APPENDIX
BEFORE THE
NEW JERSEY STATE SENATE
COMMERCE AND ECONOMIC GROWTH COMMITTEES

TESTIMONY OF
JOSEPH CURTO, PRESIDENT, NEW YORK SHIPPING ASSOCIATION,
INC.

STATE HOUSE, TRENTON, NEW JERSEY
SEPTEMBER 23, 2010

MY NAME IS JOSEPH CURTO. I AM THE PRESIDENT OF THE NEW
YORK SHIPPING ASSOCIATION, INC. (NYSA), AN ASSOCIATION OF
MARINE TERMINAL OPERATORS, STEVEDORING COMPANIES, AND
OCEAN CARRIERS ENGAGED IN INTERNATIONAL TRADE AND
COMMERCE IN THE PORT OF NEW YORK AND NEW JERSEY. NYSA
NEGOTIATES AND ADMINISTERS COLLECTIVE BARGAINING
AGREEMENTS ESTABLISHING THE TERMS AND CONDITIONS OF
EMPLOYMENT OF LONGSHORE WORKERS REPRESENTED BY THE INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, AND PORT SECURITY OFFICERS REPRESENTED BY THE PORT POLICE AND GUARDS UNION LOCAL 1456. NYSA ADMINISTERS THESE LABOR CONTRACTS ON BEHALF OF MARINE TERMINAL OPERATORS AND STEVEDORING COMPANIES THAT EMPLOY THESE 4,000 WORKERS WHO ARE REQUIRED TO BE LICENSED BY THE WATERFRONT COMMISSION IN ORDER TO ENGAGE IN THEIR CHOSEN OCCUPATION.

NYSA'S MEMBERS ARE ENGAGED IN THE OPERATION OF AN ECONOMIC ENGINE THAT IN 2008 SUPPORTED 165,000 DIRECT JOBS AND ACCOUNTED FOR 270,000 TOTAL JOBS IN THE REGION AND WAS RESPONSIBLE FOR GENERATING MORE THAN $11.2 BILLION IN PERSONAL INCOME, NEARLY $36.1 BILLION IN BUSINESS INCOME, AND OVER $5 BILLION IN FEDERAL, STATE, AND LOCAL TAX REVENUES.

I APPEAR BEFORE YOU TODAY TO ALERT THIS COMMITTEE TO THE UNAUTHORIZED ATTEMPT BY THE WATERFRONT COMMISSION OF NEW YORK HARBOR TO IMPOSE AN INDEPENDENT PRIVATE SECTOR INSPECTOR GENERAL (IPSIG) PROGRAM ON THESE MARINE TERMINAL OPERATORS AND STEVEDORING COMPANIES. MY
TESTIMONY IS BASED UPON MY 40 YEARS OF EXPERIENCE IN THE MARINE-CARGO-HANDLING INDUSTRY AND MY EXTENSIVE KNOWLEDGE OF MARINE-TERMINAL OPERATIONS, LABOR RELATIONS, AND THE REGULATORY ISSUES AFFECTING PORT FACILITIES NOT ONLY IN THE PORT OF NEW YORK AND NEW JERSEY BUT ALSO IN PORTS THROUGHOUT THE NATION. COPIES OF MY BIOGRAPHY AND BACKGROUND INFORMATION ON THE NYSA ARE ATTACHED TO THIS WRITTEN TESTIMONY FOR YOUR CONSIDERATION.


ITS IPSIG PROGRAM. HAD THE COMMISSION DONE SO, IT WOULD HAVE LEARNED THAT NYSA’S MEMBERS OPPOSE THE IMPOSITION OF SUCH A PROGRAM AND BELIEVE IT IS AN IMPERMISSIBLE EXERCISE OF AGENCY POWER THAT IS NOT AUTHORIZED BY THE WATERFRONT COMMISSION ACT.

NYSA’S MEMBERS ARE NOT CRIMINALS BUT ARE LEGITIMATE BUSINESS ENTITIES THAT ARE ALREADY OVERLY REGULATED

THE COMPANIES RESPONSIBLE FOR DELIVERING THE PROSPERITY THAT THE PORT OF NEW YORK AND NEW JERSEY PROVIDES TO THE STATES OF NEW JERSEY AND NEW YORK ARE LEGITIMATE BUSINESS CONCernS WHICH IN RECENT YEARS HAVE INVESTED BILLIONS OF DOLLARS IN THIS PORT. WITHIN THE PAST FIVE YEARS, FOUR OF THE SIX CONTAINER TERMINAL OPERATIONS IN THE PORT WERE SOLD IN FINANCIAL TRANSACTIONS WITH PRICE TAGS IN THE BILLIONS OF DOLLARS. FIVE OF THESE TERMINALS ARE NOW OWNED BY HUGE MULTINATIONAL CORPORATIONS. THE PURCHASERS OF THESE OPERATIONS ARE SOPHISTICATED FINANCIAL CONCernS. AT LEAST TWO OF THEM WERE SUBJECT TO A REVIEW OF THEIR PURCHASES


IF EVERY ONE OF THESE GOVERNMENT BODIES WERE TO PUT INTO EFFECT AN IPSIG PROGRAM, NYSA'S MEMBERS WOULD HAVE MORE IPSIGS THAN EMPLOYEES.

THE COMMISSION’S IPSIG PROGRAM WILL ADD TO THE COSTS OF DOING BUSINESS IN THE PORT

NYSA AND ITS MEMBERS BEAR THE COSTS OF THE TELECOMMUNICATIONS HIRING SYSTEM THAT PERMITS THE WATERFRONT COMMISSION TO CARRY OUT ITS STATUTORY MANDATE TO MONITOR THE EMPLOYMENT OF WATERFRONT
WORKERS. IN ADDITION, NYSA AND ITS MEMBERS FUND THE OPERATING BUDGET OF THE WATERFRONT COMMISSION THROUGH AN ASSESSMENT ON THE GROSS WAGES PAID TO EMPLOYEES LICENSED BY THE COMMISSION. BY STATUTE THIS ASSESSMENT CANNOT BE IN EXCESS OF 2% OF THE GROSS WAGES PAID. THIS ASSESSMENT RAISES APPROXIMATELY $11 MILLION PER YEAR TO SUPPORT THE OPERATIONS OF THE COMMISSION — A COST THAT ADDS AN ADDITIONAL $4.00 TO THE COST OF HANDLING A CONTAINER IN THE PORT OF NEW YORK AND NEW JERSEY. THUS, IN A VERY COMPETITIVE BUSINESS ENVIRONMENT THE COSTS OF THE TERMINAL OPERATORS AND STEVEDORING COMPANIES IN THE PORT OF NEW YORK AND NEW JERSEY ARE AT A MINIMUM $4.00 HIGHER PER CONTAINER THAN THE COSTS BORNE BY THEIR COMPETITORS IN OTHER PORTS. THE REASON I SAY "AT A MINIMUM" IS BECAUSE THE 2% ASSESSMENT IS NOT THE ONLY COSTS ATTRIBUTABLE TO COMPLIANCE WITH COMMISSION MANDATES. THE INDIVIDUAL COMPANIES SUBJECT TO THE COMMISSION'S JURISDICTION COLLECTIVELY INCUR MILLIONS OF DOLLARS IN PROFESSIONAL-SERVICE FEES TO HANDLE LICENSING AND COMMISSION COMPLIANCE. NOW THESE COMPANIES WILL BE FACED WITH
ADDITIONAL COSTS ATTENDANT WITH THE COMMISSION’S CONTEMPLATED IPSIG PROGRAM THAT THEIR COMPETITORS IN OTHER PORTS WILL NOT INCUR IF THIS PROGRAM IS NOT ABANDONED. THESE ADDITIONAL ASSESSMENTS ARE FISCALLY IMPRUDENT AS THEY WILL INCREASE THE COSTS OF DOING BUSINESS IN THE PORT AND LEGALLY IMPERMISSIBLE AS THEY ARE NOT AUTHORIZED UNDER THE WATERFRONT COMMISSION ACT.

THE COMMISSION IS REGULATING BEYOND ITS MANDATE

THE WATERFRONT COMMISSION IS A BI-STATE INSTRUMENTALITY CREATED BY AN INTERSTATE COMPACT BETWEEN THE STATES OF NEW JERSEY AND NEW YORK THAT WAS APPROVED BY AN ACT OF THE CONGRESS OF THE UNITED STATES IN 1953. ONE OF THE COMMISSION’S FUNCTIONS IS TO INVESTIGATE AND LICENSE STEVEDORING COMPANIES THAT EMPLOY LONGSHORE WORKERS. IN ANNOUNCING ITS IPSIG PROGRAM AND SEEKING EXPRESSIONS OF INTEREST AND STATEMENTS OF QUALIFICATIONS FROM APPLICANTS INTERESTED IN ACTING AS IPSIGS FOR STEVEDORING COMPANIES, THE COMMISSION STATED:

THE IPSIG WILL ESTABLISH AND MAINTAIN INTERNAL CONTROLS DESIGNED TO DETER
UNETHICAL OR ILLEGAL CONDUCT, AND WILL REPORT ANY UNETHICAL OR ILLEGAL CONDUCT OBSERVED BY THE COMMISSION. THE IPSIG WILL EXAMINE THE OPERATIONS OF STEVEDORING COMPANIES TO ENSURE THAT THEY RUN EFFECTIVELY WITHOUT FRAUD, CRIMINAL INFLUENCE, IMPROPER ACCOUNTING AND/OR HIRING PRACTICES, OR THEIR MALFEASANCE. THE COMMISSION MAY REQUIRE A STEVEDORING COMPANY TO RETAIN AN IPSIG PURSUANT TO A RESPONSIBILITY AGREEMENT OR STIPULATION WITH THE COMMISSION, IN ORDER FOR THAT STEVEDORING COMPANY TO CONTINUE TO OPERATE IN THE PORT. UPON SELECTION BY THE COMMISSION, THE IPSIG WILL BE HIRED BY THE STEVEDORING COMPANY BUT WILL REPORT DIRECTLY TO THE COMMISSION, WITH THE STEVEDORING COMPANY RETAINING
RESPONSIBILITY FOR PAYMENT OF IPSIG’S SERVICES.

IN THE ANNOUNCEMENT OF ITS IPSIG PROGRAM, THE WATERFRONT COMMISSION HAS NOT PROVIDED A SINGLE CITATION TO A PROVISION IN THE WATERFRONT COMMISSION ACT THAT EMPOWERS IT TO IMPLEMENT THE PROGRAM. THE REASON IS CLEAR: NOTHING IN THE WATERFRONT COMMISSION ACT AUTHORIZES THE COMMISSION TO IMPOSE AN IPSIG PROGRAM. INDEED, THE STATUTE PROHIBITS SUCH A MANDATE BECAUSE IT WOULD IMPOSE AN ADDITIONAL CHARGE IN EXCESS OF THE LIMIT OF 2% OF PAYROLL. THE COMMISSION’S PROPOSED IPSIG PROGRAM NOT ONLY EXCEEDS ITS AUTHORITY UNDER ITS ENABLING STATUTE BUT ALSO CONSTITUTES IMPERMISSIBLE LEGISLATIVE ACTIVITY IN VIOLATION OF THE CONSTITUTIONALLY-REQUIRED SEPARATION OF POWERS.

THE WATERFRONT COMMISSION COMPACT EXPLICITLY PROVIDES THAT ANY AMENDMENTS TO THE COMPACT MUST BE ADOPTED BY SUPPLEMENTARY ENACTMENTS ADOPTED BY THE LEGISLATURES OF BOTH STATES. IN SEEKING TO IMPLEMENT AN
IPSIG PROGRAM ON ITS OWN WITHOUT SEEKING LEGISLATIVE AUTHORITY, THE WATERFRONT COMMISSION IS USURPING THE ROLE AND AUTHORITY OF THE LEGISLATURES OF THE STATES OF NEW JERSEY AND NEW YORK. THE PEOPLE’S ELECTED LEGISLATORS, NOT APPOINTEES IN AN EXECUTIVE AGENCY, HAVE THE RIGHT AND POWER TO DETERMINE WHETHER AN IPSIG PROGRAM IS APPROPRIATE AND, IF SO, WHAT SUBSTANTIVE STANDARDS SHOULD APPLY IN DETERMINING WHEN THE IMPOSITION OF AN IPSIG IS WARRANTED. THIS IS HOW THE LEGISLATURE OF THE CITY OF NEW YORK ESTABLISHED AN IPSIG PROGRAM FOR THE CITY’S PRIVATE CARTING INDUSTRY. IT ENACTED A LEGISLATIVE MANDATE THAT PERMITTED THE TRADE WASTE COMMISSION OF THE CITY OF NEW YORK TO REQUIRE A PRIVATE CARTING COMPANY IT REGULATES TO HIRE AN IPSIG IF THE COMPANY IS THE SUBJECT OF A PENDING INDICTMENT FOR A CRIME THAT WOULD PROVIDE GROUNDS FOR THE DENIAL OR REVOCATION OF ITS LICENSE.\(^2\) THE WATERFRONT COMMISSION’S PROPOSED IPSIG PROGRAM HAS NO SIMILAR CRIMINAL CULPABILITY STANDARD. INSTEAD, THE COMMISSION

\(^2\) See N.Y. City Admin. Code § 16-511(b).
BESTOWS UPON ITSELF THE UNFETTERED DISCRETION TO IMPOSE AN IPSIG AS THE COMMISSION SEES FIT.

**THE IPSIG IS A FLAWED CONCEPT FOR PORT EMPLOYERS**

THE IPSIG CONCEPT HAS ITS ROOTS IN THE 1989 *NEW YORK STATE ORGANIZED CRIME TASK FORCE REPORT ON CORRUPTION AND RACKETEERING IN THE NEW YORK CITY CONSTRUCTION INDUSTRY*. CURRENT WATERFRONT COMMISSIONER RONALD GOLDSTOCK WAS THE PRIMARY AUTHOR OF THAT REPORT AND HAS BEEN AN ACTIVE PROPONENT OF THE IPSIG CONCEPT. COMMISSIONER GOLDSTOCK HAS WRITTEN ABOUT THE BROAD POWERS THAT COULD BE BESTOWED ON AN IPSIG, INCLUDING THE ABILITY TO:

- ACCESS THE BOOKS, RECORDS, FILES, ACCOUNTS, AND CORRESPONDENCE OF THE ORGANIZATION;
- DISCIPLINE, DISMISS, REMOVE, AND REPLACE OFFICERS, EMPLOYEES AND MEMBERS OF THE ORGANIZATION;
- REVIEW AND VETO CERTAIN BUSINESS OPERATIONS OF THE ORGANIZATION; AND
- APPROVE MAJOR CONTRACTS ENTERED INTO BY THE ORGANIZATION.
 THESE ARE CERTAINLY BROAD AUTHORITIES THAT THE COMMISSION WOULD GIVE TO MONITORS WHO IN ALL LIKELIHOOD HAVE NEVER EVEN BEEN INSIDE A MARINE TERMINAL. COMMISSION-APPOINTED IPSIGS SHOULD NOT BE PERMITTED TO REPLACE THE EXPERTISE OF INDUSTRY MANAGEMENT IN RUNNING THESE COMPANIES. WE ARE TALKING ABOUT BILLIONS OF DOLLARS IN CORPORATE INVESTMENT IN THESE COMPANIES THAT ARE DEPENDENT ON THE SKILL AND DISCRETION OF THEIR MANAGEMENT TO NAVIGATE AN EVER-CHANGING BUSINESS ENVIRONMENT. SUCH AN IMPOSITION WOULD RENDER THE WATERFRONT COMMISSION AS OVERSEER OF ALL THE BUSINESS OPERATIONS AND DECISIONS OF THE STEVEDORING COMPANIES IN THE PORT. WE DO NOT BELIEVE THE COMMISSION HAS THE LEGAL AUTHORITY OR COMPETENCE TO UNDERTAKE THIS ROLE. THE WATERFRONT COMMISSION'S IPSIG PROGRAM IMPERMISSIBLY INTERFERES WITH THE ABILITY OF STEVEDORING COMPANIES TO MANAGE THEIR BUSINESSES AND FULFILL THEIR OBLIGATIONS TO THEIR CUSTOMERS, INVESTORS, AND THE PUBLIC.

THE AGENCY'S ACTIONS WILL ALSO HAVE A CHILLING EFFECT ON PRIVATE SECTOR INVESTMENT IN THE PORT IF IT IS KNOWN THAT ON A WHIM THE COMMISSION CAN DISPLACE A COMPANY'S MANAGEMENT TEAM.
INVESTORS ARE LIKELY TO SHY AWAY FROM INVESTMENT IN A COMPANY, WHEN IT IS KNOWN THE COMPANY'S MANAGEMENT TEAM CAN BE REMOVED OR SECOND-GUESSED BY AN AUDITOR OR MONITOR ACCOUNTABLE ONLY TO THE COMMISSION.

THE COMMISSION REQUIRES LEGISLATIVE OVERSIGHT

THE ENTIRE CONCEPT REEKS OF UNBRIDLED POWER ASSERTED NOT IN CONFORMANCE WITH A STATUTORY MANDATE BUT BY ADMINISTRATIVE FIAT. SIMPLY PUT, THE IPSIG CONCEPT IS THE WRONG PROGRAM, IMPOSED FOR THE WRONG REASONS, BY THE WRONG PARTY. IF THE COMMISSION BELIEVES AN IPSIG PROGRAM IS RIGHT, IT SHOULD PRESENT ITS PROPOSAL TO THE LEGISLATURES OF NEW JERSEY AND NEW YORK. ONLY THEN CAN THESE LEGISLATIVE BODIES EXAMINE THE WISDOM OF THIS PROGRAM IN THE LIGHT OF APPROPRIATE LEGISLATIVE PROCEEDINGS IN WHICH ALL INTERESTED PARTIES WOULD HAVE THE RIGHT TO EXPRESS THEIR VIEWS AS TO THE NECESSITY FOR THE PROGRAM AND THE APPROPRIATE SUBSTANTIVE CRITERIA THAT SHOULD CONTROL.

WE URGE THIS COMMITTEE TO CONTACT THE GOVERNOR TO EXPRESS ITS DISPLEASURE WITH THE ACTS OF THE WATERFRONT COMMISSION IN SEEKING TO IMPOSE AN IPSIG PROGRAM ON STEVEDORING COMPANIES WITHOUT LEGISLATIVE AUTHORITY AND TO RECOMMEND THAT THE COMMISSION ABANDON THIS COURSE.
Members of the Senate Economic Growth Committee, my name is Harold J. Daggett and I serve as Executive Vice President of the International Longshoremen’s Association, AFL-CIO.

The ILA is the largest union of maritime workers in North America. We represent 65,000 members working at ports on the Atlantic and Gulf Coast, Great Lakes, Eastern Canada, Puerto Rico and major U.S. rivers.

When I returned home from service in Vietnam with the U.S. Navy the late 1960s, I went right to work on the waterfront. There I was among one of some 30,000 ILA members employed in the Port of New York and New Jersey. Our International membership at that time topped 125,000.

Containerization was only in its infant stages then but that automation and other factors would result in the amazing erosion of ILA jobs over the next four decades to where we are around 4,000 today in the Port of New York and New Jersey.

While our membership numbers have been reduced, the amount of cargo handled in this port has more than tripled over that same period.

The region continues to enjoy valuable economic prosperity generated by the Port of New York and New Jersey.

I am proud to note that the ILA has continued to negotiate contracts with our employers that buffered the loss of man-hours by our members while providing generous wage, health benefits and pension plans for our present ILA members.

ILA fringe benefit packages for its members are funded through assessments on cargo and here we see the delicate balance that our employers must strike between paying our ILA members decent wages and benefits and keeping New York and New Jersey competitive with other ports.

My union felt it was important that we appear today and join with New York Shipping Association to alert you to a challenge to our port’s competitiveness: the unauthorized attempt by the Waterfront Commission of New York Harbor to impose an Independent Private Sector Inspector General program on marine terminal operators and stevedoring companies.

The proposal being discussed today is a perfect example of that kind of over regulation that chokes economic growth and kills jobs.
ILA employers in New Jersey and New York have been challenged for decades by their having to fund the Waterfront Commission. No other port area on the East Coast, Gulf Coast and even the West Coast is burdened with this extra cost, funded by an assessment on wages paid to our members.

Plain and simple, this is a tax on jobs.

The Inspector General program proposed by the Waterfront Commission adds another unnecessary layer of bureaucracy, and more importantly, further jeopardizes the competitive balance of this port region against others. It will also lead to higher costs of doing business in this port without providing any benefit.

Citizens of New Jersey already pay through local, state and federal taxes, to fund our U.S. Department of Homeland Security, U.S. Justice Department, U.S. Coast Guard, Port Authority Police, New Jersey State Troopers, the U.S. Department of Labor, the U.S. Department of Transportation, Occupational Safety and Health Administration, the Federal Maritime Commission and local police.

All of these agencies have authority to monitor and police our ILA members and employers.

Do our citizens need another tax on doing business at New Jersey ports?

The powers of the Waterfront Commission flow from the Legislatures of both New Jersey and New York.

We believe this proposal exceeds the authority granted to the Commission and we ask you to take action to eliminate it before more damage is done to our maritime commerce.

Thank you.
Harold J. Daggett
Executive Vice President
International Longshoremen's Association, AFL-CIO

Harold J. Daggett was unanimously elected Executive Vice President of the International Longshoremen's Association, AFL-CIO in at the union's quadrennial convention in July 2007. For the previous seven years, Daggett held the position of Assistant General Organizer with the ILA. Daggett also is President of ILA Local 1804-1, the General Maintenance local covering ILA members in the Port of New York and New Jersey.

Previously, Mr. Daggett served as Secretary-Treasurer of the Atlantic Coast District, ILA, a position to which he was first elected in 1991, with subsequent reelects in 1995 and 1999.

A third generation ILA member, Mr. Daggett followed in the footsteps of his father and namesake, Harold Daggett, Sr., who worked in the ILA industry for 57 years. Mr. Daggett himself is now a veteran of 43 years with the ILA. He first joined ILA Local 1804-1 following an honorable discharge from the U.S. Navy in 1967, where he saw combat duty in Vietnam in the mid-1960s.

Mr. Daggett was born in West Greenwich Village in Lower Manhattan, New York and spent his boyhood years in Woodside, Queens. He distinguished himself in scouting, first as a Cub Scout and later as a Boy Scout with Troop 127 in Queens. In his adult life, Mr. Daggett was honored by the Greater New York City Council, Boy Scouts of America with their prestigious Good Scout Award.

Mr. Daggett later studied at Cardinal Farley Military Academy in upstate New York, from which he graduated from prior to joining the U.S. Navy.

He began his ILA career as a mechanic with Local 1804-1 and eventually worked his way up to foreman. For 11 years, he was with Sea-Land Services until his appointment in 1980 as Secretary-Treasurer and Business Agent of that local. He was later re-elected six times to that post, while also serving terms as Secretary-Treasurer of the New York-New Jersey District Council. In 1998, he was elected President of ILA Local 1804-1.
Mr. Daggett has been a member of numerous labor and maritime committees. He has served as a Wage Scale delegate for his local since 1981.

For Master Contract negotiations, Mr. Daggett served on the Jurisdiction sub-committee.

Through his leadership, Mr. Daggett and the members of Local 1804-1 have raised more money for the ILA Children's Fund – which benefits The Hole In the Wall Gang Camp – than any other local in ILA. His local is also actively involved in other charities, including Toys for Tots and St. Jude's Children's Hospital.

The father of three children – Lisa, Dennis and John – Harold Daggett and his wife Patricia reside in Sparta, New Jersey.

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Spring 2010
Testimony of J. Randolph Brown, President
Metropolitan Marine Maintenance Contractors' Association, Inc.

Before the New Jersey State Senate Commerce and Economic Growth Committee

On the Matter of

The Waterfront Commission’s Intended Use of Independent Inspector Generals

State House, Trenton New Jersey, September 23, 2010

**Introduction to Metropolitan Marine Maintenance Contractors’ Association, Inc.**

My name is J. Randolph Brown. I am President of Metropolitan Marine Maintenance Contractors’ Association (Metropolitan Marine), a non-profit organization of Employers who have provided maritime services to the Port of New York/New Jersey (the Port) since 1947. Today, Metropolitan Marine consists of 27 companies that perform maintenance and repair of containers, chassis, container handling equipment, facilities, plus the securing of containers aboard vessels.

In 2009, Metropolitan Marine employers generated 2.1 million hours of Metro-ILA work, approximately 20% of the Port’s total ILA hours, and paid $78 million in wages and $44 million in benefits to funds jointly managed with the International Longshoremen’s Association affiliated locals 1814 and 1804-1. The latter is a New Jersey-based local and typically accounts for about 85% of the Metro-ILA hours. The two locals combined have approximately 900 members.

Historically, the Waterfront Commission (the Commission) has exercised authority over Metro-ILA jobs only to the extent that it involves the licensing of employers and the ILA
members who wish to work in the marine terminals, but not at Metropolitan Marine facilities outside of the Port proper. Unlike the NYSA, the Commission does not exercise oversight of the daily hiring of individuals, nor the balancing of its labor supply and demand.

Personally, I have worked in various capacities in the Port for over 40 years—with terminal operators, ocean carriers, as an independent consultant to the Port—with ILA labor, the NYSA, and, now, Metropolitan Marine. I believe this experience gives me considerable insight into the matters being addressed by these hearings.

IPSIG

We are here today because the Commission now proposes the institutionalization of Independent Private Sector Inspector Generals, or IPSIGs, within the Port. Metropolitan Marine sees value in the Commission’s objective of ridding the Port of organized crime influences and other acts of wrong doing to the extent they can be adequately demonstrated to exist. Nonetheless, we believe that implementation of this proposal with all of its associated costs is well beyond the authority of the Commission. We are equally concerned about the corollary issues of the attendant protection of individual and property rights and the potential economic harm such a misguided effort might needlessly inflict on the Port.

The Commission has failed to cite any legislative authority permitting IPSIGs. The Commission is authorized to issue a license to an individual or a business unless an exclusion is applicable. It cannot, however, impose the financial burdens that will be generated by agency actions and which are targeted at enhancing oversight in an
Intrusive manner specifically when the process will be conducted as part of a burdensome and oppressive procedure. The Commission—again, on its own and without legislative authorization—proposes to institute what is in effect a new licensing requirement since the implication of the scheme is that if a Employer objects to the imposition of an IPSIG, the Commission will deny them their license. We submit this not only contradicts the Waterfront Commission Act, but amounts to a denial of due process and an unlawful taking of property.

Further evidence that the Waterfront Commission proposal to institutionalize IPSIGs is unauthorized by the States derives from the fact that the cost of the IPSIGs will not be covered through the Waterfront Commission budget. The Commission operates on a two percent tax on the wages paid by the Employers, which amounts to approximately $11 million annually. The statute plainly expects the Commission to operate within that budget and the law requires public accountability. The Commission, however, would introduce another revenue source for its intrusive activities by requiring Employers to pay for the IPSIG in addition to the 2% statutory levy. This amounts to an added illegal tax on the right to conduct business.

There are other profound reasons for stopping this unauthorized intrusion by the Commission. The expertise and techniques of those individuals who make this marine terminal system work have evolved over numerous decades. In addition, private businesses and the Port Authority have invested billions of dollars in marine terminals and supporting infrastructure that could be placed at risk by the IPSIG. An interloper should not be overseeing management decisions, questioning managerial prerogatives
and approving contracts in this highly skilled and technologically advanced Port. This would endanger the services, operating economics and infrastructure that make up one of this State’s primary economic engines.

The Waterfront Commission, by its proposal, holds itself out to be the sole judge of all facets of this process. It maintains the sole right to impose an IPSIG and has the IPSIG reporting solely to it. Clearly the structure is one of Employer (Waterfront Commission) and employee (IPSIG), but with the cost passed along to stevedoring companies. If the Waterfront Commission believes it needs additional employees, the cost of which exceeds its budget, the Commission needs to find additional funding through the Legislature. Furthermore, there are no checks and balances in the proposed process, which are clearly required under the Federal and State Constitutions and laws. Nor are there any pre-established standards or metrics to guide the Employers, the Commission, or the IPSIG as to what constitutes acceptable “effective operations,” in considering such things as “hiring practices” or “compliance with other relevant laws and regulations.” The vagueness of the role of the IPSIG bespeaks of its “ultra vires” nature.

One important purpose of legislative evaluation of the IPSIG would be to consider whether the public good was being affected by the proposal. While there is a rightful concern about the possible loss of Port business due to unnecessarily high labor costs, there should be an equal, if not greater, concern about the possible degradation of operations and resulting loss of business due to an overly intrusive and financially burdensome IPSIG process.
Collective Bargaining

Metropolitan Marine, as its designee represents its 27 members in Collective Bargaining, represents the Employers as to labor relations and other Port matters. The desire to promote harmonious industrial relations serves the goal of providing dependable service to the public at large.

When one examines the Commission's Request for Expression of Interest and Statement of Qualifications, the Commission has identified the following duties: (1) provide monitoring services; (2) oversee the operations of stevedoring companies; (3) ensure compliance with relevant laws and regulations; (4) establish and maintain internal controls; (5) examine the operations of stevedoring companies regarding hiring practices or other malfeasance. The identification of these duties together with the identified expertise sought in an IPSIG evinces a plan and design to invade the Collective Bargaining relationship.

In establishing the Commission, the State legislatures recognized and clearly intended to preserve what had become the national labor policy of promoting Collective Bargaining. Accordingly, the Commission-enabling legislation includes Article XV, which does not limit Collective Bargaining and provides, in essence, that wherever possible the Compact is to be interpreted to protect the sanctity of the bargaining relationship of the parties and their authority to bargain collectively. It also has been construed to include a proviso that wherever possible the Compact should be construed or applied as consistent with the effective Collective Bargaining Agreement. Plainly, in establishing the Waterfront Commission there was no intent by the legislature for the
Commission to operate in a manner that was incompatible with established national labor policy. What the Legislature ordained is now being sought to be undone by the unilateral and unauthorized action of the Commission. This attempted unauthorized action will, in my opinion, destabilize the Port, disrupt productivity, increase stress on the labor-management relationship and retard morale at a critical time in the development of the Port. Thus, the existence of such an intrusion into the Collective Bargaining relationship will have a chilling affect on the rights inherent in the essential process of Collective Bargaining.

The Collective Bargaining Agreement may certainly regulate and restrict (in some measure) the exercise of managerial functions, but the Employers have the obligation of hiring and firing, paying and promoting, supervising and planning, all within the confines of the law and the Collective Agreement. If one purpose of Metropolitan Marine is to represent the members and a second purpose is to promote harmonious relations between Employer and employee, Metropolitan Marine bears a heavy responsibility to assure that all unlawful intrusions that adversely impact the Collective Bargaining are legally prevented.

If Metropolitan Marine is to be successful in representing its members and in achieving the identified goals, it must be firm in the planning, funding, and executing of its policies and promises, whether they are the policies of the Metropolitan Marine or the promises agreed to by the Metropolitan Marine through Collective Bargaining. The intrusion of a third-party such as the Waterfront Commission into the Collective Bargaining relationship and environment contaminates the process, in direct contravention of the legislative mandate. The creation of the IPSIG process is a direct attempt to control and
change the terms and conditions of employment in the Port and nullify the negotiated rights and responsibilities contained in the Collective Bargaining agreements. The bargaining process cannot be subject to the discretion of an imposed stranger to the operations of the Port.

**Conclusion**

The essence of the issue before us is really quite simple. On the one hand, the Commission seeks to initiate unauthorized, unilateral actions to expand its authority, without checks or balances, and impose additional, virtually unlimited administrative costs on the Port. Yet, New York's Inspector General's report of 2009, and the Commission's Annual Report for 2009-2010 recites, chapter and verse, the ineffectiveness of the prior Commission staff for much of the past decade in fulfilling its mandate, and chronicling how the Commission has squandered significant portions of up to $100 million in Port employer funding. The Commission's annual report claims sweeping changes were made in just one year, but one year of restructuring hardly constitutes sufficient evidence of enduring effectiveness in its mission.

After this violation of the public trust and an obscene waste of money, the public and Port are owed more than the self-serving proclamation of success and calls for more authority and another layer of government cost via an IPSIG. Let the Commission first demonstrate that its restructuring has achieved successes that are real and durable. We urge this Committee to contact the Governor to express its disapproval with the acts of the Waterfront Commission in seeking to impose an IPSIG program on stevedoring companies without legislative authority and to recommend that the Commission abandon this course.
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)

Honorable Raymond J. Lesniak
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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
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. Loan sharks 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
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 Copploa (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 Magloli:** In March 2010, the Commission removed maintenance man Roy Magloli from working on the waterfront because of his association with Angelo “the Horn” Prisco, a capo in the Genovese crime family. Magloli 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, Magloli 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 Magloli 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.
• **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
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 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.
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.
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,

Walter Arsenault
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
Testimony on Waterfront Commission

I am sorry that I could not testify, because I had a previous appointment, but I am substituting this letter for that testimony about the Waterfront Commission.

We purchased Port Newark Refrigerated Warehouse in 1984 and, therefore, I have been personally familiar with the conduct of the Waterfront Commission for just over 26 years. Without question, it is the most dysfunctional, corrupt, useless, harmful police agency/regulatory body I have ever seen in my life. I am 68 years-old and have been active in business since my early twenties, so that is a considerable amount of time. I have many examples of their dysfunction but, perhaps, one will give you an insight.

Approximately 14 years ago, Port Newark Refrigerated Warehouse had a labor dispute and had to replace our entire workforce. We needed 32 warehousemen. We sent 93 people for licensing to the Waterfront Commission on a Monday morning. Incidentally, the commission was completely aware of the labor dispute. I was on the phone with the commission several times a day, attempting to expedite the licensing of these individuals. The Waterfront Commission, until then, granted temporary licenses, because they needed a significant time interval to do background searches. The commission unilaterally decided not to issue temporary permits and did not have the clerical staff to process the applicants.

On that Tuesday, the Waterfront Commission arrested the General Manager of Port Newark Refrigerated Warehouse and placed him in handcuffs, for using unlicensed employees, because they decided not to issue temporary passes. It regularly takes the commission anywhere from 3-6 months to license an individual. They almost destroyed our business, because we could not hire anyone to do the work. We suspect that the union put political pressure on the commission to engage in this conduct.

It cost PNRW over $25,000 in legal fees, to expunge our General Manager’s background records. We worked management personnel in excess of 100 hours per week for many weeks. This labor dispute was a major event in Port Newark, and the Waterfront Commission was completely aware of what PNRW was doing and why we were doing it, and purposely attempted to hurt our business.

Over the years, Port Newark Refrigerated Warehouse has repeatedly reported major thefts to the Waterfront Commission, and they are simply too busy (overwhelmed) to make the port more
secure. The list of grievances goes on forever. Since Transportation Worker Identification Credentials (TWIC) cards are available from the Department of Transportation, which now holds all the background search information; there is absolutely no need for the Waterfront Commission’s regulatory effort.

In my opinion, the Waterfront Commission should have merged into the Port Authority 25 years ago. The commission does not cooperate with the other agencies in the Port, does not attend meetings, does not hire competent people, and the New York State report has understated the extent of the corruption in this agency. The reasons that justify the existence of the Waterfront Commission have long since passed, and, unquestionably, the agency should be dissolved, with its residual functions merged into the Port Authority.

By the way, the 93 men, of whom I wrote earlier that Port Newark Refrigerated Warehouse sent to the Waterfront Commission to be licensed, were all African-Americans. As I stated previously, only 32 were successful. The remainder had, generally, minor criminal records. The Waterfront Commission’s policies absolutely discriminate against African-Americans, depriving them of employment, and that behavior has nothing to do with preventing the activities of Organized Crime. It is just stupid, arrogant, socially dysfunctional conduct, symptomatic of the Waterfront Commission.

No other port in the US has a Waterfront Commission, and we must pay them to engage in this conduct, which adds unforgiveable insult, to immeasurable injury.