

**WATERFRONT COMMISSION
OF NEW YORK HARBOR
ANNUAL REPORT
2011-2012**



ANNUAL REPORT

FY 2011-2012



Waterfront Commission of New York Harbor
AN INSTRUMENTALITY OF THE STATES OF NEW YORK AND NEW JERSEY



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

In 1953, in the wake of the New York State Crime Commission’s devastating report detailing pervasive crime on the waterfront, New Jersey Governor Alfred E. Driscoll wrote that New Jersey and New York “should mobilize their forces in an unremitting drive against racketeering, organized crime and restrictive practices which have increasingly hamstrung the Port of New York.” The Waterfront Commission of New York Harbor was accordingly created 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.

The Port of New York-New Jersey has undergone a marked transformation since that time. No longer is break-bulk cargo precariously winched out of a ship’s hold in a system that necessitated the employment of tens of thousands of longshoremen. Mechanical and technological advances have completely changed Port operations; containerized freight is carried in larger, faster vessels, pier sizes have greatly expanded, larger cranes are utilized, and computerized processes streamline the entire shipping process. Fifty years ago, when the Port of New York-New Jersey was the world’s busiest port, there were more than thirty-five thousand longshoremen. Today, there are approximately thirty-two hundred.

However, not everything has changed, including the “racketeering, organized crime and restrictive practices,” which so concerned Governor Driscoll.

While longshoreman at other ports work in shifts, those in New York are still organized around gangs that are assigned work around the clock until a job is done. This allows extra relief workers in each gang to all receive full pay even when workers are not at the Port. As highlighted in the Commission’s Special Report that was released this year, certain hiring practices, achieved primarily through calculated provisions of collective bargaining agreements, illogical interpretations of other provisions, and claims of “custom and practice” have created within the Port no-work and no-show positions generally characterized by outsized salaries. Special deals and agreements, wherein union members are paid for hours not worked – even when they are not at the Port or even in the state – affect the economic competitiveness and vitality of the Port. The privileged few that are given those jobs are overwhelmingly connected to organized crime figures, union officials, or both.

The skewed nature of these “special deals and agreements” became concretely real when a terminal sought to fire two employees who had not worked their full shifts for weeks in May of this year. In protest of these firings, the ILA engaged in a slowdown that brought Port activity virtually to a halt for days. It was only after these workers were returned to work with an agreement that they only had to be physically present on the terminal for a few hours a shift in order to receive their full salaries that the Port returned to “normal.”

The effect of these special deals and agreements is reflected in the salaries of longshoremen posted inside this Report. Forty-five longshoremen make over \$300,000 a year, with an additional seventy-nine longshoremen making over \$250,000 per year. The Commission is working closely with the Port Authority of NY-NJ to identify each special deal and agreement, and to quantify the economic toll that they have collectively taken on the terminals.

In addition, organized crime continues to impose its toll on the workforce through various means. One notable target has been the longshoremen’s container royalty fund. This fund historically came from the 1964 establishment of the guaranteed annual income (GAI), which was initially intended to compensate those longshoremen who were displaced as a result of containerization.¹ While the fund is now meant for a year-end bonus to longshoremen, this year’s federal indictments revealed that union officials and other individuals – for many years on behalf of the Genovese Crime Family – found a way to extract their take from the fund, at the expense of hardworking longshoremen.

The Commission and its law enforcement partners have continued to make arrests of organized crime members, and union members and officials for demanding and receiving kickbacks in exchange for work, overtime or better assignments on the waterfront. Loan sharks, bookmakers and drug dealers, with the approval of organized crime, also continue to prey upon the workforce. Organized crime also continues to exact a tax through overpriced or non-existent services in the cleaning, trash removal, snow removal and repair industries forced upon companies. Cargo theft, often more sophisticated than in the past, is also still a real problem, as evidenced in this year’s federal indictment of a Genovese capo and his crew. Workers’ compensation fraud and terrorism concerns have been added to the enforcement picture. As highlighted later in this Report, the Commission arrested or participated in the arrests of two hundred thirty individuals for a wide array of serious crimes.

In addition to its law enforcement activities, the Commission continues to exercise its administrative and regulatory powers to increase the Port’s safety, security, diversity and competitiveness. The Commission has, on an ongoing basis, aggressively identified and suspended or removed registered individuals who constitute a danger to the peace and safety of the Port, or who lack the requisite good character and integrity required for their license. Twenty-three individuals were suspended or removed this year with the Commission awaiting decisions from the administrative law judges on another ten cases, including a hiring agent and a longshore worker each charged with associating with members of organized crime. Another fifty-seven individuals have been charged and are awaiting hearings – most delayed by the pendency of the criminal charges against them. Most significantly, this year, as in the past three

¹ However, due to an influx of labor into the industry just beforehand, the GAI instead presented a mechanism by which even those who had been brought in at the eleventh hour were able to be paid for doing no work at all.

years since the appointment of the Commission's new administration, every revocation decision made by the Commission has been upheld by the Courts of New Jersey and New York.

The Commission continues, as it did last year for the first time in the Commission's history, to grant permanent stevedore licenses to those companies with good character and integrity, as required by the Waterfront Commission Act. This year – exercising great care in examining applications – the Commission issued permanent licenses to sixteen companies, and continues to process the other applicants. Notably, the Commission's Legal Division conducted over three hundred forty examinations under oath during the course of the Commission's criminal, administrative and licensing investigations.

Additionally, this year the Commission compelled the industry to accept the addition of a racially diverse pool of applicants to the Port's workforce received from New York and New Jersey government employment centers become temporary longshore workers and now permanent members of the industry. Through the Commission's prequalification program, a qualified pool of labor is immediately available for the Port whenever it is needed. Despite union opposition and an unauthorized walkout, the Commission successfully placed a diverse group of men and women into the longshore industry, first as temporary baggage handlers and now as permanent longshoremen. The Commission has received many compliments from Port employers on the diligence and hard work of these additional workers. As will be discussed later in this Report, the Commission has repeatedly opposed any attempt by the ILA or NYSA to perpetuate prior hiring practices that have resulted in the ethnic and gender disparity imbalances highlighted in last year's Annual Report.

While individual prosecutions and administrative and regulatory actions are required and necessary, these alone are insufficient to change a historically and presently corrupt industry. There are signs that the shippers and terminal operators have begun to recognize the critical need for change.

We are proud to present a summary of the significant activities of the Waterfront Commission of New York Harbor during the Fiscal Year 2011-2012. The Commission – though operating this past year with its smallest headcount in its history – has continued to effectively perform its designated responsibilities under the Waterfront Commission 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.

THE COMMISSION

The Commission is headed by a New Jersey and a New York Commissioner, appointed by the Governors of their respective states. Notably, for the first time in years, they were appointed not because of political patronage but rather, because of their extensive experience in criminal investigations and prosecutions, along with their expansive knowledge of organized crime and corruption. After years of divisiveness, the Commissioners are aligned in their deep commitment to the Commission's objectives, and have been instrumental in its transformation.

New York Commissioner Ronald Goldstock



Ronald Goldstock served for thirteen years as Director of the New York State Organized Crime Task Force, where he designed and developed the Independent Private Sector Inspector General (IPSIG) program. In addition to currently providing IPSIG services to a number of corporate clients, Mr. Goldstock is on the faculties of the Cornell, Columbia and New York University Law Schools. Mr. Goldstock, a graduate of Cornell University and Harvard Law School, has 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 serves as a referee for the NYS Commission on Judicial Conduct, and is a Past Chair and current Budget Director of the ABA Criminal Justice Section, Past Chair of the ABA Criminal Justice Standards Committee and Past Chair of the Investigative Function of the Prosecutor Task Force. Mr. Goldstock 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. He has recently served three Northern Ireland Secretaries of State as advisor on matters relating to international organized crime. He is the author of numerous articles related to organized crime and corruption, including, "On the Waterfront: RICO and Labor Racketeering," published in 1980.

New Jersey Commissioner Jan Gilhooly



Jan Gilhooly is a 29-year veteran of the U.S. Secret Service. During his career, he was assigned to the New York Field Office and the Presidential Protective and Inspection Divisions. He was also Special Agent in Charge of the New Jersey 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. Prior to that, he served with the Department of Justice. He 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. More recently, as the New Jersey 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. Mr. Gilhooly 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, most recently, was the Site Coordinator at the 2012 Republican National Convention. He has lectured at numerous 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 has just been 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.

Executive Director Walter M. Arsenault

Walter M. Arsenault was appointed Executive Director of the Waterfront Commission of New York Harbor 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 - Camden. 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. Mr. Arsenault was the Chief of that office's Homicide Investigation Unit for most of his career there. He 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 of the Waterfront Commission of New York Harbor on May 10, 2010. Ms. Sorial is the chief legal advisor for the Commission and assists the Commission in fulfilling its statutory mission. She is a graduate of Rutgers University and Rutgers School of Law-Newark, 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, Judge of the Appellate Division of the Superior Court of New Jersey, before entering into private practice. Ms. Sorial joined a prominent New Jersey law firm, where she 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. During her tenure, she met with legislative delegates and secured sponsorship for proposed legislation. 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 Third Circuit.

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 and public 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 for Licensing and E.I.C. The Division's six assistant counsel conduct investigations into waterfront practices throughout the Port of New York District. In addition to investigating applicants for licensing and registration to determine if they meet legal standards set forth in the Waterfront Commission Act, these attorneys also investigate currently licensed personal 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 assistant counsel to determine whether applications should be granted or denied and whether registrations and licenses should be suspended or revoked. In addition, assistant counsel 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 longshoremen, 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.

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 and Newark. 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 Heinssen commands the Brooklyn Field Office, and Captain Thomas Alexander commands the Newark 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, working in conjunction with the General Counsel, also assigns and monitors the work of the Commission's auditors, who review assessment payments made and perform compliance audits. 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.

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 2011-2012, the Commission operated with an \$11,940,000 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. In FY 2011-2012, the collected assessments approximated \$11.5 million. As anticipated, the Commission's collection of retroactive assessments, interest charges, fines and penalties resulted in total cash receipts of \$12 million, which was \$100,000 – one percent – above budget.

While cash receipts trended on target with the budget, the Commission collected \$553,000 – five percent – more than it did a year ago. Even though the economy appeared to recover at a slower pace than expected, the Port did show a number of economic gains this past year and the Commission had a record year in cash receipts in FY 2011-2012.

To better control the risks of uncertainty in cash collection and liquidity, the Commission continued to delay filling open positions, and reduced or postponed other discretionary spending in order to bring the fund balance above the recommended level. Even though there were a number of contractual and other non-discretionary expenditures (e.g., \$196,000 increase in pension contributions and escalating rent and fuel costs), the Commission's total spending before a transfer of \$700,000 to the Retiree Health Benefit Fund was \$628,000 under budget. This was primarily achieved through attrition, resulting in over \$388,000 in savings from the budgeted payroll. The average staff size in FY 2011-2012 was seventy-eight – the lowest staffing level on record. All non-essential, discretionary purchases were eliminated.

After the Retiree Health Benefit Fund transfer, the Commission ended the fiscal year with a positive Operating Fund balance of \$1.2 million, which represents a \$29,000 net increase. By reacting proactively to the economic environment, the Commission continues to responsibly operate with thrift, accountability and efficiency.

MEMBERSHIP IN ORGANIZATIONS

The Commission and its staff maintain memberships in several law enforcement organizations which routinely network to provide training and share information and resources to combat crime. These include the New York Prosecutors Training Institute, Middle-Atlantic Great Lakes Organized Crime Law Enforcement Network (MAGLOCLLEN), International Association of Crime Analysts, International Association of Law Enforcement Analysts, the Intelligence Support Team of the U.S. Coast Guard New York Sector, the National White Collar Crime Agency, the Multi-jurisdictional Counter-drug Task Force, the New York Prosecutors Training Institute and the International Association of Airport and Seaport Police. The Commission is also a voting member of AMSEC.

PORT STATISTICS:

During calendar year 2011, the Port of New York-New Jersey, the Eastern seaboard's busiest port, handled 33.925 million tons of waterborne cargo valued at \$166,524 million. The tonnage increased by 5.2 % and the dollar value increased by 13.7 % over 2010.

For 2011, 4,304,954 container units passed through the port, an increase of 5.1% over 2010. For the same 2011 period, 650,669 vehicles were imported or exported, a decrease of 6.4% over the prior year.

The Port's leading waterborne general cargo exports for the year 2011 (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, and apparel. The largest containerized cargo volumes for export were paper, carbon, crepe, automobiles, scrap metal and household goods.

During FY 2011-2012, registered "deep-sea" longshoremen and checkers (excluding those pier workers registered under 1969 amendatory legislation to perform services incidental to the movement of waterborne freight) were paid \$369,064,334.27, comprising regular and overtime wages, vacation and holiday benefits. The below chart reflects the earnings, by range, of longshoremen, special craft and checkers during FY 2011-2012:

EARNINGS RANGE	# OF EARNERS
Over \$450,000	1
\$400,000 to \$450,000	5
\$350,000 to \$400,000	10
\$300,000 to \$350,000	29
\$250,000 to \$300,000	73
\$200,000 to \$250,000	152
\$150,000 to \$200,000	439
\$100,000 to \$150,000	1,117
\$75,000 to \$100,000	612
\$50,000 to \$75,000	471
\$25,000 to \$50,000	190
Below \$25,000	117

When benefits are added in to the above wages (including the container royalty check and holiday and annual vacation pay), there are thirty-four longshoremen that take home more than \$368,000 a year; one in three longshoremen makes more than \$208,000 a year.

On June 30, 2012, the conclusion of the Commission's fiscal year, registered and licensed dock workers totaled **5985** broken down into the following categories:

2040 "Deep Sea" Longshoremen;

448 Special Craft;

701 Checkers;

2041 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;

340 Port Watchmen;

84 Hiring Agents;

323 Pier Superintendents;

8 Telecommunications System Controllers.

35 longshoremen were decasualized by the Commission for failure to meet minimum work requirements in FY 2011-2012.

There were also **39** companies licensed as stevedores who have contracts or arrangements to move waterborne freight or to perform services incidental to the movement of waterborne freight.

THE YEAR
(July 1, 2011 to June 30, 2012)

Divisions within the Commission are now collaboratively involved in Commission matters and to re-establish a presence on the waterfront. No longer do divisions work in secret and apart from each other as they did under the previous Administration, but investigations are now jointly undertaken by teams consisting of Senior and Assistant Counsels, Police Detectives, Auditors and Intelligence Analysts.

Commission investigations with our law enforcement partners resulted in arrests of 230 individuals on state and federal charges as well as the seizure of 661 pounds of cocaine, 250 pounds of marijuana, over \$ 5.2 million in proceeds from drug transactions, loan sharking and gambling and the recovery of 260 stolen vehicles about to be exported.

The following is a summary of the Commission's most significant cases:



Shop Steward and ILA Local 1 Trustee Highlighted in Commission Public Hearings Removed from the Waterfront . By Commission Order dated October 25, 2011, William A. Vitale, a suspended shop steward at Maher Terminals and a trustee of ILA Local 1, was removed from working on the waterfront for the theft of \$96,582.75 from Maher Terminals, for committing frauds in connection with a sworn interview conducted by the Commission, and associating with an associate of the Genovese Crime Family.

On April 28, 2011, in Union County Superior Court, Vitale pleaded guilty to theft by deception (a crime of the 3rd degree). On September 23, 2011, the Court sentenced Vitale to three years probation and ordered him to pay restitution of \$96,582.75 to Maher Terminals, forfeit his waterfront registration, and resign his position with the ILA. Vitale admitted that he lied and caused false time records to be created which resulted in Maher Terminals paying him for hours that he did not work. He also testified falsely during a sworn Commission interview in response to questions concerning his presence in Florida, California, and Aruba, when he was paid for working at the terminal. Vitale also visited in prison Joseph Lore, an associate of the Genovese Crime Family on the ILA Ethical Practices Counsel's Barred List, who was convicted of charges pertaining to embezzlement from ILA Local 1588 and using intimidation or force against a witness. Both Vitale and Lore were subjects of testimony during the Commission's 2010 Public Hearings pertaining to no show jobs and organized crime associations on the waterfront.

Checker Highlighted in Commission's Public Hearings Pleads Guilty to Money Laundering

Checker Nicholas Bergamotto pleaded guilty on October 28, 2011 before Superior Court Judge Anthony J. Mellaci, Jr. in Monmouth County, New Jersey. Bergamotto pleaded guilty to money laundering on behalf of Genovese soldier Joseph Queli's loan sharking operation and will be sentenced to a term of probation. Bergamotto has been suspended from the waterfront since his arrest on April 22, 2010. Both Bergamotto and Queli were highlighted in the Commission's Public Hearings.





New York Supreme Court Affirms Revocation of Registration of Maintenance Man Highlighted in Commission's Public Hearings.

On August 15, 2011, Justice Eileen Rackower of the New York State Supreme Court denied Port Newark Container Terminal maintenance man Roy Marohn's Article 78 petition to overturn the Waterfront Commission's revocation of his registration. Marohn had been charged with inappropriately touching the breast and leg of a female terminal security guard without her consent, threatening his supervisor at PNCT with violence on two occasions while armed with a weapon, damaging PNCT property, using cocaine and lying about his cocaine use. After a hearing, an Administrative Law Judge sustained all of the charges and recommended the revocation of Marohn's registration, and the Commission followed the ALJ's recommendation and revoked Marohn's registration as a maintenance man. On appeal, Justice Rackower found there was ample testimony in the record to sustain all the charges, and that a rational basis existed for the Commission's determination. She denied and dismissed Marohn's petition. Marohn had been highlighted in the Commission's Public Hearings as one of the dozen relatives of Genovese Boss Vincent "Chin" Gigante who found employment in the Port.

New Jersey Appellate Division Affirms Revocation of Longshoreman's Registration.

On September 27, 2011, Judges Mary Cuff and Alexander P. Waugh of the Superior Court of New Jersey, Appellate Division, affirmed the decision of the Waterfront Commission to revoke the registration of longshoreman Perfecto Corbacho. Corbacho had been charged with, among other things: (1) exhibiting a pattern of sexual deviant behavior between 1974 and 2008 resulting in various arrests for sexual offenses, including lewdness, solicitation, and criminal sexual contact; (2) committing two acts involving theft of property between 1980 and 1992; and (3) failing to notify the Commission within twenty days of two of his arrests. After a hearing, an Administrative Law Judge found that the Commission had sustained all of the charges, and recommended a one-year suspension of Corbacho's registration. The Commission concurred with the ALJ's findings but, in light of Corbacho's extensive history of arrests and failure to report same, modified the recommendation from a one-year suspension to a revocation.



On appeal, Corbacho argued that the Commission's penalty of revocation was too severe, and his registration should only have been suspended for one year. However, Judges Cuff and Waugh noted that "[w]hen the issue is the severity of a sanction, we must generally defer to the judgment of the agency, particularly when the agency is vested with authority to regulate the conduct of a discrete set of employees or professionals." The Court observed that, while the sanction imposed by the Commission was severe, there was ". . . no basis to disturb the decision of the agency as it discharges its statutory function to preserve the peace and safety of the waterfront district." The Court affirmed the Commission's revocation of Corbacho's registration.

Additional Defendants and Counts Added to Port Racketeering Indictment



Albert Cernadas, Sr.



Vincent Aulisi



Thomas Leonardis



Nunzio LaGrasso



Stephen DePiro

In addition to the five individuals shown above, three additional defendants were arrested and charged in a superseding indictment that added dozens of counts to a previous indictment charging multiple defendants – including an alleged member and associates of the Genovese organized crime family – with racketeering and related offenses in the Port.

On December 15, 2011, a 103-count superseding indictment was unsealed in the U.S. District Court for the District of New Jersey, in which previously-charged defendants Stephen Depiro, a soldier in the Genovese organized crime family, and three Genovese family associates: (1) Albert Cernadas, former President of International Longshoremen’s Association (“ILA”) Local 1235 and former ILA Executive Vice President; (2) Nunzio LaGrasso, the Vice President of ILA Local 1478 and ILA Representative; and (3) Richard Dehmer – are charged with racketeering conspiracy, including predicate acts of conspiring to extort Christmastime tributes from ILA members on the New Jersey piers. The superseding indictment includes, as part of the racketeering conspiracy charge, sixty-one additional predicate acts of extortion of various ILA members by Cernadas and twelve additional predicate acts of extortion of ILA members by LaGrasso. In addition to the Christmastime extortion scheme, LaGrasso is charged with the extortion of an ILA dock worker so that the worker could retain a supervisory job at the Port.

The superseding indictment also charges newly added defendants Michael Nicolosi, Julio Porrao and Rocco Ferrandino – all current or former ILA supervisors – with extortion conspiracy and extortion. LaGrasso and five other defendants, including Thomas Leonardis, the President of ILA Local 1235 and ILA Representative; Robert Ruiz, the Delegate of ILA Local 1235 and ILA Representative; and Vincent Aulisi, former President of ILA Local 1235, are charged with additional counts of extortion of ILA members. Ruiz is also charged with obstructing justice by impeding a grand jury investigation. In total, the superseding indictment contains allegations regarding the extortion of twenty-eight victims.

New Jersey State Commission of Investigation Report on Organized Crime in the Solid Waste and Recycling Industry Cites Commission Evidence. In December 2011, the New Jersey SCI Report entitled “Industrious Subversion: Circumvention of Oversight in Solid Waste and Recycling in New Jersey” cited Commission evidence and testimony regarding checker Edward Aulisi’s ownership of Mack Service Co., a mob-connected garbage company doing business in the Port as an example of lax oversight of that industry in the State.



Checker Suspended by Commission After His Arrest and Indictment for Conspiracy, Tax Fraud, Union Benefit Fund Embezzlement and Other Crimes.



Checker Vincent J. Fusella, Jr. was arrested December 22, 2011 with his brother Gerardo P. Fusella, after both were charged federally in a thirty-one count indictment. That indictment charges conspiracy to defraud the United States, tax fraud, union benefit fund embezzlement, making false ERISA statements, using false writings and documents, mail fraud and unlawful payments in connection with their two trucking companies - Fusella Group, LLC and Alpine Investment Group, Inc. Vincent Fusella's license as a checker was suspended by the Commission pending an administrative hearing on the charges.

New York State Supreme Court Affirms Commission's Revocation of Special Craft Longshoreman's Registration for Operating Marijuana Grow House.

On January 6, 2012, Justice Saliann Scarpulla of the New York State Supreme Court denied and dismissed the Article 78 Petition filed by special craft longshoreman Anthony Rispoli to overturn the Waterfront Commission's revocation of his registration. Rispoli was charged with operating a large-scale marijuana grow operation, thereby rendering his presence at the piers or other waterfront terminals in the Port of New York district a danger to the public peace and safety within the meaning of the Waterfront Commission Act. After an administrative hearing, the Administrative Law Judge found that the Commission established the charges against Rispoli by a fair preponderance of the credible evidence, and recommended that Rispoli's registration be suspended for six months. Having duly considered the record of the proceedings, including the findings and recommendations in the ALJ's Report and Recommendations, the Commission instead revoked Rispoli's registration.



On appeal, Rispoli requested that the Court annul the Commission's determination due to various due process violations, which included the admission of certain hearsay testimony during the administrative hearing. He also argued that the revocation, rather than a suspension, of his longshoreman registration was an abuse of discretion.

The Court rejected Rispoli's allegations that there were due process violations, indicating that it is well-established that hearsay evidence is admissible in administrative hearings. Moreover, the Court held that the Commission's decision to revoke Rispoli's registration was not disproportionate to the offense charged. The Court found that though the ALJ did not recommend permanently revoking Rispoli's registration, he did find that his presence at the piers was a danger to the public peace or safety, and based on this finding the Commission has the statutory discretion to revoke Rispoli's registration. The Court held that "given the Commission's purpose of eliminating criminal activities in New York harbor, the punishment here does not shock the Court's sense of fairness."

Former Longshoreman Pleads Guilty of Possession of Forged Instrument and Sentenced to Forty-Five Days Imprisonment.



Former longshoreman Anthony Bell pleaded guilty to criminal possession of a forged instrument in the third degree before the Honorable Judge Frank P. Nervo of the New York County Criminal Court. Bell was sentenced to the forty-five days imprisonment he had already served.

Bell had been given a lifetime ban from the industry by the NYSA-ILA Seniority Board in 2006 for excessive absenteeism. When the NYSA-ILA Board lifted his ban in 2008, Bell submitted sponsorship letters from Maher Terminals and the NYSA-ILA Seniority Board to the Commission. However, the Commission denied Bell's request for reinstatement to the longshoremen's register since he failed to establish the requisite good cause for his failure to meet the work requirements. On July 20, 2011, Bell submitted forged documents to the Commission in support of his second request for reinstatement. Bell altered the dates on the original 2008 sponsorship letters to give the appearance of a current sponsorship by Maher Terminal and the NYSA-ILA Seniority Board.

Former Checker Arrested for Submitting Forged Documents to ILA Federal Credit Union.

On January 26, 2012, decasualized checker Dante Cifelli was arrested by Waterfront Commission detectives and the New Jersey Division of Criminal Justice. Cifelli had submitted a forged document, purportedly from the Commission, to the ILA Local 1235 Federal Credit Union in an attempt to regain possession of his BMW, which had been repossessed for his failure to make payments. Cifelli created and submitted a letter on Commission letterhead, signed by a fictitious Commission employee, which falsely confirmed his employment on the waterfront in an attempt to defraud the Credit Union. Cifelli was charged with tampering with public records, a third degree crime, and forgery, a fourth degree crime.



United States Court of Appeals for the Third Circuit Affirms the Dismissal of NYSA's Challenge to the Commission's IPSIG Program.



On February 7, 2012, the U.S Court of Appeals for the Third Circuit affirmed the dismissal of the Amended Complaint filed by the New York Shipping Association against the Waterfront Commission, challenging the Commission's Independent Private Sector Inspector General (IPSIG) program. The Court held that the NYSA's claims were abstract and not ripe for judicial review. The Court pointed out that the NYSA had not alleged that the Commission used the IPSIG program to deny a member's right to full administrative procedures. The Court noted that, "the legal question at issue in this matter – whether the Commission's actions fall within its statutory authorization – likely turns on how the IPSIG program will be implemented." The Court rejected the NYSA's argument that it had suffered a procedural injury, and indicated that it would not rule on the merits of the IPSIG program absent a demonstration of how the program interfaces with the Commission's current licensing system.



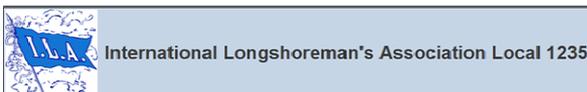
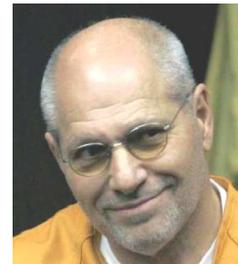


Genovese Soldier Sentenced to Five Years in Prison In Port Loansharking Case.

On February 10, 2012, Genovese Soldier and former longshoreman Joseph Queli was sentenced to five years in New Jersey State Prison by Superior Court Judge Anthony J. Mellaci Jr. in Monmouth County. Queli was also ordered to pay a \$57,500 fine, and to forfeit \$24,260 seized in the investigation. The sentence was based on Queli's October 2011 guilty plea to one count of second-degree conspiracy to commit criminal usury and money laundering, and a second count of third-degree filing false tax returns. The investigation revealed that Queli made usurious loans, which is commonly known as loansharking, to ILA members, from whom he would demand weekly payments. Queli was charged in an October 2010 indictment. In pleading guilty, Queli admitted that he made loans at usurious interest rates in excess of fifty-percent per year. Queli had previously lost his longshoreman's license for his participation in illegal gambling at the Port. He and his family members who still work on the Port were featured in the Commission's Public Hearings.

Genovese Capo's Racketeering Conviction for Extortion of ILA Local 1235 and Sentence Affirmed by the United States Court of Appeals for the Second Circuit.

On February 14, 2012, the Appeals Court affirmed the trial jury's finding that Genovese Capo Michael Coppola had committed two racketeering acts. The first was a three-decade conspiracy to extort, extortion and wire fraud in connection with Genovese control of ILA Local 1235. Coppola had been found guilty after a jury trial in the United States District Court for the Eastern District of New York of conducting and conspiring to conduct the affairs of the Genovese organized crime family through a pattern of racketeering activity, evidenced by the use of extortion and fraud to control the New York-New Jersey waterfront generally and ILA Local 1235 in particular, and by the possession of false identification documents. He was sentenced on December 3, 2009 to a sixteen-year prison term.



The Appeals Court found that the evidence demonstrated that the Genovese Family used its control of waterfront unions to dictate what businesses worked on the waterfront and that the Genovese had a more than thirty-five year control of ILA Local 1235 through three successive local presidents that forced "Christmas" payments and other tributes from union members as well as payments for jobs. Besides defrauding Local 1235 members of tangible property, the Court also found that Coppola and the Genovese Family defrauded members of Local 1235 of the honest services of their union's presidents. The evidence also showed that the Genovese Family exploited its control over the waterfront unions to make union employment decisions. The Court concluded that the union local and the members it was supposed to represent was a cash generating machine for the Genovese Family. The reviewing Court also found sufficient evidence to sustain Coppola's second racketeering act – conspiracy to possess with intent to use various false identification documents. The Appeals Court, besides affirming his conviction, refused to disturb Coppola's sixteen-year sentence.

Contractor Arrested for Stealing More Than \$100,000 From ILA Local 1233. On February 16, 2012, Raymond Norville, a contractor who was hired to renovate and repair the ILA Local 1233 headquarters in Newark was arrested for allegedly stealing more than \$100,000 from the union. Norville, owner of RLL Unique Homes Inc., a construction company located in Orange, N.J., was charged by Complaint with one count of embezzlement of at least \$100,000. Norville was charged with causing the union to disburse funds to him by improperly invoicing the union for renovations to its office building that was the result of overbilling, using duplicate invoices and work not performed. Norville is not a licensed electrician or plumber and never took out building permits from the City of Newark for the so-called renovations.



NJ Appellate Division Affirms Denial of Witness' Motion to Quash Commission Subpoena.

On March 6, 2012, the New Jersey Superior Court, Appellate Division, affirmed the trial court's denial of the motion by longshoreman Salvatore LaGrasso, Jr. to quash a subpoena requiring him to appear as a witness at a Waterfront Commission hearing against hiring agent Pasquale Pontoriero. Pontoriero has been charged by the Commission with violating the Waterfront Commission Act by associating with Tino Fiumara and Stephen DePiro who are convicted racketeers, career criminals and members or associates of organized crime. LaGrasso, who has been charged by federal indictment with conspiracy to commit extortion and extortion, argued that the Commission's subpoena requiring his appearance at Pontoriero's hearing would result in self-incrimination. The Appellate Division affirmed the trial court's holding that LaGrasso may



not invoke the Fifth Amendment by "blanket" refusal to testify. Instead, in order to assert the privilege, LaGrasso must first comply with the subpoena, appear as a witness, and then invoke the privilege in response to a specific question propounded. Accordingly, the court affirmed the trial court's denial of LaGrasso's motion to quash, and upheld the Commission's subpoena.

Longshoreman Salvatore LaGrasso, Jr. (2) and Hiring Agent Pasquale Pontoriero (1) after meeting with Genovese soldier Stephen DePiro.

Gang Boss Longshoreman Pleads Guilty to Obstruction of Justice. On March 8, 2012,



longshoreman Manuel Salgado pleaded guilty to obstruction of justice before Judge Eric Vitaliano in the U.S. District Court for the Eastern District of New York. Salgado, a gang boss at Port Newark Container Terminal, admitted he lied to a federal grand jury that was investigating the extortionate collection of Christmas (container royalty bonus checks) by union officials on behalf of the Genovese Crime Family. Salgado faces up to sixteen months in prison at sentencing. Salgado has been suspended by the Commission since his arrest on January 20, 2011, pending an administrative hearing to revoke his registration as a longshoreman.

New Jersey Appellate Division Affirms Denial of Maintenance Man's Re-Application. On March 23, 2012, the Superior Court of New Jersey, Appellate Division, affirmed the decision of the Waterfront Commission denying the re-application of Christopher McDonald for registration as a maintenance man. McDonald, who had previously worked on the waterfront, was charged with making several misrepresentations during the re-application process, including failing to disclose all of the disciplinary measures previously taken against him and representing that he was unemployed despite working as a longshoremen without being duly registered to do so. At an administrative hearing, the Administrative Law Judge found that McDonald committed multiple instances of fraud, deceit and misrepresentation, and therefore recommended that his re-application be denied. After a review of the entire record of the hearing, multiple examinations under oath and the ALJ's Report and Recommendations, the Commission denied McDonald's re-application.



On appeal, McDonald argued that the Commission's findings were not supported by credible evidence, and that its sanction of denial was too severe and disproportionate to the misconduct charged. The appellate panel rejected McDonald's arguments, deferring to the ALJ's finding that McDonald was not credible in explaining his failure to disclose all the disciplinary measures taken against him and his untruthful statements regarding his employment history. The Court found that, given the number of work infractions committed by McDonald, his affirmative misrepresentations and intentional omissions, the Commission's decision to deny re-registration was not arbitrary, capricious, or unduly harsh.

Longshoreman Removed from the Waterfront After Conviction for Promoting Gambling on Behalf of the Gambino Family.



On April 3, 2012, the Waterfront Commission accepted the surrender with prejudice of longshoreman Michael Bolger's registration. That acceptance has the same effect as a revocation. In February 2012, Bolger had pled guilty to promoting gambling in the first degree, a Class E felony, before the Honorable Justice Martin P. Murphy of the Kings County Supreme Court. Bolger, as a condition of his plea, was ordered to surrender his waterfront registration with prejudice to the Commission. Bolger had been suspended by the Commission following his arrest on October 20, 2011. He was one of eleven defendants charged with enterprise corruption, gambling in the first degree and conspiracy in the fifth degree. The indictment alleged that Bolger and his co-defendants operated an illegal gambling ring in parts of New York and New Jersey from 2010 to 2011 on behalf of the Gambino Organized Crime Family.

Former Secretary Treasurer of Local 1233 Indicted on 37 Counts of Embezzlement from Union Funds.

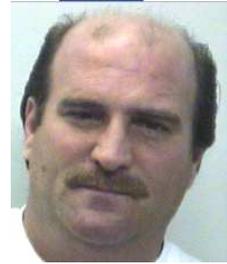


Former Local 1233 Secretary Treasurer Gregory "Ronnie" Taylor was arraigned on May 8, 2012 before U.S. Federal District Court Judge Joel A. Pisano on an indictment charging him with thirty-seven counts of embezzlement from the union. Taylor is charged with issuing himself extra paychecks, buying personal airplane tickets to Africa and South America, renting cars and cashing-in hundreds of Shop Rite turkey coupons intended for dockworkers during the holidays. Taylor had been arrested on September 15, 2011 for stealing more than



\$100,000 in union funds for his personal use.

New Jersey Appellate Division Affirms Revocation of Warehouseman Involved in Marijuana Grow Houses. On May 8, 2012, the Superior Court of New Jersey, Appellate Division, affirmed the decision of the Waterfront Commission to revoke the registration of warehouseman William H. Donoughe, Jr. Donoughe was charged with operating a large-scale marijuana grow operation, thereby rendering his presence at the piers or other waterfront terminals in the Port of New York district a danger to the public peace or safety within the meaning of the Waterfront Commission Act. After an administrative hearing, the Administrative Law Judge found that the Commission established the charges against Donoughe by a fair preponderance of the credible evidence, and recommended that Donoughe's registration be suspended for six months. Having duly considered the record of the proceedings and the ALJ's Report and Recommendations, the Commission instead revoked Donoughe's registration.



On appeal, Donoughe alleged various due process violations, including the amendment of the Commission's notice of hearing in the middle of the administrative hearing, and the admission of certain hearsay testimony during the hearing. He also argued that the revocation, rather than a suspension, of his registration was an abuse of discretion.

The appellate panel rejected Donoughe's allegations, finding that there was no due process violation or other fundamental unfairness at the hearing. The Court found that amendments to charges during a hearing are permitted and, likewise, that it is firmly established that hearsay is admissible in administrative hearings, so long as the agency's factual findings are supported by a residuum of legally competent evidence. Moreover, the Court held that the Commission's decision to revoke Donoughe's registration was not disproportionate to the offense charged. The Court found that Donoughe's willingness to participate in a large-scale marijuana grow operation, "suggests that he would not be a trustworthy person to have working on the waterfront, an area where corruption has historically been a matter of serious concern."



Checker Highlighted in Commission Public Hearings for No-Show Job and Organized Crime Ties Pleads Guilty to Racketeering. On May 16, 2012, former APM Terminal checker



Edward Aulisi pleaded guilty before U.S. District Court Judge Dennis M. Cavanaugh to conspiring to extort Christmastime tributes from ILA Local 1235 members. Aulisi conspired with his father and co-defendant, Vincent Aulisi, the former President of Local 1235, and Genovese Capo Michael Coppola in the scheme. Edward Aulisi admitted he participated in telephone calls in furtherance of the extortion conspiracy in March 2007 with Coppola – who was then a fugitive from a New Jersey state murder. Aulisi passed on information about the murder investigation and assured Coppola that the Christmastime extortion schemes would continue and in

fact had almost doubled under his father's union presidency. Aulisi admitted that it had been his intention to deliver Christmastime tribute money extorted from Local 1235 members to Coppola had Coppola not been arrested shortly after the telephone calls.

Edward Aulisi was highlighted in the Commission’s Public Hearings and Special Report for his no-show job as a checker at APM terminals. Commission detectives photographed Aulisi at home barbequing and mowing his lawn at times he was being paid for working at the terminal. Aulisi’s co-workers admitted they had not seen him at work in years. Additionally, electronically intercepted telephone calls between Aulisi and Coppola discussing the Christmastime extortions were played. Aulisi appeared under subpoena and invoked his Fifth Amendment right to remain silent rather than answer questions about his no-show job and mob ties. Aulisi was removed from the Port by Commission action November 18, 2009 after being charged with associating with members of organized crime and fraud in having a no-show position. His plea carries a maximum sentence of twenty years in prison and a \$250,000 fine. Aulisi’s sentencing is scheduled on January 29, 2013.

Genovese Capo and Twelve Others Arrested for Racketeering. On May 22, 2012, Genovese Capo Joseph “Pepe” LaScala and twelve members of his crew were arrested on federal criminal complaints. The complaints charged the men with racketeering conspiracy in Hudson County, New Jersey in further of the criminal activities of the Genovese Organized Crime Family. The thirteen are charged with extortion, illegal gambling through the use of off-shore sites and the internet, as well as loansharking, cargo theft and the receipt and sale of stolen goods in interstate commerce. The crew referred to these stolen goods as “swag” – stolen without a gun. LaScala had been highlighted in the Commission’s public hearings.



Nineteen Individuals Charged in International Car Theft Ring. Federal, state and local law enforcement including Commission detectives dismantled a sophisticated, international car theft ring responsible for the exportation of vehicles stolen from the United States to Nigeria, Ghana, Guinea, Sierra Leone and Gambia in West Africa. The vehicles were either stolen or car-jacked by street gang members and sold to fences who then re-sold the cars to individuals who “re-tagged” the vehicles by altering their vehicle identification numbers. The re-tagged vehicles were then sold to buyers who exported them overseas through Port Newark and Port Elizabeth. At the center of the nineteen individuals charged on May 23, 2012 was Hope Kantete, known as “The Lady.” She was a large-scale fence with an extensive customer base overseas. She bought stolen vehicles not only from street gang members, but also from other fences, then had the vehicles re-tagged and shipped overseas or sold them to individuals who would make their own shipping arrangements. More than two-hundred stolen vehicles with an estimated retail value of \$6 million were recovered during the investigation.



Warehouseman Suspended After Fraud Arrest. Warehouseman Louis Gomez was suspended by the Waterfront Commission on May 29, 2012 after his arrest for misconduct by a corporate official, conspiracy to commit theft by deception, financial facilitation of criminal activity, money laundering and receiving stolen property. Gomez was charged with setting up a fictitious corporation, LGM Pump Parts and Services, LLC, in order to defraud International-Matex Tank Terminal in Bayonne. Gomez and LGM Pump Parts billed and received payments from IMTT for parts and services that were never delivered or performed. Gomez received over \$18,000 in this manner. The Commission issued a notice of hearing against Gomez and temporarily suspended him pending the outcome of his administrative hearing on those charges.

Pier Superintendent Pleads Guilty to Federal Illegal Gambling Charges. Maher Terminal pier superintendent Joseph Joel DiCosta pleaded guilty to illegal gambling before U.S. District Court Judge Nicholas G. Garaufis. DiCosta was arrested after an investigation by the Waterfront Commission and the US Department of Labor's Office of the Inspector General. DiCosta was ordered to forfeit \$100,000 of illegal gambling proceeds in conjunction with his plea. DiCosta will be sentenced on January 25, 2013 and faces up to eighteen months in federal prison. DiCosta's license as a pier superintendent has been suspended by the Commission since his arrest in December of 2011.



In addition to the significant cases set forth above, the following are some of the Commission's notable accomplishments during the fiscal year:

SPECIAL REPORT ON THE COMMISSION'S PUBLIC HEARINGS

In March of 2012, the Commission released its Special Report to the Governors and Legislatures of the States of New York and New Jersey, detailing its finding on the Public Hearings that were held concerning unfair employment practices within the Port. The hearings were held pursuant to the Commission's statutory authority to investigate, collect and compile information concerning waterfront practices. (Waterfront Commission Act, Part I, Article IV, Section 11). Specifically, the hearings examined allegations of no-show and no-work jobs, favoritism and nepotism, the abusive and illogical interpretation of existing collective bargaining agreements, and the impact of such practices both on the competitiveness of the Port and on the morale and career prospects of decent, hard-working Port employees.

The hearings were attended by representatives of the ILA, maritime corporations, trade associations, government and law enforcement agencies, as well as reporters and other interested parties. Various members of labor and the industry were, for the first time, made aware of the serious practices that are robbing the Port of its competitiveness. The facts adduced in the hearings, as reflected in the Commission's Report, confirm concerns about no-show and no-work positions at the Port, the extraordinarily high salaries individuals in these positions receive, the troubling familial connections many of these privileged employees have to members of organized crime and the ILA and the abusive and illogical interpretations of the collective bargaining agreements used to support these abuses.

The Commission's public hearings demonstrated and publicized that certain hiring practices, achieved primarily through calculated provisions of collective bargaining agreements, illogical interpretations of other provisions, and claims of "custom and practice," have created within the Port no-work and no-show positions generally characterized by outsized salaries. The privileged few that are given those jobs are overwhelmingly connected to organized crime figures or union officials. In the Special Report, the Commission made the following finding based on the evidence, testimony and information presented:

First, the current system by which the CBA is structured and interpreted creates a significant number of prime positions on the waterfront that require little or no work and that command outsized salaries. Those positions are almost always filled with favored individuals – those who are connected to union leaders or organized crime figures. The Commission recognized that there are some jobs in every industry that are more desirable than others, and that where one person sees an enlarged workforce to be the result of unsupportable featherbedding, another sees those "excess" jobs to be the result of safety concerns and a legitimate insistence on job security. The Commission did not take a definitive position on the tension between the two, and acknowledged instead that this is a subject for true collective bargaining between the union and employer associations. Nonetheless, the Commission re-asserted its strong stance against the ability of mob figures and labor racketeers to create and fill prime positions for the purpose of maintaining their influence on the docks, and withdrawing from the waterfront large amounts of money at the expense of efficient Port operations. The Commission emphasized that if legitimate negotiations produce desirable positions (ones that require real work for fair pay), access to those positions should be as a result of seniority and merit, rather than because of association with organized crime figures and labor leaders.

Second, shop stewards who are hold “prime” positions are of particular concern since they have an incentive to avoid fulfilling their fiduciary responsibilities. The Commission noted that most shop stewards are not assigned specific job duties, despite the fact that the NYSA-ILA CBA clearly states that they are to perform work or services assigned to them by the employers. Employers pay shop stewards some of the highest salaries on the docks, well beyond what is required by any of the CBAs, and justify it with the oft-repeated refrain of “custom and practice.” The Commission found that this creates an incentive for shop stewards to protect the employers’ interests and not those of their fellow union members. This is in direct violation of either the letter or the spirit of the anti-benefit provisions of the Taft-Hartley Act. These problems are only exacerbated by shop stewards being generally appointed or “elected” through sham and undemocratic procedures often for as long as they wish to maintain their position. Moreover, even if a job steward wished to fulfill his or her responsibilities, there are no educational programs and no apparent effort on the part of union locals to educate shop stewards as to their proper role.

Third, timekeepers and other checkers earn exorbitant salaries, yet do not perform the work contemplated by the CBAs. The Commission observed that the role of checkers, as exemplified by timekeepers, is often based upon historic realities no longer valid in a world of containers, computers and scanners. While there are duties that need to be performed in those areas, new job descriptions need to be created and used to design appropriate staffing and compensation requirements. Utilizing vestigial roles to mandate the existence of prime positions filled by mob and union favorites merely adds to organized crime influence and makes the port less competitive.

Based on the foregoing, the Commission made the following recommendations for changes by the shipping industry:

- “Ship time “or “terminal time” payments that go to a single person, whether or not the person is actually working, should be eliminated. The implementation of a shift system, rather than a continuous operation system, for all dockworkers would be a highly advantageous change for Port efficiency.
- “Prime” positions – inflated salaries for little or no work should be eliminated.
- Desirable positions should be fairly distributed based upon seniority and merit. Training for those positions should be fair and based upon objective criteria that will reduce – rather than increase – the lack of diversity in the Port.
- Secret ballot elections should be held for shop stewards positions. These positions should be for a fixed term of years with a clearly delineated process for recall and removal.
- Shop stewards should be assigned the same responsibilities and be paid the salary as their co-workers. While time off should be given for the purpose of conducting union business, any additional compensation for such work should be paid by the union under strict rules.
- All elected shop stewards should be trained as to the provisions in the applicable collective bargaining agreements and their responsibilities in enforcing them.
- Check-in of checkers and longshoreworkers by the timekeeper should be done in a manner that capable of being audited, which takes advantage of technology and does not highly compensate favored individuals for little or no work.

INDUSTRY RESPONSE

The revitalized Commission, along with the Port Authority of NY-NJ, 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. Terminal operators now owned by multi-national corporations and pension funds have come to realize that their brand can no longer bear the practices that their predecessors accepted as an inevitable cost of doing business. This change in culture will not come easily to an industry with a long and intractable history of corruption and racketeering. Indeed, as NYSA President Joseph Curto noted in response to the Commission's Special Report, "[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."

One notable example demonstrates such unacceptable practices, a terminal operator's action, the traditional industry's response and the role of the Commission.

In May of 2012, APM Terminals determined that two ILA workers were being paid for hours that they did not work, even when they were not present at the Port. The terminal fired these individuals for their no-show activities. The reaction was swift and potent – a concerted slowdown at the Port by the ILA workers, who insisted on "thorough" inspections of equipment at port terminals. This troubling example of the use of union power for individualized gains caused lengthy and costly delays for trucks at Port Newark-Elizabeth terminals in advance of the Memorial Day weekend.



Four-day ILA slowdown at APM Terminals resulted in trucks at Port Newark-Elizabeth being delayed for up to seven hours a day, and caused massive delays on the New Jersey Turnpike.

The NYSA and ILA submitted the matter to an industry arbitrator, who explicity determined that the employees did not understand that they had to actually work during those hours for which they were paid. He ordered them to be re-instated to their positions, "since it is an established practice in the industry to give employees an opportunity to correct improper behavior." It was not until the two workers were allowed to return to work – with minimal work requirements – that Port operations resumed.

Fortunately, the Commission is not bound by the decision of the arbitrator and is moving forward with its investigation in this matter. The NYSA indicated that it would address such issues during labor negotiations, "as part of a smart business plan."

THE ONGOING EFFORTS OF THE NYSA AND ILA TO REPEAL SECTION 5-P OF THE WATERFRONT COMMISSION ACT

The controlled register statute, or Section 5-p of the Waterfront Commission Act, empowers the Commission to open and close the deep-sea longshoremen 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 clearly 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, which is currently closed, serves as a buffer between the employers and the organized workforce to ensure that the workers are protected against unfair hiring and employment practices.

As is noted in the introduction to this Report, 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.

As this report is being prepared, ILA labor negotiations are ongoing, with antiquated work rules and the union’s concern with protecting jobs against advancing automation looming at the forefront. Regardless of the outcome, the Commission will steadfastly utilize its statutory powers under Section 5-p to protect the industry against an overabundance of labor that could one day also seek a guaranteed income in the wake of advancing automation. Using its statutory powers under Section 5-p, the Commission will continue, as it did last year on its own initiative, to determine the need for additional labor in the Port and to open the labor pool to meet the immediate needs of the industry. As detailed later in this Report, the Commission will be able to meet this need rapidly, as a result of its prequalification program.

Section 5–p(4) of the Act requires that employers who sponsor those individuals for inclusion in the register must certify that selection was made on a non-discriminatory basis. The legislation currently in place is the Commission’s only 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 – vigorously advocated for the repeal of Section 5-p.

The New York State Legislature, after holding hearings and carefully examining the arguments of both sides, has repeatedly determined that the continued need for 5-p is critical, in order to safeguard the workforce from mob exploitation and to ensure diversity in the Port. This year, the NYSA’s 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. In addition, the Commission’s Special Report on its public hearings caused even those legislators who initially supported the NYSA’s efforts to reconsider their position.

THE COMMISSION'S CONTINUED COMMITMENT TO DIVERSITY IN THE PORT

Notwithstanding Section 5-p's requirement that the selection for employment be made on a non-discriminatory basis, there remains an incredible lack of diversity in waterfront employment as well as an income gap among those few minorities that are employed there. By way of example, in the beginning of FY2011-2012, the composition of the three New York International Longshoremen's Association (ILA) locals did not represent the diversity of their respective geographical areas: Local 824 in Manhattan is 82% white; Local 920 in Staten Island is 84% white and Local 1814 in Brooklyn is 82% white. Clearly the ILA and the NYSA had not been committed to diversifying the workforce in the Port. This disparity was noted by the Legislatures of both New York and New Jersey, before whom members of the Commission testified regarding the need for the register.

The Commission's Ongoing Efforts to Diversify the Port Through Its Prequalification Program

The Commission continues to actively administer its prequalification program, which allows a diverse workforce of men and women, unencumbered by mob influence and criminality, to be added to the longshoremen register when there is an increased demand for labor. This is not only to ensure that there is an immediate pool of available, qualified labor, but also to combat the prevalent discriminatory hiring practices in the Port. It is the Commission's only means of ensuring that the composition of ILA locals is representative of their cities' demographics.

As first reported last year, the Commission, undeterred by the NYSA and ILA's resistance, 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 who will now be working in the Port. Towards the end of FY2010-2011, the Commission, on its own initiative, determined the need for additional labor in the Port and approved determinations which (1) opened the labor pool to meet an immediate need for the temporary hiring of baggage handlers and car drivers, and (2) opened the longshoremen's register to include certain longshorepersons in order to meet the needs of a stevedoring company for terminal labor and equipment operators.

This year, on July 1, 2011, twenty-one of the Commission's pre-qualified candidates were introduced to the workforce in the Port. These workers were employed on a temporary basis as baggage handlers. The ILA's reaction was staggering. The overwhelmingly white male locals at the Brooklyn and Manhattan cruise terminals simply stopped working when the pre-qualified (minority) workers were put to work. Despite the fact there were passengers waiting and cruise ships in the harbor that needed to be loaded, the ILA workers refused to return to work until the terminal manager – using his phraseology – “segregated” the minority workers and placed them in a secure area away from the ship's operations. The Commission's attempts to reason with the ILA members and leadership were unsuccessful, and the workers remained “segregated” and did not work for the rest of the day.

Immediately following the incident, the Commission subpoenaed the President of Local 1814, and questioned him not only about the actions of his members, but also about his failure to direct them to work with the new workers. He testified that although he was at the terminal the morning of the work stoppage, and although he could have instructed his membership to work with the new workers, he simply chose not to. He acknowledged that his membership, in his opinion, would have stopped working and/or walked off the pier if the minority workers were again used that day. Yet he still failed to admonish his members or advise them that such actions were illegal under the collective bargaining agreement. Instead, he suggested that the minority workers be sent home that day.

Since then, the Commission has obtained assurances from members of the ILA and NYSA that there would not be any similar incidents. Indeed, the Commission's pre-qualified workers have been allowed to work in the Port without further incident thus far. However, it is clear that the Commission's 5-p authority is critical in ensuring continued progress.

The ILA/NYSA's Submission of a Non-Diverse Pool of Candidates: The Commission's Referral to ILA Ethical Practices Counsel Judge Milton Mollen

As reported last year, it was only when the Commission began actively moving forward with its prequalification program to fill this need that the ILA and NYSA sought to become a part of the discussion on diversity. After various discussions, the Commission, ILA and NYSA agreed that each would each assemble a "pool" of potential candidates that would then be combined into one collective pool, from which a designated number of individuals would be drawn at random. Half of those in the drawing would come from the Commission's pool, a quarter would come from an NYSA pool and another quarter would come from an ILA pool. The Commission's pool came from employment centers. The Commission did not assign or instruct these employment centers to utilize quotas, percentages or ratios in referring individuals. Rather, the Commission relied on the presumption, which proved to be accurate, that the candidates that were referred by the employment centers would be organically diverse, since they would simply represent the demographics of the surrounding geographical area.

Of the thirty-three candidates in the Commission's pool, twenty-one were pre-qualified and were introduced to the workforce in the Port on July 1, 2011. In stark contrast to the current demographics of the workforce, the demographics of the men and women in New York who have been registered to work as part of the Commission's prequalification program were as follows: 47.6% Black, 33.3% Hispanic, 9.5% White, 4.8% Asian, and 4.8% Other.

The NYSA and ILA's pool of candidates came from union referrals and other word of mouth sources. Although the ILA and NYSA had agreed to each assemble a pool, the NYSA's pool of candidates was assembled by the ILA, all from word of mouth referrals. Of the thirty-seven candidates selected from the ILA/NYSA's pool, sixteen failed or declined the required physical, leaving twenty-one possible requests for prequalification. Of that group, six were eliminated because of prior felony convictions, misrepresentations during the prequalification process, and/or ties to organized crime. That left a total number of fifteen potential issuances.

Pursuant to the Commission's Resolutions, the Commission's acceptance of applications from the ILA and NYSA for prequalification was "provided that such acceptance ensures diversity among new entrants added to the Longshoremen's Register. . ." However, during the

course of processing these applicants, it became increasingly evident that – contrary to the Commission’s directive to the NYSA and ILA that they should not dilute the Commission’s pool of diverse applicants – every single person submitted for inclusion in the prequalification program (with the exception of one black male who withdrew his application) was white. Only a few were female. This was contrary to the entire spirit of the prequalification program, would have conflicted not only with our discussions with the ILA/NYSA, but also with our promise to the legislatures of New York and New Jersey that we would work with the ILA and NYSA to diversify the workforce.

The Commission referred this matter to the ILA’s Ethical Practices Counsel, the Honorable Milton Mollen, and sought his guidance to address the demonstrated lack of commitment to diversity, and the ILA’s continued efforts to thwart the Commission’s attempts to combat the discriminatory hiring practices in the Port. Those discussions with the ILA and NYSA are still ongoing.

INTERNSHIP/FELLOWSHIP PROGRAMS

The Law, Intel and IT Divisions run year-round internship programs for college and law school students, and fellowship programs for post-graduates.



Fall 2011 Law Division Interns: Suzy Kim, David Schiavone, Clifford Tucker, Cassandra Pond, Stuart Linder and Aneesha Deshpande. Also pictured is Asst. Counsel Paul Babchik, Program Coordinator.



Spring 2011: Law Fellow Daniel Milstein, Petal Hwang, Joseph Hernandez, Perrie Malone, Law Fellow Kenisha Calliste, Jessica Rickards, Gerina Gregory and Renee Welker. Also pictured is Asst. Counsel Paul Babchik, Program Coordinator.



Summer 2012: Odisina Okeya, Ryan Marcus, Andrew Soler, Sara Dayan, Law Fellow Yuri Zanow, Emily Paul, Susan Dolcemascolo, Kate Englander, Stephen Bianca and Geoffrey Moran.

WATERFRONT COMMISSION DIVISION OF LICENSING & EMPLOYMENT INFORMATION CENTERS.
Comparison of Hirings for the Years Ending June 30th 2011 and 2012

Piers and Areas	Hirings		Increase/ Decrease	% Change	% Share of Port Employment	
	2011-2012	2010-2011			2011-2012	2010-2011
Manhattan	23,475	23,391	+ 84	+ 0.36%	3.02%	2.99%
Brooklyn	54,479	56,220	- 1,741	- 3.10%	7.02%	7.18%
Staten Island	84,004	86,261	- 2,257	- 2.62%	10.82%	11.02%
Port Newark & Elizabeth	525,684	532,002	- 6,318	- 1.19%	67.72%	67.99%
Jersey City, Bayonne	88,669	84,630	- 4,039	- 4.77%	11.42%	10.82%
TOTAL NEW JERSEY	614,353	616,632	- 2,279	- 0.37%	79.14%	78.80%
TOTAL NEW YORK	161,958	165,872	- 3,914	- 2.36%	20.86%	21.20%
TOTAL PORT WIDE	776,311	782,504	- 6,193	- 0.79%	100%	100%

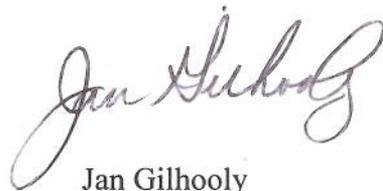
CONCLUSION

In order to continue and to preserve the accomplishments of the Commission and the gains realized in the Port of New York-New Jersey under the Waterfront Commission Act, the Commission finds and determines that public necessity exists for the continued registration of longshoremen, the continued licensing of those occupations and types of employment required to be licensed under the Waterfront Commission Act and the amendments thereto, and the continued public operation of the employment information centers provided in Article XII of the Compact.

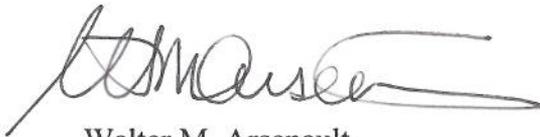
Respectfully submitted,



Ronald Goldstock
New York Commissioner



Jan Gilhooly
New Jersey Commissioner



Walter M. Arsenault
Executive Director

COMMISSION DETERMINATIONS

Year Ended June 30, 2012

APPLICATIONS AND REVOCATIONS PROCEEDINGS

			Revoked		Suspended*	Reprimanded	Suspended		Totals
	Denied	Granted	Revoked	L/R			P/H		
Longshorepersons	0	4	1	0	9	0	6	20	
Checkers	0	0	0	2	2	0	2	6	
Hiring Agents	0	0	0	0	1	0	0	1	
Security Officer	0	0	0	0	1	0	0	1	
Pier Superintendents	0	0	0	0	0	0	1	1	
Stevedores	0	0	0	0	0	0	0	0	
Maintenance/Ware-house	1	0	3	0	6	0	3	13	
Telecommunications System Controllers	0	0	0	0	0	0	0	0	
Totals	1	4	4	2	19	0	12	42	

* Includes summary proceedings and informal hearings

PETITIONS

	Denied	Granted	Totals
Petitions for Reconsideration	1	0	1
Petitions for Leave to Reapply	2	0	2
Petitions for Rehearing	0	0	0
Petitions to Withdraw	0	0	0
Petitions to Remove Ineligibility	0	4	4
Petitions for Restoration of Registration/License	1	3	4
Petitions to Vacate Temporary Suspension	0	3	3
Petitions for Retention or Reinstatement	1	1	2
Petitions for Stay	0	0	0
Petitions to Surrender Registration	0	2	2
Petitions to Amend Determination	0	0	0
Totals	5	13	18

ADDITIONAL COMMISSION DETERMINATIONS

Recommendations to Authorize an Informal Hearing	0
Recommendations Licensing Required (Stevedore)	3
Section 5-p Resolutions/Determinations	4
Recommendations for Permanent Registration/License	4
Recommendations for Permanent License (Stevedores)	6
Recommendations to Continue Temporary Permits/Registrations	3
Recommendations to Continue Temporary Permits/Registrations (Stevedores)	0
Recommendations to Issue Notice of Hearing	15
Recommendations to Amend Notice of Hearing	0
Recommendations to Rescind Notice of Hearing	2
Recommendations to Issue Temporary Permit	2
Totals	39

ANNUAL FINANCIAL REPORT
OF THE
WATERFRONT COMMISSION OF
NEW YORK HARBOR

FOR THE FISCAL YEAR ENDED JUNE 30, 2012

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, 2012

	<u>Actual</u>	<u>Budget</u>	Favorable / (Unfavorable) Variance
RECEIPTS			
Assessments (regular)	11,476,276	11,940,000	(463,724)
Assessments (additional)	337,856	-	337,856
Interest charges	9,444	-	9,444
Penalties	19,705	-	19,705
Subtotal	<u>11,843,281</u>	<u>11,940,000</u>	<u>(96,719)</u>
Dividend and interest Income	651	2,500	(1,849)
Overtime reimbursements	48,481	-	48,481
Other	147,672	-	147,672
Total receipts	<u>12,040,085</u>	<u>11,942,500</u>	<u>97,585</u>
DISBURSEMENTS			
<i>Personal Services</i>			
Regular payroll	6,029,261	6,417,267	388,006
Overtime payroll	91,657	51,506	(40,151)
Group health, life insurance, dental	1,232,739	1,437,200	204,461
Workers' compensation insurance	103,759	125,000	21,241
Employer taxes	478,666	510,300	31,634
Pension costs	1,036,431	1,087,000	50,569
Subtotal - salaries and benefits	<u>8,972,513</u>	<u>9,628,273</u>	<u>655,760</u>
Outside auditors and counsels	202,884	112,000	(90,884)
Administrative judges, scopists and other	27,984	44,500	16,516
Subtotal - professional services	<u>230,868</u>	<u>156,500</u>	<u>(74,368)</u>
Total personal services	<u>9,203,381</u>	<u>9,784,773</u>	<u>581,392</u>
<i>Other Than Personal Services</i>			
Office rentals	813,459	832,166	18,707
Utilities	101,176	111,740	10,564
General insurance	433,583	402,000	(31,583)
Travel and auto	266,259	279,606	13,347
General office	73,507	71,354	(2,153)
Communications	170,967	180,242	9,275
Special supplies	97,198	124,225	27,027
Information system	68,114	91,096	22,982
Repairs, maintenance and alterations	66,750	51,700	(15,050)
Printing	4,181	4,500	319
Furniture and equipment	14,279	3,000	(11,279)
Continuing education	418	5,000	4,582
Total other than personal services	<u>2,109,891</u>	<u>2,156,629</u>	<u>46,738</u>
Total disbursements	<u>11,313,272</u>	<u>11,941,402</u>	<u>628,130</u>
Excess of Receipts over Expenditures	<u>726,813</u>	<u>1,098</u>	<u>725,715</u>
Transfer to Retiree Health Benefit Fund	700,000	-	(700,000)
NET CHANGE IN FUND BALANCE	<u>26,813</u>	<u>1,098</u>	<u>25,715</u>
FUND BALANCE, July 1, 2011	<u>1,186,150</u>	<u>1,186,150</u>	<u>-</u>
FUND BALANCE, June 30, 2012	<u>1,212,963</u>	<u>1,187,248</u>	<u>25,715</u>

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, 2012

(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, 2012

(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 within the Treasury Department of the State of New Jersey is the administrator of the funds and charges municipalities 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 municipality in the state and, therefore, the actuarial data for the Commission is not available.

The Division of Pensions 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.

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 5.5% and 8.5% through September 30, 2011 and 6.5% and 10% from October 1, 2011 through June 30, 2012, 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, 2012, 2011, and 2010, amounted to \$76,384, \$72,747, and \$49,410, respectively.

Waterfront Commission of New York Harbor
Notes to Statement of Cash Receipts and Disbursements and
Changes in Fund Balance - Modified
June 30, 2012

(3) New York Retirement Plans

Plan Description

The Commission participates in the New York State and Local Employees' Retirement System (ERS) and the New York State and Local Police and Fire 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 contributory except for (1) employees who joined the ERS before July 27, 1976 and (2) employees who joined the PFRS before January 9, 2010. 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:

2012	\$ 955,439
2011	767,481
2010	427,223

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, 2012

(4) Lease Commitments

The Commission leases building and office facilities under non-cancelable leases. Total costs for such leases were \$813,459 for the year ended June 30, 2012.

The future minimum lease payments are as follows:

<u>Fiscal Year</u>	
2013	\$ 894,022
2014	955,408
2015	943,253
2016	929,210
2017	256,453
2018 and thereafter	<u>969,243</u>
	<u>\$ 4,947,589</u>

WATERFRONT COMMISSION OF NEW YORK HARBOR

Ronald Goldstock
Commissioner for New York

Jan Gilhooly
Commissioner for New Jersey

Walter M. Arsenault
Executive Director

Phoebe S. Sorial
General Counsel

Jeffrey R. Schoen
Director of Law, Licensing and EIC

John J. Hennelly
Chief of Police

Richard Carbonaro
Director of Administration and Audit

Daniel Ramirez
Director of Intelligence

Ariel Ventura
Acting Director of Information Technology

Adam L. Cheung
Comptroller



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