILA Local 1588 President for Violating his Fiduciary Duty to the Union and Its Members and Conspiring to Illegally Possess and Use Oxycodone.** The Commission ordered the revocation of the longshoreman registration of ILA Local 1588 President Virgilio Maldonado. Following a hearing, an administrative law judge found that Maldonado conspired with another longshoreman, who was a crane operator and member of ILA Local 1588, to illegally possess oxycodone. Although he was aware that his co-conspirator was using and distributing oxycodone, Maldonado failed to take official action, in violation of his fiduciary duty to ILA Local 1588 and its members. He further violated that duty by failing to take action when he believed that his co-conspirator reported to work as a crane operator under the influence of oxycodone, thereby placing members of ILA Local 1588 and others in danger. The ALJ also found that Maldonado illegally possessed and used oxycodone in 2011 and 2012, and determined that Maldonado's continued presence on the piers constituted a danger to the public peace and safety. The Commission concurred with the ALJ's factual findings and revoked Maldonado's registration as a longshoreman. The revocation proceeding was the product of an investigation by the Leonia, New Jersey Police Department and the Waterfront Commission.

**May 7, 2014: Warehouseman Suspended After Arrest for Shooting in "Drug Deal Gone Badly."** Warehouseman Derrick Smith was suspended by the Commission after he was arrested and charged with two counts of aggravated assault, possession of a weapon, possession of a weapon for an unlawful purpose and conspiracy with intent to distribute prescription narcotics (oxycodone). Smith was arrested after what Belleville, New Jersey Police describe as "a drug deal gone badly," which resulted in a gun fight. The victim was shot multiple times in the back and arm. The criminal case is being prosecuted by the Essex County Prosecutor. Smith's registration is suspended pending the outcome of an administrative hearing.



**May 7, 2014: Commission Denies Checker's Request for Retention after Presenting Forged Doctor's Note.** The Commission denied the request for retention of checker Joseph Donnelly, after finding that he failed to present good cause for his failure to meet the requisite work requirements. Donnelly had been decasualized after failing to work, or making himself available to work, the required hours. In support of his request, Donnelly had submitted a fraudulent doctor's note which falsely claimed that he was undergoing treatment.



Donnelly, as posted on Twitter, asleep while "at work" as a checker.



**May 14, 2014: Longshoreman Pleads Guilty to Insurance Fraud and Two Counts of Conspiracy.**

Longshoreman Christopher Galasso pleaded guilty to one count of insurance fraud, and two counts of conspiracy in the Richmond County Supreme Court. Galasso was one of those arrested on December 17, 2013, as part of “Operation Shore Thing,” the joint investigation detailed in this Report, above. Galasso admitted to being part of a conspiracy with other longshoremen to obtain oxycodone prescriptions in exchange for helping pain management physician Dr. Mihir Bhatt, and chiropractor Dr. Thomas Dinardo,

get paid tens of thousands of dollars by the Management-International Longshoreman Association Healthcare Trust Fund (“MILA”) for medical services that were never provided. Galasso conspired with indicted longshoremen Steven Alcaras, Bhatt, and Dinardo, to file false instruments with the Waterfront Commission. Alcaras helped Galasso obtain notes from Bhatt and Dinardo stating that Galasso was unable to work due to injuries for which he was under their care. In reality, Galasso had no such injuries and obtained the notes in order to avoid losing his registration as a longshoreman for failing to meet his work requirements. Galasso was suspended by the Commission since the date of his arrest. As a condition of his plea, Galasso has agreed to the surrender of his registration as a longshoreman with prejudice.

**May 13, 2014: ILA Local 1235 Officials Plead Guilty in Extortion Conspiracy Involving Christmastime Tribute Payments.**

Three former International Longshoremen’s Association union officials admitted that they conspired to extort ILA Local 1235 longshore workers on the New Jersey piers for Christmastime tribute payments on behalf of the Genovese crime family. Vincent Aulisi, the president of ILA Local 1235 from approximately 2006 through 2007; Thomas Leonardis, the president of the union from approximately 2008 through 2011 and former ILA representative; and Robert Ruiz, the delegate of the union from approximately 2007 through 2010 and former ILA representative, entered their guilty pleas in the United States District Court for the District of New Jersey. During their guilty plea proceedings, Aulisi, Leonardis, and Ruiz admitted that they conspired with each other and others to compel tribute payments from ILA union members, who made the payments based on actual and threatened force, violence and fear. The timing of the extortions typically coincided with the receipt by various ILA members of “container royalty fund” checks, a form of year-end compensation. Leonardis and Ruiz were suspended from their positions following their arrest in January 2011. Aulisi had already retired from his employment at the Port at the time of his arrest. Notably, shortly before his arrest, Leonardis had testified in front of a New Jersey State Senate Committee hearing that the Waterfront Commission was “as obsolete” as a longshoreman’s loading hook and merely perpetuated outdated stereo types of organized crime at the piers. The charge to which Aulisi, Leonardis, and Ruiz pleaded guilty carries a maximum potential penalty of 20 years in prison and a \$250,000 fine. The case is being prosecuted by the United States Attorney’s Offices for the Eastern District of New York and the District of New Jersey.



*A representative for the longshoremen, Thomas Leonardis, president of ILA Local 1235, said the Waterfront Commission is as obsolete as this loading hook.*

**May 21, 2014: Former Longshoremen Plead Guilty In Extortion Conspiracy Involving Christmastime Tribute Payments.** Three former longshoremen admitted that they conspired to extort ILA Local 1235 members for Christmastime tribute payments. Salvatore LaGrasso, Michael Nicolosi, and Julio Porrao – all former supervisors on the New Jersey piers – pleaded guilty in the United States District Court for the District of New Jersey. During their guilty plea proceedings, each admitted that they conspired with the other and others to compel tribute payments from ILA union members, who made the payments based on actual and threatened force, violence and fear. LaGrasso and Nicolosi were suspended by the Commission from their positions following their arrests. Porrao had already retired from his employment on the piers at the time of arrest. The case is being prosecuted by the United States Attorney’s Offices for the Eastern District of New York and the District of New Jersey.



Salvatore LaGrasso

Michael Nicolosi

Julio Porrao

**May 28, 2014: Former Longshoremen Plead Guilty to Extortion Conspiracy Involving Christmastime Tribute Payments.** Two former longshoremen admitted that they conspired to extort others in ILA Local 1 and Local 1235 for Christmastime tribute payments, and an associate of the Genovese organized crime family charged in the same case also admitted running an illegal sports betting operation. Rocco Ferrandino and Michael Trueba – both former supervisors on the New Jersey piers – pleaded guilty to conspiring to extort union members. Richard Dehmer, an associate of the Genovese organized crime family, also pleaded guilty today to conspiring to operate, and operating, an illegal sports betting operation with others. Ferrandino, Trueba and Dehmer entered their guilty pleas in the United States District Court for the District of New Jersey. During their guilty pleas, Ferrandino and Trueba admitted they conspired with each other and others to compel tribute payments from ILA union members, who made the payments based on actual and threatened force, violence and fear. The timing of the extortions coincided with the receipt by certain ILA members of “Container Royalty Fund” checks, a form of year-end compensation. Ferrandino, the former head timekeeper at Maher Terminals, and Trueba, the former vice president of ILA Local 1235, were suspended from their positions by the Commission following their arrests in this case. The case is being prosecuted by the United States Attorney’s Offices for the Eastern District of New York and the District of New Jersey.



Rocco Ferrandino

Michael Trueba

**May 30, 2014: Jersey City Police Officer Pleads Guilty to Transportation of Stolen Goods and Extortion.** Mario Rodriguez, the Jersey City, New Jersey police officer discussed in this Report, above, admitted stealing more than half a million cigarettes from a trailer and extorting \$20,000 from what he believed was a drug courier. Rodriguez pleaded guilty in the United States District Court for the District of New Jersey to an information charging him with transportation of stolen goods and extortion under color of official right. The cargo theft and conspiracy to commit extortion charges to which Rodriguez pleaded guilty carry a maximum potential penalty of ten and twenty years in prison, respectively. Both counts also carry a maximum fine of \$250,000. Rodriguez has been suspended from the police department.

**June 11, 2014: Contractor Pleads Guilty to Conspiracy to Commit Wire Fraud.** Contractor Raymond Norville of Orange, N.J., owner of RRL Unique Homes, Inc., a construction company, pleaded guilty in the United States District Court for the District of New Jersey to conspiracy to commit wire fraud in connection with his defrauding a Bronx homeowner out of \$98,600.00.



Norville was originally investigated by the Waterfront Commission and the United States Department of Labor’s Office of the Inspector General in connection with his company’s contract with ILA Local 1233 to renovate its headquarters in Newark. An indictment handed down in August 27, 2012 charged that Norville conspired with the then Secretary-Treasurer, Gregory “Ronnie” Taylor to steal union funds by submitting fraudulent invoices for renovations at the local. The invoices were for work that was never actually performed, or that was double-billed or had grossly inflated costs. Former Local 1233 Secretary-Treasurer Taylor pleaded guilty to Embezzling Union

Funds under a separate indictment. Norville’s plea grew out of the original investigation into the fraudulent billing of Local 1233. The case was prosecuted by the United States Attorney’s Office for the District of New Jersey.

**June 23, 2014: Lasher Removed from Waterfront for Association with Members of Organized Crime and Fraud on His Application.** The Commission ordered the removal of lasher Francis Mangano, Jr. from the waterfront by accepting his withdrawal of application and surrender of registration with prejudice. That acceptance has the same effect as a revocation. The Commission had administratively charged Mangano with presenting a danger to the public peace or safety because of his association with convicted racketeers, capos, soldiers, and associates of the Bonanno and Colombo Crime Families, including Bonanno Capos Peter Lovaglio and Anthony “Bruno” Indelicato; Colombo Capo Joseph Amato and Bonanno Soldiers Anthony “Ace” Aiello and “Big Frank” Pastore. Mangano had also been charged with committing fraud, deceit, or misrepresentation in connection with his application for registration by failing to disclose his association with Bonanno capo Peter Lovaglio, which predated the filing of his application.



Longshoreman  
Francis Mangano, Jr.

Bonanno Capo  
Peter Lovaglio

Bonanno Capo  
Anthony “Bruno” Indelicato

Colombo Capo  
Joseph Amato

Bonanno Soldier  
Anthony “Ace” Aiello

Bonanno Soldier  
“Big Frank”Pastore

## SIGNIFICANT LITIGATION

### United States District Court Issues Declaratory Judgment in Favor of the Waterfront Commission and Dismisses Complaint Filed by Continental Terminals, Inc.

On September 30, 2013, the United States District Court for the Southern District of New York dismissed the complaint filed by Continental Terminals, Inc. against the Waterfront Commission, and issued a finding in the Commission's favor that Continental's warehousing activities in Jersey City, New Jersey cause it to fall within the Waterfront Commission Act's definition of a "stevedore" and thus, subject to being licensed by the Commission.

In its complaint challenging the Commission's licensing jurisdiction, Continental contended that: (1) its warehouses did not fall within 1,000 yards of a pier as is required by the Act, and (2) it was not engaging in the type of activities that would require it to be licensed as a stevedore under the Act. In response, the Commission filed a counterclaim against Continental, seeking a judicial declaration that the Continental was, in fact, performing stevedoring activities and that its facilities fell within 1,000 yards of a pier.

With respect to Continental's first challenge, the primary dispute was over the definition of "pier." The Commission contended that a pier includes the area where waterborne containerized freight is loaded, unloaded and stored, and that the 1,000 yard measurement should therefore be taken from the property line of the Global Marine Terminal. Continental argued that a pier must be directly adjacent to water, and is limited to the area where waterborne freight is loaded and unloaded from vessels only. Continental maintained that its facilities must be measured from the farthest tip of the Global Marine Terminal's string piece and, when using this method of measurement, it was located more than 1,000 yards away from a pier. The court rejected Continental's "unduly narrow" definition of a pier, and found instead that a pier includes areas within a marine terminal, such as the container yard, that are used for the placement and handling of containerized freight after the containers are lifted by cranes from vessels into the terminal. The court noted that, "[m]odern shipping practices have changed the way waterborne shipments are handled. Cargo is now packed into large freight containers. Containerized freight is carried on large vessels, and large cranes, not necessarily stationed on string pieces, are used to move containerized freight to container yards. There, companies receive freight and transport the containers using trucks." The court found that, "under these circumstances, it would frustrate the purpose of the Act to interpret the term 'pier' so narrowly that it would exclude waterfront areas such as container yards, where containerized freight is actually handled."

The court further rejected Continental's argument that its warehousing operations fall outside of the scope of stevedoring activities contemplated by both the Act and the Commission's subsequent Rulings. The court found that these activities are more than mere generation of receipts for regular warehousing, as was claimed by Continental, and are instead stevedoring activities that require Continental to be licensed and its employees registered. Accordingly, the court issued a declaration that Continental's warehouse operations fall within the Commission's licensing jurisdiction, and dismissed Continental's complaint. *Continental Terminals, Inc. v. Waterfront Commission of New York Harbor*, Civ. Action No. 1:11-CV-04869 (SDNY)(LTS)(FM)

**New York Shipping Association, Inc.,  
Metropolitan Marine Maintenance Contractors Association, Inc.,  
International Longshoremen's Association, AFL-CIO and ILA Locals 1804-1 and 1814  
Institute Lawsuit Challenging the Waterfront Commission's Statutory Authority  
To Require Fair and Non-Discriminatory Hiring in the Port**

On November 22, 2013, in response to the Commission's fair hiring measures, the ILA, NYSA and MMMCA filed a lawsuit in the United States District Court for the District of New Jersey. Their complaint alleged that the Commission was overstepping its statutory authority by enforcing fair hiring requirements in the Port, and that the Commission's diversity and inclusion requirements were improperly interfering with their collective bargaining rights. They allege that the Commission has "gone off the rails to pursue a future for itself that is well outside the purposes and goals that led to its creation." Moreover, they contend that Section 5-p of the Waterfront Commission Compact, which requires employers to certify that the selection of individuals to be hired was made in a fair and non-discriminatory manner, is unconstitutional. Not only are challenging the recent amendment, but they seek to completely eradicate Section 5-p, which empowers the Commission to safeguard fair and nondiscriminatory hiring in the Port.

The Commission immediately filed a motion to dismiss. Over the past sixty years, courts have consistently upheld the Commission's actions when a collective bargaining agreement has violated the letter and spirit of the Waterfront Commission Compact. The Commission is vigorously defending this lawsuit. *New York Shipping Association, Inc., et al. v. Waterfront Commission of New York Harbor, Civ. Action No. 2:12-CV-7115(SDW)(MCA)*

**United States District Court for the District of New Jersey  
Dismisses Complaint Filed by Former Longshoreman Peter Monforte  
and the International Longshoremen's Association, AFL-CIO Local 1804-1**

On February 6, 2014, the United States District Court for the District of New Jersey dismissed the complaint filed by Peter Monforte and ILA Local 1804-1 against the Commission. Monforte was a maintenance man who was involved in large-scale marijuana growhouse operations with two other longshoremen. In 2008, he pled guilty to the manufacture and distribution of marijuana, and conspiracy to manufacture and distribute marijuana, and was subsequently sentenced to three months' in prison, followed by years of supervised release. Monforte subsequently admitted to violating the Waterfront Commission Act and his registration as a longshoreman was revoked. When he was released from prison, Monforte began working at Apexel, LLC, a stevedore affiliated with Maher Terminals, LLC. The Commission advised Apexel that its continued employment of Monforte would be a reflection that it lacked the requisite good character and integrity to possess a license as a stevedore. Apexel terminated Monforte's employment. Plaintiffs alleged that the Commission violated Monforte's civil rights, excluded him from employment because of his Italian origin and ancestry, and interfered with his economic advantage, and the union's collective bargaining agreement. The court found that plaintiffs had not presented any evidence in support of their civil rights claim, Monforte actually admitted that he had no facts to support the allegation that he was being discriminated against because of his Italian ancestry. Plaintiffs also failed to show that the Commission acted with malice, which was an essential element of their tortious interference claim. The court reiterated that courts must defer to the Commission's longstanding experience with waterfront problems and defer to the Commission's judgment as to the appropriate penalty or discipline to be imposed in a given situation. The Court noted, "[t]he Commission could grant a stevedore's license to Apexel only if it was satisfied that Apexel possessed 'good character and integrity.' . . . Apexel's employment of Monforte, who had recently pled guilty to two drug crimes, reasonably caused the Commission to doubt that Apexel possessed these qualities." Accordingly, the court dismissed the complaint. *Monforte, et al. v. Waterfront Commission of New York Harbor, et al., Civ. Action No. 11-5085 (JLL)(JAD)*

**United States Court of Appeals for the Third Circuit Affirms  
Waterfront Commission's Right to Proceed with Administrative Disciplinary Hearing  
Against Former Commission Employee**

On June 17, 2014, the Third Circuit found that the federal abstention doctrine precluded federal interference with the Waterfront Commission's disciplinary proceedings against a former employee. Plaintiff Ariel Gonzalez, who had served as a detective since 1999, was suspended without pay in February 2013 for making false statements in a sworn affidavit in support of another former employee's lawsuit against the Commission. That lawsuit (which was later dismissed) alleged employment discrimination under Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act (ADA). Pursuant to the applicable collective bargaining agreement, Gonzalez was suspended pending a disciplinary hearing before an administrative law judge.

Prior to the commencement of the hearing, Gonzalez filed an action in the United States District Court for the District of New Jersey, alleging violations under the ADA, Title VII and the First Amendment. Gonzalez sought to enjoin the Commission's disciplinary proceedings against him, and an order rescinding the charges and awarding him compensatory damages. In March 2013 the district court denied Gonzalez's application for temporary and preliminary restraints and dismissed Gonzalez's complaint. The court held that the federal abstention doctrine required a dismissal of the federal suit because the Commission's administrative hearing was (1) judicial in nature; (2) implicated important state interests – in particular, the regulation of conduct of officers employed by the Commission, a bi-state agency; and (3) offered an adequate opportunity for Gonzalez to present his federal claims.

The disciplinary hearing before the ALJ commenced the following day. Gonzalez subsequently filed a notice of appeal from the district court's order dismissing his federal suit. In June 2013, while the appeal was pending, the ALJ issued his report and recommendations to the Commission with detailed factual findings, recommending termination. On July 15, 2013, the Commission adopted the ALJ's recommendations and terminated Gonzalez's employment. On August 20, 2013, Gonzalez appealed his termination to the New Jersey Superior Court, Appellate Division. That appeal is still pending and the Commission is vigorously defending that action.

In the Third Circuit's precedential decision, the court affirmed the district court's holding that it must abstain from exercising federal jurisdiction because Gonzalez could raise his federal claims in the state's administrative and related court proceedings. The court determined that his "window of opportunity to raise these claims is not yet closed, as he is permitted to – and indeed has – raised his federal claims in his appeal to the New Jersey Superior court, Appellate Division." *Ariel Gonzalez v. Waterfront Commission of New York Harbor*, 755 F.3d 176 (3d Cir. 2014)

## LEGISLATIVE MATTERS

### **The Ongoing Efforts of the NYSA and ILA to Repeal Section 5-p of the Waterfront Commission Compact**

Operations in the Port have dramatically changed since the creation of the Commission in 1953. Through the evolution of break-bulk freight to containerization, mechanical and technological advances have rendered many longshore jobs obsolete. Fifty years ago, when New York was the world's busiest port, there were more than thirty-five thousand longshoremen who worked in the Port. Today, there are approximately thirty-five hundred.

The controlled register statute, or Section 5-p of the Waterfront Commission Compact, empowers the Commission to open and close the deep-sea longshore workers' register as dictated by labor needs and to ensure that hiring is done in a fair and non-discriminatory manner. It is uncontroverted that an overabundance in labor leads to corruption, and therefore, the Commission needs to regulate the size of the available labor pool. History has shown that when there is a surplus of labor, organized crime is able to assert control over who will work and under what conditions, resulting in "job-selling" schemes and related forms of racketeer exploitation. The deep sea register serves as a buffer between the employers and the organized workforce to ensure that the workers are protected against unfair hiring and employment practices.

Section 5-p requires that employers who sponsor those individuals for inclusion in the register must certify that selection was made in a fair and non-discriminatory basis. The legislation currently in place is the Commission's crucial means of ensuring that the composition of the ILA's locals is representative of their cities' demographics. However, instead of welcoming a diverse workforce and a balanced labor pool, the ILA and NYSA – as they have done year after year – again vigorously advocated for the repeal of Section 5-p. As reported last year by the NYSA, their efforts were dealt a serious blow largely as the result of the various arrests and indictments charging various individuals, including union members and officials, with racketeering, extortion and related offenses in the Port:

The ongoing attempt to amend "section 5-p." of the Waterfront Commission Act in the New York Legislature to permit marine terminal operations and other port employers to hire additional labor if necessary to satisfy the cargo handling velocity expectations of their customers, stalled again in the New York State Legislature. The impact of a number of stories in the local and regional press proved to be detrimental to the effort, which described workplace conditions in the industry as drug infested, and the scathing findings of a special report released by the Waterfront Commission of New York Harbor in March of 2012. The Waterfront Commission report, which was the result of an investigation and hearings convened by the Commission between October and December of 2010, depicted conditions in the Port's maritime industry that evolved over decades as the result of "custom and practice" as an environment that fostered unfair employment practices. The report portrayed the collective bargaining agreement between the New York Shipping Association and the International Longshoremen's Association (ILA) as an agreement which "breeds waste and favoritism and detracts from the competitiveness of the Port of New York & New Jersey," through excess manning and relief practices, and also provides prime positions described as low-show and no-show jobs to members of our workforce who have a questionable or an actual history of association with organized crime figures (which is of course not permitted under the law).

After meetings which included the opportunities to speak with The Honorable Dean G. Skelos, President Pro Tempore and Majority Leader, New York State Senate, and The Honorable Sheldon Silver, Speaker, New York State Assembly and key members of their senior staffs, it became

evident that there are a number of housekeeping issues that need to be addressed by the industry before serious consideration could be given to the amending section 5-p. The proper forum for the industry to rethink certain aspects of how business is conducted in the PONYNJ (which have tarnished its credibility in the eyes of our political leaders) will be within the framework of current collective bargaining discussions on a new labor contract. In the end, the message from the political leadership to industry representatives of both labor and management was clear. We must design and build a new framework for how we will conduct the business of international maritime commerce in the future. This new framework must [e]nsure fairness for all of our workers; reduce the cost of doing business in the PONYNJ by eliminating wasteful practices; and dispel the perception that industry apathy aids and abets the attempts of an organized crime element to operate in the Port. If we prove to be unsuccessful with these tasks, greater scrutiny of our perceived and actual shortcomings will result, and the ability to define our future will of necessity be controlled by them.

[Source: New York Shipping Association 2012 Annual Report, page 30]

This year, efforts to persuade the New York State Legislature to repeal Section 5-p again proved to be unsuccessful.

**The NYSA's Unsuccessful Push for a Joint Resolution  
Urging the Governor and the State of New York  
to Enact Legislation Repealing Section 5-p of the Waterfront Commission Compact**

Given the New York State Legislature's continued refusal to enact legislation repealing Section 5-p, the NYSA vigorously lobbied for the passage of a resolution by the New Jersey State Legislature urging New York to do so. A joint resolution was introduced on February 27, 2014, for purposes of bringing New York's attention to the issue.

On April 28, 2014, Commission representatives, including New Jersey Commissioner Jan Gilhooly, testified before the New Jersey Senate Labor Committee Meeting in opposition to the resolution. Committee members were stunned to hear about the historical and ongoing influence of organized crime and corruption in the Port, the lack of diversity and inclusion in the Port workforce, and the NYSA's demonstrably false claims regarding hiring delays and labor shortages. Commission representatives informed the Committee members about the pending federal lawsuit by the NYSA, ILA and MMMCA, challenging the Commission's diversity and inclusion initiatives. Committee members were particularly concerned to discover that the NYSA and ILA were not meeting their promise to put veterans "at the front of the line" when it came to hiring, and were instead frontloading ILA referrals in this latest hiring round.

Commission representatives advised the Committee that there were 150 prequalified individuals, including military veterans referred by the industry, who could have been – and should have been – immediately put to work in the Port at that time, but that the NYSA had simply failed to do so. Following that testimony, NYSA President John Nardi was asked by Senate Committee members to explain why – when the Waterfront Commission appeared to be doing everything it could to move the process along – the NYSA continued to blame the Commission for alleged delays. Mr. Nardi could not adequately respond. Following that testimony, the Senate Labor Committee held back the proposed resolution.

## MATTERS OF SPECIAL INTEREST

### **Determinations 35 and 36: The Commission Opens The Deep Sea Longshore Workers' Register for the Metered Inclusion of 682 Workers (532 Longshore and 150 Checkers)**

On September 9, 2013, the NYSA-ILA Contract Board requested that the Commission, on its own initiative pursuant to Section 5-p, add 682 employees (532 longshore workers and 150 checkers) to the deep sea register. The NYSA and ILA advised that they, along with the terminal operators, will recruit, hire, and train as per the terms of the recruitment and hiring plan of the new NYSA-ILA collective bargaining agreement. That hiring plan provides that “[t]he selection process for new hires will include three designated referral sources: Military Veterans (51%), ILA (25%), and NYSA/Employers (24%).” It further provides that each candidate will be interviewed and evaluated by an Employment Screening Committee, consisting of the terminal operator employer, the ILA Director of Safety, and the NYSA Director of Workforce Development.

Before doing so, pursuant to the Commission’s well-established statutory authority, we asked the NYSA and ILA to address serious deficiencies in their proposed deep-sea hiring plan in order to ensure that employers are active, accountable participants in the hiring process. Given that the union, not the employers, has maintained complete control of hiring for the past sixty years, and in light of the continued corruption and lack of diversity among the membership of registered longshore workers in the various ILA locals, this was absolutely critical.

In November, the Commission met with the NYSA and ILA, along with representatives of The Port Authority of New York & New Jersey, to address the continued deficiencies in the proposed deep-sea hiring plan, and to develop a procedural mechanism to ensure that the plan is fairly administered. During those meetings, which were also attended by MMMCA representatives, the Commission further emphasized the need for a fair hiring plan for maintenance and repair workers which, for the first time in history, would give a diverse group of men and women – unencumbered by organized crime influence – the once-denied opportunity to work in the Port. Under the current hiring framework for maintenance and repair workers, the ILA has the exclusive right to recruit, select and refer all prospective workers to Port employers. With limited exceptions, the employers can only hire those referred to them by the union. Employers have candidly admitted that they have absolutely no idea how any of their employees were selected by the union.

As shown by the Commission’s public hearings, these current provisions in the collective bargaining agreements of the ILA, NYSA and MMMCA have perpetuated disparate hiring practices, resulting in an incredible lack of diversity in waterfront employment, as well as an income gap among those minorities that are employed there. The Commission pointed out that the industry’s hiring, training and promotion practices of the industry have led to no/low-work, no/low-show positions generally characterized by outsized salaries provided to a privileged class. And further, that those with such positions are overwhelmingly given to white males connected to organized crime figures or union leadership.

The Commission expressed concerns that, as admitted by the NYSA, the ILA had previously controlled 100% of hiring and that the referral percentages in the deep-sea plan are just a way for ILA to pass through their applicants. The Commission pointed out that an overwhelming majority of the candidates received as of early November (who were part of the military veteran pool of referrals) were direct ILA referrals. Many of those individuals were not unemployed or underemployed veterans. During those meetings, the Port Authority discussed the initiatives of Governors Christie and Cuomo, and cited the number of underemployed/unemployed veterans in the states of New York and New Jersey. The Commission indicated that it would accept the referral percentages if, in fact, the new hiring plan is not simply a way for the ILA to pass on its own referrals. The Commission sought adequate assurances that this hiring plan would be implemented according to its terms.

The NYSA indicated that it contacted various veteran referral services but did not receive any cooperation from them. During those discussions, the Port Authority and the Waterfront Commission offered to provide the NYSA with numerous organizations that could readily supply the appropriate number of veteran candidates, and questioned why ads were not placed and why the positions were not publically offered.

In response, on November 22, 2013, the NYSA, MMMCA, ILA and various ILA locals filed a federal lawsuit against the Commission, challenging its statutory authority to require fair and non-discriminatory hiring in the Port, and alleging interference with their collective bargaining agreements. That lawsuit is currently pending.

In the interim, to curtail the deleterious impact of this meritless litigation on Port operations, the Commission issued Determination 35 on December 3, 2013, which opened the deep sea longshore worker's register. The Commission determined that the NYSA-ILA's deep-sea hiring plan is, in fact, appropriate if it is (1) implemented according to its terms; (2) not utilized as a means by which to deny particular groups of persons the opportunity to become longshore workers; and (3) not utilized as a subterfuge to permit a referral source to exceed the percentages allotted to it by the Hiring Plan through the inclusion of its referrals in other referral pools. Since the hiring plan will be administered by the NYSA-ILA Contract Board and its representatives, the Commission required that a representative of the Board be directly involved with the administration of the hiring plan to submit a certification that (1) he or she has personal knowledge of the facts concerning the recruitment, referral, selection and sponsorship of that individual, and (2) the selection of the person so sponsored was made in a fair and nondiscriminatory basis in accordance with the requirements of the law of the United States and the States of New York and New Jersey dealing with equal employment opportunities.

On March 21, 2014, the Commission received the last set of sponsorship letters from the industry for the first 150 longshore workers. The Commission issued the last set of registrations to incoming longshore workers on March 25, 2014. That same day, the Commission issued Determination 36, which opened the deep sea register for the next set of 150 longshore workers. Pursuant to those determinations, the Commission issued 303 registrations (279 longshore and 24 checkers) this year.

### **NYSA Allegations of Hiring Delays**

After the Commission opened the deep-sea longshore workers' register in December, we advised the NYSA that a pool of individuals was prequalified and immediately ready to be added to the workforce upon receipt of the necessary sponsorship letters and applications. The Commission anticipated that the first 150 longshore workers would be processed that first week of January, and advised the NYSA that upon doing so, the Commission would then open the register for the next set of individuals. During the weeks that followed, however, the Commission still had not received the necessary sponsorship letters from the NYSA.

Instead, a press release was issued in February 2014 by a New Jersey Senator and New Jersey Assemblyman, claiming that "red tape was holding up job creation at the Port of New Jersey," and contending that the Commission was delaying the Port from filling "approximately 600 vitally needed jobs." Commission representatives, including New Jersey Waterfront Commissioner Jan Gilhooly, immediately met with those legislators and advised that even though the deep sea longshore worker's register had been open for months, the NYSA had not sent individuals to the Commission to be registered. We explained that in order for the Commission to issue registrations, the industry first had to send sponsorship letters with certifications, and that the Commission was still waiting for the industry to sponsor individuals for employment.

By that time, the Commission had completed hundreds of background checks for industry referrals, who were prequalified and ready for immediate employment. With the background checks complete, nothing precluded the industry from sponsoring individuals and sending them to the Commission to be registered. Following that meeting, on March 6, 2014, those New Jersey legislators wrote to NYSA President John Nardi and urged the NYSA to sponsor individuals so that they could immediately be put to work in the Port. They wrote, in pertinent part:

. . . we would hope that you begin the process of supplying the remaining 58 candidates who have already been prequalified and who can begin to work in the port immediately, and that you supply the Waterfront Commission with additional individuals to allow it to complete the prequalification of the remaining positions. At a time when people are desperately seeking employment and when the port is being challenged by regional and national forces for their business, it is imperative that the port is properly staffed and made to be competitive so it can truly be a New Jersey economic engine. As an immediate gesture, please forward 58 sponsorship letters to the Waterfront Commission for immediate approval of these prequalified candidates.

That same day, the Commission finally began receiving sponsorship letters from the NYSA. Registrations were issued to applicants within days.

## INTERNSHIP/FELLOWSHIP PROGRAMS

The Law and Intelligence Divisions run year-round internship and fellowship programs for college and law school students, and fellowship programs for post-graduates. In 2013-2014, the Law Division hosted interns who attended Brooklyn, Cardozo, Fordham, Hofstra, New York, NYU, Roger Williams, and Rutgers (Newark campus) law schools. In addition, the Law and Intelligence Divisions hosted undergraduate and master's degree students who attended Binghamton University, John Jay College of Criminal Justice, and NYU. Supervised by mentoring attorneys and analysts, the interns drafted reports, conducted research, observed or participated in depositions, attended educational lectures, and supported administrative hearings of port workers.



**Summer 2013 Law/Intelligence Interns:**

**(L to R):** Victoria Gionesi, Afrodite Fountas, Patrick O'Connor, Assistant Counsel Paul E. Babchik, Imaribe Iyamu, Dora Georgescu, Sara Friedman, Abigail Reich, Jessica Laredo



**Summer 2013 Law/Intelligence Interns:**

**(L to R):** Abigail Reich, Julianne Brown, Afrodite Fountas, Jessica Laredo, Sara Friedman, Dora Georgescu



**Fall 2013 Law Interns & Post-Graduate Law Fellows:**

**Back (L-R):** Melanie Rios, Ann Hiat, Ilana Neufeld

**Front (L-R):** Alex Hampton, Brent Bouma



**Summer 2014 Law Interns & Post-Graduate Law Fellow:**

**Back (L to R):** Peter Weinmann, Robert Wentworth,  
Anthony Mastroianni, Michael Kane

**Front (L to R):** Joanna Sedlak, Allyson Hopper,  
Melissa Katsoris, Jonathan Hagler



**Spring 2014 Law/Intelligence Interns & Post-Graduate Law Fellows:**

**Back (L to R):** Douglas Kopf, Mathew Shorstein, Magdalena Rysiejko, Brett Cotler, Michael Kane, Alfred Falzone III

**Front (L to R):** Mathieu Reno, Sylvia Dai, Myeisha Rouff, Lu Liu

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*“I loved every minute of my internship experience with the Waterfront Commission. It has been my favorite legal internship thus far, and I doubt that it will be topped. All of the attorneys are really nice and they make the interns feel like we are a part of the Commission’s family. The work environment was especially wonderful. Everyone was down to earth and so willing to answer all of our questions.” – Myeisha Rouff (Brooklyn Law ’15)*

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# ANNUAL FINANCIAL REPORT

## WATERFRONT COMMISSION OF NEW YORK HARBOR

FOR THE FISCAL YEAR ENDED JUNE 30, 2014

**Waterfront Commission of New York Harbor**  
**Statement of Cash Receipts and Disbursements and**  
**Changes in Fund Balance - Modified**  
**Actual and Budget**  
**For the Fiscal Year Ended June 30, 2014**

	<u>Actual</u>	<u>Budget</u>	<b>Favorable / (Unfavorable) Variance</b>
<b>RECEIPTS</b>			
Assessments (regular)	\$ 13,982,865	\$ 13,000,000	\$ 982,865
Assessments (additional)	31,736	-	31,736
Interest charges	1,819	-	1,819
Penalties	8,564	-	8,564
Subtotal	14,024,984	13,000,000	1,024,984
Dividend and interest income	4,394	1,375	3,019
Overtime reimbursements	31,161	-	31,161
Other	108,719	-	108,719
Total receipts	14,169,258	13,001,375	1,167,883
<b>DISBURSEMENTS</b>			
<i>Personal Services</i>			
Regular payroll	6,435,642	6,626,170	190,528
Overtime payroll	65,514	49,606	(15,908)
Group health, life, dental and optical insurance	1,198,101	1,332,761	134,660
Workers' compensation insurance	98,023	100,000	1,977
Employer taxes	503,195	537,000	33,805
Pension costs	1,022,559	1,320,000	297,441
Subtotal - salaries and benefits	9,323,034	9,965,537	642,503
Outside auditors, consultants and counsels	38,816	112,000	73,184
Administrative judges, transcript and other	46,633	45,500	(1,133)
Subtotal - professional services	85,449	157,500	72,051
Total personal services	9,408,483	10,123,037	714,554
<i>Other Than Personal Services</i>			
Office rent	980,835	934,761	(46,074)
Utilities	92,217	99,040	6,823
General insurance	515,683	447,700	(67,983)
Travel and automobile	256,358	300,865	44,507
General office	78,376	77,100	(1,276)
Communications	138,230	194,220	55,990
Special supplies	101,926	112,950	11,024
Information system	313,509	372,350	58,841
Repairs, maintenance and alterations	361,949	561,200	199,251
Printing	16,348	6,000	(10,348)
Furniture and equipment	115,324	175,475	60,151
Continuing education	1,255	11,500	10,245
Total other than personal services	2,972,010	3,293,161	321,151
Total disbursements	12,380,493	13,416,198	1,035,705
<b>Excess of Receipts over Expenditures</b>	<b>1,788,765</b>	<b>(414,823)</b>	<b>2,203,588</b>
Transfer to Reserves	1,200,000	-	(1,200,000)
<b>NET CHANGE IN FUND BALANCE</b>	<b>588,765</b>	<b>(414,823)</b>	<b>1,003,588</b>
<b>FUND BALANCE, July 1, 2013</b>	<b>1,708,650</b>	<b>1,708,650</b>	<b>-</b>
<b>FUND BALANCE, June 30, 2014</b>	<b>\$ 2,297,415</b>	<b>\$ 1,293,827</b>	<b>\$ 1,003,588</b>

See accompanying Notes to Statement of Cash Receipts and Disbursements and Changes in Fund Balance - Modified

Waterfront Commission of New York Harbor  
Notes to Statement of Cash Receipts and Disbursements and  
Changes in Fund Balance - Modified  
June 30, 2014

(1) Summary of Significant Accounting Policies

(a) Reporting Entity

The Waterfront Commission of New York Harbor (Commission) was created as a bi-state instrumentality in 1953 by joint legislative action of the States of New York and New Jersey in accordance with the Waterfront Commission Act (Act). The Commission is vested with broad investigative, licensing, and regulatory jurisdiction over the piers and terminals in the Port of New York District. The Commission is exempt from income taxes in accordance with being an instrumentality of the States of New York and New Jersey.

The mission of the Commission is to investigate, deter, combat, and remedy criminal activity and influence in the Port of New York-New Jersey and to ensure fair hiring and employment practices.

(b) Basis of Accounting

The Commission prepared the statement on the cash basis, modified, as noted herein, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America (GAAP). Under this basis, transactions are recognized as either cash receipts or disbursements, and noncash transactions, if any, are not recognized. Revenues are recorded when received and expenditures are recorded when paid, except for receivables from, or payables to, employees and due to/from other funds.

This basis of accounting differs from GAAP in that in accordance with GAAP, revenues are recorded when “measurable” and “available,” and expenditures are recognized when incurred.

(c) Assessment Revenue

The Act permits the Commission to assess employers of persons registered or licensed under the Act computed upon the gross payroll of each employer for the following professions: longshoremen, pier superintendents, hiring agents, and port watchmen.

Waterfront Commission of New York Harbor  
Notes to Statement of Cash Receipts and Disbursements and  
Changes in Fund Balance - Modified  
June 30, 2014

(2) New Jersey Pension Plan

The Commission employees who are eligible for pension coverage are enrolled in one of two State Pension Plans. The State Pension systems were established by the act of the State Legislature. Benefits, contributions, means of funding, and the manner of administration are determined by the State Legislature. The two State administered pension funds are: the Public Employees' Retirement System (PERS) and the Police and Firemen's Retirement System (PFRS). The Division of Pensions and Benefits within the Treasury Department of the State of New Jersey is the administrator of the funds and charges participating employers annually for their respective contributions. The plans provide retirement and disability benefits, annual cost of living adjustments, and benefits to plan members and beneficiaries. The plans are cost sharing multiple-employer defined benefit plans and as such do not maintain separate records for each participating employer in the state and, therefore, the actuarial data for the Commission is not available.

The Division of Pensions and Benefits issues publicly available financial reports for each of the plans that include financial statements and required supplemental information. The reports may be obtained by writing to the State of New Jersey, Division of Pensions and Benefits.

The contribution policy is set by laws of the State of New Jersey and, in most retirement systems, contributions are required by active members and contributing employers. Plan member and employer contributions may be amended by State of New Jersey legislation. The PERS and PFRS provide for employee contributions based on percentages 6.78% and 10% through June 30, 2014, and increasing gradually through July 1, 2018, to 7.5% and 10%, respectively, of employees' annual compensation. Employers are required to contribute at an actuarially determined rate in the PERS and the PFRS. The actuarially determined employer contribution includes funding for cost-of-living adjustments and noncontributory death benefits in the PERS and PFRS.

The Commission's contribution for pension expense for PERS and PFRS combined, for the years ended June 30, 2014, 2013, and 2012, amounted to \$64,061, \$77,006, and \$76,384, respectively.

Waterfront Commission of New York Harbor  
Notes to Statement of Cash Receipts and Disbursements and  
Changes in Fund Balance - Modified  
June 30, 2014

(3) New York Retirement Plans

Plan Description

The Commission participates in the New York State Employees' Retirement System (ERS) and the New York State Policemen's and Firemen's Retirement System (PFRS). These are cost sharing multiple-employer retirement systems. The Systems provide retirement benefits as well as death and disability benefits. Obligations of employers and employees to contribute and benefits to employees are governed by the New York State Retirement and Social Security Law (NYSRSSL). As set forth in the NYSRSSL, the Comptroller of the State of New York serves as sole trustee and administrative head of the Systems. The Comptroller shall adopt and may amend rules and regulations for the administration and transaction of the business of the Systems and for the custody and control of their funds. The Systems issue a publicly available financial report that includes financial statements and required supplemental information. That report may be obtained by writing to the New York State and Local Retirement Systems, 110 State Street, Albany, New York 12244.

Funding Policy

The Systems are non-contributory except for (1) employees who joined the New York State and Local Employees' Retirement System on or before July 27, 1976, who contribute 3% of their salary for the first 10 years of membership and (2) employees who join on or after January 1, 2010, and police and fire personnel who join after January 8, 2010, will contribute 3% of their salary for their entire career. Under the authority of the NYSRSSL, the Comptroller shall certify annually the rates expressed as proportions of payroll of members, which shall be used in computing the contributions required to be made by employers to the pension accumulation fund.

The Commission is required to contribute at an actuarially determined rate. The required contributions for the current year and two preceding years were:

2014	\$ 955,166
2013	997,059
2012	955,439

The Commission's contributions made to the Systems were equal to 100% of the contributions required for each year.

Waterfront Commission of New York Harbor  
Notes to Statement of Cash Receipts and Disbursements and  
Changes in Fund Balance - Modified  
June 30, 2014

(4) Lease Commitments

The Commission leases building and office facilities under non-cancelable leases. Total costs for such leases were \$980,835 for the year ended June 30, 2014.

The future minimum lease payments are as follows:

<u>Fiscal Year</u>	
2015	\$ 983,977
2016	969,515
2017	296,288
2018	250,149
2019	255,152
2020 and thereafter	<u>1,109,514</u>
	<u>\$ 3,864,595</u>

## **MEMBERS, OFFICERS AND DIRECTORS**

**Ronald Goldstock**  
Commissioner for New York

**Jan Gilhooly/Michael Murphy\***  
Commissioner for New Jersey

**Walter M. Arsenault**  
Executive Director

**Phoebe S. Sorial**  
General Counsel

**Meralis Lopez**  
Commission Secretary

**Jeffrey R. Schoen**  
Director of Law, Licensing and  
Employment Information Centers

**John Hennelly**  
Chief of Police

**Richard Carbonaro**  
Director of Administration and Audit

**Daniel Ramirez**  
Director of Intelligence

**Ariel Ventura**  
Director of Information Technology

**Adam Cheung**  
Comptroller

\* As mentioned above, Mr. Gilhooly served the Commission with distinction from February 2011 to June 2014 and is directly responsible for, and played an integral role in, the accomplishments described herein. Commissioner Murphy was appointed in June 2014.

## OFFICES



### **PRINCIPAL OFFICE**

39 Broadway - 4<sup>th</sup> Floor  
New York, New York 10006  
Telephone: (212) 742- 9280

### **LICENSING & EMPLOYMENT INFORMATION CENTERS**

#### **New York:**

39 Broadway- 4<sup>th</sup> Floor  
New York, New York 10006  
Telephone: (212) 742-9280  
Fax: (212) 905-9249

#### **New Jersey:**

1201 Corbin Street  
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