

BEFORE THE  
BOARD OF PILOT COMMISSIONERS  
FOR THE BAYS OF SAN FRANCISCO, SAN PABLO AND SUISUN

In the Matter of the Accusation Against:

CAPTAIN JOHN J. COTA,

Respondent.

Case No. 07-01

OAH No. 2008010073

**ORDER GRANTING  
CONTINUANCE**

This matter is currently set for hearing before the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, September 2 to 5, 8 to 11, 15 to 18, 22 to 25, 2008, at the Elihu Harris State Building, 1515 Clay Street, Oakland, California. A further Prehearing Conference is scheduled for August 8, 2008. Complainant, the Incident Review Committee of the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun, is represented by Gary R. Gleeson, Attorney at Law. Respondent Captain John J. Cota is represented by John F. Meadows, Attorney at Law. A telephonic conference was held on July 30, 2008.

\* \* \* \* \*

On July 25, 2008, the parties filed an executed stipulation. Under the terms of the stipulation, the parties agree to vacate the hearing dates in view of respondent's impending retirement. The stipulation is, in effect, an agreement to vacate the Prehearing Conference and to continue the hearing so that the parties may resolve this matter without the necessity of a hearing. Good cause for a continuance of the hearing within the meaning of Government Code section 11524 has been demonstrated, and the motion is granted.

The parties request that a status conference be set for the purpose of scheduling new hearing dates should the retirement fail to be effectuated in accordance with the terms of the stipulation. All parties are available on October 3, 2008. A telephonic status conference shall take place at 4:45 p.m. on that date.

**ORDER**

1. The parties' request for a continuance is GRANTED. The Prehearing Conference scheduled for August 8, 2008, and the hearing dates of September 2 to 5, 8 to 11, 15 to 18, and 22 to 25, 2008, are vacated.

2. A Telephonic Status Conference shall take place on October 3, 2008, at 4:45 p.m. The Office of Administrative Hearings will generate the call to counsel at their telephone numbers on file, unless the office is notified of alternate numbers.

DATED: 7-31-08



MELISSA G. CROWELL  
Administrative Law Judge  
Office of Administrative Hearings

**PROOF OF SERVICE****Case Name: Captain John J. Cota****OAH No.: 2008010073**

I, Helen Tsai, declare as follows: I am over 18 years of age and am not a party to this action. I am employed by the Office of Administrative Hearings. My business address is 1515 Clay Street, Suite 206, Oakland, CA 94612. On July 31, 2008, I served a copy of the following document(s) in the action entitled above:

**ORDER GRANTING CONTINUANCE**

to each of the person(s) named below at the addresses listed after each name by the following method(s):

Gary R. Gleason, Attorney at Law

By Facsimile only: 650-554-6240

Farbstein &amp; Blackman

411 Borel Avenue, Suite 425

San Mateo, CA 94402

John F. Meadows, Attorney at Law

By Facsimile only: 415-421-5658

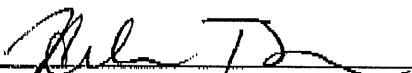
Jedeiken, Spaulding, Meadows &amp; Schneider

333 Pine Street, 5th Floor

San Francisco, CA 94104

**Fax Transmission.** I personally transmitted the above-described document(s) to the person(s) at the fax number(s) listed above, from fax machine number **(510) 622-2743**, pursuant to Government Code section 11440.20 and California Code of Regulations, title 1, section 1008, subdivision (d). The fax transmission was reported as complete and without error. A copy of the transmission report showing the date and time of transmission, properly issued by the transmitting machine, is attached to this declaration of service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed at Oakland, California on July 31, 2008.

  
\_\_\_\_\_  
Helen Tsai, Declarant

1 GARY R. GLEASON (SB#136167)  
 2 FARBSTEIN & BLACKMAN  
 3 A Professional Corporation  
 411 Borel Avenue, Suite 425  
 3 San Mateo, California 94402-3518  
 TELEPHONE: (650) 554-6200  
 4 FACSIMILE: (650) 554-6240

**FILED**

**JUL 25 2008**

Office of Administrative Hearings  
By \_\_\_\_\_

5 Attorneys for Incident Review Committee

6  
 7 **BEFORE THE BOARD OF PILOT COMMISSIONERS**  
 8 **FOR THE BAYS OF SAN FRANCISCO, SAN PABLO AND SUISUN**  
 9

10 In re the Matter of the  
 11 Accusation Against:

) Case No.: No. 07-01

12 Captain JOHN J. COTA

)  
 ) STIPULATION AND ORDER RE:  
 ) DISMISSAL OF ACTION

14  
 15 This stipulation is entered into between Respondent, Captain John J. Cota and the Incident  
 16 Review Committee of the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo  
 17 and Suisun (hereinafter "the IRC" and "the Board" respectively) and is subject to the Board's  
 18 approval.  
 19

20 1. On 07 November 2007, the M/V COSCO BUSAN allided with the Delta Tower of the San  
 21 Francisco-Oakland Bay Bridge causing substantial environmental and property damage. At the time  
 22 of the incident, Captain Cota was piloting the vessel under the authority of his state pilot license  
 23 issued by the Board.  
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 25

26 2. After an investigation, the IRC preferred an accusation as authorized by California Harbors  
 27 and Navigation Code Section 1180.6 alleging pilot misconduct associated with the allision. Captain  
 28 Cota filed a timely Notice of Defense, denying the allegations and requesting a hearing. In the

1 interim, the Board suspended Captain Cota's state pilot license pending a hearing on the charges set  
2 forth in the Accusation, as authorized by Harbors and Navigation Code Section 1180. By agreement  
3 of the parties, that suspension remains in effect pending a resolution of the issues raised by the  
4 Accusation and Captain Cota's Notice of Defense.

5  
6 3. The hearing in this matter is currently scheduled to begin September 02, 2008 before the  
7 Board sitting with an administrative law judge.

8  
9 4. By letter dated June 23, 2008 Captain Cota gave written notice to the Board of his intent to  
10 retire as a state licensed pilot effective October 1, 2008. By retiring, Captain Cota does not admit  
11 fault for the allision.

12  
13 5. In view of Captain Cota's impending retirement, and conditioned thereon, the parties  
14 agree that continuing to proceed with a hearing under these circumstances would not be productive,  
15 as in the event of a finding of pilot misconduct, the Board's authority to take any action against  
16 Captain Cota's professional license is limited to its suspension or revocation and would become moot  
17 upon his retirement.

18  
19 6. In consideration of the IRC's agreement to seek a conditional dismissal of the hearing  
20 herein, Captain Cota hereby agrees and stipulates that he will not withdraw his notice of retirement  
21 prior to its effective date or request reissuance of his state pilot license from the Board. Captain Cota  
22 further acknowledges that he is not authorized to pilot under his state license during the period of  
23 suspension and that his license expires by operation of law on the effective date of his retirement.

24  
25 7. For the reasons set forth above, the parties stipulate that the action against Captain Cota's  
26 state pilot license pending herein may be conditionally dismissed pending Captain Cota's retirement,  
27 and that the dismissal becomes final upon the effective date of such retirement.

Pursuant to Title 7, California Code of Regulations, §221(e), the parties jointly request Board approval hereof, and request that the hearing scheduled for September 02, 2008 herein, be taken off calendar.

**For Respondent:**

Date: 7-18-08

Capt. John J. Cota  
Captain John J. Cota  
Respondent

Date: 7.18.08

John F. Meadows  
John F. Meadows, Esq.  
Counsel for Respondent

**For the IRC:**

Date: 7-24-08

Knute Michael Miller  
Commissioner Knute Michael Miller  
Chair, Incident Review Committee

Date: 24 July '08

Patrick Moloney  
Captain ~~Patrick Moloney~~  
Member, Incident Review Committee

Date: 7.21.08

Gary R. Gleason  
Gary R. Gleason, Esq.  
Counsel for Petitioner

The Board has reviewed and accepted the terms of the above stipulation and hereby requests the Office of Administrative Hearings to take the hearing currently scheduled for September 02, 2008 off calendar.

Date: 7-24-08

Knute Michael Miller  
Commissioner Knute Michael Miller  
President

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IT IS SO ORDERED.

Date: 7/30/08

*Melissa Crowell*  
\_\_\_\_\_  
Hon. Melissa G. Crowell, Judge  
Office of Administrative Hearings