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September 29, 2010

Via Electronic and First Class Mail

Honorable Raymond J. Lesniak
Senate Economic Growth Committee
State House Annex
PO Box 068
Trenton, New Jersey 08625-0068

Dear Senator Lesniak:

The Waterfront Commission of New York Harbor (“Commission”), having had the opportunity to ascertain the nature of the inquiry by the Economic Growth Committee (“Committee”), and having determined the specific issues requiring written testimony, hereby submits the following letter to supplement its testimony before the Senate Economic Growth Committee on September 23, 2010. Further to our correspondence to the Committee dated September 17, 2010, we respectfully request that this letter be incorporated into the record.

Independent Private Sector Inspector General (IPSIG) Program

After a decade of lethargy and misconduct documented by the New York State Inspector General Joseph Fisch in his August 2009 Report, the Commission is now striving to effectuate a dramatic change in the culture of a troubled industry, which has been historically and is currently plagued with organized crime and corruption. An important component of the Commission’s mandate, as set forth by the Waterfront Commission Act (“Act”), is to evaluate the good character and integrity of stevedoring companies seeking to operate in the Port of New York-New Jersey, for purposes of issuing permanent licenses to those companies to operate in the Port.

In his Report, the Inspector General found “fundamental problems” with the system established by the Commission to license stevedoring companies and noted that, for at least a decade, the Commission failed in its responsibility to properly license these companies. Specifically, he found that contrary to the Act, all companies doing business in the Port were operating on short-term temporary licenses which were intended to be used only in special circumstances. The Inspector General recommended that the Commission ensure that all eligible stevedoring companies obtain permanent licenses within a reasonable time from the issuance of his Report. He unequivocally directed that, pursuant to the Act, “[c]ompanies that are ineligible for permanent licenses should cease operations at the port.”¹ (Emphasis added)

¹ New York State Inspector General’s Report on Investigation of the Waterfront Commission of New York Harbor, page 58. A copy of the New York State Inspector General’s Report and the Commission’s Response can be found on the Commission’s website at www.wcnjh.org.

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Following these findings and in light of this directive, the Commission began the process of issuing permanent licenses to stevedoring companies which possess good character and integrity, as opposed to the past practice of issuing only short-term temporary licenses without any determination as to character and fitness of applicant companies. To that end, the Commission has substantially rewritten the background investigation questionnaire for all stevedores to now require comprehensive disclosures by corporate officers and significant shareholders, in order to ensure that the Commission has all the relevant information needed to properly assess the character and integrity of the applicant companies.

As we indicated at the hearing, there is an apparent and critical distinction between the Committee's understanding of the Commission's IPSIG proposal, and the Commission's actual proposal. **To be clear, there is no proposal by the Commission to require stevedoring companies to retain Independent Private Sector Inspectors General (IPSIGs) in order to continue to operate in the Port. Rather, the Commission will permit specified stevedoring companies, at risk of not being licensed, to retain IPSIGs on as-needed basis.**

Specifically, in those instances where the Commission would otherwise deny a stevedoring company its license to operate because of exhibited criminal influence, improper accounting and/or hiring practices, or other malfeasance or misfeasance, the Commission could license that company subject to its retention of an IPSIG, which would monitor the company's operations to ensure compliance with the Act and other relevant laws and regulations. The Commission would utilize the IPSIGs under the General Powers granted to it by Article IV (5)(6)(7) of the Act, codified as N.J.S.A. 32:23-10(5)(6)(7), as well as those delegated to the Commission under Part I §5b(3) of the Act, codified as N.J.S.A. 32:23-86(3). The Commission has proposed this arrangement as a remedy to prevent the denial of a stevedore's license and the concomitant loss of jobs, and as a means to avoid protracted litigation associated with a stevedore's appeal of the Commission's determination.

**Continued Need for the Commission:
Organized Crime Investigations and Prosecutions**

In the early 1950's, public hearings documented the pervasive corruption, extortion, racketeering and organized crime in the Port of New York-New Jersey. The conditions in the Port exposed by articles by Malcolm Johnson in the *New York Sun* and dramatized by Elia Kazan and Budd Schulberg in the 1954 film, *On the Waterfront*, begged for a regulatory body to ameliorate the corruption and racketeering that existed in the industry. In 1953, the Commission was 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 could grow and prosper.

There is no question that when the Commission was created in 1953, it was desperately needed. At its inception and for years thereafter, the Commission was committed to its mission. It reduced surplus labor and the prevalence of criminals on the docks. Further efforts were made to reduce the mob's control and influence on the union and companies that operated within its jurisdiction.

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However, over time, the Commission suffered the fate of other regulatory bodies. Until two years ago, the Commission's hiring policy had been based on favoritism and political patronage, and staff members from New York and New Jersey were openly hostile to each other. There was virtually no communication between the Commission's grossly mismanaged divisions, and employees were afraid of expressing their opinions on pertinent areas of concern for fear of reprimand. Members of the Police and Legal Divisions were hired, for the most part, with no relevant experience and were provided with no training. Administrative hearings were conducted in a perfunctory manner to avoid complex issues, and there were no sophisticated criminal investigations, ongoing or planned. Matters in the Legal, Police and Audit Divisions languished for years, and critical decisions were rarely made. The agency's will to continue its mission declined, and the Commission languished.

Meanwhile, the historical problems that existed on the waterfront proved intractable. A long list of indictments and convictions proved the existence of mob domination but failed to remedy the problem. Clearly, it was time for the Commission to regain its former mission, to remove itself from politics, throw off its sense of lethargy and reinvigorate itself. Beginning in July 2008, the Commission did just that. Not only have the personnel and physical structure of the Commission changed but, more importantly, so did its sense of mission as the Commission re-established itself as a model regulatory and law enforcement agency.

For the first time in over a decade, the Commission's leadership is united and is demonstratively setting the tone of collaboration and cooperation for the Commission's divisions to follow. The Law Division has begun to employ legal approaches that have either never been used or have not been used for years, and is acting in coordination with the Police Division to re-establish the Commission's presence on the waterfront. The Police Division has been instrumental in developing informants and identifying criminal matters that have blossomed into major investigations with other law enforcement agencies. The newly created Intelligence Division has begun the process of collecting and classifying years of evidence for use by the rest of the Commission. It is also actively working with our law enforcement and intelligence partners to establish a legitimate presence within the greater intelligence community. Similarly, the Administrative Division has been working to rectify years of auditing mismanagement, and to strategically oversee pending audits from both an investigative and financial prospective.

Now, more than half a century later, many of the conditions that led to the formation of the Commission still continue to exist on today's waterfront. The continued economic downturn has once again resulted in an oversupply of available longshore labor – the very environment most conducive to racketeering. Over the last year, the Commission and its law enforcement partners have made arrests of organized crime members, union officials and members for demanding and receiving kickbacks in exchange for work, overtime or better assignments on the waterfront. Additional arrests in these investigations are expected in the near future.

No show and no work jobs still exist at virtually every terminal within the Port. These evils, along with union featherbedding practices, continue to rob the Port of its economic competitiveness and vitality. To determine the extent and nature of such practices and to initiate

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change, the Commission is holding public hearings this fall to examine these issues. The hearings will also examine apparent ethnic/race and gender inequalities among registrants and licensees.

Individuals who lost their licenses or registrations through criminal convictions or misconduct still work on the waterfront in “non-covered” positions allowing them to continue to receive payment and exert control. Loansharks and bookmakers, with the approval of organized crime, continue to deplete the workforce of its hard earned money. Cargo theft, often more sophisticated than in the past, is still a real problem. Workers’ compensation fraud, narcotics importation and terrorism concerns have been added to the enforcement picture.

The vitality of the Port is directly affected by organized crime influence. The Commission’s ability to regulate the size and diversity of the longshore labor force is crucial to preventing the very environment – an overabundance of available labor – that history has repeatedly shown to be most conducive to organized crime and racketeering activity.

Denying the influence of organized crime on the waterfront today is virtually equivalent to denying the existence of organized crime itself, and the need for a strong and active Waterfront Commission has never been more compelling. Indeed, as evidenced by recent arrests and convictions, mob control of the harbor is still a fact of life. The following is a summary of the Commission’s most significant cases from the 2009-2010 fiscal year:

- **Michael “Mikey Cigars” Coppola:** In July 2009, Michael “Mikey Cigars” Coppola, a capo in the Genovese crime family, was convicted of racketeering charges for exercising criminal control of New Jersey ILA Local 1235 for thirty-three years. Coppola was caught on a wire specifically discussing kickbacks with a co-conspirator, who the Commission removed from working on the waterfront for associating with a member of organized crime.
- **Anthony “Todo” Anastasio:** In 2009, former longshoreman, ILA local Vice President and Gambino soldier Anthony “Todo” Anastasio was convicted of RICO violations for extortion, arson and other charges. His trial opened with the playing of a recording from a court-ordered electronic “bug” in which Anastasio bragged about the Gambino family’s illicit grip on the New York waterfront. The Commission played a vital role in both investigations and trials.
- **Thomas Mogielnicki:** In July 2009, longshoreman Thomas Mogielnicki was arrested by Commission detectives for assaulting longshoremen who supported different candidates during union officer nominations and for causing damage to a Manhattan pier following the nominations. Mogielnicki pleaded guilty in criminal court, and is currently awaiting a hearing to determine whether his registration should be revoked.
- **John Shade:** In October 2009, the New York County Supreme Court upheld the action taken by the Commission which prompted the loss of John Shade’s position as General Vice President of the Atlantic Coast District (“ACD”) of the ILA, thereby preventing him

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from holding any ACD office. Shade had been convicted of at least five offenses, including illegal gambling, lotteries and conspiracy related to underlying racketeering charges.

- **Hector Balbuena:** In October 2009, the Commission, with the assistance of Customs and Border Protection, investigated and charged Hector Balbuena with possession of cocaine on the piers. The Richmond County District Attorney's Office is prosecuting the case.
- **Edward Aulisi:** In November 2009, the Commission removed Edward Aulisi, a checker and son of former ILA Local 1235 President Vincent Aulisi, from working on the waterfront for his association with Michael "Mikey Cigars" Coppola, a capo in the Genovese crime family. Electronically intercepted conversations between Aulisi and Coppola (while Coppola was a fugitive from justice) included Aulisi briefing Coppola about the murder investigation that Coppola had fled from, as well as assuring Coppola that Aulisi's father was continuing to kick back to Coppola at a better rate than the past president of ILA Local 1235. In addition to the association charge, Aulisi was charged with being a "phantom" employee, for failing to work hours for which he was paid.
- **Roy Maglori:** In March 2010, the Commission removed maintenance man Roy Maglori from working on the waterfront because of his association with Angelo "the Horn" Prisco, a capo in the Genovese crime family. Maglori communicated and visited Prisco while he was in prison, transferred money to his commissary account and attended his 2009 criminal trial. At the conclusion of this trial, Prisco was convicted of racketeering, extortion, robbery and murder and was sentenced to life in prison. During a telephone conversation, Maglori complained to Prisco about how hard he had to work at his job on the waterfront, and Prisco directed him to see convicted Genovese associate "Nicky" or his son "Anthony," whom he described as good people. The capo told Maglori that both "know you're my friend." "They know I am close to you. They'll take care of you, Roy."
- **Operation Terminal:** In April 2010, Commission detectives, along with investigators from the New Jersey Division of Criminal Justice's Organized Crime Bureau, arrested **Nunzio LaGrasso**, Vice President of the ILA's Atlantic Coast District and Secretary-Treasurer of ILA 1478 and four other current or former ILA members on charges that they extorted money from dock workers by demanding "tribute" for better jobs and pay, or engaged in loansharking. One of the men charged, **Alan Marfia**, was a Newark police officer who had been accessing police databases to obtain information on undercover police vehicles that were conducting surveillance on an ILA office. **Joseph Queli**, a soldier in the Genovese crime family, was also arrested for controlling the loansharking operation. **Rocco Ferrandino**, a timekeeper, was also charged with extortion and commercial bribery. These arrests represent just the beginning of Operation Terminal, a joint investigation into the activities of a criminal enterprise that has exercised control and corrupt influence over ILA locals operating in the Port of New York. Further arrests are expected.

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- **Nicholas Bergamotto:** In April 2010, checker Nicholas Bergamotto was arrested as part of Operation Terminal and charged with loansharking and money laundering. Based on those charges, the Commission has temporarily suspended his license to work in the Port, pending an administrative hearing.
- **Stephen DePiro:** In April 2010, FBI agents working in conjunction with the U.S. Attorney's Office for the Eastern District of New York and the Waterfront Commission arrested Genovese soldier (and former longshoreman) Stephen DePiro and charged him with racketeering including the extortion of ILA Locals and members, loansharking and gambling offenses. DePiro was also charged with conspiracy to aid the unlawful flight to avoid prosecution of Genovese Capo Michael "Mikey Cigars" Coppola by the U.S. Attorney's Office for the District of New Jersey.
- **John Santore:** In April 2010, hiring agent John Santore and his employer were served with a notice of hearing alleging that Santore had associated with Joseph "Joey the Bull" Bilotti, a soldier in the Gambino crime family, in addition to other violations of the Waterfront Commission Act. After a review of the evidence, including photographs and surveillance by Commission detectives, his employer withdrew its sponsorship of Santore as a hiring agent, and he was removed from the waterfront.
- **Joseph Ritornaro:** In April 2010, the Commission revoked the registration of maintenance man, Joseph "Joey Clams" Ritornaro, for his failure to produce material evidence in connection with an investigation into illegal drug use in the Port.
- **John Nicaretta:** In April 2010, the Commission charged longshoreman John Nicaretta with associating with members and associates of the Genovese crime family, including capo Joseph "Pepe" LaScala, convicted associate Nicholas Furina and others. Nicaretta filed for retirement the next day. Nicaretta had been previously expelled from ILA Local 1588 for having furthered the influence of organized crime in the Port, and the Commission had removed him as foreman because of his association with members of organized crime.
- **Stephen Bracco:** In May 2010, foreman Stephen Bracco was arrested by Commission detectives for extorting money from a shipping company to ensure the speedy release of time sensitive shipping containers. Bracco's waterfront registration has been revoked and he has pleaded guilty to a larceny charge.
- **Anthony Furina, Sr. (Son of convicted Genovese associate Nicholas Furina):** In July 2010, the Commission revoked the permit of temporary pier superintendent Anthony Furina, Sr., and denied his application for permanent licensing. Furina was found to have violated the Waterfront Commission Act by moving waterborne freight without being so licensed by the Commission. The administrative law judge concluded that Furina lacked

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the good character and integrity required for a pier superintendent and, further, that he had essentially established his own “fiefdom” on the pier.

- **Ralph M. and Ralph A. Bertelle:** A joint investigation, initiated by the Commission, resulted in the arrest of two longshoremen – father and son – on mail and wire fraud charges in connection with worker’s compensation fraud. The longshoremen both pleaded guilty to conspiracy and mail fraud in August 2009. The father was sentenced to two years in federal custody while his son received probation.
- A United State Justice Department’s civil RICO suit against the ILA and several of its top officers is pending. Allegations include rigging ILA elections, awarding an ILA welfare benefit fund contract to a company with ties to organized crime and defrauding beneficiaries of ILA pension and welfare funds. In light of such allegations, it is clear that the ILA continues to serve the interests of organized crime rather than that of its members. The Commission is working closely with the federal government on this matter.

In addition to the arrests set forth above, the Commission revoked a number of other licenses and registrants after for such offenses as aggravated assault, illegally possessed firearms, possession and distribution of cocaine, unemployment fraud, theft and receiving stolen property. The Commission had 55 open investigations pending as of July 1, 2010 and had completed 338 investigations during the 2010 fiscal year, including 5 involving unregistered workers, and 89 involving violations of Commission rules. The Commission made, or participated in, 66 arrests in fiscal year 2010.

The Commission is diligently working to establish and maintain a database of organized crime figures operating in the Port of New York-New Jersey. This year, 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.

Lack of Diversity in the Port

In addition to the diminished vitality of the Port, the Commission is deeply concerned with the lack of minority employment and participation in the Port. Although the Waterfront Commission Act requires sponsoring employers to certify that selection was made on a non-discriminatory basis, the present composition of ILA locals is not representative of their cities’ demographics. For example, Local 824 in Manhattan is eighty-two percent (82%) white, Local 920 in Brooklyn is eighty-four percent (84%) white and Local 1814 in Brooklyn is eighty-two percent (82%) white.

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This year, the Commission has begun to study ways to overcome apparent ethnic/race and gender inequalities among the various types of registrants and licensees. An analysis of current registrants and licensees reveals the following:

- Only 5% of licensed pier superintendents are African American, and only 12% are of other minorities.
- Only 4% of licensed hiring agents are African American and only 9% are of other minorities.
- Although 42% of the “A”-type longshore register is minorities, only 5% of those minorities are African American.
- “A”-type longshoremen on average earn much less than their “deep-sea” longshore counterparts. The “deep-sea” longshore register is diverse due only in part to a 96% minority (91% African American) local in New Jersey. In New York, only 8% of the “deep-sea” longshoremen are African American and 7% are of other minorities.
- African American “deep-sea” longshoremen earn on average of 20% less than their white cohorts and all other minorities earn 8.5% less than their white cohorts.
- The gender gap is even greater. Women represent only 10% of “deep-sea” longshoremen, 5% of “A”-type longshoremen, 6% of pier superintendents and 9% of hiring agents.
- Female “deep-sea” longshoremen earn on average 35% less than their male counterparts.

Clearly, the ILA and the New York Shipping Association has not been committed to diversity of the workforce in the Port. To remedy this issue, the Commission is presently setting up a “pre-qualification” system for longshoremen, to ensure that there will be sufficient labor reserves when the economy revives and that the labor force reflects the diversity of the Port’s communities.

Conclusion

As set forth above, this Commission suffered, until two years ago, from a complete lack of accountability and failure of leadership that rendered it completely ineffective. There is no question that the vestiges of the former Commission have ended and under the auspices of its new administration, the Commission has undergone a complete transformation. Indeed, after years of inertia, the Commission has evolved from a virtually moribund organization into a model regulatory and law enforcement agency, committed to fulfilling its statutory mission. In the last two years, the Commission has rededicated itself to its core missions – to investigate, deter, combat and remedy criminal activity and influence in the Port of New York, and to ensure fair hiring and employment practices.

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In conclusion, the Commission refers to the testimony of Joseph Curto, President of the New York Shipping Association, Inc., before the New York State Senate on October 19, 2009:

As was noted in the Inspector General's report, the Commission has strayed somewhat from its original mission and we believe that it once again needs to focus on its core, law enforcement responsibilities. A mission and responsibilities that include the licensing of longshore industries and workers, monitoring and auditing those industries and workers, and conducting investigations of suspected illegal activities. That is a mission that the New York Shipping Association supports wholeheartedly.

As set forth above, the need for a strong and active Commission has never been more compelling. While individual prosecutions and administrative and regulatory actions are required and necessary, these alone are insufficient to change a historically and presently corrupt industry. New, innovative approaches must be developed, hopefully, with the continued cooperation of both the Legislature and the industry.

This letter incorporates the testimony of Commissioner Barry H. Evenchick and Commissioner Ronald Goldstock, and is submitted with their authorization and on their behalf.

Respectfully submitted,



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Executive Director



Phoebe S. Sorial
General Counsel

cc: Honorable Sandra B. Cunningham
Honorable Richard J. Codey
Honorable Joseph F. Vitale
Honorable Joseph M. Kyrillos, Jr.
Honorable Steven V. Oroho
Honorable Robert W. Singer
Kevin Donahue, OLS Committee Aide