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2 NEW YORK STATE SENATE

3 STANDING COMMITTEE ON INVESTIGATIONS and

4 GOVERNMENT OPERATIONS

5 -----x

6 PUBLIC HEARING:

7 RE: Investigating the purchase and sale

8 Of the M/V Islander by the Governors Island

9 Preservation and Education Corporation

10 -----x

11 New York State Senate

12 Hearing Room, 19th floor

13 250 Broadway

14 New York, New York

15

16 May 7, 2009

17 11:30 a.m.

18

19 B e f o r e:

20

21 SENATOR CRAIG M. JOHNSON, Chair

22 SENATOR JEFFREY D. KLEIN

23 SENATOR MARTIN J. GOLDEN,

24 Members

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2 A P P E A R A N C E S:

3 ALSO PRESENT:

4 Roger Adler, Esq.

5 Beccah Golubock Watson

6 Director - Investigations and Government

7 Operations Committee

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9 ALSO PRESENT:

10 The public

11 The press

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21	Development Corporation	
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P R O C E E D I N G S

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SENATOR JOHNSON: Good morning,

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ladies and gentlemen.

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My name is Senator Johnson and

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it's my privilege to chair the New York State

8

Senate Committee on Investigations and Government

9

Operations.

10

State Senator George Winner is the

11

designated ranking member.

12

With me today besides myself are

13

two members who are on their way, Senators Jeffrey

14

Klein, the Deputy Majority Leader, and Senator

15

Marty Golden.

16

With me to my right is my counsel

17

for the Committee, Roger, Roger Adler.

18

The focus of today's hearing is

19 the Governors Island Preservation Education  
20 Corporation, a joint State and City subsidiary of  
21 the New York State Empire State Development Corp.  
22 For shortened purposes we will just reference the  
23 Governors Preservation Education Corp as GIPEC.

24 Our focus is upon the  
25 decisionmaking process, which the GIPEC board,

1

5

2 officers and professional staff employed by GIPEC  
3 and contracted by GIPEC in purchasing a backup of a  
4 redundant ferry boat in August 2007, which was  
5 later sold in 2009 on an eBay auction by the State  
6 Office of General Services for \$24,000.

7                   The focus on GIPEC is the first of  
8 a series of hearings over a two-year legislative  
9 cycle, not just simply on GIPEC, by the way, and as  
10 a component part of the State Senate's oversight  
11 role in the use of taxpayer dollars.

12                   Too often I believe attention is  
13 initially paid in the creation and adoption of the  
14 annual state budget. Once adopted, legislative  
15 attention too often shifts merely on the Senate's  
16 legislative responsibilities. Too often here in  
17 New York, the Committee's oversight role is given  
18 scant attention and follow-up.

19 Today that changes.

20 While the focus upon a

21 half-million-dollar, half-century-old ferry boat

22 purchased by one state agency may seem curious, it

23 is not. Too often it may be a symbol of flawed

24 decisionmaking and delegated lines of agency

25 authority.

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As the presentation will reveal,

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significant time, money and effort was expended by

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GIPEC. And my question is: What do we have to show

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for it?

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Candidly and truthfully, nobody is

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perfect. Mistakes do get made. We hope, however,

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by focusing attention on these events we can start

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ensuring that there's an appropriate level of

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accountability for decisionmaking by State

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departments, agencies and commissions which

12

annually spend billions of New York State taxpayer

13

dollars.

14

Recently, with the assistance of

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the United States Senators Chuck Schumer and

16

Christine Gillibrand, GIPEC received almost \$5.6

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million in stimulus funds to help stabilize Castle

18

Williams and abate hazardous materials on Governors



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2 being appropriately' managed on a day-to-day basis,  
3 that it properly expends New York State and U.S.  
4 Government funds, and that the GIPEC board is  
5 providing the proper leadership and supervision  
6 over Governors Island and its employees to ensure  
7 its success.

8 Mindful that U.S. Supreme Court  
9 Justice Louis Brandeis once long observed, sunlight  
10 is frequently the best disinfectant, we will now  
11 call our Research Director, Beccah G. Watson to  
12 make an opening statement and presentation.

13 MS. GOLUBOCK: Good morning.

14 I'm just going to give a very  
15 brief overview of the facts at hand.

16 As many of you all know, when the  
17 people of New York bought Governors Island from the  
18 Federal Government in 2003, the Island had only one

19 operating ferry and GIPEC identified that the need  
20 for what they call the redundant ferry or a backup  
21 ferry as early as March 2004.

22 In 2006 they allocated about 3.2,  
23 exactly 3.2 million in their capital budget for the  
24 purchase and rehabilitation of the vessel, of a  
25 redundant vessel.

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They then took out an RFP in

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search of a naval architect to survey the field,

4

narrow the options, and recommend the purchase of a

5

ferry.

6

A naval architect named JMS won

7

this bid. And over the course of that summer and

8

spring in 2007, 2006, 2007, JMS presented GIPEC

9

with various options, none of which GIPEC found

10

satisfactory. And when I spoke to the Vice

11

President of JMS, he informed me that JMS did

12

recommend that GIPEC purchase a vessel which they

13

-- another vessel they ended up not purchasing

14

which was much younger and a much more expensive

15

vessel.

16

Instead, GIPEC purchased a boat

17

called the Martha's Vineyard Islander which was

18

built in 1950 with an asking price of 750,000.

19 The vessel went on a short auction. There was a  
20 three-week auction in the summer of 2007. And  
21 GIPEC, in contract with JMS, sent Turner, their  
22 contractor in most aspects of Island maintenance,  
23 conducted a three-part survey of the boat.

24 They had an audio sonic gauging of  
25 the boat which is essentially a very laborious

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9

2 process where you inspect the steel thickness of a  
3 vessel.

4 And this process was conducted  
5 over several days. And in a report named Marine  
6 Safety Consultants, the contractor who wrote this  
7 report, determined that there was very little  
8 wastage in the steel of the boat.

9 For a boat as old as the Islander,  
10 this would be a main concern because there is so  
11 much steel in a boat that's built so old -- so long  
12 ago that both boats were built with significant  
13 steel thickness and in a -- for a process of fifty  
14 years, it could be expected that there would be a  
15 lot of ways to do steel.

16 They found very little, however  
17 and JMS recommended that GIPEC purchase the boat.  
18 They bought it for 500,000 in August 2008 -- '7,

19 I'm sorry.

20 Now, before they purchased it,  
21 they also conducted a preliminary inspection,  
22 visual inspection of the boat. And Bill Welch, who  
23 is here with us today, is the operator of the  
24 current ferry, GIPEC's current ferry, conducted an  
25 afternoon of a visual inspection. And he

1

10

2 contracted with a Risk Management Services,  
3 Castlerock, who conducted a visual survey over the  
4 course of an afternoon and also took some audio  
5 gauge readings during much -- in a much more  
6 preliminary way.

7                   And my sense from talking to both  
8 of them is that they came away with a far different  
9 assessment of the boat and had very grave concerns  
10 about the boat.

11                   Now, Mr. Crivici in his report,  
12 which is available to the Committee members,  
13 registered a lot of concern about the  
14 sustainability of the boat over more than five  
15 years, and also expressed concern about the great  
16 unknowns about the boat.

17                   Nevertheless, the boat was  
18 purchased. An RFP was put out for the examination

19 and rehabilitation of the boat. Seaworthy Systems  
20 won that RFP and over the course of about six  
21 months, conducted a very, a very serious audio  
22 gauge survey testing the thickness of the boat and  
23 came away with, again, a far different picture than  
24 had been presented by the initial contractor who  
25 conducted the audio gauge survey, and approximated

1

11

2 that there would about six or seven million dollars  
3 worth of steel renewal on the vessel.

4 And he made several  
5 recommendations to GIPEC once GIPEC decided that --  
6 not to go through with the rehabilitation of the  
7 vessel. He recommended that the vessel be sold as  
8 scrap.

9 During that summer, when the boat  
10 had been purchased and then examined, scrap prices  
11 were actually very high. So a second recommendation  
12 he made was that perhaps the vessel could be  
13 rehabilitated in another way.

14 Both of those options were -- did  
15 not -- GIPEC did not go forward with those and  
16 instead sought to sell the boat, and initially put  
17 it up for bid and did not find any bids and then  
18 ultimately ended up selling it on eBay for \$23,600.

19 I think that concludes my portion  
20 of the fact-finding and I'm happy to answer  
21 questions.

22 Thank you.

23 SENATOR JOHNSON: Thank you,  
24 Ms. Watson. I appreciate your time and thank you.

25 I think we're going to start

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12

2 eliciting some testimony with respect to this  
3 hearing.

4 I'm going to ask first if Mr.  
5 William Welch could come forward.

6 (W I L L I A M W E L C H, having  
7 been first duly sworn, was examined and testified  
8 as follows:)

9 MR. WELCH: Good morning,  
10 gentlemen.

11 MR. ADLER: We welcome you to give  
12 an opening statement and an overview.

13 SENATOR JOHNSON: And by the way,  
14 just Mr. Welch, if you don't mind just stating your  
15 name as well as spelling your name for the record.

16 MR. WELCH: Sure. Yes.

17 It's Bill Welch, w-e-l-c-h.

18 I'm the President -- can you hear

19 me now?

20 I'm the President of Harbor Ferry

21 Service which currently operates the Ferry Boat

22 Coursen and a small boat, the Swivel, through a

23 contract with Turner Construction Company and

24 service on Governors Island.

25 We have been operating the ferry

1

13

2 there since the Island got -- since GIPEC  
3 originated back in 2003.

4 My background is, I became  
5 involved in the maritime industry in 1978.  
6 Graduated from SUNY Maritime College, and pretty  
7 much been in the industry ever since then, roughly  
8 30, 30 years. And have a fair amount of experience  
9 with, I was counting it up the other day, 21  
10 vessels that I have been a part owner of, acquired  
11 or sold so -- and all of them older. So something  
12 like the Islander is not something that's a  
13 stranger to me.

14 SENATOR JOHNSON: Do you want to  
15 add anything else or that's --

16 MR. WELCH: That's sums it up.

17 SENATOR JOHNSON: Mr. Welch --  
18 and thank you for joining us today and accepting

19 our invitation to provide some information  
20 concerning the Islander.

21                               You commented and you provided  
22 your background and lengthy experience.

23                               Talk a little bit about -- you  
24 indicated that you are subcontracted with a company  
25 called Turner --

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MR. WELCH: That's correct.

3

SENATOR JOHNSON: -- Turner, to

4

provide ferry service; is that simply ferry service

5

only for Governors Island or is it for other types

6

of ferry services?

7

MR. WELCH: No. Just for

8

Governors Island, sir.

9

SENATOR JOHNSON: Okay. And in

10

that capacity, what are your duties and

11

responsibilities as, I don't want to be trite

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calling it a ferry boat captain. That's not what

13

I'm trying to do, but the ferry boat operator, if I

14

could, or you can correct me what the appropriate

15

way to describe it is.

16

MR. WELCH: Right. Well, our

17

company and its employees operate and maintain --

18

basically what the arrangement is, that we have

19 what they call bare boat charter which is sort of a  
20 lease arrangement. It makes us the de facto owner  
21 for the term of the charter of the two vessels, the  
22 Swivel and the Coursen.

23 We maintain them. We staff them.  
24 We're fully responsible for their operation and  
25 that's what we do.

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SENATOR JOHNSON: You said there

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are two boats. There's the Coursen --

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MR. WELCH: The Swivel is a small,

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un-inspected. It can only carry six passengers or

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less. It's a 65-foot passenger-only vessel. The

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Coursen is 180-foot, double-end passenger vehicle

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boat.

9

SENATOR JOHNSON: How many

10

passengers does the Coursen hold?

11

MR. WELCH: The Coursen is

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currently certified for 1250 total persons aboard.

13

At that level it would have a crew of eight so it's

14

1242 passengers.

15

SENATOR JOHNSON: How many

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vehicles can it hold?

17

MR. WELCH: Thirty cars and then

18

it can carry a mix of cars and trucks.



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16

2 part of the vehicle. You would have to exclude  
3 some vehicles. That's -- realistically the  
4 capacity on her seems to be around, if you get past  
5 900, it's diminishing returns. It takes us so long  
6 to get the people on that it's really --

7 SENATOR JOHNSON: How long does  
8 it take to load up -- maybe let's start back.

9 On a typical day when you start  
10 the services on a Friday, Saturday or Sunday to  
11 take people to Governors Island, --

12 MR. WELCH: Right.

13 SENATOR JOHNSON: How long does  
14 it take to get people -- to load people onto the  
15 ferry boat? How long does it take, you know, ferry  
16 the ride and then go over?

17 MR. WELCH: They sort of come on  
18 over a little bit of a period of time, ten, ten

19 minutes. Sometimes even long than that. And then  
20 they disembark quicker than that. You know, if we  
21 have around 900 people, they can pretty much get  
22 off in about five minutes, other than maybe some  
23 straggler that was in the bathroom or whatever.  
24 And it's about -- the crossing is around eight  
25 minutes.

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SENATOR JOHNSON: And -- okay.

3

So it takes eight minutes then to unload them. How

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many -- would you say -- how many crossings do you

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do a day?

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MR. WELCH: Depends on the

7

schedule. The current normal schedule this time of

8

year calls for us to do thirteen scheduled runs

9

with the Coursen and one scheduled run with the

10

Swivel. We can -- for instance, there's a project

11

going on on the Island right now where we're doing

12

22 runs in a twelve-hour day with the Coursen.

13

SENATOR JOHNSON: What is that,

14

what type of project is that?

15

MR. WELCH: We're hauling trucks

16

with topsoil over and I think they're bringing --

17

they're loaded coming back the other way as far as

18

I know.

19

SENATOR JOHNSON: My

20 understanding though is the Island doesn't open for

21 visitors until later this month; is that correct?

22

MR. WELCH: That's correct, yes,

23 sir.

24

SENATOR JOHNSON: So the

25 thirteen runs that you do off season so-to-speak,

1

18

2 what type of runs are those?

3 MR. WELCH: It's a mix of  
4 passengers and vehicles.

5 SENATOR JOHNSON: So when you  
6 were brought on in 2003, how many -- can you  
7 estimate how many runs you were doing with respect  
8 to the people who were coming to visit Governors  
9 Island on a single day?

10 MR. WELCH: Well, it started out  
11 that we were doing during the week five runs per  
12 day with the Coursen five days a week. And then I  
13 believe the same number of runs, five runs with the  
14 Swivel on the weekend.

15 SENATOR JOHNSON: And did there  
16 come a time that you either became involved or a  
17 determination was made to look for an additional  
18 ferry?

19 MR. WELCH: Yes, sir, they did.

20 Yes.

21 SENATOR JOHNSON: And do you  
22 know why there was a -- I mean being the person who  
23 operates the ferry service, did you come to the  
24 conclusion that you needed to have an additional  
25 ferry?

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MR. WELCH: Yes, absolutely.

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SENATOR JOHNSON: And tell me

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when and tell me why.

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MR. WELCH: We probably very soon

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after starting down there, when it became apparent

7

that the Island was, you know, had plans for, you

8

know, for growing and more, you know, public access

9

and stuff like that, we became concerned over the

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lack of a redundant boat and sort of expressed that

11

concern to Turner, and, you know, through Turner to

12

GIPEC.

13

And, you know, they, over time

14

responded and that's how we got the Islander.

15

SENATOR JOHNSON: Let me ask you

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a question, that's all I'm doing: With respect to

17

-- the term redundant boat means second boat or

18

typical vernacular? What do you mean by --

19 MR. WELCH: In my mind, yeah. It  
20 would mean a second boat, definitely that could  
21 carry a significant number of passengers, but  
22 ideally that could carry a significant number of  
23 passengers as well as vehicles.

24 You know, especially the concern  
25 is when the public access is there, that if the --

1

20

2 we're under -- my company is under a lot of  
3 pressure in that we're operating a boat that was  
4 built in 1955. It's diesel electric. It's got the  
5 DC diesel. The electric components were originally  
6 built in 1955. So it -- you know, we have concerns  
7 over if a mechanical issue developed, having to  
8 take the boat out of service when there's a lot of  
9 people on the Island.

10 That being said, it's a wonderful  
11 boat. It's proved to be very, very reliable and  
12 works very well on the run.

13 SENATOR JOHNSON: Has the boat  
14 ever been out of service since the commission,  
15 since the start of the Governors Island --

16 MR. WELCH: Yeah. I was just  
17 looking at that the other day. For instance, I --  
18 the last year we operated twenty five hundred and

19 fifty nine engine hours on the meter of the engine.

20 And we had three hours during that time period

21 during a whole year that we were down for

22 mechanical reasons to change out a starter motor.

23 But the boat's proved extremely reliable.

24 (Senator Jeffrey Klein enters the

25 hearing room.)

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SENATOR JOHNSON: And was it

3

done at all during what I will call the summer

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months that -- the period of time that Governors

5

Island is open?

6

MR. WELCH: I don't believe -- do

7

you recall? No, it was not. It was -- its

8

starting period I think was prior to the public

9

access last summer.

10

SENATOR JOHNSON: Let me first

11

welcome Deputy Majority Leader Jeff Klein for

12

joining us today. It just seems like I saw you

13

yesterday, twelve hours ago.

14

Mr. Welch, so has the -- was the

15

ferry, the Coursen is it?

16

MR. WELCH: The Coursen, yes, sir.

17

SENATOR JOHNSON: The Coursen, I

18

think of Coursen in Star Wars, ever been down -

19 maybe I already asked this question - during the  
20 summertime at all? Has there every been a  
21 situation that people were stuck on the Island or  
22 stuck on the mainland and not be able to get over  
23 or back and forth to the Island?

24 MR. WELCH: Knock on wood not due  
25 to the Coursen. There was a time I think there was

1

22

2 a power outage and the transfer bridge did not  
3 operate and I think it was a distinguished guest,  
4 maybe the Governor of Minnesota that we --

5 SENATOR JOHNSON: He's a  
6 Republican so Marty's not here.

7 Well, let ask you this: It's  
8 never been -- it's never been down. Are ferries  
9 required to be inspected by the Coast Guard?

10 MR. WELCH: Yes. After you got  
11 over the six passenger limit, yes.

12 SENATOR JOHNSON: Okay. And  
13 what is that -- I mean are you familiar with the  
14 process for a ferry to be inspected by --

15 MR. WELCH: Yes. We have -- we're  
16 -- there's several different subchapters that  
17 they're inspected under. Our vessel is inspected  
18 under subchapter H which is large passenger

19 vessels. It would be the same as for a cruise ship.

20 We're inspected four times a year.

21                               There's a five-year cycle to the  
22 inspections requiring dry docking and then also  
23 requiring an intermediate dry dock in the middle of  
24 that five-year period. So we're very familiar with  
25 the Coast Guard and inspections.

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23

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SENATOR JOHNSON: And when the

3

inspection occurs, I guess once a quarter per year,

4

how long does it take to -- does the Coast Guard

5

generate a report that's provided to you about the

6

status of the boat?

7

MR. WELCH: The -- what they do is

8

they have an internal report that they note. But

9

the -- what gets provided to us is that if they

10

find defect, they have what's -- it's a form 2692

11

that they give you if you have something that's a

12

defect, which is not uncommon.

13

I mean for instance, they'll test

14

like fire protection stuff. They'll test the

15

sprinkler. Every once in a while a piece of

16

corrosion will get in there and you'll get a 2692

17

to remove the corrosion, clean the sprinkler head.

18

And typically it's -- sometimes it's resolved over

19 the telephone or an e-mail photo to them or

20 something like that.

21 We've never -- if it's a very

22 serious deficiency, then the boat can be taken out

23 of service.

24 SENATOR JOHNSON: Can you get a

25 copy of the internal report? Can you request a

1

24

2 copy of the internal report?

3 MR. WELCH: Yeah, oh, yeah. That's  
4 available, yes.

5 SENATOR JOHNSON: And is it  
6 available if, you know, I know like there's say Car  
7 Fax or if I'm buying a used car and I want to see  
8 the life of the car, I can go to Car Fax and find  
9 out.

10 If I were to purchase the Coursen,  
11 can I reach out to the Coast Guard and get copies  
12 of the internal reports to see --

13 MR. WELCH: Yes. It's available,  
14 I believe online and --

15 SENATOR JOHNSON: Do you know when  
16 this would have gone online? Would it have been  
17 online in 2006, 2005?

18 MR. WELCH: Yeah. I mean if what

19 you're leading up to is the Islander, yes. And we  
20 did obtain those reports prior to the purchase of  
21 the Islander for the Islander. Amongst other  
22 things, they list passenger injuries which we  
23 insure the vessel. The claim would be against us  
24 so we're concerned about that.

25 SENATOR JOHNSON: How much does

1

25

2 a ferry boat like the Coursen or the Islander get  
3 insured for? What would be the insurance?

4 MR. WELCH: The Coursen we're  
5 insuring for three million. The value of --  
6 putting a value on a ferry boat is an extremely  
7 difficult thing. For instance, the Coursen has  
8 its value because of Governors Island. If somebody  
9 built a bridge to Governors Island, the Coursen's  
10 value would become close to scrap. You know,  
11 there's not -- you need the route in order to have  
12 the value for the vessel.

13 (Senator Martin Golden enters the  
14 hearing room.)

15 SENATOR JOHNSON: So during the  
16 time before the Islander and you made the  
17 determination that we need to have a redundant  
18 ferry service, did GIPEC or Turner or somebody

19 contract out with private ferry companies to  
20 provide extra ferry service?

21 MR. WELCH: You might have to  
22 address that -- I know currently they do  
23 supplemental service. When we've gone into the  
24 shipyard, they've hired Miller's Launch (phonetic.)  
25 Exactly whether that was prior to the time that we

1

26

2 started looking at the Islander that they used  
3 supplemental, you'd have to ask someone --

4 SENATOR JOHNSON: What I'll say  
5 is like during the time that, you know, from '05 to  
6 '07 prior to -- are you aware whether or not GIPEC,  
7 you know, had any other alternative ferry service  
8 other than --

9 MR. WELCH: I know we used  
10 Miller's Launch at Waterways and Water -- Waterways  
11 anyway.

12 SENATOR JOHNSON: New York  
13 Waterways?

14 MR. WELCH: Yes.

15 SENATOR JOHNSON: And you're not  
16 aware of how much that would have cost GIPEC?

17 MR. WELCH: No, sir, I'm not.

18 SENATOR JOHNSON: So let's turn



1

27

2 purchase of the Islander?

3 MR. WELCH: In general, yes.

4 SENATOR JOHNSON: Okay. So maybe,

5 can you provide us, you know, from your

6 knowledge --

7 MR. WELCH: Sure.

8 SENATOR JOHNSON: -- what that

9 information is?

10 MR. WELCH: Yeah. I mean GIPEC

11 put out an RFP to procure a consultant to guide

12 them in getting a redundant boat. I believe they

13 had several responses. They chose JMS. And at the

14 time they chose JMS I reached out to other people

15 that I knew in the industry that had worked with

16 JMS to find out about their reputation.

17 The reports came back favorable

18 that they -- you know, a particular shipyard that I

19 know they've done a lot of work there with putting  
20 articulated pins in tugs and they said that, you  
21 know, they felt that they were very competent.

22                                   Then we started the process of  
23 looking for a boat. We furnished Turner, who in  
24 turn gave JMS a report that we had done from a year  
25 or two prior where we had looked at, I think ten or

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2 eleven boats, and narrowed them down to three  
3 options. JMS did that. They looked at several of  
4 those boats and then the Islander came on the  
5 market.

6                               It was advertised in several  
7 different industry rags and, you know, we became  
8 aware of the Islander being available. And we  
9 accompanied JMS in looking at, myself, at the  
10 Islander and the Plattsburgh. A couple of guys  
11 that worked for our company, Barry Tori (phonetic)  
12 and Steve Mitchell accompanied them to look at the  
13 Minu over in Staten Island.

14                               And, you know, JMS you know, gave  
15 -- furnished their findings, their reports to  
16 GIPEC.

17                               With specific reference to the  
18 Islanders, when we looked at it, we came away with

19 differing opinions as to what we had seen. The  
20 first time we looked at the Islander was in early  
21 May, I believe the 4th, up in New London,  
22 Connecticut at Renosky Shipyard (phonetic) there.  
23 And myself and Barry Tori with our company looked  
24 at it along with Carl Walker from the Steamship  
25 Authority, T. Blake Powell, and Jack Ringelberg

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2 (phonetic) with JMS.

3

And when we first looked at it

4

there, we had concerns over its physical condition.

5

We reported those concerns back to Turner. JMS

6

disputed those concerns with Turner.

7

We recommended to Turner that they

8

have extensive audio gauging done. At least Turner

9

reported to me that JMS told Turner that audio

10

gauging would not be necessary, that the vessel had

11

a valid Coast Guard COI, that it was operated by a

12

reputable governmental agency carrying high profile

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funds, and that it was in good shape and that the

14

-- our company's concern were unfounded is what JMS

15

told Turner.

16

Despite that, Turner did agree to

17

retain the services of an audio gauger which led to

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the Marine Safety report.



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2 I vaguely recall seeing that. I can't -- I  
3 couldn't recite to you the details of it, but --

4 SENATOR JOHNSON: Let me ask  
5 you this, and if you don't know this in your line  
6 of work, on November 10, 2006 -- and for members of  
7 the Committee it's in your big binder. It's the  
8 RFP. It's the first RFP. It's the November 10,  
9 2006, Turner issues an RFP to hire a naval  
10 architect.

11 The naval architect, and I refer  
12 to you, again, 2006. We'll give a copy of the  
13 binder so you have it in front of you.

14 But my understanding is that --  
15 and I'm reading from -- I'll wait to you get it.

16 (Handing.)

17 SENATOR JOHNSON: On the second  
18 page, there is a summary of what's called redundant

19 ferry purchase phase 1. The third paragraph  
20 describes the RFP is for a naval architect  
21 consulting service required to assist GIPEC and  
22 slash Turner with reviewing the various used  
23 vehicles available to make the recommendation for  
24 the most appropriate ferry for Governors Island.

25 And it says here, the work of this

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2 RFP is considered phase 1 of the project and  
3 includes the work up to and through the purchase of  
4 the vessel.

5 Phase 2 will include the  
6 development of documents for the required shipyard  
7 work required to repair and upgrade the purchase  
8 vessel to ready it for the service of a U.S. C.G.  
9 U.S. coast guard certificated vessel for GIPEC's  
10 needs.

11 This RFP does not include any work  
12 for phase 2. And then it goes on: Completion of the  
13 phase 1 work won't prevent or disqualify the  
14 consultant for doing phase 2 work.

15 Is that usual or unusual to issue  
16 an RFP for a naval architect where all they're  
17 going to do is essentially inspect it, but not then  
18 do the work to maybe fix up the boat, if necessary,

19 if you're aware or not?

20 MR. WELCH: Sure. I could tell.

21 Any of the vessels I've ever bought I've made my

22 own judgement and purchased them. I've never used

23 an architect to assess them. But I'm in the

24 industry so I could -- you know, the fact that they

25 did use an architect struck me as a prudent course

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32

2 of action.

3 SENATOR JOHNSON: And how many  
4 vehicles have you purchased in your lifetime?

5 MR. WELCH: Vessels?

6 SENATOR JOHNSON: Vessels.

7 MR. WELCH: Yeah. I counted them  
8 up. There's been 21 that I have, you know, been an  
9 officer and part owner of the company that has  
10 either bought or sold them.

11 SENATOR JOHNSON: And did any of  
12 these vessels require a sub H -- a subchapter H  
13 inspection by the U.S. Coast Guard?

14 MR. WELCH: No. I wasn't  
15 including the -- this is the only ferry vessel  
16 we've ever owned. I was not including -- we don't  
17 actually own these.

18 SENATOR JOHNSON: And in your

19 line of work as a ferry operator or for personal  
20 vehicles, how important is it for an entity, when  
21 buying something like this, to do due diligence, to  
22 do due diligence before making a purchase?

23 MR. WELCH: Well, like  
24 purchasing anything, you certainly want to become  
25 as familiar as you can and have a good idea of what



19 MR. WELCH: You're a smart man,

20 sir.

21 SENATOR JOHNSON: But I live in

22 a boating town.

23 But I have bought a house so maybe

24 I'll try to do a comparison or an analogy.

25 You know, before I buy the house I

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2 look at the plans, you know, how it was built, what  
3 it looked like.

4 Would you say that it's important  
5 to study a vessel's architectural drawings before  
6 making a purchase?

7 MR. WELCH: Well, yes. But it's  
8 more important to study the vessel itself. I mean  
9 the drawing is an indication of what the vessel is.  
10 Drawings are beautiful things. They're on paper.  
11 They show you nothing of what the actual conditions  
12 of the vessel is and that's the all-important thing  
13 right there is what you really have.

14 SENATOR JOHNSON: And, again,  
15 how many times did you actually, did you actually  
16 inspect the vessel before a bid was submitted?

17 MR. WELCH: Twice.

18 SENATOR JOHNSON: And for -- of

19 course.

20 SENATOR KLEIN: I want to follow  
21 up on that.

22 SENATOR JOHNSON: Please.

23 SENATOR KLEIN: Senator Johnson  
24 brought up a good point. And, again, I never  
25 bought a boat nor a ferry nor any kind of large

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2 vessel. And Craig mentioned about buying a house.

3 You take a look at it and you inspect it.

4 Is there any way like buying a  
5 used car or a new car where you get to test drive?

6 Because that seems to be the problem here. Does  
7 anyone go out and make sure it's seaworthy?

8 MR. WELCH: The problem is not --  
9 the answer to that is sometimes yes, although and  
10 not necessarily all the time. That relates, in  
11 part, back to the thing that in the grand scheme of  
12 things, the mechanical issues are somewhat less  
13 important than the steel condition.

14 If you have to rebuild an engine  
15 on it, you know, it's expensive. But when you  
16 compare -- you know, what we're looking at doing  
17 here is acquiring a vessel that a new construction  
18 would be in excess of \$20 million. So if you have



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2 get it operational. I mean certainly that is the  
3 most desirable of scenarios, get the engines up to  
4 temperature, observe your temperatures, pressures,  
5 pyrometer readings. You can feel if you have  
6 problems in the propulsion if, you know, you have  
7 shafts or for propeller issues and stuff like that,  
8 you feel the vibration.

9                                   You also get a chance to see the  
10 -- how the vessel handles. However, it's not  
11 uncommon for a seller not necessarily to permit  
12 that especially on something that's of an older,  
13 lower value thing like that. They might say, hey,  
14 you know, we'll fire it up at the dock. You can do  
15 a dock trial which was done on the Islander and  
16 make a judgement there.

17                                   SENATOR KLEIN:     I may have  
18 missed this, but I know it was purchased by the

19 Woods Holes, Martha's Vineyard.

20 How long was it was in service

21 in --

22 MR. WELCH: I believe the boat was

23 built -- the Islanders (sic) was built, I believe

24 in 1950 and I believe it remained in service until

25 like early in '07.

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SENATOR KLEIN: When it was

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sold?

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MR. WELCH: Right, right, yes.

5

Within a few months of being sold, maybe three or

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four months prior to it being sold they had removed

7

it from service.

8

SENATOR KLEIN: I guess my

9

question is, is it unusual for a vessel of this

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type not to be able to be -- what's the life span?

11

And especially this seems to be, you know, a vessel

12

that was used quite frequently with going back and

13

forth.

14

MR. WELCH: It -- sir, it all

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depends upon how the vessel is maintained. And,

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again, going back to if you have the steel, maybe

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even some bridge engineer might refute this, but

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maybe like the Brooklyn Bridge, okay, that's --



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2 vessel could be -- the mechanical issues could be  
3 dealt with.

4 SENATOR KLEIN: So what you're  
5 saying is the purchase price of \$500,000, that was  
6 a good price?

7 MR. WELCH: Well, in my mind we  
8 were dealing with a three to five million dollar  
9 issue to get a used, redundant boat, 20 million  
10 plus to get a new boat.

11 So if you could solve a \$5 million  
12 problem for \$500,000, I'd say you did a good job.  
13 You know, I think that's the matrix that GIPEC was  
14 faced with and the driver in the decision.

15 SENATOR KLEIN: But I guess, did  
16 you ever realize maybe if a deal is so good maybe  
17 it's not good at all?

18 MR. WELCH: Certainly. Certainly



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2 purchasing the Islander for a reduced price would  
3 have been a very astute business move on the part  
4 of GIPEC and would have given them the leverage to  
5 deal with the owner of the Minu and get that price  
6 down, and that they would have earned a multiple of  
7 what they purchased the vessel for if they went  
8 down that road.

9 SENATOR KLEIN: The buyer would  
10 be dollar-foolish is what you're saying.

11 MR. WELCH: I don't -- basically  
12 what I would describe it as, in a nutshell is that,  
13 that GIPEC made a reasonable decision based on  
14 very, very flawed information that they were  
15 furnished by JMS. That's what I see.

16 SENATOR KLEIN: Thank you.

17 MR. WELCH: And Marine Safety. I  
18 mean they got very bad information. That Marine

19 Safety report that said ten percent wastage was  
20 extremely misleading. When we got that report - and  
21 I think I got it like on a Friday night right  
22 before -- the weekend before they purchased the  
23 vessel, I put in over 500 gauges into a spreadsheet  
24 and that came out with more than 20 percent  
25 wastage, and, you know, probably too late in the

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2 game for that information to have been any value.  
3 We did certainly send it onto Turner but, you know,  
4 the timing of it, you know, it just -- they were  
5 presented with very, very bad information.

6 SENATOR KLEIN: Thank you.

7 MR. WELCH: You're welcome, sir.

8 SENATOR JOHNSON: Bill, let me  
9 just go for a little bit more.

10 So when you went up in May, --

11 MR. WELCH: Right.

12 SENATOR JOHNSON: And let me  
13 start off by saying, you were asked by Turner or  
14 GIPEC to assist in this process to purchase the  
15 new, redundant ferry?

16 MR. WELCH: Essentially both or  
17 may have even -- you know, we wanted to be part of  
18 it, whether or not we were compensated or not. You

19 know, we're the one that's going to operate the  
20 thing --

21 SENATOR JOHNSON: Drive it and  
22 so.

23 MR. WELCH: -- and make it work so  
24 we want to be part of the acquisition, sure.

25 SENATOR JOHNSON: You're the

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2 pilot. You need to make sure that the thing runs.

3

Who did you work with at GIPEC?

4

Who was your principal contact at GIPEC?

5

MR. WELCH: Jon Meyers was

6

probably the lead person that -- on that

7

acquisition.

8

SENATOR JOHNSON: Do you know

9

what Jon Meyer's title at GIPEC was, what he does?

10

MR. WELCH: Yeah. He's the

11

president, I believe.

12

SENATOR JOHNSON: Do you know of

13

what?

14

MR. WELCH: I'm not -- I think his

15

-- it's either capital or real estate or it may

16

have changed.

17

SENATOR JOHNSON: So the

18

Islander, it wasn't obviously a private sale. It

19 was an Invitation to Bid, you know, an Invitation  
20 to Bid.

21 MR. WELCH: Right.

22 SENATOR JOHNSON: It was auction  
23 that the Martha's Vineyard Steamship, the Woods  
24 Hole, Martha's Vineyard Nantucket Steamship  
25 Authority put out an Invitation to Bid that was

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2 issued on May 2, 2007.

3 MR. WELCH: Right.

4 SENATOR JOHNSON: And then you

5 said you went up in May to take a look at the

6 vessel.

7 And please repeat, who went with

8 you?

9 MR. WELCH: Okay. That was I think

10 maybe the 5th of May. And from my company it was

11 Barry Tori and myself. Barry's our port captain.

12 And we were met up there by T. Blake Powell of JMS

13 and Jack Ringelberg of JMS along with Carl Walker

14 who's in charge of engineering for the Steamship

15 Authority.

16 SENATOR JOHNSON: Anybody from

17 GIPEC go with you?

18 MR. WELCH: On that visit, no,

19 sir.

20 SENATOR JOHNSON: And you had time  
21 to visually inspect the boat, correct?

22 MR. WELCH: Yes, sir, that's  
23 correct.

24 SENATOR JOHNSON: And did there  
25 come a time that you also -- did you visit the boat

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2 again? Did you say you had more than one visit to  
3 individually inspect the boat?

4 MR. WELCH: Right. There was  
5 another visit late in June, I think, around the  
6 26th or 27th that was at Fair Haven, Mass at the  
7 Steamship Authority's dock there.

8 SENATOR JOHNSON: And who went  
9 with you to that inspection?

10 MR. WELCH: From our company I  
11 believe it was Barry Tori and Steve Mitchell. I  
12 think we also had an engineer that lived local that  
13 came by.

14 And on behalf of GIPEC was Jon  
15 Meyers. On behalf of Turner it was Matt McDonough.  
16 And on behalf of JMS was Rick, I forget the guy's  
17 name, someone who had not regularly been involved  
18 in the process. It was a new face to us from JMS.



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2 inspection in late June.

3 SENATOR JOHNSON: So what is  
4 auto gauging?

5 MR. WELCH: It's ultrasonic  
6 thickness gauging. If you looked in the Castlerock  
7 report, there's actually a photo of me sitting on  
8 the deck and the instrument that's sitting by me is  
9 an audio gauge. And it's a rectangular box like  
10 that, (indicating) an instrument. It's got a chord  
11 and a probe.

12 SENATOR JOHNSON: Okay. And  
13 what exactly does it do?

14 MR. WELCH: It will measure, by  
15 sonic waves, the length of time the sound takes to  
16 travel through the steel. It can determine the  
17 thickness of the steel, provided it's properly  
18 calibrated before you put it to work.

19 SENATOR JOHNSON: And who

20 suggested to do an audio gauging, JMS?

21 MR. WELCH: I did.

22 SENATOR JOHNSON: You did.

23 And JMS -- I'm just trying to

24 refresh my recollection and repeat it.

25 Did they say --

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MR. WELCH: JMS disputed that and

3

told Turner that that was unnecessary.

4

SENATOR JOHNSON: So in the

5

process of -- and you were doing all this because

6

the IFB was required to be provided and submitted

7

by July 10, 2007?

8

MR. WELCH: That sounds right,

9

yeah. There was a relatively short period of time.

10

SENATOR JOHNSON: During that

11

period of time, were you aware of any other parties

12

that were interested in submitting bids?

13

MR. WELCH: No, sir, I was not.

14

SENATOR JOHNSON: You weren't

15

informed about any other bids that might be

16

submitted?

17

MR. WELCH: No. And we -- you

18

know, I mean I've got a fair amount of connections

19 in the industry. We asked around. The only one that  
20 was put forth as a possibility, the first day that  
21 we visited the vessel back in May it was in, I  
22 think, they called it Thames River Shipyard in New  
23 London. It's owned by the Renowsky Family. They  
24 also operate ferry service to Orient Point I  
25 believe.

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2                   And so, you know, it was thought  
3 that they may or may not be interested in  
4 submitting a bid. And then, you know, whenever  
5 something like that, whenever a vessel's put out,  
6 all the usual cast of characters in the scrap  
7 market, you know, they read through all the  
8 maritime pubs and if they're looking to, you know,  
9 acquire a vessel for scraping, they usually put in  
10 a low number.

11                   SENATOR JOHNSON:     But did you or  
12 JMS or anybody review or reach out to the Coast  
13 Guard for any of those internal reports that you  
14 talk about when you go --

15                   MR. WELCH:     Yes. Barry Tori with  
16 our company downloaded the reports. We looked  
17 through them. We were -- there was a variety of  
18 incidents in there. There was groundings. There

19 was a well-publicized incident in which a life  
20 rescue vessel capsized. And, but of more concern  
21 to us was there were numerous passenger and crew  
22 injuries occurring on the vehicle deck and trips on  
23 stairs.

24                                   The configuration of the vessel is  
25 such that all the passenger accommodation requires

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2 that you go up stairways to levels up above. So,  
3 you know, the -- again, as we -- you know, we  
4 insure the vessel and any claims for passenger  
5 injuries would be presented to our company. So we  
6 were -- so that caused us concern.

7 SENATOR JOHNSON: And who did  
8 you relate these concerns to?

9 MR. WELCH: Back to Turner.

10 SENATOR JOHNSON: Okay. In  
11 writing, orally?

12 MR. WELCH: We did -- I sent a  
13 memo to Peter Monico in late June identifying a  
14 variety of concerns that we had with the purchase  
15 of the vessel, including steel, including  
16 insurability.

17 At that point after looking at it,  
18 that was the reason that we -- our company retained

19 Mr. Crivici. I had concerns over whether we could  
20 get the vessel insured because of its condition.  
21 So we relayed all those concerns to Mr. Monico,  
22 both verbally and in writing.

23 SENATOR JOHNSON: Who is Peter  
24 Monico?

25 MR. WELCH: Peter Monico is the

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2 project manager for Governors Island from Turner  
3 Construction Company.

4 SENATOR JOHNSON: Have you  
5 submitted a copy of that memorandum or can you  
6 submit a copy of that memorandum to the Committee?

7 MR. WELCH: Yeah. I probably have  
8 a copy right here.

9 SENATOR JOHNSON: If you have a  
10 copy, I'll take it now. If you have two, even  
11 better, but we'll make copies for Marty.

12 By the way, I want to welcome  
13 Senator Marty Golden.

14 SENATOR GOLDEN: Thank you.

15 SENATOR JOHNSON: Did you get  
16 enough sleep?

17 SENATOR GOLDEN: I did. How you  
18 feel today?

19 SENATOR JOHNSON: A little

20 tired.

21 SENATOR GOLDEN: I only have a

22 couple of questions.

23 SENATOR JOHNSON: You want to

24 ask him? Because I'm jumping around, but please, go

25 ahead.

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Senator Golden, please.

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SENATOR GOLDEN: Good afternoon.

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MR. WELCH: Good afternoon,

5

Senator.

6

SENATOR GOLDEN: I just have a

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couple of brief questions as to what happened here.

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I don't see anything criminal, but I do see a lot

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of stupidity.

10

JMS obviously gave information to

11

Turner and that information turned out to be bad.

12

Is there any accountability from

13

JMS on this?

14

MR. WELCH: Not that I'm involved

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in, sir. But certainly I would agree with your

16

assessment that JMS gave them very bad information.

17

SENATOR GOLDEN: Turner itself,

18

I think, by taking the information without doing

19 due diligence also has a little bit of liability

20 here as well.

21 MR. WELCH: You know, I feel for  
22 the position that Turner and GIPEC were in. I mean  
23 basically, if you look at what they're faced with,  
24 you got a vessel that's operated by a governmental  
25 entity in a high profile market. It's taking

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2 people out to Martha's Vineyard.

3                                 SENATOR GOLDEN:       But you would  
4 have never -- you've owned boats. Fortunately I did  
5 own boats. You would have done your due diligence  
6 knowing that the boat is 1950; you would have made  
7 sure that that boat was a usable, seaworthy boat.

8                                 MR. WELCH:    Yes. They made every  
9 effort to do that. They were just presented with  
10 conflicting information. They had JMS supporting  
11 it. They had the survey from Marine Safety saying  
12 that it's a good vessel. They had the fact that  
13 the Steamship Authority just had it in operation.  
14 And they had the fact that it had a valid Coast  
15 Guard COI.

16                                 And the only voice in the choir  
17 saying that this boat is not good was myself and  
18 the, you know, the report from Castlerock and which

19 we had hired. So, you know, basically --

20 SENATOR GOLDEN: The report from  
21 Castlerock came in after the fact, right?

22 MR. WELCH: No. That was presented  
23 to them before the purchase, yes, sir.

24 SENATOR GOLDEN: In the report.  
25 And we still went out and did that.

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The accountability to JMS, do we

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know if anybody has taken any action against them?

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MR. WELCH: I'm not familiar

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whether they have or have not, sir.

6

SENATOR GOLDEN: That would be a

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question for the Committee Chair to ask when they

8

come up. I don't know in what line of testimony.

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SENATOR JOHNSON: There was, and

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I'll point out to you, Senator Golden, there is

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certainly board testimony by the board of directors

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in their January '09 meeting where it seemed that

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half of the discussion on when they were selling

14

the Islander, what to do with the Islander, a lot

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-- some of the discussion was about liability by

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JMS. And there seemed to be an opinion as to not

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having a liability, which I'm already starting to

18

see. I think there's an avenue here that should be



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2 there is liability here and that somebody should  
3 come up with some dollars.

4 Having said that, how do we  
5 prevent this from happening in the future?

6 MR. WELCH: I mean I guess,  
7 gentlemen, the question I would pose to you, is if  
8 you were in the position of Turner or GIPEC and  
9 basically you had four different entities all  
10 saying the same thing, this is a good boat, and  
11 you've got your contract, and you know, one of them  
12 was JMS that was purposely vetted to give them  
13 unbiased advice, and the only dissenting opinion  
14 you have is from your contractor, and even more  
15 importantly is that if the thing worked, it's a  
16 \$500,000 solution to a \$5 million problem, I would  
17 think it would be hard to support the opposite  
18 decision on their part based upon the information

19 that they gave.

20 I think the real culprit here is  
21 JMS who gave them bad information.

22 SENATOR JOHNSON: Can I ask a  
23 question? My understanding in reading the  
24 documents is that you not only -- you not only did  
25 this audio thing, the terminology --

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MR. WELCH: Audio gauging.

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SENATOR JOHNSON: -- audio

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gauging - still a little tired from last night -

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audio gauging, but JMS, did JMS hire a company to

6

do the audio gauging as well or Marine -- who's

7

Marine Safety?

8

MR. WELCH: Marine Safety did the

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audio gauging. Now, whether they were contracted

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directly by Turner or through JMS, I don't know. I

11

just know that they were not through my company.

12

SENATOR JOHNSON: My

13

understanding, are you aware that - and we'll get

14

the document to confirm this - but Marine Safety

15

audio gauging that was retained, not by you, but by

16

JMS or Turner, is the same audio gauging company

17

that's been retained by Martha's Vineyard?

18

MR. WELCH: Yeah. We were -- when

19 we -- when I approached Peter Monico after the  
20 first visit and said you need to do extensive audio  
21 gauges on this vessel, and then he reported that to  
22 JMS, JMS came back to him and said that's not  
23 necessary. There were recent gauges done. It's  
24 Coast Guard inspected, ta-da, ta-da, ta-da, ta-da.  
25 Your contractor is worrying about something they

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2 shouldn't be worrying about.

3                               I went back to Peter Monico and  
4 told him in not so polite terms that you would be  
5 crazy to buy an old vessel like this without  
6 extensive audio gauges. And he said that he would  
7 get back to JMS and that they would get gauges.

8                               How Marine Safety got into the  
9 mix, I don't know. But we -- we only found that out  
10 like a day or two before we were going up there  
11 when they were going to do the gauges, who the  
12 gauger was. And when they said Marine Safety, it  
13 struck me, I've seen that name before. And the  
14 reason I've seen it before is they wrote a survey  
15 favorable to the vessel on behalf of the seller.

16                               SENATOR JOHNSON:     So essentially  
17 what you have here is, you told Turner you've got  
18 to get the audio gauging and you've got to do this,

19 it's a 50-year old boat, we've got to see what the  
20 steel is like.

21 MR. WELCH: That's correct.

22 SENATOR JOHNSON: JMS, who was  
23 retained by Turner as a phase 1 architect who's  
24 just out there to help out and find something, says  
25 no, no, no. You insist upon it. So Turner goes

1

55

2 around and then hires --

3 MR. WELCH: I'm not sure who --

4 SENATOR JOHNSON: Let me put it

5 this way: We don't know who hired, but a report is

6 delivered on audio gauging prepared by the same --

7 prepared by the same company that did the audio

8 gauging for the seller, meaning, in analogous

9 terms, I'm going to buy a used car. You go to buy a

10 used car you, bring a mechanic or somebody who

11 knows something about a car.

12 And instead of bringing my friend

13 who is the cracker jack mechanic to inspect the

14 car, the car dealer says, you don't need to do it.

15 But if you want it, I'll have my mechanic take a

16 look at the car and he says it's okay.

17 Is that a fair analogy of what

18 happened here with the audio gauging that was used

19 to test the structure of the steel and will tell  
20 you whether or not you have a seaworthy boat?

21 MR. WELCH: That is correct.

22 SENATOR JOHNSON: Okay.

23 SENATOR GOLDEN: Therefore  
24 you've got two problems.

25 SENATOR JOHNSON: Well, you have

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2 a blatant conflict of interest here and you've got  
3 something where if we're looking at potential  
4 liability, something was set up where a report was  
5 -- you had two conflicting --

6 Let me ask you this: Is the Marine  
7 Safety consultant report of audio gauging in  
8 conflict with, the conclusion of that report in  
9 conflict with the conclusions made in your report?

10 MR. WELCH: Yes, sir, oh, yeah. If  
11 you read the two reports and deleted the name of  
12 the vessel, you'd wonder if these people looked at  
13 the same boat.

14 SENATOR JOHNSON: I did.

15 Let's turn a little bit to your  
16 report, you know, that you made a determination.

17 Quickly, Castlerock, that is a  
18 separate company --

19 MR. WELCH: Right. Castlerock is  
20 a company that Claudio Crivici is the principal  
21 surveyor, I believe possibly the owner. He is  
22 someone that I had known -- amongst other things,  
23 my concern was, amongst other things, whether we  
24 could even get this vessel covered with insurance.

25 Mr. Crivici does the surveys for

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2 our underwriter so I want -- particularly wanted  
3 him because what some other surveyor says doesn't  
4 matter if the underwriter surveyor won't accept the  
5 vessel so.

6 SENATOR JOHNSON: And you, by the  
7 way, have no ownership in this company? It's an  
8 independent company, somebody that you hire,  
9 correct?

10 MR. WELCH: In Castlerock? That's  
11 correct, yes, sir.

12 SENATOR JOHNSON: Castlerock,  
13 correct.

14 MR. WELCH: I have no --

15 SENATOR JOHNSON: No ownership.  
16 Your company --

17 MR. WELCH: No interest.

18 SENATOR JOHNSON: So you bring

19 them in. And I have a copy and Senator Golden, I'm  
20 referring you to, and I think you have it in front  
21 you, the Castlerock Risk Service. It's called the  
22 Preliminary Inspection Report Ferry Islander dated  
23 July 3, 2007.

24 This report was prepared prior to  
25 the submission of a bid by GIPEC for this ferry,

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2 correct?

3

MR. WELCH: Yes, I believe that's

4

correct.

5

SENATOR JOHNSON: And I don't

6

know, do you have a copy of it in front of you, a

7

copy of the --

8

MR. WELCH: I don't but I'm

9

familiar with the principal points of it.

10

SENATOR JOHNSON: So in looking

11

at it and looking at the background, it seemed --

12

what did -- and I think Mr. Crivici is here.

13

You're here, Mr. Crivici? We'll

14

get you up here in a second. But we'll go this way.

15

With respect to -- what did he

16

look at in conducting his inspection of the ferry?

17

MR. WELCH: Well, we went through

18

the vessel jointly from stem to stern through all

19 of the compartments, underneath the deck plates.  
20 You know, we gave it a very thorough visual  
21 inspection. And I also brought my audio gauging.  
22 And we took spot audio gauges in areas that we felt  
23 would be -- would be suspect areas, areas that  
24 typically you would expect to find corroded steel  
25 in and we found it.

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SENATOR JOHNSON: Now, before we

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get to that, you were present at the inspection

4

that Marine Safety performed?

5

MR. WELCH: Right. They were

6

aboard the vessel on, I believe it was the 27th of

7

June and we were there then.

8

I observed them taking the audio

9

gauges and, you know, they did what -- when you

10

take the gauges, if you have nice, smooth steel,

11

you place the copulant, (phonetic)like a gel on

12

either the probe or the steel. You place the probe

13

on it and instantly you have a reading.

14

If you have corroded steel, you

15

need to take a chipping hammer. You need to knock

16

the corrosion off. You need to take an electric

17

grinder. You need to grind it smooth to the -- you

18

need the size of like about a nickle so that the

19 probe has got a smooth, continuous surface in order  
20 to get a valid reading, which the reality of that  
21 is, if you've got good, smooth steel, you can take  
22 a multitude of gauges in one minute. If you have  
23 bad steel, it takes you several minutes to get one  
24 reading.

25 So, you know, the audio gauger is

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2 going to take the easy readings if he's not forced  
3 to do otherwise.

4 SENATOR JOHNSON: And in looking  
5 at and reviewing Mr. Crivici's survey, he  
6 identifies he performed what's called a limited  
7 survey of the vessel whereby what you've described,  
8 he indicated he didn't look at any drawings or  
9 sizes. He had no stability book for review. He  
10 wasn't able to review the engine and maintenance  
11 logs and records.

12 MR. WELCH: Right.

13 SENATOR JOHNSON: The dry  
14 docking history wasn't available for review. The  
15 claimed and casualty history was not available for  
16 review. And so he didn't obtain any -- according to  
17 this report, he didn't obtain any equipment  
18 inventories, in particular, the survey for

19 operational suitability. And he hasn't -- wasn't  
20 provided any intended length of future service.

21 He basically went into this boat  
22 and looked around, correct?

23 MR. WELCH: Right.

24 SENATOR JOHNSON: Is that,  
25 roughly to your knowledge, more or less what Marine

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2 did with respect to their report?

3

MR. WELCH: I mean there's two

4

totally different -- Marine Safety did two

5

different reports. They did a survey on behalf of

6

the sellers --

7

SENATOR JOHNSON: Right.

8

MR. WELCH: -- which would be

9

probably similar in scope to what Mr. Crivici did.

10

SENATOR JOHNSON: Okay.

11

MR. WELCH: Then they did in late

12

June, they did audio gauges which is a totally

13

different thing. Although we did do a few spot

14

gauges, but we did not do -- you know, to properly

15

audio gauge that boat, you would need two guys for

16

four or five days.

17

SENATOR JOHNSON: So in simply

18

reviewing the report as a lay person, one of the

19 things that sticks out in my -- in this report is  
20 on page three, paragraph five when Mr. Crivici and  
21 yourselves were inspecting the engine room, the  
22 line: The engine room has limited ingress and  
23 egress and will potentially have blockage if fire  
24 is on the car deck.

25 MR. WELCH: That's correct.

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SENATOR JOHNSON: That language,

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just that language alone, does that create a safety

4

hazard for passengers and/or crew on the boat?

5

MR. WELCH: It -- the lack of, or

6

the method of egress from the engine room on that,

7

which is at either -- there are two means of egress

8

for an aft in the engine room. They do lead up to

9

the vehicle deck.

10

So there is the possibility of, if

11

there was a fire in a certain area on the vehicle

12

deck of the engine room, the engineer being trapped

13

down in the engine control room. They, the

14

Steamship Authority, as well as our company,

15

furnished what they called Lsis (phonetic.) They're

16

five-minute breathing packs that you put down in

17

there.

18

There were other concerns on the

19 vessel that I think were grave concerns with  
20 regards to structural fire protection than --

21 SENATOR JOHNSON: Like what?

22 MR. WELCH: The mezzanine areas  
23 where the passengers are elevated. They're about  
24 seven -- they're outboard at about seven feet over  
25 the main vehicle deck. And they do not have an

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2 80/60 fire barrier. And that was something that,  
3 you know, was discussed, that could be solved for,  
4 you know, it was like a \$400,000 worth of  
5 insulation would solve that problem.

6                   But -- and the means of egress  
7 from those passenger areas, other than going over  
8 the side from a greatly elevated height, were all  
9 down onto an enclosed vehicle deck. We've always  
10 considered the vehicle deck to be a significant  
11 fire load. And you have vehicles on there that  
12 you're not familiar with and don't have control  
13 over the maintenance of.

14                   So the risk of something  
15 developing on a vehicle deck is as significant or  
16 more significant than other areas of the vessel.

17                   SENATOR JOHNSON:     With respect  
18 to his note, I'm just reading it on page four. Mr.

19 Crivici notes or says, the lack of information  
20 noted in background and history leaves a  
21 considerable amount of financial risk at present.

22                                   And when you reviewed this, how  
23 did you interpret that sentence, if you can recall?

24                                   MR. WELCH:       I would -- the  
25 information -- I guess I focus more on what I see,

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2 not necessarily what is in a drawings or on paper.  
3 You know, we were familiar with -- we had obtained,  
4 through the Coast Guard, we're familiar with, you  
5 know, that the vessel had several groundings.  
6 Again, the fact that a vessel goes aground in its  
7 history, if properly repaired, becomes somewhat  
8 insignificant.

9                                   But what is significant is the  
10 physical material condition of the vessel at the  
11 time. And the Islander had a lot of areas that we  
12 were very concerned with. The corrosion on the  
13 steel, the wash boarding of the main deck; I guess  
14 we mentioned the structural fire protection. There  
15 was a whole variety of concerns that we had over  
16 the vessel.

17                                   SENATOR JOHNSON:     Now, at the  
18 start of your testimony you talked about, you know,

19 purchasing a boat for half a million dollars, but  
20 trying to solve a 3 to \$5 million problem.

21 MR. WELCH: That's correct.

22 SENATOR JOHNSON: Now, I'm  
23 assuming that range is based upon the notion that  
24 GIPEC was anticipating, when they purchased this,  
25 to rehab the boat.

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MR. WELCH: No, that's based --

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when I say the three to \$5 million problem, that is

4

the value that I feel of other viable options. The

5

motor vessel Plattsburgh was for sale. I think that

6

was -- in 2005 when we first looked at it, I

7

believe they were like, you know, two-and-a-half

8

million or something like that that they were

9

asking for it.

10

I think when they went back in

11

'07, the price had grown up into the

12

three-and-a-half-million dollar range or something

13

like that.

14

And the Minu, which is what we

15

thought would be a good solution, we thought that

16

to rehab it -- when we first looked at that in '05,

17

we thought that was maybe a \$3 million project. In

18

'07, steel prices and shipyard availability had

19 gotten a lot tighter. That project probably would  
20 have grown to, you know, four-and-a-half or five  
21 million.

22                                 SENATOR JOHNSON:         Now the  
23 Plattsburgh, according to JMS is -- I have a copy  
24 of that report, powerpoint.

25                                 MR. WELCH:     Okay.

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2

SENATOR JOHNSON: They said -- I

3

mean the Plattsburgh was built in 1984?

4

MR. WELCH: That sounds right.

5

Yeah, mid '80s.

6

SENATOR JOHNSON: And the

7

Islander, this Islander was built in the 1950s.

8

MR. WELCH: 1950 I believe, yeah.

9

SENATOR JOHNSON: Just a couple

10

of other questions.

11

When you did the review, were you

12

concerned as to whether or not the Islander could

13

pass Coast Guard certification? Because my

14

understanding is, according to the documents, the

15

bid documents, it was going to be up shortly for

16

Coast Guard review.

17

MR. WELCH: Oh, there was

18

absolutely' no doubt that it would not pass Coast

19 Guard inspection without substantial repair.

20 SENATOR JOHNSON: Okay. And so

21 was the information made known to GIPEC when

22 purchasing it that there was a likelihood that even

23 upon purchasing it they were not going to get this

24 boat, you know, into the water unless and until it

25 was rehabbed?

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MR. WELCH: Yeah, no. I think that

3

was known that the vessel needed to go through a

4

dry dock period and get the Coast Guard COI

5

renewed. What was the big unknown and where the

6

discrepancies were is as to what that would cost.

7

And in full fairness to everybody

8

involved, you can't accurately -- when you take

9

the audio gauges, like, if I took a spot gauge on

10

this wall and I have a bad reading, and I take

11

another gauge over on that wall and I have a good

12

reading, that's all I know. I don't know is this

13

whole hall bad or is it just a one-foot by one-foot

14

area of the wall that's bad. And you don't know

15

that until you take a lot more gauges. And then,

16

you know, you take a gauge and you go till you get

17

a good reading. And then you mark it with chalk and

18

you chalk out the area and measure it up.



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2 the dry dock period take, assuming -- when they  
3 purchased this bid, it was done in July. I think  
4 the deal closed in August. It was -- did your  
5 company bring it down or somebody else?

6 MR. WELCH: Our company -- yes, we  
7 brought it down in September I think it was.

8 SENATOR JOHNSON: We'll get  
9 into what happened, and but assuming everything was  
10 going right and you were going to have the money,  
11 how long would it have taken to rehab or get the  
12 Islander ready for Coast Guard certification?

13 MR. WELCH: Well, that period of  
14 time would not be known until you very clearly  
15 identify the scope of work required to do, which is  
16 what happened when Seaworthy did their evaluation  
17 of the vessel. And I think they came up with, you  
18 now, about a year.

19 SENATOR JOHNSON: So about a year

20 so that would put you in probably the end of 2008?

21 MR. WELCH: Let's see, it was the

22 end of '07, I believe when they -- I'm trying to

23 recall the exact date of when Seaworthy issued

24 their report. It may even have been early '08 when

25 they issued that. So it would be early '09.

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SENATOR JOHNSON: August '08

3

they issued their report and --

4

MR. WELCH: Seaworthy did?

5

SENATOR JOHNSON: Seaworthy did.

6

MR. WELCH: Okay.

7

SENATOR JOHNSON: And so from

8

the report period of time going forward, possibly,

9

assuming that the money was, they could do it for

10

the three to \$5 million, how long would it have

11

taken to do, or strike that.

12

The better question is: Assuming

13

GIPEC had all the money do to the repairs

14

necessary, you know, the six million dollars that

15

it was going to cost, how long would it take to do

16

the repair work?

17

MR. WELCH: I believe their

18

estimate was a year. I didn't really evaluate that

19 on our own how long it would take. You know, I  
20 read their report and fully agreed with their  
21 conclusion that, you know, it just doesn't make  
22 sense. That's chasing good money after bad to try  
23 to fix that boat.

24 SENATOR JOHNSON: Because what  
25 I'm trying to see here is in reading the documents

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2 and listening to your testimony and others, there  
3 was this assumed need; there were statements in  
4 board of directors' minutes of longstanding needs  
5 for redundant ferry service.

6 MR. WELCH: Right.

7 SENATOR JOHNSON: So a ferry  
8 boat, you know, if you purchase a 50-year old ferry  
9 boat with a conflicting report on an inspection  
10 so-to-speak, and if you're purchasing a house,  
11 you've got two reports, one good, one bad. For my  
12 money, I'm not buying the house.

13 So the question becomes -- so now  
14 you have at least some understanding or more  
15 importantly, there's a recognition that money is  
16 going to be used to fix up the boat. If redundant  
17 ferry service was so necessary, wouldn't you want  
18 to purchase a ferry that can get right into the

19 water and start using it if there's a longstanding  
20 need for ferry service?

21 MR. WELCH: The -- I mean  
22 certainly that would be an ideal scenario if such a  
23 vessel existed. The closest thing to that was the  
24 Plattsburgh that was up on Lake Champlain. However,  
25 that vessel had very, very limited interior

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2 accommodation. So the Coursen you can put hundreds  
3 of people inside out of the weather. Even you have  
4 them on the vehicle deck, the sides of the vehicle  
5 deck are enclosed and the overhead so there, you  
6 know, sheltered from rain and stuff like that.

7                   The Plattsburgh is what we call  
8 like an aircraft carrier type. It's got an -- I  
9 believe that one, an offset island where the  
10 wheelhouse is in a very small cabin that maybe you  
11 could get, you know, like twenty people in or  
12 something like that versus, you know, the Coursen  
13 you could have seven or 800 under some form of  
14 shelter or another or more.

15                   SENATOR JOHNSON:        I mean my  
16 dilemma has been, you know, it's talked about  
17 throughout the document, there's a longstanding  
18 need for redundant ferry service. We need to have



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2 prohibitive.

3 My question, and maybe you can't  
4 answer this, and it's maybe the wrong person, why  
5 not just contract out for ferry service?

6 MR. WELCH: Again, whether GIPEC  
7 buys the boat or -- I mean certainly from my  
8 perspective I'd love nothing more than if they  
9 contracted out and I own the boat. But I think from  
10 their perspective, which I could see, if I owned an  
11 island, I guess I would want to own the boat  
12 because that gives you a certain element of  
13 control. You're not at the mercy of a contractor.

14 But whether it's GIPEC owning the  
15 boat or a contractor owning the boat, you're  
16 limited to what the market is. And it's not like  
17 buying a car. It's not like you can go shopping in  
18 your local car lot and buy what you're looking for.

19 There's very, very few boats.

20 I mean we looked at, it was either  
21 ten or eleven of them back in '05 and came up with,  
22 you know, three potential choices.

23 Now, the Islander was not on the  
24 market at one point. That was not one of them. And,  
25 you know, most of the others were, you know, rode

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2 hard, put away tired old boats that, you know,  
3 there was several from Volliver Roads (phonetic)  
4 down in Texas. And then a lot of them are not  
5 suitable to the application. There's very  
6 significant crosscurrents that run there. And if  
7 you get a vessel that's longer than 200 feet, you  
8 have too much of it hanging out catching current  
9 when you're coming into the ferry racks, and you're  
10 going to do a lot of damage.

11                   Your maintenance costs on the  
12 racks would be astronomical if you have too long of  
13 a boat, yet you need something that's got a  
14 reasonable size to meet the needs of the runs. So  
15 it's, you know -- there's not an abundance of boats  
16 out there. It's, you know --

17                   SENATOR JOHNSON:     Okay. Thank  
18 you, Senator Golden for joining us today. I

19 appreciate your questions.

20 Just a couple of more quick

21 questions.

22 It would not have passed the Coast

23 Guard certification, correct?

24 MR. WELCH: That is correct, not

25 without a lot of repair.

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SENATOR JOHNSON: And so then

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because it lapses in certification, it would have

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to meet new Coast Guard standards? I mean

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according to the documents here was it

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grandfathered?

7

MR. WELCH: Okay. The -- there

8

are things like what I spoke about, about the

9

structural fire protection issue that were there

10

when the vessel was built. It met the codes then.

11

The codes then changed over time and existing

12

vessels become what they call grandfathered in and

13

are not forced to comply with the new regulation.

14

The Coast Guard OCMI has very

15

broad discretion in -- when a vessel certificate

16

lapses, in what they may or may not require the

17

vessel to do. And Seaworthy, you know, I guess very

18

correctly points up all of the possible things that

19 the Coast Guard could potentially require you to do  
20 with a lapsed COI.

21 Now, typically in construing that,  
22 the Coast Guard, if you have a vessel in a shipyard  
23 and you're undergoing repairs and the COI lapses,  
24 it's not typical that they then turn around and  
25 say, okay, your COI just run out. You haven't

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2 passed, yet now we're going to require all of this.  
3 You know, generally they're pretty reasonable  
4 folks.

5 SENATOR JOHNSON: I'm sorry.

6 MR. WELCH: I'm sorry. I was just  
7 saying that, you know, generally the Coast Guard is  
8 very reasonable in how they construe that. They're  
9 looking for a safe operation is what they're  
10 looking for. You know, the structural fire  
11 protection would be something that we would insist  
12 upon addressing and I'm sure that they would want  
13 addressed.

14 SENATOR JOHNSON: According to  
15 Seaworthy systems, the Seaworthy report, they  
16 indicated that the Islander would have to be,  
17 pursuant to the USG Marine Safety Manual, the  
18 Islander may then have to be inspected as a new

19 vessel before it can even be returned to service as  
20 a passenger ferry.

21 MR. WELCH: Right. May would be  
22 the operative work there.

23 SENATOR JOHNSON: May the  
24 operative word. Okay.

25 Last two questions: The Castlerock

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2 Risk Service report. That was provided by Peter

3 Monico --

4 MR. WELCH: That's correct, sir.

5 Yes, sir.

6 SENATOR JOHNSON: Are you aware,

7 is Peter Monico either still working at Turner or

8 involved with GIPEC anymore?

9 MR. WELCH: He is not, sir. He

10 left working -- he left both Turner and GIPEC, you

11 know, left Turner, which is contracted to GIPEC, a

12 couple of years ago I believe it was.

13 SENATOR JOHNSON: And, you know,

14 in your opinion, given the situation that developed

15 and the report and the cost, what would have been

16 the appropriate way to dispose of that Islander, as

17 somebody who has purchased boats, sold boats, you

18 own a ferry. What would you have done with this

19 rusted piece of metal?

20 MR. WELCH: Well, sir, here's your  
21 chance. You can have your first boat.

22 No, as far as I know selling it on  
23 eBay --

24 SENATOR JOHNSON: That joke was  
25 made, quite frankly, in the ESDC -- in the minutes.

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MR. WELCH: Selling it on eBay --

3

one of the boats that we identified back in '05 as

4

being a potential candidate was the Washington

5

State system had a vessel called the Hiyu

6

(phonetic.) And then indicated that if we wanted to

7

purchase it, if they did decide to dispose of it,

8

that eBay was the method that they used to -- you

9

know, for their sales.

10

I'm not familiar with the

11

restrictions that a governmental entity faces with

12

selling a vessel, but it's not unusual for a

13

private owner to put them up on eBay. Just it's

14

cheap advertising.

15

In addition to advertising in

16

Boats and Harbors, which GIPEC did do when they put

17

out for the sealed bid, there's several other

18

marine publications you can put them out in and

19 then list them with brokers is, you know, a common  
20 way of doing it.

21 I'm not sure if the listing with  
22 brokers, whether that complies. I guess you guys  
23 are bound by certain regulations what you can and  
24 can't do when you sell something so.

25 SENATOR JOHNSON: So my last

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2 question for you, which is, just confirm, the  
3 Islander, other than, after the purchase and it  
4 being brought down to New York, never went into  
5 service, correct?

6 MR. WELCH: No, sir.

7 SENATOR JOHNSON: Great. Mr.

8 Welch, I want to thank you for taking the time  
9 answering all these questions. I really appreciate  
10 it and thank you for spending some time with us  
11 today.

12 MR. WELCH: You're welcome  
13 senator. Thank you.

14 SENATOR JOHNSON: Mr. Crivici,  
15 will you step forward for some very brief  
16 questions. And I appreciate you joining us today.

17 (C L A U D I O C R I V I C I, a  
18 witness, having been first duly sworn, was examined

19 and testified as follows:)

20 SENATOR JOHNSON: Is it Crivici?

21 MR. CRIVICI: Crivici, yes.

22 SENATOR JOHNSON: Could you just

23 state your name, spell it for the record and just

24 indicate where you live and we'll go from there.

25 MR. CRIVICI: Claudio Crivici,

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2 C-R-I-V-I-C-I, Massapequa, New York.

3 SENATOR JOHNSON: Thank you for  
4 coming today, Mr. Crivici.

5 Mr. Crivici, can you tell me how  
6 are you employed?

7 MR. CRIVICI: Currently I'm the  
8 President of Castlerock Risk Services. I'm also  
9 the owner of Castlerock Risk Services.

10 SENATOR JOHNSON: What is  
11 Castlerock Risk Services? What do you do?

12 MR. CRIVICI: We're a marine  
13 consulting entity that specializes in marine  
14 surveys and risk management all pertaining to  
15 mostly marine risks.

16 SENATOR JOHNSON: And how long  
17 have you been in the business of performing marine  
18 risks?

19 MR. CRIVICI: Since approximately  
20 1985.

21 SENATOR JOHNSON: And the scope  
22 of your risk assessment, how big of a boat or a  
23 ship or a ferry do you do? What's your range of  
24 assessments?

25 MR. CRIVICI: You know, changes

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2 day to day from the small size, you know,  
3 collisions on the pleasure boats to a large size,  
4 you know, ocean-boating oil tankers. We are  
5 involved with the, not Castlerock but I was  
6 involved with the salvage with the Exxon Valdesse,  
7 so, you know, there's quite a span between the two.

8 SENATOR JOHNSON: So you have  
9 had experience in providing these risk assessments  
10 for large seagoing vessels, correct, including  
11 ferries?

12 MR. CRIVICI: Yeah. We perform  
13 inspections on vessels like ferries all the time.

14 SENATOR JOHNSON: Let me ask you  
15 this question: What's the length of period of time  
16 that it takes for you to conduct a survey or  
17 inspection on a vessel the size of the Islander?

18 MR. CRIVICI: There's all



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2 obviously size makes a difference, but sometimes a  
3 larger vessel is easier to crawl through than a  
4 small compartment, just the ease of getting in and  
5 out of the compartments are simple. Because is the  
6 vessel inspected in the water? Is the vessel  
7 inspected on a dry dock? Is the vessel inspected  
8 underweight? There's all different parameters and  
9 it can vary some several hours to it could be  
10 several weeks.

11 SENATOR JOHNSON: And were you,  
12 was Castlerock Services, you know, the company  
13 retained at some point to conduct the inspection of  
14 the Islander?

15 MR. CRIVICI: Yes, we were.

16 SENATOR JOHNSON: And who  
17 retained you, who hired you to perform the  
18 services?

19 MR. CRIVICI: I was asked to -- to  
20 take a look at the Islander by Bill Welch and  
21 Harbor Ferry Services.

22 SENATOR JOHNSON: And I assume  
23 you were paid for your services?

24 MR. CRIVICI: That's correct.

25 SENATOR JOHNSON: And can you

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2 tell me how much you were paid for that, an  
3 estimation?

4 MR. CRIVICI: It was, you know, a  
5 couple of thousand dollars, maybe less.

6 SENATOR JOHNSON: By the way,  
7 based upon just in terms of your payment, is that  
8 on an hourly basis or is it by a job meaning the  
9 size of the boat or ship that you're --

10 MR. CRIVICI: Normally only work  
11 on an hourly basis.

12 SENATOR JOHNSON: Okay. I have  
13 copy of your report that you prepared on July 3,  
14 2007. And it says that you were, at the request of  
15 Bill Welch, to perform a limited survey.

16 What is a limited survey of a  
17 boat, in this case, the Islander?

18 MR. CRIVICI: It wasn't a --

19 there's a pre-purchase survey when someone, a  
20 prospective owner is intending to purchase a  
21 vessel. That's a very thorough survey that would  
22 be performed preferably out of the water with,  
23 depending on the age of the vessel or condition of  
24 the vessel, certain additional testing might be  
25 required and such. And that would be, you know, a

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2 fairly extensive, in-depth survey.

3                   You asked earlier about how we  
4 were retained. If you notice, even the date of the  
5 survey, which was right before the of 4th of July  
6 weekend, --

7                   SENATOR JOHNSON:     Yes.

8                   MR. CRIVICI:   -- really wasn't on  
9 my plans to head up to New Bedford, you know, at  
10 that point. Bill explained to me that we had a  
11 fairly short time constraint to get up there  
12 because I guess of this pending transportation. And  
13 I only had a very limited period of time to  
14 accommodate that. So you know, Bill's -- our survey  
15 pretty much was just one day on this.

16                   SENATOR JOHNSON:     And just to  
17 clarify in terms of this survey. You weren't  
18 provided with any Coast Guard records with respect

19 to the Islander or any other records that were  
20 probably downloadable or provided to either JMS or  
21 Turner or Mr. Welch, correct?

22 MR. CRIVICI: That's correct. I  
23 started asking quite a few questions to Bill when  
24 he called me up to go up there. And I think Bill  
25 felt more comfortable if I kind of went in there in

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2 a vacuum. I kind of, without coming up with a  
3 opinion, prior to going there he asked me to kind  
4 go up there and take a look at it without a lot of  
5 detail with what was going on with the pending use  
6 for the ferry was and just allow me to kind of come  
7 up with my on conclusions.

8 SENATOR JOHNSON: And when you  
9 went to the inspection, the boat was in the water,  
10 not on dry dock, correct?

11 MR. CRIVICI: That's correct.

12 SENATOR JOHNSON: You weren't  
13 provided with any maintenance records to review for  
14 this survey?

15 MR. CRIVICI: That's correct.

16 SENATOR JOHNSON: And did you  
17 have a chance to interview any members of the crew?

18 MR. CRIVICI: No, I did not.

19                                 SENATOR JOHNSON:     And you  
20     certainly didn't take the vessel out for a test  
21     drive, correct?

22                                 MR. CRIVICI:    No, I did not.

23                                 SENATOR JOHNSON:     Were you able  
24     to turn on the engines, you know, as sometimes that  
25     happens and to hear the engines purr?

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MR. CRIVICI: On a vessel like

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this it's a little bit more complicated than just

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turning a key, but we did not test any machinery.

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SENATOR JOHNSON: Okay. Did you

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look at any drawings, any architecture designs,

7

anything to that effect?

8

MR. CRIVICI: No, I did not.

9

SENATOR JOHNSON: And where you

10

provided a stability book?

11

MR. CRIVICI: No, I did not.

12

SENATOR JOHNSON: And what is a

13

stability book?

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MR. CRIVICI: A stability book is,

15

sets up the parameters for what type of seas or

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where the vessel could actually operate in. We'll

17

develop a couple other parameters as far as number

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of passengers that can be on, number of cars, and



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2 you didn't see that?

3 MR. CRIVICI: No, I did not.

4 SENATOR JOHNSON: And I'm

5 assuming, you know, a commercial ferry also takes,

6 like vessel engine boards, maintenance logs,

7 documents are important to that nature, correct?

8 MR. CRIVICI: You would expect

9 them to, yes.

10 SENATOR JOHNSON: And when they

11 are made available, do you know in your experience,

12 what do they usually show?

13 MR. CRIVICI: It gives a good

14 indication for the operating history of the vessel

15 if there was any problems. It also details some of

16 the maintenance that might be performed.

17 SENATOR JOHNSON: Did you

18 review the maintenance or vessel logs for the

19 Islander?

20 MR. CRIVICI: No, I did not.

21 SENATOR JOHNSON: And would the  
22 dry dock history be useful information as well in  
23 doing a survey or an inspection of a ferry?

24 MR. CRIVICI: That's correct.

25 Again, it adds to the -- to the history, what type

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2 of, if there was any steel modifications or repairs  
3 due to a casualty, maintenance and such.

4 SENATOR JOHNSON: And would the  
5 history, was the dry dock history provided to you  
6 to review?

7 MR. CRIVICI: No.

8 SENATOR JOHNSON: And you talked  
9 a little bit about the casualty history and vessel  
10 maintenance.

11 These are maintained, correct.

12 MR. CRIVICI: Typically it is a  
13 requirement by a vessel operator that's Coast Guard  
14 inspected that, you know, these be reported to the  
15 Coast Guard. So you'd expect the owner to have  
16 those records as well as the Coast Guard.

17 SENATOR JOHNSON: And that  
18 information is useful also for a potential

19 purchaser to see, you know, any type of claims, any  
20 types of accidents that may have occurred, correct?

21 MR. CRIVICI: Absolutely.

22 SENATOR JOHNSON: And did you  
23 see or review any of this information?

24 MR. CRIVICI: No, I did not.

25 SENATOR JOHNSON: And did you

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2 obtain any equipment inventory in particular or  
3 conduct a survey of operational stability with  
4 respect to the ferry?

5 MR. CRIVICI: No, I did not.

6 SENATOR JOHNSON: And I think  
7 you said this, but nobody from GIPEC, or maybe Mr.  
8 Welch, no one told you what the intended length of  
9 the desire of future service for this ferry was  
10 when you reviewed it?

11 MR. CRIVICI: No. I was not  
12 aware of that, no.

13 SENATOR JOHNSON: So you have  
14 it. Now, you prepared this report on July, 3, 2007;  
15 that's correct, right?

16 MR. CRIVICI: Correct.

17 SENATOR JOHNSON: How did you make  
18 the report available to you?

19 MR. CRIVICI: My only contact  
20 through this whole process was Bill Welch so he was  
21 my client and he was given the report.

22 SENATOR JOHNSON: So Bill was  
23 the only person, Mr. Welch was the only person to  
24 have gotten a copy of the report?

25 MR. CRIVICI: That's correct.

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SENATOR JOHNSON: Okay. And in

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front of you is a black binder. Can we page open to

4

the report for a second.

5

At page three, if I can, you made

6

-- I'll actually wait till you get it.

7

MR. CRIVICI: You can keep

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going. I pretty much know the extent of them.

9

SENATOR JOHNSON: At page three

10

and page four you make several findings and

11

observations. And you prepared this for Mr. Welch,

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who you know, clearly has a lot more knowledge

13

about ferries and boats than I certainly do or my

14

counsel.

15

Maybe in layman's terms, based on

16

this limited survey you conducted without any

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documents, without any interviews, really based on

18

your eyes, ears and instruments, what, you know,

19 what are the findings and observations? I mean if  
20 you can summarize it and give your --

21 MR. CRIVICI: Generally the  
22 vessel was consistent with a 50-year old, you know,  
23 vessel. You know, the conditions weren't -- it's  
24 not a 50-year old vessel. It looks like she was  
25 five years old. She looked like she was a 50-year

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2 old vessel. And, you know, some of the details  
3 that my report -- you know, what I discuss in my  
4 report, the real intent was, you know, I think was,  
5 you know, that we needed to do more testing, more  
6 due diligence on this. You know, walking away from  
7 the vessel without knowing the type of use or the  
8 length of use and without really having a good  
9 feeling for the condition of the steel and the  
10 machinery, potentially, you know, I felt this could  
11 be a very expensive endeavor for anybody who bought  
12 this vessel.

13 SENATOR JOHNSON: In looking at  
14 the observations, 4P (phonetic) coatings almost 100  
15 percent failed.

16 In laymen's terms, what does that  
17 mean.

18 MR. CRIVICI: Coatings are

19 placed on the steel not just for aesthetic reasons.  
20 It's to prevent corrosion. What steels does, it  
21 basically takes the oxygen away from the steel and  
22 prevents rusting. So once the coating starts to  
23 lift or peel, the steel in that area is exposed and  
24 it comes subject to what you would anticipate,  
25 corrosion and rust and eventually thinning of that

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2 material.

3                                   And essentially coatings being a  
4 hundred percent failed, that would necessitate  
5 preparing of that area either mechanically by  
6 machines or by sandblasting or water blasting and  
7 recoating which obviously could get quite  
8 expensive.

9                                   SENATOR JOHNSON:     For hydraulic  
10 space the coating also largely failed, correct?

11                                  MR. CRIVICI:        Correct.

12                                  SENATOR JOHNSON:     The galley  
13 void, the coating is approximately 80 percent  
14 failed?

15                                  MR. CRIVICI:        Correct.

16                                  SENATOR JOHNSON:     And the MSD  
17 void, extensive steel work under the tanks is  
18 required to do a heavy corrosion. Then we go into

19 the engine room, which, as I indicated, you know,  
20 there were certain limited ingress and egress that  
21 could have potential blockage if there was a fire  
22 which would say to a lay person that there's a  
23 safety risk in this process. And we go on.

24 MR. CRIVICI: If I just --

25 SENATOR JOHNSON: Please.

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MR. CRIVICI: -- not to interrupt.

3

SENATOR JOHNSON: No.

4

MR. CRIVICI: But what's

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actually, you know, from reading this on the Marine

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side, the engine room, you think you have all this

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machinery in there, generators, engines, you know,

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large gear boxes transmission, you know, analogy to

9

a -- it's very oily in there and it develops a

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coating. So you have a limited ability to, if you

11

can't see the steel.

12

Like you asked how we could

13

determine what the conditions are. If that is

14

blocked by grease or debris, or if there were some

15

ballast bricks in there, you can't physically see

16

it so you really don't know what's there.

17

So, you know, that if anything,

18

when you're reading that paragraph, that's more of

19 a concern than the egress or, you know, something  
20 like that could be, you know, possibly as Bill said  
21 earlier, you could do certain things to modify  
22 that. But if you're thinking about purchasing  
23 vessel, it's like looking at a house without being  
24 able to see it.

25 SENATOR JOHNSON: There we go.

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MR. CRIVICI: Right.

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SENATOR JOHNSON: You look at

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the outside not the inside.

5

MR. CRIVICI: Exactly.

6

SENATOR JOHNSON: Have you ever

7

previously conducted vessel examinations for

8

advising potential purchasers as to whether or not

9

to purchase a vessel?

10

MR. CRIVICI: The role of the

11

surveyor is not necessary to tell someone to buy it

12

or not. It's -- you know, I feel it's to give them

13

as much information as possible so they make a

14

decision for their own use. So yes, we do work and

15

actually this morning that's why I was a little

16

late. I was actually doing that.

17

SENATOR JOHNSON: The economy is

18

more important, far more important.

19 MR. CRIVICI: But we do that all  
20 the time.

21 SENATOR JOHNSON: So as a  
22 consequence of your inspection of the Islander, do  
23 you arrive at a conclusion with a reasonable degree  
24 professional certainties? You know, you've been in  
25 this profession for almost 20 years; is that right?

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MR. CRIVICI: Over that.

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SENATOR JOHNSON: Over 20 years,

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as to whether or not an entity had sufficient

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available information to make an informed and

6

prudent decision as to whether or not to buy this

7

ferry, buy the Islander?

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MR. CRIVICI: I most certainly

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did not have enough information to advise them in

10

either way, but I also don't know what other

11

documents they might have had so.

12

SENATOR JOHNSON: On pages four

13

and five you did reach a conclusion with respect to

14

the Islander.

15

What was your conclusion?

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MR. CRIVICI: That just very

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simply it would be quite expensive to own this

18

vessel.



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2 indicated, I think in your report, that additional  
3 due diligence was also required; is that correct?

4 MR. CRIVICI: That's correct.

5 SENATOR JOHNSON: You also  
6 indicated and urged additional cost benefit  
7 analysis with respect to this report; is that  
8 correct?

9 MR. CRIVICI: Correct.

10 SENATOR JOHNSON: At any time  
11 were you invited to make a presentation to  
12 Governors Island, the Governors Island board or any  
13 board members or committee with respect to the  
14 report that you prepared?

15 MR. CRIVICI: Other than my  
16 communication with Bill Welch and today and just  
17 leading up to this meeting, I've never been  
18 contacted by anybody from GIPEC.

19 SENATOR JOHNSON: Last question:

20 If it was your half-a-million dollars,--

21 MR. CRIVICI: I'm a taxpayer so

22 in a way it is, right?

23 SENATOR JOHNSON: Exactly.

24 -- would you have bought this

25 boat?

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MR. CRIVICI: I don't think I

3

would have, no.

4

SENATOR JOHNSON: I'll ask this,

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because I think it's only fair: Would you have

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bought this boat with the understanding that you

7

may or may not have had additional funds to

8

rehabilitate it?

9

MR. CRIVICI: I'm glad you asked

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that question --

11

SENATOR JOHNSON: I want to be

12

fair. I don't want to load a question up.

13

MR. CRIVICI: Right.

14

The cost benefit analysis is

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really, when you buy an vessel, an older vessel,

16

it's very difficult sometimes to budget what your

17

future costs are going to be. You were asking Bill

18

about the Coast Guard inspection and such. It's



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2 conditions, the machinery is updated, for instance,  
3 even these engines that were on there, the Port  
4 Authority of New York is replacing engines under a  
5 grant to other operators so that they're  
6 clean-burning and not as polluting.

7                   Here you're introducing into the  
8 Harbor, you know, engines that are in 1950's  
9 technology or older. And there's so many cost  
10 variables involved with that. There is no way  
11 unless you know that you have an unlimited budget  
12 to maintain this year in and year out, unless you  
13 don't perform the maintenance and you just neglect  
14 certain things, it would just be a very difficult  
15 thing to do for a 50-year old vessel.

16                   SENATOR JOHNSON:     Mr. Crivici,  
17 thank you very much for joining us today.  
18 Appreciate your time.

19 MR. CRIVICI: Okay. Thank you.

20 SENATOR JOHNSON: Mr. Meyers, I

21 assume you're going to testify as well, correct?

22 MR. MEYERS: Yes.

23 (L E S L I E K O C H, called as

24 witness, having first been duly sworn, was examined

25 and testified as follows:)

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(J O N M E Y E R S, called as a

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witness, having been first duly sworn, was examined

4

and testified as follows:)

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SENATOR JOHNSON: First let me

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say thank you for coming, for being extremely

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responsible, yourself in providing documents. All

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too often when -- as a member of the Senate, when

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hearings occur, people get a little bit nervous.

10

What we're trying to do, as I said

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at the outset, is trying to figure out what

12

happened and going forward, not just GIPEC, but all

13

agencies, how we save money.

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Yesterday we did the MTA deal for

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City residents. We get to keep the tolls on the

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bridges. But, you know, the important thing is

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we're trying to just figure out what's going on in

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order to, I think improve also GIPEC. Because I

19 know, and O know he's not here, but this is a very  
20 important thing for Dan Squadron, Senator Dan  
21 Squadron who I think represents the area, who was  
22 instrumental in securing the additional -- the  
23 state funds where the budget up until -- the  
24 budget, end of the budget had no money from the  
25 state and now does have a \$7 million, approximately

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2 \$7 million contribution.

3 Ms. Koch, do you want to have an  
4 opening statement?

5 MS. KOCH: Yes, thank you.

6 SENATOR JOHNSON: Great. Thank  
7 you so much.

8 MS. KOCH: Good morning, Mr.  
9 Chairman.

10 My name is Leslie Koch. I'm the  
11 President of the Governors Island Preservation  
12 Education Corporation, otherwise known as GIPEC.

13 GIPEC is the owner of 150 acres of  
14 Governors Island and is charged with the  
15 preservation and redevelopment of that portion of  
16 Governors Island. GIPEC is a wholly-owned  
17 subsidiary corporation of the Empire State  
18 Development Corporation.



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2 vessel known as the Islander.

3                   The information to be provided in  
4 my testimony today is substantially the same  
5 information that was previously provided in our  
6 conversation and meeting with the Committee's  
7 counsel and director and in subsequent  
8 conversations with your counsel.

9                   I'll provide a brief chronology of  
10 the events and milestones in connection with the  
11 purchase and the sale of the vessel, but first  
12 provide a brief overview of the matter.

13                   GIPEC, of course, understands and  
14 can appreciate the Committee's interest in this  
15 matter as GIPEC purchased the Islander for \$500,000  
16 in 2007 and sold it for less than \$24,000 in 2009.

17                   I believe that the documentation  
18 that we have previously provided the Committee,

19 plus any testimony that we provided today, will  
20 show that on hindsight the purchase was not a  
21 decision that, of course, yielded the desired  
22 result. It certainly was done where we drew on as  
23 much information as we possibly could. And I think  
24 you've previously heard testimony about the reasons  
25 of all of this based on the facts and circumstances

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2 that were available.

3                   The second point that I would like  
4 to stress up front is that these decisions were  
5 made not just at the GIPEC staff level, as I will  
6 describe shortly. We had the vessel inspected by  
7 professionals prior to our bid, and our purchase  
8 and sales decision were each discussed, reviewed  
9 and approved by the head of the operations  
10 committee of the GIPEC board, ESDC staff, State and  
11 City officials.

12                   Our full board of directors  
13 unanimously ratified our purchase and unanimously  
14 approved the sale of the vessel.

15                   So let me now do a quick  
16 walk-through of the relevant facts and events.

17                   As an island, of course, GIPEC  
18 can, Governors Island can only be accessed by



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SENATOR JOHNSON: Okay.

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MS. KOCH: -- not to GIPEC.

4

SENATOR JOHNSON: Thank you.

5

MS. KOCH: Certainly.

6

At the time of Island transfer in

7

January 2003, GIPEC obtained only one 50-year old

8

ferry to transport persons and vehicles to the

9

Island. Based on the fact that there was only one

10

vessel, GIPEC early on identified a need for a

11

redundant ferry for both passenger and vehicular

12

services.

13

Prior to my tenure at GIPEC, which

14

began in May of 2006, discussions were held at full

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board and operations committee meetings about the

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need for a redundant ferry. I believe we provided

17

the Committee with copies of those transcripts and

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operations committee reports at which the redundant



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2 calculated based on an estimate of the cost to  
3 purchase and rehabilitate the sister boat of  
4 GIPEC's current vessel, the Coursen.

5 We provided the Committee with  
6 that board item and with copies of the minutes and  
7 transcripts.

8 After the board approved our  
9 capital budget for the project, GIPEC directed the  
10 facilities manager, Turner Construction, to  
11 competitively procure, on GIPEC's behalf, a firm  
12 with maritime expertise who could work with GIPEC  
13 and Turner to assess our needs and survey the  
14 market to identify available passenger and  
15 vehicular vessels that would meet our criteria in  
16 terms of size, suitability for our route and could  
17 be put in service within the capital and operating  
18 budgets that we currently have.



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2 we manage other capital projects on the Island for  
3 which Turner acts as construction manager and hires  
4 subconsultant architects and engineers to design  
5 scope of services and then hire subcontractors to  
6 construct the projects.

7                   After this competitive procurement  
8 process, Turner contracted with Jamestown Marine  
9 Services, otherwise known as JMS, a naval  
10 architecture and engineering firm which is based in  
11 Mystic, Connecticut.

12                   From December 2006 through July  
13 2007, JMS worked with GIPEC, Turner and Harbor  
14 Ferry Services, our ferry operator, to investigate  
15 the range of opportunities and boats available for  
16 sale.

17                   It was clear that a new boat would  
18 have cost easily five or ten times the amount in

19 the GIPEC budget. So this search focused on an  
20 assessment of the market for a used vehicle and  
21 passenger ferries.

22 Over the course of this  
23 assessment, JMS looked at numerous boats among the  
24 entire East Coast and around the United States.  
25 They considered boats that were listed for sale and

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2 many that were not necessarily known to be for  
3 sale. Each boat was considered in terms of its  
4 size, suitability for our routes and needs,  
5 estimates of its rehabilitation costs,  
6 transportation costs, operating costs and other  
7 factors.

8                           It became clear over the course of  
9 this several-month search that the market for used  
10 vehicles is very irregular. There are limited  
11 number of vessels available and most vessels were  
12 purpose-built for a particular route or  
13 configuration that they serve.

14                           In some way, each of the vessels  
15 we looked at presented obstacles in terms of  
16 purchase cost, rehabilitation cost, transportation,  
17 suitable to the route of New York Harbor and other  
18 factors.



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Most importantly, we came to

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understand that there were just a handful of

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options of available vessels that came -- that

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could meet our needs and that more time looking at

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the market was unlikely to uncover many more

7

opportunities.

8

It was at this time during the

9

search that the Woods Hole, Martha's Vineyard and

10

Nantucket Steamship Authority put the Islander up

11

for auction in June 2007.

12

Typical of this type of disposal

13

of a public asset, the vessel was sold in a very

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short auction period in an as-is, where-is

15

condition.

16

Typical of other vessels that had

17

been mentioned to us and, in fact, several that had

18

been seen, 0 although the vessel was available for

19 inspection, detailed historical service records  
20 were not made available.

21                                   After an initial consideration of  
22 the size and configuration of the vessel, JMS told  
23 GIPEC and GIPEC concurred that the vessel appeared  
24 to be suitable on paper and was worthy of more  
25 detailed inspection.

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2

GIPEC also reviewed this matter

3

with Harbor Ferry Services, our ferry operator who

4

services for GIPEC also include the maintenance and

5

repair of GIPEC's vessel.

6

Based on the suitability of the

7

vessel on paper, representatives of GIPEC, Turner,

8

JMS, and Harbor Ferry all visually inspected the

9

vessel in person in later June and early July of

10

2007.

11

In addition, two separate outside

12

maritime survey firms were retained to perform

13

additional inspection work and provide their

14

perspectives on the vessel.

15

The inspections confirmed the

16

suitability of the boat in terms of general size

17

and configuration and revealed the need for a

18

variety of improvements to the steel coatings,



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2 which was not an option either under the terms of  
3 the auction sale or from the time parameters. And  
4 as I noted earlier, is not typically made available  
5 to potential purchasers of used vessels.

6                   Copies of these inspection reports  
7 and all of the documentation we received have been  
8 provided previously to the Committee.

9                   Based on these written reports on  
10 the visual inspection, on discussions and meetings  
11 with our consultant, and availability of funding  
12 and on the lack of inventory in the used vessel  
13 market, and with the understanding which we had had  
14 going into this process, that there would be  
15 rehabilitation work required for any vessel we  
16 acquired, GIPEC made an informed decision based on  
17 that information that although the full scope of  
18 potential repair work was not being available,



1

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2 representatives of the City and the State and  
3 members of the GIPEC board to keep them abreast of  
4 our Islander inspection efforts.

5                   In addition, we investigated legal  
6 and regulatory matters to confirm that we could  
7 legally purchase a vessel at auction. And we spoke  
8 with state and federal transportation officials to  
9 confirm that the rehabilitation could be funded  
10 with federal transportation funds that have been  
11 earmarked for this use.

12                   GIPEC recommended the purchase of  
13 the vessel to the operations committee and to State  
14 and City officials just after July 4, 2007.

15                   While it was not possible to  
16 convene a quorum of the full GIPEC board on a few  
17 day's notice around the July 4th holiday, we were  
18 able to brief the head of the operations committee



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2 of \$500,000 which was \$250,000 below the  
3 Authority's stated reserve price of \$750,000.  
4 GIPEC, following normal procedures, requested the  
5 initial \$50,000 deposit check and the \$450,000  
6 balance check from ESDC. ESDC staff reviewed this  
7 request and signed the check. The Authority's board  
8 accepted GIPEC's bid.

9 In September 2007, Harbor Ferry  
10 sailed the vessel to the Island.

11 GIPEC began the process of  
12 procuring a naval architect to conduct a  
13 comprehensive survey and also to design the planned  
14 rehabilitation and improvement of the vessel.

15 Through a competitive procurement  
16 process, Seaworthy Systems was identified and  
17 Turner awarded a contract to Seaworthy in December  
18 of 2007.



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2

The results of this survey work

3

suggested that the rehabilitation needs were

4

dramatically more extensive than we had previously

5

understood and that the full rehabilitation of the

6

vessel would be well outside of the budget of

7

public funds allocated for this purpose.

8

In September of 2008, GIPEC

9

determined that the Islander was not appropriate

10

for its needs. GIPEC staff briefed the board

11

operations committee on the inspections and the

12

operations committee agreed with GIPEC's

13

recommendations that investments of federal, state

14

or city funds would not be warranted by the return

15

on investment and the vessel should be sold to

16

minimize any ongoing associated costs.

17

ESDC staff, State and City

18

officials also concurred with GIPEC's

19 recommendation to sell the Islander at such time.

20 In November of 2008, in  
21 coordination with ESDC staff, GIPEC released an  
22 Invitation to Bid for the Islander, following  
23 public procurement procedures, targeting a list of  
24 shipyards, operators, salvage companies and marine  
25 wreckers.

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2

Unfortunately there were no

3

responses to this IFB. Due to the lack of any bid

4

responses, ESD procurement staff recommended that

5

GIPEC utilize the State Office of General Services

6

to sell the vessel on behalf of GIPEC.

7

GIPEC's full board was briefed on

8

status of the attempted Islander disposition and at

9

its January, 2009 meeting, the board unanimously

10

approved the sale of the Islander on eBay by State

11

OGS with no reserve price.

12

Copies of this board item and the

13

minutes and transcripts have also been provided to

14

the Committee.

15

OGS ran an eBay ad for the vessel.

16

And on January 26, 2009, the eBay auction closed

17

with a sale to the highest bidder.

18

GIPEC recognizes, of course, the

19 challenges in this situation and continued need to  
20 address our -- the redundancy, the redundant ferry  
21 need for the Island. This is something that is part  
22 of our long-term development plan that will be  
23 addressed as we work on all aspects of Island  
24 redevelopment.

25 But I do want to close by stating

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2 that we take very, very seriously our  
3 accountability to the public, our use of public  
4 taxpayer dollars, and our responsibility to spend  
5 those dollars wisely as we work to preserve and  
6 redevelop Governors Island.

7 At the time of the purchase, we  
8 procured outside experts, reviewed the information  
9 that was available at the time and discussed the  
10 decision with our parent agency, board members and  
11 State and City officials.

12 Information unavailable at the  
13 time of purchase later demonstrated that the vessel  
14 would not responsibly serve the Island's need.

15 GIPEC will continue to be vigilant  
16 in its future projects and expenditures to ensure  
17 appropriate expenditure of taxpayer funds.

18 I hope this testimony is helpful

19 to the Committee. And, of course, I'm available to  
20 answer any of your questions.

21 SENATOR JOHNSON: Thank you.

22 Is it possible to get -- Mr.

23 Meyers, did you want to --

24 MR. MEYERS: No thank you.

25 SENATOR JOHNSON: -- a copy of

1

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2 your statement --

3 MS. KOCH: Of course.

4 SENATOR JOHNSON: -- for the

5 record?

6 Just a couple of get-to-know you

7 questions to start.

8 You indicated in the beginning of

9 your testimony you became board president of GIPEC

10 in May 2006?

11 MS. KOCH: I'm not the board

12 president. I'm the president. Sorry. Yes, in May

13 1, 2006.

14 SENATOR JOHNSON: I'm sorry.

15 Apologize. May 2006.

16 And when you were -- before you

17 were hired, did you have any role in GIPEC?

18 MS. KOCH: No.

19 SENATOR JOHNSON: What is your  
20 background?

21 MS. KOCH: I have a diverse  
22 background. I have a Masters in Management from the  
23 Yale School of Management. I've worked in a variety  
24 of companies and nonprofit and government agencies.

25 SENATOR JOHNSON: What have you

1

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2 done? I mean what's your capacity, like presidents,  
3 leadership, fundraising?

4 MS. KOCH: I was -- my position  
5 prior to becoming president of GIPEC, I was  
6 President and CEO of the Fund for Public Schools.  
7 And I previously worked for Microsoft.

8 SENATOR JOHNSON: In Washington  
9 or in --

10 MS. KOCH: Seattle, Washington.

11 SENATOR JOHNSON: When you were  
12 hired by GIPEC, who was the board chairman or  
13 chairwoman at the time?

14 MS. KOCH: At the time I was  
15 hired, Dan Doctoroff was the board chair.

16 SENATOR JOHNSON: Is Mr.  
17 Doctoroff still the board chair?

18 MS. KOCH: No, he's not. Avi

19 Schick is currently the board chair.

20 SENATOR JOHNSON: In your  
21 capacity as president, how many full-time employees  
22 do you supervise?

23 MS. KOCH: There's approximately  
24 ten full-time employees.

25 SENATOR JOHNSON: Mr. Meyer,

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2 it's Meyers or Meyer?

3

MR. MEYERS: Meyers.

4

MS. KOCH: Meyers.

5

SENATOR JOHNSON: Meyers.

6

Are you a full-time employee of

7

GIPEC?

8

MR. MEYERS: Yes, I am. I'm

9

actually a full-time employee of the City of New

10

York.

11

SENATOR JOHNSON: On loan to

12

GIPEC?

13

MS. KOCH: Yes.

14

MR. MEYERS: Yes.

15

SENATOR JOHNSON: Shared service

16

is very good.

17

Who is Paul Kelly?

18

MS. KOCH: Paul Kelly is -- also

19 works at GIPEC and similarly also on loan from the  
20 City of New York.

21 SENATOR JOHNSON: In what  
22 capacity -- I'm sorry. What does he do? What's his  
23 capacity?

24 MS. KOCH: He's an attorney so  
25 he serves as counsel working in coordination with

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2 ESDC legal counsel, and then also performs a  
3 variety of other management tasks.

4 SENATOR JOHNSON: And is he here  
5 with you today by any chance?

6 MS. KOCH: Yes.

7 SENATOR JOHNSON: Oh, okay. How  
8 are you, Mr. Kelly?

9 One second.

10 In your capacity as president, who  
11 do you report to? Do you report to -- I guess  
12 today, you report to Avi Schick?

13 MS. KOCH: I report to a  
14 board of directors. And I'm also a full-time  
15 employee of the Empire State Development  
16 Corporation.

17 SENATOR JOHNSON: So in terms of  
18 reporting -- strike that.

19 Do you perform duties and  
20 responsibilities in addition to GIPEC for ESDC?

21 MS. KOCH: No. GIPEC is a  
22 wholly-owned subsidiary of Empire State Development  
23 Corporation and so there are many processes, legal  
24 matters, financial matters, personnel matters that  
25 -- we are a subsidiary so we work with ESDC.

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2

SENATOR JOHNSON: But your sole

3

focus is GIPEC? You know,--

4

MS. KOCH: Yes. My

5

responsibility are solely --

6

SENATOR JOHNSON: -- day in and

7

day out, your responsibility is solely on GIPEC?

8

MS. KOCH: Right.

9

SENATOR JOHNSON: And just so I

10

understand, in the winter of 2007 when this process

11

was beginning or actually April of 2007, the

12

process of purchasing a new ferry boat, GIPEC only

13

had one ferry boat, or was it --

14

MS. KOCH: Yes, that's

15

correct.

16

SENATOR JOHNSON: What's been

17

the visitors, the number of visitors that have

18

visited Governors Island?

19 MS. KOCH: In terms of public  
20 visitation during our public access season?

21 SENATOR JOHNSON: Yes. And what  
22 is that access season? Is that May to October?

23 MS. KOCH: Currently it's May  
24 to October. The -- we have obviously not yet  
25 opened for 2009. In 2008 it was 128,000 visitors.

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2

SENATOR JOHNSON: I have had the

3

opportunity -- I haven't been there, but given the

4

reading material, I think I'm going to bring my

5

kids over. It looks great. I mean I praise it.

6

MS. KOCH: Bring your

7

bicycles.

8

SENATOR JOHNSON: I see that.

9

Let me ask you, what can you do on

10

Governors Island? What is there to do? You're

11

pitching me. I'm a Long Islander. I've got plenty

12

of parks on Long Island, but I want to bring my

13

family to Governors Island, what can I do?

14

MS. KOCH: Part of Governors

15

Island's long-term strategy is expanding visitation

16

and early uses. That's only one part of our

17

strategy 'cause obviously this is a redevelopment

18

project.



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2 not available for people for much of its history  
3 that people -- that we begin to reconnect the  
4 Island to the life of the City.

5 So the Island is open. Picnicking  
6 areas. There's programming. There's bicycling  
7 paths. There's a variety of activities that one  
8 would enjoy in a free park or public space,  
9 although we are not legally a park.

10 SENATOR JOHNSON: You're not  
11 legally a park?

12 MS. KOCH: No.

13 SENATOR JOHNSON: Are you in the  
14 process of trying to be legally --

15 MS. KOCH: Not at the current  
16 time.

17 SENATOR JOHNSON: How much --  
18 and again, I have looked at the powerpoints, the

19 various presentations, gone to your website.

20 What are the cost estimates to

21 fully complete this -- you know, I've seen the

22 designs. What do you estimate the cost to be?

23 MS. KOCH: I'm sorry. You're

24 referring to the cost estimates for what?

25 SENATOR JOHNSON: To fully

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2 develop Governors Island according to the plans  
3 that are being put forth to the community boards,  
4 to City Council?

5 MS. KOCH: Just to clarify,  
6 there is not currently a master plan for the full  
7 redevelopment of the Island. The strategy for  
8 Governors Island, that the first phase involves  
9 investment in historic stabilization and  
10 infrastructure, the creation of a world-class park.

11 So some of the designs that I  
12 think you're referring to refer to some early  
13 competition entries for the park and public spaces  
14 of Governors Island which total about 87 acres. But  
15 there is not currently a master plan for the uses  
16 of the buildings or any new construction on the  
17 island.

18 That said, the construction cost

19 for the park and public space, which would be the  
20 hard costs, are estimated at \$200 billion --

21 SENATOR JOHNSON: Two hundred, how  
22 much, billion?

23 MS. KOCH: \$200 million.

24 Those are the hard construction costs. And then  
25 there are additional infrastructure and ongoing

1

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2 stabilization costs and then operations cost for  
3 the Island.

4 SENATOR JOHNSON: And the reason  
5 why I ask, I just want to get clarification. I'm  
6 looking at the board, the meeting of the board of  
7 directors of October 17, 2007. And you have a  
8 binder in front of you, if that will help. I guess  
9 at the time, Chairman Doctoroff was discussing  
10 capital costs.

11 MS. KOCH: Uh-huh.

12 SENATOR JOHNSON: And he  
13 indicated that at the time his current estimate,  
14 and he does say it's a rough estimate, was  
15 something about \$400 million. I don't know if --

16 MS. KOCH: There's a variety of  
17 estimates. But, again, because the scope of the  
18 development for the new construction has not yet

19 been determined, it is expected that that -- those  
20 capital costs will occur in multiple phases both  
21 recognizing the development prospects for the  
22 Island, obviously the general fiscal health of the  
23 region, State and City and the real estate market.

24                                   SENATOR JOHNSON:     So let's turn  
25 to the boat just so we can make sense.

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2

So there has been and the

3

documents talk about the need for redundant ferry

4

service.

5

How was the conclusion made in

6

2007 that there was a need for a secondary, a

7

secondary boat?

8

MS. KOCH: As I testified, that

9

need was actually determined prior to my arrival

10

and --

11

SENATOR JOHNSON: Okay.

12

MS. KOCH: And we -- because the

13

Island is not accessible by any means other than

14

boat, in addition to our public visitation, there's

15

a variety of work being done on the Island, capital

16

project, infrastructure projects, we're preparing

17

for tenancy.

18

So the New York Harbor School is a



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2

SENATOR JOHNSON: Mr. Meyers, do

3

you predate President Koch or do you post President

4

Koch?

5

MR. MEYERS: I postdate Leslie.

6

SENATOR JOHNSON: I wanted to

7

see if you were there at the time as well.

8

MR. MEYERS: I was not.

9

SENATOR JOHNSON: Not a problem.

10

So in, I guess it was April of

11

2007, correct on the date, there was an approval by

12

the board of directors to purchase a, I use the

13

word new, a second ferry in an amount not to exceed

14

approximately \$3.2 million?

15

MS. KOCH: I believe that that

16

date was earlier than April according to my

17

testimony. But it was more specifically to

18

purchase and rehabilitate. So the expectation was

19 that it would be a used vessel that would require  
20 rehabilitation.

21 SENATOR JOHNSON: And the  
22 monies, the bulk of the monies were going to come  
23 from a federal earmark; is that correct?

24 MS. KOCH: I wasn't president  
25 at the time of that discussion so I can't tell you

1

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2 how it was characterized.

3 SENATOR JOHNSON: That's fine.

4 I did receive a document from you,

5 meaning GIPEC, from your office where I have in

6 front of me. I don't know if you have a copy of it

7 and you may know. I'll hold up. It says,

8 SAFETEA-LU projects, New York State Department of

9 Transportation high priority projects. It's dated

10 October of '06.

11 And it lists a high priority

12 project, Governors Island, construct infrastructure

13 projects. Earmarked funds, \$3.2 million. In the

14 notes it does say the word ferry.

15 Are you familiar with this? And

16 Mr. Meyers, feel free to jump if I'm looking at Ms.

17 Koch.

18 MS. KOCH: No. I was just

19 characterizing the discussion at a board meeting

20 that I wasn't president at, no --

21 SENATOR JOHNSON: But are you

22 aware of this earmark or this document?

23 MR. MEYERS: Yes.

24 SENATOR JOHNSON: And can you

25 maybe describe this piece of paper or what's on it?

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2

MR. MEYERS: Sure.

3

There are two existing federal

4

funds earmarks for Governors Island. They are

5

relatively broad in what they can be used for. And

6

the board discussions with regard to the broader

7

capital budget were not, I don't believe at that

8

point in time connected necessarily to the federal

9

earmark.

10

The federal earmark was a process

11

that we went through with Transportation -- sorry,

12

State and Federal Transportation officials to

13

determine the eligibility, as Leslie referenced in

14

her opening testimony, for the use of that money in

15

the context of various boats.

16

And the applicability of federal

17

funds for the purchase of the ferry depends a lot

18

on how you're purchasing the ferry --

19 SENATOR JOHNSON: Okay.

20 MR. MEYERS: -- and lots of other  
21 things about what you're doing to it. So the  
22 earmark notes that you've got in front of you are  
23 deliberately broad. And our application to use  
24 that earmark for the -- for the ferry comes later  
25 than the inclusion of that money in our capital

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2 budget.

3

SENATOR JOHNSON: By capital

4

budget you mean --

5

MR. MEYERS: The board approval

6

that you were referring to earlier.

7

SENATOR JOHNSON: And then just

8

pointing out, on January 16th, this is a memo --

9

MR. MEYERS: January 16th of

10

what year? I'm sorry.

11

SENATOR JOHNSON: January 17,

12

2006. January 17, 2006. Another document, thank you

13

very much for providing us. A memo from Mr. Kelly.

14

Don't worry, Mr. Kelly. I'm not calling you out.

15

I'm just making the note it's a memo from you

16

regarding the capital budget.

17

And in there you do have a page,

18

it's a page one of three. It's probably the third

19 or fourth page, GIPEC capital budget and you do  
20 have a waterside transportation ferry boat  
21 redundancy, \$3.2 million projects proposed for New  
22 York State money.

23                                   So it's going to be almost using  
24 -- it looks like to me what you're doing is taking  
25 the federal monies and applying it into or you put

1

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2 3.2 and you're going to use the federal monies for  
3 the ferry purpose?

4 MR. MEYERS: I'm not sure that  
5 that's necessarily the case.

6 The board approval of the capital  
7 budget item was in recognition of the need for a  
8 redundant ferry at a time when it was not clear. I  
9 don't remember the exact timing of the federal  
10 earmark. So either it was not clear whether we had  
11 the earmark or it was not clear that we were able  
12 to use the earmark for that particular purpose.

13 And we had several projects that  
14 were qualified for that federal earmark. So the  
15 decision about whether to use the federal funds  
16 specifically for a ferry or for one of our other  
17 waterfront projects was something that happened at  
18 a later date.

19                                   SENATOR JOHNSON:       So the 3.2  
20   number really was based more on the earmark than on  
21   what you were going to try and spend on the ferry;  
22   am I --

23                                   MS. KOCH:            No, no.

24                                   To clarify, the 3.2 million, as  
25   was stated early, was approved by the board.

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2

SENATOR JOHNSON: Okay.

3

MS. KOCH: The process is GIPEC is

4

-- that there's appropriation of funds both from

5

the State and the City --

6

SENATOR JOHNSON: Okay.

7

MS. KOCH: -- but the board has

8

the responsibility to approve the allocation in the

9

budget.

10

SENATOR JOHNSON: Okay.

11

MS. KOCH: And the allocation

12

dollar amount, as I stated in my prepared testimony

13

of \$3.2 million, was determined previously.

14

SENATOR JOHNSON: Gotcha. Okay.

15

Terrific.

16

Mr. Meyers, can I just ask you a

17

couple of background questions just --

18

MR. MEYERS: Of course.

19 SENATOR JOHNSON: I want to be

20 polite.

21 So you indicated that you

22 post-date Ms. Koch.

23 MR. MEYERS: That's correct.

24 SENATOR JOHNSON: When did you

25 come over to --

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2

MR. MEYERS: December of 2006, '7.

3

'6?

4

MS. KOCH: December 2006.

5

MR. MEYERS: December 2006.

6

SENATOR JOHNSON: And you're the

7

director of real --

8

MR. MEYERS: That's correct.

9

SENATOR JOHNSON: Vice president

10

of real estate? Is that your title?

11

MR. MEYERS: Director of real

12

estate is my -- is my title again, as a -- yes.

13

SENATOR JOHNSON: And what is your

14

educational background?

15

MR. MEYERS: I have an MBA from

16

Columbia Business School in Real Estate and

17

non-for-profit management.

18

SENATOR JOHNSON: So in terms of

19 also it's not just real property, is it also -- I  
20 mean by real estate, buildings, land, personal  
21 property? Is it a wide gamut? I want to say --

22 MR. MEYERS: Yes. I broadly --

23 SENATOR JOHNSON: -- you're  
24 basically in charge of buying.

25 MR. MEYERS: I broadly oversee

1

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2 our capital projects.

3 SENATOR JOHNSON: Okay.

4 MR. MEYERS: As we discussed  
5 earlier, most of those are not buying an asset but  
6 I broadly oversee our capital projects.

7 SENATOR JOHNSON: And I assume you  
8 directly report to Ms. Koch?

9 MR. MEYERS: I do, yes.

10 SENATOR JOHNSON: Do you report  
11 to ESD as well or just directly to Ms. Koch?

12 MS. KOCH: Comes directly to me.

13 MR. MEYERS: Yes.

14 SENATOR JOHNSON: And so what  
15 you indicated is that broadly speaking you oversee  
16 all capital projects.

17 In addition to a ferry boat, what  
18 else do you oversee?

19 MR. MEYERS: As Leslie has said,  
20 we are -- I'm constantly doing work on the existing  
21 inventory of historic buildings we have on the  
22 Island. It's close to a million-and-a-half square  
23 feet of existing buildings.

24 We are also in the process of  
25 making always emergency repairs and assessments of

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2 the underground infrastructure of the Island. We  
3 were -- when the State purchased the Island, we  
4 were left with almost nothing from the Coast Guard  
5 and no form of as-built drawings. So we literally,  
6 when we started this process, didn't know where our  
7 water lines were, where our gas lines, our sewer  
8 lines. So we are in the process of really just  
9 understanding those assets as well. So it's  
10 buildings, it's underground assets and that's the  
11 variety of our capital work.

12 SENATOR JOHNSON: So in the  
13 period of time you make a determination, you get a  
14 ferry boat. You get board authorization to use up  
15 to \$3.2 million to purchase and as well if  
16 necessary, rehab because the cost of a new brand,  
17 spanking new ferry boat far exceeds that amount,  
18 correct?

19 MS. KOCH: That is correct.

20 SENATOR JOHNSON: So at this

21 juncture GIPEC maybe turns to Turner and says,

22 because they are the general -- they are the

23 contracting entity? They run --

24 MS. KOCH: Turner has -- Turner

25 has the facilities -- currently is the holder of



19                               SENATOR JOHNSON:     So it's fair  
20   to say that you don't have the expertise to buy --

21                               MS. KOCH:             Yes. And --

22                               SENATOR JOHNSON:     Other than  
23   this one you've never bought a ferry boat either?

24                               MS. KOCH:             That is correct,  
25   but again, we do repairs to seawalls, stabilization

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2 of historic buildings, a huge array of projects and  
3 this is standard operating procedure for us. And  
4 that is something that's obviously been reviewed  
5 very carefully, those processes with our board of  
6 directors.

7 SENATOR JOHNSON: Turner is  
8 still the facilities manager --

9 MS. KOCH: Yes, they are.

10 SENATOR JOHNSON: There?

11 In the original bid when GIPEC bid  
12 out and Turner won the bid to become the facilities  
13 manager, correct?

14 MS. KOCH: That is correct.  
15 And it's prior to my tenure.

16 SENATOR JOHNSON: Prior to your  
17 tenure.

18 The contract, is it -- what's the

19 term of the Turner contract?

20 MS. KOCH: The Turner contract was  
21 for an initial term and then it's been subsequently  
22 extended. We're actually currently in the middle of  
23 a facilities management re-procurement and so they  
24 are in the midst of, I believe their second  
25 one-month extension because their contract expired

1

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2 on March 31st.

3 SENATOR JOHNSON: So are you're

4 currently RFPing out the --

5 MS. KOCH: Currently in an

6 active procurement process.

7 SENATOR JOHNSON: When do you

8 expect that to close?

9 MS. KOCH: I can't say.

10 SENATOR JOHNSON: Who do you work

11 with? Who is the Turner person that you work

12 directly with who runs --

13 MS. KOCH: We have a Turner team

14 on staff and Doug Cooper is the project manager for

15 GIPEC. Doug Cooper is currently the project

16 manager for Turner working on the GIPEC account.

17 SENATOR JOHNSON: When did Mr.

18 Cooper join the GIPEC team?

19 MS. KOCH: I don't recall the  
20 date.

21 MR. MEYERS: It was about a year  
22 and a half ago. I don't recall the exact date of  
23 that either.

24 SENATOR JOHNSON: Did Doug Cooper  
25 have any involvement in the purchase, the original

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2 purchase process and/or purchase of the Islander?

3

MS. KOCH: I don't want to answer

4

that precisely just 'cause I don't have timeline in

5

front of me. He's been there about a year and a

6

half so I --

7

SENATOR JOHNSON: You think the

8

Islander was purchased in July of 2007 --

9

MS. KOCH: Yes. And I think you

10

had heard some reference and previously Peter

11

Monico. Doug Cooper has Peter Monico's position.

12

SENATOR JOHNSON: Yes. Okay. So

13

--

14

MS. KOCH: I don't remember

15

the exact timing.

16

SENATOR JOHNSON: Okay. Do you

17

know if, and if you don't, do you know if Doug

18

Cooper was employed at Turner at the same time as

19 Mr. Monico?

20 MS. KOCH: I don't recall

21 Doug's exact tenure at Turner.

22 SENATOR JOHNSON: Okay. Do you

23 know a gentleman by the name of Matthew McDonough,

24 McDonough?

25 MS. KOCH: Yes.

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2

SENATOR JOHNSON: Who is he?

3

MS. KOCH: He was employed at

4

Turner. I can't remember the period of time.

5

Do you remember?

6

MR. MEYERS: I don't recall the

7

period of time, but --

8

SENATOR JOHNSON: Was he on the

9

GIPEC team as well?

10

MS. KOCH: Yes, he was.

11

SENATOR JOHNSON: Do you know, is

12

he still on the GIPEC team?

13

MR. MEYERS: No.

14

SENATOR JOHNSON: How about

15

William Douglass, that's with two S's?

16

MR. MEYERS: Also was on the

17

Turner team and is no longer.

18

SENATOR JOHNSON: Is there

19 anyone, if you know, anyone on the GIPEC team from

20 Turner --

21 Let me rephrase it and try it.

22 Peter Monico, Matthew McDonough,

23 William Douglass, was there anybody else who was on

24 the GIPEC team from Turner in July of 2001 who

25 would have had involvement in both?

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2

MS. KOCH: July 2007?

3

SENATOR JOHNSON: Thank you for

4

correcting. July 2007.

5

MS. KOCH: I'm sorry. So the

6

question is, was there anyone else from Turner at

7

the time who was involved besides those names?

8

SENATOR JOHNSON: Yes.

9

MR. MEYERS: With the purchase of

10

the Islander, not that I recall.

11

SENATOR JOHNSON: Okay. So but

12

those three gentlemen you do recall had some

13

involvement with the purchase of the Islander?

14

MR. MEYERS: Yes.

15

SENATOR JOHNSON: So Turner issued

16

an RFP for a naval architect, correct?

17

MS. KOCH: That is correct.

18

SENATOR JOHNSON: Did GIPEC

19 review the RFP that Turner issued?

20 MS. KOCH: Yes. That is our  
21 standard procedure.

22 SENATOR JOHNSON: And the Turner  
23 contract -- did you provide any questions or  
24 comments to, or maybe not you, did anybody from  
25 GIPEC --

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2

MS. KOCH: That is customary

3

procedure. I can't comment 'cause it would have

4

been a member of the team who would have done so

5

but we always extensively review those documents

6

before they are sent out.

7

SENATOR JOHNSON: Turner issued

8

the RFP for a naval architect and described it as a

9

two-phase purchase process. The first phase was

10

for somebody to go out and make a recommendation on

11

what ferry to purchase.

12

The second one was -- then there

13

was a phase two which would be to develop the

14

documents to see what's necessary to upgrade or

15

repair, if necessary; is that --

16

MS. KOCH: That is correct.

17

SENATOR JOHNSON: Did you wonder

18

why it was done in a two-phase process?

19 MS. KOCH: No. Because as I stated  
20 at the outset, the expectation was that given the  
21 budget available and given the cost for any kind of  
22 new ferry purchase, that whatever boat that would  
23 be purchased would require rehabilitation and  
24 renovation work to make it suitable for our needs.

25 SENATOR JOHNSON: And the

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2 expectation and what was appropriated by the board  
3 was the amount of \$3.2 million, correct?

4 MS. KOCH: That is correct.

5 SENATOR JOHNSON: So Turner does  
6 the bidding work -- oh, and at the time, Harbor  
7 Ferry, Bill Welch, was he employed by GIPEC to do  
8 the ferry services?

9 MS. KOCH: Harbor Ferry is a  
10 subcontractor and they're employed by Turner  
11 Construction.

12 SENATOR JOHNSON: Okay. Thank  
13 you.

14 And they would be the ones that  
15 after you purchase it, rehab it, get it into the  
16 water, Harbor Ferry would do, on Turner's behalf  
17 would pilot the --

18 MS. KOCH: That would be the

19 expectation. They also have a term of service. But  
20 they were our current -- our ferry operator at that  
21 time.

22 MR. MEYERS: Just as a point of  
23 clarification, 'cause you mentioned a long list of  
24 things.

25 It was not necessarily the case

1

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2 that they would be rehabbing the vessel which was  
3 on the list of things that you laid out.

4 SENATOR JOHNSON: Oh, right,  
5 repair and because the RFP says, repair/upgrade the  
6 purchase of a vessel, to ready it for service as a  
7 U.S. Coast Guard certified vessel for GIPEC's  
8 needs.

9 MR. MEYERS: Right. And that  
10 was not necessarily the case that that was going to  
11 be Harbor Ferry Services that was going to do that  
12 --

13 SENATOR JOHNSON: Oh, no, no. I  
14 understand. That was going to be the second -- oh,  
15 I'm sorry. That was going to be the second phase of  
16 another bid.

17 So JMS wins the Turner bid.

18 Did you have any direct contact

19 with anybody at JMS?

20 MS. KOCH: I did not at the  
21 time that we procured their services, but I  
22 participated in meetings with them when they made  
23 recommendations having surveyed the market.

24 SENATOR JOHNSON: Who was on  
25 the GIPEC/JMS team? Who was it from JMS on the

1

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2 team?

3

MS. KOCH: Jon, can you

4 answer?

5

MR. MEYERS: From JMS?

6

SENATOR JOHNSON: Yes.

7

MR. MEYERS: We met mostly with,

8 yes, Jack, who's last name escapes me.

9

MS. KOCH: Englehoof (phonetic).

10

MR. MEYERS: And Blake whose last

11 name also escapes me. Black Powell, I believe and

12 Jack --

13

MS. KOCH: Ringlehoof.

14

MR. MEYERS: That sounds right.

15

SENATOR JOHNSON: Maybe T. Blake

16 Powell.

17

MR. MEYERS: Yes.

18

MS. KOCH: And Jack Ringleberg,

19 Ringelhoof. Something in that context.

20 SENATOR JOHNSON: Ringleberg.

21 MS. KOCH: Thank you. Pretty

22 close.

23 SENATOR JOHNSON: And what

24 service or what did -- you may have said this in

25 your prepared remarks and I just don't have it in

1

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2 front of me. It makes it easier and I'm sorry to  
3 make you repeat it.

4 What service did JMS provide  
5 Turner in turn for GIPEC?

6 MS. KOCH: Jon, can you answer  
7 that because you worked with him directly.

8 MR. MEYERS: Sure.

9 They went out along with  
10 representatives of Turner and representatives of  
11 Harbor Ferry Services and looked at essentially  
12 every available boat.

13 Well, I should start by saying,  
14 they spent time with us to understand our needs.  
15 And then given that, they went out and looked at  
16 the market for used vessels, as I said, all around  
17 the country.

18 As Leslie said in her prepared

19 remarks, we looked at a number of vessels and they  
20 assessed those vessels sort of on their paper  
21 suitability and then on a whole number of criteria  
22 in terms of suitability and budget and really did  
23 an assessment of the market for us initially.

24 SENATOR JOHNSON: And did you  
25 participate in those meetings, Mr. Meyers, because

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2 you were in charge of the capital projects?

3 MR. MEYERS: I did, yes.

4 SENATOR JOHNSON: And they  
5 prepared, and I'll hold it up, because I'm sure you  
6 probably remember seeing this (indicating.) They  
7 prepared, it's a photocopy. It's not as pretty but  
8 they prepared this market survey; is that correct?

9 MR. MEYERS: Yes.

10 SENATOR JOHNSON: And I'm just  
11 trying to remember. I think that Mr. Welch may  
12 have -- did Mr. Welch assist Harbor Ferry or are  
13 you aware they assisted in the process of  
14 identifying some of the boats?

15 MR. MEYERS: Yes, they did. Yes.

16 SENATOR JOHNSON: Did you ask or  
17 who asked Bill Welch to assist in this process?

18 MR. MEYERS: Working with Turner

19 and Harbor Ferry Services, that relationship  
20 actually predated my tenure on the Island. Bill's  
21 involved in that project. But we were certainly  
22 very much aware that he was doing that. And we  
23 wanted every available set of eyes and expertise on  
24 all of these boats.

25 SENATOR JOHNSON: Sure. Big

1

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2 group.

3

So you have Harbor Ferry, Turner,

4

GIPEC, JMS.

5

Did any members of your board play

6

a direct role in this purchase?

7

MS. KOCH: We updated members

8

of our board during this process but they did not

9

participate in meetings with staff and that's

10

customary --

11

SENATOR JOHNSON: Nobody was

12

eyes on the ground looking at the --

13

MS. KOCH: No. Our customary

14

process is that we as staff are responsible for

15

those kinds of projects and that we keep the board

16

updated through a very active committee process.

17

SENATOR JOHNSON: Okay. Let me

18

ask on a governance question if I can.



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2 there are two committees of the board, the planning  
3 committee and the operations committee. And those  
4 meet. And there is also communications by  
5 individual board members, particularly the chairs  
6 of those committees who remain apprised of  
7 activities at GIPEC.

8 SENATOR JOHNSON: If we asked  
9 this, I apologize. Did you deliver to use copies  
10 of the bylaws of --

11 MS. KOCH: I don't believe that  
12 request was made.

13 SENATOR JOHNSON: I'm going to  
14 make it now. I mean could I get a copy of the  
15 bylaws for GIPEC, --

16 MS. KOCH: Sure.

17 SENATOR JOHNSON: -- the  
18 corporation documents?

19 Thank you.

20 So other than JMS, Turner, GIPEC  
21 and Harbor Ferry, that's the team that went out and  
22 purchased it.

23 Now, at what time did they notify  
24 or inform you about the auction of the Wood's Hole,  
25 the Woods Hole Authority and the Islander auction?

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2

MR. MEYERS: It was at some point

3

in May of 2007.

4

SENATOR JOHNSON: And what was

5

the process in terms of -- let me strike that.

6

You learned about the auction and

7

then what was the next step? Who went out and took

8

a look at the ferry? How did you get involved in

9

getting the documents? What was the process from

10

that point?

11

MS. KOCH: But before that I

12

just want to make clear that in that process we

13

were looking at a number of vessels. And so in that

14

discussion -- and obviously these were discussions

15

were there were no minutes taken.

16

But to provide you some

17

information about that power point. There was a

18

very extensive discussion about the pros and cons

19 of those vessels and the expectation that each of  
20 the vessels would require some form of work to them  
21 with some understanding of, you know, not exact  
22 costs but that that would be within our budget.  
23 Because JMS understood what our budget needs would  
24 be.

25 So when the Islander came up, and

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2 Jon picked up the thread there, it was in the  
3 context of a large discussion and the result of  
4 many months of work by JMS who had really gotten a  
5 very good picture of the market. And I believe the  
6 materials we included for you included even some of  
7 the advertising that was placed which is very  
8 standard practice in the industry to make the  
9 market aware that there was a potential purchase of  
10 a ferry service.

11 SENATOR JOHNSON: Was the meeting  
12 you're talking about several meetings or was it one  
13 session where JMS said, here's what we got, here's  
14 the menu, let's talk about what we want to look  
15 for?

16 MS. KOCH: There was a variety of  
17 interactions that Jon and other staff participated  
18 in and then there was the meeting that I'm

19 referring to is a very extensive discussion. And  
20 the powerpoint was, in effect, the discussion guide  
21 for that meeting.

22 SENATOR JOHNSON: Was that a  
23 formal committee meeting of one of the --

24 MS. KOCH: It was a staff matter.

25 SENATOR JOHNSON: It was a staff

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2 --

3 MS. KOCH: Staff matter, yes.

4 SENATOR JOHNSON: When the  
5 appropriation was paid for the purchase of the  
6 ferry, were you given authority to purchase the  
7 boat, purchase a ferry in the amount, in a  
8 particular amount without further board approval or  
9 --

10 MS. KOCH: It's actually not  
11 an appropriation but an allocation of funds. So the  
12 board, when they approve the GIPEC capital budget  
13 as well as the GIPEC operations budget, they then  
14 approve allocations of funds.

15 And then after that approval, we  
16 report to the board operations committee how funds  
17 are being used. But depending on the nature of the  
18 use of those funds, if it doesn't involve a new

19 contract, the board does not necessarily have to be  
20 involved further. If it does involve a contract for  
21 services, all contracts that GIPEC enters into are  
22 approved by the board of directors.

23                                 SENATOR JOHNSON:     So you take a  
24 look. Basically it comes down to two choices: The  
25 Plattsburgh and the Islander; am I correct, Mr.

1

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2 Meyers in saying that's where it got widdled down  
3 to as in determining which was maybe the best boat  
4 for GIPEC?

5 MR. MEYERS: I'm not sure that I  
6 would -- that that characterization fits my  
7 recollection. I think if you look at the  
8 powerpoint, there were a number of vessels, and I  
9 think it's fair to say each of them had pluses and  
10 minuses.

11 I think as Bill has described  
12 previously, the Plattsburgh was in many ways not  
13 suitable for us. The only passenger area was below  
14 deck and we are primarily focused moving, you know,  
15 lots of people back and forth to the Island.

16 MS. KOCH: And my recollection  
17 is that there were active discussion about almost  
18 all the vessels that are referenced in the



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2 budget. Because as the Islander indicates or the  
3 powerpoint indicates, the Islander, excuse me, the  
4 estimated cost was 300 -- this is according to just  
5 the document, just what was presented to you. The  
6 estimated cost was \$300,000.

7 Was the Islander up for sale at  
8 the time that you were having this meeting, this  
9 review?

10 MR. MEYERS: I don't recall the  
11 exact date of that powerpoint presentation so I  
12 don't recall exactly.

13 SENATOR JOHNSON: Would it have  
14 been before or would it have been after May 2, 2007  
15 which was the day, the date that the Invitation for  
16 Bids for the purchase and sale of the MV, I guess  
17 that's the Martha's Vineyard Islander?

18 MS. KOCH: I think the best

19 way we can answer that question is that clearly  
20 because it was presented to us as an option by the  
21 consultant who we had retained, that we knew that  
22 it would be available for sale. But I don't want  
23 us to mischaracterize, you know, which date that  
24 meeting took place without remembering it, whether  
25 the actual -- formal bid.

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2

Clearly in the industry there was

3

-- it was known that the Martha's Vineyard was

4

procuring a new vessel and was intending to put

5

their vessel up for sale. But I don't know the

6

date. I don't recall the date of that meeting.

7

SENATOR JOHNSON: Okay. And did

8

you -- that's fine. But when you were in the

9

process of knowing that the Islander was for sale,

10

were you aware that it was via a bid, not a private

11

sale, but an Invitation for Bid?

12

MR. MEYERS: We became aware of

13

that some time after the May, early May date that

14

you indicated and we would have become aware of

15

that through, you know, the publication of the bid.

16

SENATOR JOHNSON: But it's safe

17

to say that were you aware, and I guess maybe at

18

the time, were you aware of a shortened time frame

19 to take action in order to purchase, if you wanted  
20 to, purchase the Islander?

21 MS. KOCH: We were aware at the  
22 time that we became aware of the Islander being  
23 available that there was a very -- a relatively  
24 abbreviated time. I can't characterize the exact  
25 number of days. I think you've heard previous

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2 testimony about that. But, again, without a  
3 calendar in front of us, sort of what happened on  
4 which day, but that it was a short period of time  
5 which was, as we were told by JMS, not atypical of  
6 the state of the market, that particularly public  
7 authorities were putting vessels on -- even back  
8 then on eBay for sale. And in public bidding  
9 processes it was fairly typical for vessels to  
10 become available for an abbreviated period of time.

11 SENATOR JOHNSON: And JMS's  
12 responsibility was to help you purchase this  
13 vehicle, correct? They would do it as a naval  
14 architect? And were they supposed to advise and  
15 advise you on the purchase process of this vehicle?

16 MR. MEYERS: I'm not sure that I  
17 would say they were to help us purchase. I think  
18 they were to assess the market and make

19 recommendations about the suitability of whatever  
20 they found in the marketplace. But the helping  
21 purchase means something different. I mean they  
22 were certainly not providing financing or anything  
23 like that.

24 SENATOR JOHNSON: Just for the,  
25 in looking at the Turner bid for the naval

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2 architect, the naval architect would analyze  
3 different vehicle conditions, review applicability  
4 of the vessel for our, our being Turner's  
5 operation, conduct marine survey of the vessel,  
6 develop the project budget cost for the required  
7 work to purchase and put into service the U.S. C.G.  
8 certificated vessel and make a recommendation for a  
9 vessel that best fits our, Turner's, operational  
10 requirements and budget.

11                   So did Turner -- did JMS give you  
12 the recommendation to purchase the Islander or to  
13 submit a bid to purchase the Islander?

14                   MR. MEYERS: JMS was clear that  
15 they thought that the Islander was a suitable  
16 vessel for us, yes. And I think given the various  
17 budgetary and other constraints at the time, I  
18 think they were clear that they believed it to be



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2 Islander ferry.

3 So we met with JMS, GIPEC, Turner.

4 We talked to Ronay Menschel, --

5 Mr. Menschel is a member of the

6 board of directors of GIPEC, correct?

7 MS. KOCH: Ronay Menschel is

8 a woman. And she is --

9 SENATOR JOHNSON: Oh, I'm

10 sorry.

11 MS. KOCH: That's okay. She's the

12 chair of the operations committee.

13 SENATOR JOHNSON: Okay.

14 -- ESD legal staff and we all

15 agreed that the Islander was the appropriate ferry.

16 And then it goes from there.

17 And let me get to it.

18 So at that time were you aware

19 that the Islander ferry, pursuant to an Invitation  
20 to Bid, was up for bid, a minimum bid of \$750,000?

21 MR. MEYERS: Yes.

22 SENATOR JOHNSON: And were you  
23 involved, Mr. Meyers, or Ms. Koch or both, in the  
24 bid process, the submission of the bid process?

25

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MR. MEYERS: Yes. I spent, over

3

that period of weeks time with Harbor Ferry, with

4

JMS. I visited the Islander, spent probably four

5

hours there walking through the boat and spoke with

6

our consultants as well as with Leslie and other

7

members of the staff and our board and ESDC and

8

City staff during that period of time, yes.

9

SENATOR JOHNSON: So you did

10

attend one walk-through?

11

MR. MEYERS: I did, yes.

12

SENATOR JOHNSON: Do you recall

13

when that walk-through occurred? Would that have

14

occurred --

15

MR. MEYERS: It was just before

16

4th of July, probably late June, but I don't

17

remember the exact date.

18

SENATOR JOHNSON: Late June.



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2 the same as what Bill had described to you earlier  
3 which is that there was an operator who might be  
4 interested and salvage operations that might be  
5 interested.

6 SENATOR JOHNSON: During the  
7 process of the bid and review of the Islander, did  
8 you request any further inspection by JMS for a,  
9 what's it called again, thank you, the audio  
10 gauging of the boat?

11 MR. MEYERS: Yes.

12 We made clear to all parties  
13 involved, including Turner, Harbor Ferry and JMS,  
14 that we were interested in having as much  
15 information as we could get. And so certainly the  
16 decision to have further audio gauging done was one  
17 that we supported.

18 SENATOR JOHNSON: Did you have a

19 chance to review the audio gauging report by Marine  
20 Safety consultants?

21 MR. MEYERS: Yes, I did.

22 SENATOR JOHNSON: Did you review  
23 it prior to submitting the bid?

24 MR. MEYERS: Yes.

25 SENATOR JOHNSON: By the way,

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2 who submitted the bid, was it Ms. Koch, was it you  
3 Mr. Meyers? Who actually was the signator on the  
4 submission of the bid?

5 MR. MEYERS: The signator was  
6 ESDC. I don't know which official at ESDC, but it  
7 was ESDC.

8 SENATOR JOHNSON: But it was not  
9 you, Ms. Koch or --

10 MS. KOCH: All expenditures  
11 must be reviewed by ESD officials and all checks  
12 are written by ESDC.

13 SENATOR JOHNSON: But you did  
14 review the Marine Safety consultants beforehand?

15 MR. MEYERS: Yes.

16 SENATOR JOHNSON: And based on  
17 your review, what conclusion did you make about the  
18 boat?

19 MR. MEYERS: I think based on the  
20 -- all of the information that we had, the various  
21 reports, the various consultants, my own visual  
22 inspection, it was clear that the vessel needed  
23 work. It was also clear that the vessel was, in  
24 terms of its basic size and configuration, suitable  
25 for our route. And the -- it was clear that there

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2 was work that needed to be done and that there was  
3 a reasonable expectation that that would work could  
4 be done within the budget that we had.

5 SENATOR JOHNSON: Ms. Koch, did  
6 you have a chance to review the Marine Safety  
7 consultants report?

8 MS. KOCH: I don't recall if I  
9 reviewed the document line-by-line, but I did have  
10 extension discussions with Mr. Meyers both in our  
11 office and spoke to him by telephone when he was  
12 conducting his visual inspection of the vessel.

13 SENATOR JOHNSON: July 3, 2007,  
14 Castlerock Risk Services report.

15 Mr. Meyers, did you have an  
16 opportunity to review that report before the  
17 submission of the bid on --

18 MR. MEYERS: Yes, I did.



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2 information as possible and the gauging report was  
3 very important because we knew that the steel and,  
4 as that report stated, they estimated a relatively,  
5 a little wastage of the steel, but that was going  
6 to be a critical factor in any future budget from  
7 rehabilitation.

8                   So some of the other factors like  
9 passenger seating and other things, we knew would  
10 be part of the rehabilitation so that those were  
11 not surprises.

12                   SENATOR JOHNSON:     Well, it seems  
13 to me that the observations in reviewing the  
14 gauging report by Marine Safety consultants, which,  
15 you know, in fairness has a lot of descriptions and  
16 it's certainly extensive, discusses a lot of  
17 terminology both crop and renew.

18                   Do you know what crop and renew

19 means?

20 MR. MEYERS: Yes. It refers to  
21 taking out pieces of the steel and replacing them  
22 with renewed steel.

23 SENATOR JOHNSON: So it seems  
24 throughout the entire report, I mean I'm  
25 characterizing it, there's a lot of crop or new or

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2 throughout the entire, throughout the entire  
3 document.

4 But you don't have it in front of  
5 you, but --

6 MR. MEYERS: You are correct that  
7 that is in the report and that was a part of  
8 virtually every vessel that we looked at over the  
9 period of months that we were looking at used  
10 vessels.

11 SENATOR JOHNSON: What's  
12 interesting is, is that -- were you present when  
13 Marine Safety did the audio gauging?

14 MR. MEYERS: I do not believe that  
15 I was, no. I don't believe they were there on the  
16 same day I was.

17 SENATOR JOHNSON: Mr. Welch  
18 indicated and what appears to be is, this is the

19 same, this company does the audio gauging for  
20 Martha's vineyard, the Martha's Vineyard Authority.

21                               Were you aware at the time that  
22 this company, Marine Safety Consultants, does audio  
23 gauging for the seller of the Islander?

24                               MR. MEYERS: I was aware when I  
25 received the report and had read the previous

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2 report that Marine Services had done which was  
3 included in the contract of sale. I was aware of  
4 that and had conversations with the Martha's  
5 Vineyard Authority as well as with JMS and Harbor  
6 Ferry about that sort of professional, you know,  
7 this is an audio survey.

8                                 SENATOR JOHNSON:         Did it raise  
9 -- as somebody who is involved in capital projects  
10 and real estate, did it give you pause that you had  
11 one report from the seller of a 50-year old ferry  
12 who hired your own inspector and gave you this  
13 report, which by the way, no -- I mean in no real  
14 -- we have an interpretation and no real  
15 conclusion.

16                                 And then Castlerock, which was  
17 hired by your, not your, sorry, but Turner's  
18 subcontractor, the company that drives the ferry

19 boats, Castlerock spent a small period of time and  
20 had substantial findings, observations, surveyor's  
21 notes and conclusions.

22                                   How did you rectify or remedy the  
23 situation between two conflicting reports?

24                                   MR. MEYERS: I think I would refer  
25 back briefly to what Bill Welch described as the

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2 process at the time. We had lots of data points and  
3 they were not necessarily consistent with one  
4 another. And I think we took the fulsomeness of the  
5 record and considered it in light of what we  
6 understood about the market, what we understood  
7 about the need for rehabilitation of this vessel  
8 and any other vessel we had looked at over the  
9 course of months we were looking.

10 SENATOR JOHNSON: You indicated  
11 that prior to submitting the bid -- correct me if  
12 I'm wrong, did you and Ms. Koch, Mr. Meyers, and  
13 members of the operations committee meet to discuss  
14 the submission of the bid subsequent to Mr. Meyers  
15 reviewing the report?

16 MR. MEYERS: Yes, we did.

17 SENATOR JOHNSON: Who was  
18 involved in those conversations?

19 MR. MEYERS: I don't recall. We  
20 don't keep minutes of those meetings so I don't  
21 recall who was present for the meeting.

22 SENATOR JOHNSON: It was though  
23 an in-person meeting when you discussed --

24 MR. MEYERS: Honestly, given  
25 that it was just before July 1st, I don't recall

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2 whether it was conference call on a powerpoint  
3 presentation that was prepared, which we gave to  
4 you, but I don't recall whether that was done in  
5 person or by conference call.

6 SENATOR JOHNSON: Can you hold  
7 full board minutes, sorry, full board meetings by  
8 conference call or are you required in person?

9 MS. KOCH: This was -- as we  
10 stated earlier, this was a conversation with  
11 members of the operations committee and so there  
12 are not public meeting rules and so we are able to  
13 use conference calling, et cetera.

14 For full board meetings there is a  
15 quorum required and participation via video  
16 conference. I believe those are ESD and public  
17 meeting laws.

18 SENATOR JOHNSON: And the

19 submitting a bid, which requires signatures,  
20 essentially an Invitation for Bid is a contract,  
21 did that require board approval by GIPEC before you  
22 submitted the bid?

23 MS. KOCH: We had extensive  
24 conversations with the ESDC general counsel about  
25 the unusual nature of circumstances whether that

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2 required a contract. And the determination was made  
3 that we could proceed to place a bid prior to a  
4 board meeting for ratification. And as the  
5 materials indicated, that our time line of the  
6 board subsequently met and unanimously ratified  
7 that. But that was an exception to our process. But  
8 we had extensive conversations with counsel as well  
9 as with City and State officials and members of the  
10 board about the nature of that process.

11 SENATOR JOHNSON: Which counsel  
12 did you have conversations with? Would that be  
13 Anita Laremont who is the general counsel?

14 MS. KOCH: Anita Laremont,  
15 general counsel and Maria Cassidy.

16 SENATOR JOHNSON: Are they still  
17 employed by ESDC?

18 MS. KOCH: Yes, they are.

19 SENATOR JOHNSON: They're both

20 here?

21 MS. KOCH: Yes, they are.

22 SENATOR JOHNSON: And knowing

23 that there was a timeframe in May and June, why

24 didn't GIPEC set a board meeting date in July to

25 discuss the submission of the bid for the ferry

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2 boat?

3

MS. KOCH: Again, it's hard for

4

us to reconstruct exact dates. But it was

5

important, as Mr. Meyers has stated, that we obtain

6

as much information as possible. So there was the

7

moment when we became aware that the Islander might

8

be available, when the information was published,

9

but then we sought to obtain as much information as

10

possible.

11

So that involved visits with JMS,

12

Harbor Ferry, actually took the boat out, went up

13

to visit on two occasions. So we obviously were not

14

in a position to recommend that purchase until we

15

had done that assessment, which we did as quickly

16

as we could and obtained as many points of

17

information as Mr. Meyers had described.

18

And, again, I don't have a



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2 obtained additional expertise. And at that time we  
3 then felt comfortable making a recommendation to  
4 City and State officials and the operations  
5 committee representing our board, that we proceed  
6 to place a bid.

7                   SENATOR JOHNSON:     In hindsight  
8 though, as the process is moving forward, there is  
9 -- you're doing all this work. You are doing what  
10 you believe the diligence necessary and relying on  
11 people that you are relying upon to provide you  
12 with the diligence. There is still a significant  
13 period of time to notify board members --

14                   MS. KOCH:        I can't characterize  
15 that without a calendar in front of me as to how  
16 much time elapsed in doing all of that work and  
17 assembling all of that work. I'd have to do more  
18 work to try and go back and reconstruct multiple

19 calendars to sort of construct those three weeks.

20                                   SENATOR JOHNSON:     Well, it seems  
21 to be, and that's fine, but from my vantage point,  
22 especially when there are June dates of  
23 inspections, trips up, I guess to New Bedford or  
24 somewhere to look at boats, a couple of others, the  
25 July 4th weekend fell on a Wednesday which is

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2 always, you know, for all of us working kind of  
3 tough. You don't know how to take the weekend.  
4 There is still a sufficient period of time to  
5 establish a board date to make a presentation, from  
6 my vantage point.

7 I understand you can't -- you  
8 don't have the calendars, but from my point of view  
9 it seems that as this was all going on there should  
10 have been a board meeting to make a presentation  
11 about here we are.

12 MS. KOCH: I can't address  
13 that. Again, we were in constant conversation with  
14 City and State officials and members of our board  
15 and I can't address whether we telephoned board  
16 members to see who was available. I actually just  
17 don't recall. But we, again, need to reconstruct  
18 day-by-day and I don't know if we even still have

19 that information in terms of our own calendars let  
20 alone the calendars of our board members.

21 SENATOR JOHNSON: Ms. Laremont  
22 or Ms. Cassidy, and I don't want to put you on the  
23 spot, is it possible I can ask you a couple of  
24 questions quickly? Would you mind coming up?

25 I'm sorry. I'm just trying to get

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2 the timeframe.

3

(A N I T A L A R E M O N T,

4 ESQ., having been called as a witness, was examined

5 and testified as follows:)

6

SENATOR JOHNSON: Is it Ms.

7

Laremont?

8

MS. LAREMONT: Laremont.

9

SENATOR JOHNSON: And you are

10 general counsel to --

11

MS. LAREMONT: Empire State

12 Development Corporation.

13

SENATOR JOHNSON: How long have

14 you been at ESDC for?

15

MS. LAREMONT: For many years.

16 Since 1983.

17

SENATOR JOHNSON: Seen a lot I

18 guess, right?

19 MS. LAREMONT: I've seen it all.

20 SENATOR JOHNSON: Tremendous

21 experience.

22 Just help me clarify, because

23 there was indications that or maybe testimony, and

24 if it wasn't said, but I think Ms. Koch said that a

25 contract, before entering into a contract, the

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2 contract has to be approved by the GIPEC board.

3 MS. LAREMONT: Uh-huh, yes, that's  
4 correct.

5 SENATOR JOHNSON: Okay. So here  
6 we have a bid, you know, an IFB, purchase of sale  
7 for the contract.

8 Does submission of a bid require  
9 board approval as well?

10 MS. LAREMONT: Well, that would  
11 depend on the terms of that particular bid, bid  
12 offering.

13 SENATOR JOHNSON: Okay.

14 MS. LAREMONT: If the bid offering  
15 was binding in the sense that if it was understood  
16 that if the bid were accepted that you now had  
17 bound yourself to purchase it, then, yes, that  
18 would require board approval.

19                                   If, on the other hand, you still  
20 had the ability to determine after making a bid  
21 that it wasn't going to be -- that you decided at  
22 the end not to buy it, then it wouldn't require  
23 board approval.

24                                   SENATOR JOHNSON:       Was this a  
25 binding bid?

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MS. LAREMONT: I don't -- I

3

don't -- I honestly don't recall. I don't recall.

4

SENATOR JOHNSON: But at the

5

time, you know, based upon your testimony, if it

6

were a binding bid, it would require board

7

approval, nonbinding bid, no approval necessary and

8

Ms. Koch as president could go forward, correct?

9

MS. LAREMONT: Could go forward

10

with making the bid.

11

SENATOR JOHNSON: Making the

12

bid.

13

MS. LAREMONT: Right.

14

SENATOR JOHNSON: Making the

15

bid, making the bid.

16

And it also requires -- you know,

17

I'm reviewing the Invitation for Bid as we speak.

18

It required an inclusion of a check in the amount



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2 have written the check, but I don't know who that  
3 was.

4 SENATOR JOHNSON: Okay. But how  
5 would it work? Would it be that, you know, if I  
6 wanted -- if I worked for GIPEC and I wanted to get  
7 a check on a bid, do I just call up you and or --

8 MS. LAREMONT: No, there's some  
9 paperwork that one has to fill out that requests  
10 payments and then it goes through ESDC's Finance  
11 Department.

12 SENATOR JOHNSON: And would ESDC  
13 have a copy of that --

14 MS. LAREMONT: Oh, that would  
15 exist at ESDC.

16 SENATOR JOHNSON: Could I get a  
17 -- would you mind submitting that or have you  
18 submitted it? I mean if you have, then I won't.

19 MS. KOCH: It's the standard  
20 process for expenditures at ESDC in terms of levels  
21 of approval. So amounts under \$50,000 require the  
22 approval of the chief financial officer, who's  
23 Frances Walton, and amounts exceeding that require  
24 the approval of the CEO of ESDC who was Avi Schick  
25 at that time.

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2

And so I believe we provided to

3

the Committee previously a copy of the forms that

4

are customarily used at ESDC that related to the

5

\$50,000.

6

SENATOR JOHNSON: Ms. Koch, was

7

this a binding or nonbinding bid?

8

MS. KOCH: I don't -- I'd have

9

to go back and look at the bid. But, again, we

10

consulted with Ms. Laremont and her staff to make

11

sure that they were satisfied with the procedures

12

that were using.

13

MS. LAREMONT: Well, I just want

14

to clarify about this from a legal perspective.

15

SENATOR JOHNSON: Sure.

16

MS. LAREMONT: Because it is true

17

that they consulted with us. But as attorneys for

18

the Corporation, what we indicated was that we

19 believe that the board needed to approve the  
20 purchase of the boat; that under the circumstances  
21 that we were faced with where they posited to us  
22 that they could not get board approval prior to  
23 acquiring the boat, which -- and there have been  
24 other circumstances over time, not maybe with  
25 GIPEC, but with other corporate entities of GIPEC,

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2 I mean of ESDC, other subs or ESDC itself, that if  
3 they were to acquire the boat based upon the fact  
4 that they had the acknowledgement of the board in  
5 the budget of the \$3.2 million being appropriate to  
6 buy the boat, that if they were to go forward and  
7 buy the boat, that they would need, as soon as  
8 practicable, to get ratification; that we would  
9 never be able to give an opinion that it was  
10 legally authorized without the board's approval.

11 The board, in fact, then did  
12 subsequently ratify the purchase. So at this point  
13 from the point of ratification on, it was -- it was  
14 a completely appropriate purchase.

15 SENATOR JOHNSON: What's as soon  
16 as practicable?

17 MS. LAREMONT: As soon as we could  
18 get the board together, as soon as we could get a

19 board meeting convened which -- which my  
20 recollection, and I certainly am not the person  
21 that calls up to see about scheduling a meeting,  
22 was that given that it was around the 4th of July,  
23 it was very difficult to get a quorum.

24                                   It is generally, for public  
25 authorities like ours, difficult to get a quorum

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2 because of the requirement that a majority of the  
3 board members be present physically or be a video  
4 conferencing. Because the video conferencing, which  
5 was an additional way to be present, which was put  
6 into law several years ago, doesn't really help  
7 because most people don't have access to video  
8 conference that hooks up with us.

9 SENATOR JOHNSON: You can't do a  
10 board meeting by --

11 MS. LAREMONT: We absolutely --  
12 by New York State law it's not permitted.

13 SENATOR JOHNSON: Okay. So does  
14 ESDC, did ESDC in October 17, 2007, have video  
15 conferencing --

16 MS. LAREMONT: We have video  
17 conferencing capabilities.

18 SENATOR JOHNSON: Did you have

19 it in --

20 MS. LAREMONT: Yes, we did.

21 SENATOR JOHNSON: -- 2007?

22 In your experience as general

23 counsel with ESDC, would you then say that a board

24 meeting on October 17, 2007 to ratify a bid, a July

25 bid and an August closing on the half a million

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2 dollar purchase of the ferry was as soon as  
3 practicable for ratifying the sale?

4 MS. LAREMONT: I probably can't  
5 really answer it because I'd have to know whether  
6 or not we could have gotten a quorum of the board  
7 together prior to that and I really can't answer  
8 that.

9 SENATOR JOHNSON: How would we  
10 know that? Ms. Koch, how would we know if a quorum  
11 would have been available between August or in  
12 September or in October?

13 MS. KOCH: Again, but going  
14 back now, you know, 18 months in time and I don't  
15 want to mischaracterize anything, I believe --

16 SENATOR JOHNSON: Nor do I want  
17 you.

18 MS. KOCH: Yeah. And I -- our

19 understanding per our instruction from counsel was  
20 that we obviously needed the board to ratify it as  
21 quickly as possible and worked to do that. And the  
22 board meeting took place in October.

23 SENATOR JOHNSON: Thank you, Ms.  
24 Laremont for coming.

25 So Mr. Meyers and Ms. Koch, so

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2 when you were going back in July and the  
3 conversations between the committees, I'm sorry,  
4 the operational committee for the submission of the  
5 bid, did anybody discuss, or the competing  
6 inspections so-to-speak reports, was there a  
7 discussion about, you know, the fact that it was  
8 kind of conflict with one another?

9 MR. MEYERS: I don't have notes of  
10 specific conversations. But we were certainly clear  
11 with our operations committee and other members of  
12 the board and State and City staff that we knew  
13 that the vessel would need work and that short of a  
14 very extensive inspection it would impossible to  
15 know exactly what work would be required on the  
16 vessel.

17 SENATOR JOHNSON: But you did  
18 review -- Ms. Koch, did you review the report, I'm

19 sorry, the Castlerock report? I don't know if I  
20 asked you this or not already.

21 MS. KOCH: You did ask that.

22 SENATOR JOHNSON: I'm sorry.

23 What was your answer again?

24 MS. KOCH: My answer was that I --

25 I can't speak to whether I read it line by line,

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2 but that I --

3 SENATOR JOHNSON: That you had a

4 --

5 MS. KOCH: -- reviewed its findings

6 with my Mr. Meyers.

7 SENATOR JOHNSON: With Mr.

8 Meyers. But you did review this report and noted,

9 you know, and saw that Mr. Crivici and/or his

10 company in the report looked at no, you know, no

11 documents, no logs, no history, had a very limited

12 period of time on board the boat, really

13 independent, took time out of his 4th of July

14 schedule to go up there. And his conclusions did

15 put you, you know, you did see that there were

16 numerous concerns that warranted additional due

17 diligence with a cost benefit analysis.

18 MR. MEYERS: We summarized for



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2 opinion about what would need to be done with the  
3 vessel.

4 And we had gone into the project  
5 with the expectation that we would be spending  
6 money to rehabilitate the vessel.

7 SENATOR JOHNSON: Did you speak  
8 to Turner at all directly about either one of the  
9 reports?

10 MR. MEYERS: Yes.

11 SENATOR JOHNSON: And who did  
12 you speak to at Turner?

13 MR. MEYERS: I don't recall  
14 exactly, but I speak to Turner on a daily basis.

15 SENATOR JOHNSON: I assume, you  
16 know, at that time it would have been either Peter  
17 Monico, Matthew McDonough or William Douglass,  
18 correct?

19 MR. MEYERS: I -- I really don't

20 recall.

21 SENATOR JOHNSON: Well, was

22 there anybody else at the time you would have

23 spoken to either than one of those three gentlemen?

24 MR. MEYERS: I doubt it, but --

25 SENATOR JOHNSON: But do you

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2 recall the conversation with Turner about these  
3 reports, either the Marine or the Castlerock --

4 MR. MEYERS: I recall nearly daily  
5 conversations with, again, a variety of  
6 consultants, including Turner during that period of  
7 time.

8 SENATOR JOHNSON: Did you ever  
9 speak to Mr. Kelly, GIPEC's counsel, concerning --

10 MR. MEYERS: Yes, yes.

11 SENATOR JOHNSON: And did you  
12 speak to Mr. Kelly about any of the reports --

13 MR. MEYERS: Yes, yes.

14 SENATOR JOHNSON: -- concerning --

15 And what was the sum and substance  
16 of those conversations?

17 MR. MEYERS: The substance was the  
18 same as the ones I previously described which is to

19 say it was clear that there was work that needed to  
20 be done on the vessel and there was a variety of  
21 opinions about how much work and the nature of the  
22 work that needed to be done.

23 SENATOR JOHNSON: And did Mr.  
24 Kelly give any conclusion as to going forward with  
25 the purchase?

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MR. MEYERS: I don't recall a

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specific conclusion but he certainly was very much

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aware of what we were doing, yes.

5

SENATOR JOHNSON: The Castlerock

6

report requests a cost benefit -- an additional due

7

diligence and a, with a cost benefit analysis.

8

Did anybody at GIPEC perform that

9

cost benefit analysis?

10

MS. KOCH: I believe, and

11

again, to characterize Castlerock, which was hired

12

by Harbor Ferry, and I believe, correct me if I'm

13

wrong, Mr. Meyers, but was hired by Harbor Ferry

14

for their purposes of their own insurance

15

assessment. Because it was expected at the time

16

that Harbor Ferry, as our contractor, subcontractor

17

would be operating any future vessel, although we

18

haven't determined at what capacity.



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2 we did not have a direct conversation with  
3 Castlerock because they were -- we did not hire  
4 them. And I believe you heard previous testimony  
5 that they were, it sounded like, again, at Bill  
6 Welch's decision because he was hiring them. He  
7 deliberately hired them in isolation of the  
8 extensive other information that we had available  
9 for review at the time of the consideration of the  
10 bid.

11 SENATOR JOHNSON: Did you review  
12 the U.S. Coast Guard reports that are easily  
13 available on-line?

14 MR. MEYERS: I did not personally  
15 review those but I did have conversations with Bill  
16 and Harbor Ferry staff about their review of those  
17 documents, yes.

18 SENATOR JOHNSON: And what did

19 Bill indicate -- actually, strike that.

20 So did JMS review the Coast Guard

21 --

22 MR. MEYERS: I don't know.

23 SENATOR JOHNSON: Did you have

24 any conversations with the Turner review of the

25 Coast Guard?

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MR. MEYERS: I don't know.

3

SENATOR JOHNSON: Did you ask

4

Turner or JMS?

5

MS. KOCH: I think the best way to

6

characterize this process is that we had a

7

multidisciplinary review and we asked that each

8

participant interviewed brought different

9

expertise. And so there were a series of

10

conversations, many of the people were on the

11

Island, Turner and Harbor Ferry. So iterative

12

conversations and meetings took place that John

13

would apprise me off, and those would include all

14

of the data points available.

15

And so for example, you might have

16

a data point that was reviewed by one individual or

17

firm and that would be discussed more widely. But

18

there was an open conversation among all of the

19 participants we previously described about the  
20 available information and the assessment of the  
21 vessel.

22                                   SENATOR JOHNSON:     I'm trying to  
23 get a sense of what JMS was doing here.

24                                   In reviewing the Turner RFP on  
25 page, I would say page three, page three of five,

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2 JMS, when they won the bid, was required to develop  
3 estimates of probable costs for the three most  
4 compatible vessels, identify and review findings  
5 with GIPEC and Turner.

6

Did they do that?

7

MR. MEYERS: Yes. If you go

8 through the powerpoint that you have, there are  
9 estimates. We also provided you with a much more  
10 detailed matrix of, it's got to be 40 or 50  
11 different variables that they looked at across five  
12 or six different boats.

13

SENATOR JOHNSON: Right. And

14 among them, you know, boiling down, I think to  
15 five, they were looking at, among other things,  
16 costs to acquire the vessel, costs to relocate the  
17 vessel including storage, shipyard and dry dock  
18 costs, prepare an upgrade cost and vessel operating

19 cost.

20 To come up with those, JMS would  
21 have to do an in-depth investigation for each  
22 vessel to come up with that information, correct?

23 MR. MEYERS: Yes.

24 SENATOR JOHNSON: And so that  
25 would probably also include, since JMS is the naval

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2 architect, getting the Coast Guard information  
3 concerning this vessel, correct?

4 MR. MEYERS: I can't speak for  
5 what JMS did or did not do.

6 SENATOR JOHNSON: But your  
7 Harbor Ferry subcontractor, when you had a  
8 conversation, did he indicate to you that he did  
9 review the --

10 MR. MEYERS: Yes. And I think to  
11 Leslie's point, we were having roughly daily, at  
12 this point, telephone conversations with all of  
13 these consultants. So who did exactly what versus  
14 how it was discussed, it was -- all of this  
15 information was clear to everybody that was on  
16 those phone calls.

17 SENATOR JOHNSON: So in August  
18 -- in July you submit the bid and you win the bid.

19 And then in August of '07 you close the purchase;

20 is that correct?

21 MR. MEYERS: Yes.

22 SENATOR JOHNSON: Do you need a

23 moment? I'm sorry. I mean are you okay?

24 Great.

25 The contract was signed or the

1

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2 contract is dated as of July 17, 2007. The closing  
3 took place on August 22, 2007. I believe, Mr.  
4 Meyers, were you present at the closing?

5 MR. MEYERS: I was not, no.

6 SENATOR JOHNSON: Ms. Koch, were  
7 you present at the closing?

8 MS. KOCH: No.

9 SENATOR JOHNSON: Was Mr. Kelly  
10 present at the closing?

11 MR. MEYERS: I don't remember.

12 SENATOR JOHNSON: But I do have  
13 a copy of the contract here and I notice that I  
14 believe -- do you have a copy of it in front of  
15 you?

16 MR. MEYERS: I do not, no.

17 MS. WATSON: It's in the binder.

18 MR. MEYERS: It's in the binder?

19 SENATOR JOHNSON: In the

20 binder.

21 Yes. Can you show him, please?

22 MR. MEYERS: The sale documents.

23 Yes. Okay.

24 SENATOR JOHNSON: Mr. Kelly, do

25 you want to join them up at the table? Would that

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2 be easier for you? Sure, please sit, pull up a  
3 chair.

4 (P A U L K E L L Y, ESQ., called  
5 as a witness, was examined and testified as  
6 follows:)

7 MR. KELLY: Thank you.

8 My recollection is, and we should  
9 confirm this, our outside maritime counsel, Carter  
10 Ledyard, my recollection is that we did an escrow  
11 closing through them. So we mailed the check and  
12 they sent the documents to Carter Ledyard, the  
13 original bill of sale, cert of documentation. And  
14 they only turned it over to us when Carter Ledyard  
15 was confirmed that they had received the money.

16 SENATOR JOHNSON: So --

17 MR. KELLY: So no one went  
18 anywhere.

19

SENATOR JOHNSON: So Ms. Koch

20 signed the document that I'm assuming, if you have

21 it in front of you, that's your witness signature

22 because you were witnessing her signature. You did

23 the certification of the buyer. You sent it over to

24 Carter Ledyard and they had the money and then

25 everything got done. But no one went to Martha's

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2 Vineyard. No one went to a room. It was all done --

3 MR. KELLY: That's correct.

4 SENATOR JOHNSON: Oh, wait.

5 Pick it up. Yeah, I would hope so.

6 You give the money, you get the boat.

7 (Comment was made from the

8 audience.)

9 MR. WELCH: Just with respect to  
10 the physical condition.

11 SENATOR JOHNSON: Okay.

12 MS. KOCH: And again to clarify,  
13 all financial matters go through an ESDC approval  
14 process. So while I, on behalf of GIPEC, signed  
15 the contract, there was an additional parallel  
16 process in terms of procuring the funds --

17 SENATOR JOHNSON: Sure.

18 MS. KOCH: -- that went through

19 ESDC and appropriate ESDC officials signed off on  
20 that additional \$450,000.

21 SENATOR JOHNSON: Now, let me see  
22 if I understand.

23 We actually got a better deal or  
24 it seems like GIPEC got a better deal than the bid  
25 originally. It was offered at \$750,000 and we won

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189

2 the boat at a half a million dollars, correct?

3 MS. KOCH: It was a reserve price.

4 So reserve price generally means minimum price so

5 we placed a bid lowered than the reserve price.

6 SENATOR JOHNSON: Are you aware

7 if you were the only bidder on the boat?

8 MR. MEYERS: I'm not aware.

9 SENATOR JOHNSON: Ms. Koch, are

10 you aware?

11 MS. KOCH: We were not informed by

12 this. We were informed by the Steamship Authority

13 that we were the winning bidder, but we did not

14 inquire about the bidders.

15 SENATOR JOHNSON: So help me

16 here a little bit in the sense that now we have a

17 executed, an executed contract. And GIPEC is

18 required to seek, obtain board approval for a

19 contract. Yet board approval did not come till  
20 subsequent closing, subsequent -- the execution and  
21 closing on the agreement. Why?

22 MS. KOCH: I believe that Ms.  
23 Laremont already addressed those questions.

24 SENATOR JOHNSON: That was the  
25 bid. That was the bid. The bid you got.

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2

My understanding of the testimony

3

was, the bid, which also required execution, you

4

did that.

5

Is your testimony that also with

6

respect to the execution of the contract, you

7

sought the same legal counsel from ESDC that you

8

didn't require approval of the boards prior to

9

getting the contract executed and closing on the

10

transaction?

11

MS. KOCH: We consulted with

12

legal counsel at every step of this process, but I

13

can't speak for them or characterize what their

14

advice is. We would need to --

15

SENATOR JOHNSON: Ms. Laremont,

16

come on down.

17

(A N I T A L A R E M O N T,

18

ESQ., a witness having been recalled, was examined

19 and testified as follows:)

20 MS. LAREMONT: The issue of  
21 whether or not at this point the -- there was a  
22 need to get board approval, the need for board  
23 approval still remained. The issue though was, and  
24 Ms. Cassidy clarified this to me, that she  
25 understood the bid to binding.

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2

And as I said to you, if the bid

3

is binding, then, you know, the corporation is

4

bound in the same way as it would be if it signed a

5

contract. So that that was the point where

6

something binding was executed by GIPEC that needed

7

board approval. So there was no new board approval

8

needed. It was at that earlier point that board

9

approval really was needed and not received.

10

The point is though, which we

11

shouldn't lose sight of, that while there wasn't

12

formal board approval, which I still maintain we

13

needed, there was --

14

SENATOR JOHNSON: You're

15

saying -- oh, okay.

16

MS. LAREMONT: Formal board

17

approval. We didn't act till October.

18

SENATOR JOHNSON: As soon as --

19 okay. But your testimony was formal board approval  
20 as soon as practicable after the execution of the  
21 contract, or are you saying that they should have  
22 gotten board approval prior to?

23 MS. LAREMONT: That -- our legal  
24 advice would be that if you came to me and said,  
25 how should we go about this? We would say, you

1

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2 should go to the board and get their approval;  
3 that under the circumstance that the corporation  
4 was faced with at that time, they indicated that if  
5 they didn't get the vote at that time, they would  
6 lose the opportunity to buy the boat.

7                   And we did not tell them, oh,  
8 don't worry about it, you need board -- you can go  
9 ahead without it. We say that we're giving you the  
10 advice that board approval is needed. If you don't  
11 get it, one thing that we want to be sure of is  
12 that you know that the board blesses this, even  
13 though it is not formal, and then that you  
14 subsequently follow this up with getting board  
15 approval as soon as you can.

16                   So the point that I just wanted to  
17 make, so that it not be lost here, is that they did  
18 ensure that board members knew about and were fine

19 with this being done before it was done. It's just  
20 not in the form of a formal vote of the board. And  
21 if you asked board members, they would -- they  
22 would absolutely, you know, assured me that that  
23 was the case, that they had been told and asked  
24 about them.

25 SENATOR JOHNSON: Yes, the other

1

193

2 thing that just to clarify, what it sounds to me  
3 because it's a binding bid.

4 MS. LAREMONT: Right.

5 SENATOR JOHNSON: I'm trying to  
6 characterize your testimony as, because they got --  
7 because we say go ahead and do it, you blessed the  
8 submission of the bid, because it was binding, they  
9 did not need to come back to you for approval or  
10 didn't have to get the approval of the contract  
11 until the subsequent --

12 MS. LAREMONT: No, no. That's not  
13 what I'm saying. What I'm saying is that there was  
14 only one board approval necessary in connection  
15 with this transaction.

16 SENATOR JOHNSON: Okay. Whether  
17 it's at the bid or at the contract.

18 MS. LAREMONT: That's -- that's

19 what I'm saying, uh-huh.

20 SENATOR JOHNSON: Okay. Thank  
21 you.

22 MS. LAREMONT: Okay?

23 SENATOR JOHNSON: Okay. Thanks.  
24 So you bought it, you move it  
25 down, and now it's time to inspect it. Now you

1

194

2 hire, I guess it was -- who retained Seaworthy  
3 Systems?

4 MS. KOCH: Turner  
5 Construction.

6 SENATOR JOHNSON: Was this the  
7 phase called the phase two of the ferry  
8 rehabilitation project as outlined in the --

9 MR. MEYERS: Yes, yes.

10 SENATOR JOHNSON: Okay. And did  
11 JMS bid on phase two?

12 MR. MEYERS: Yes.

13 SENATOR JOHNSON: And who  
14 reviews the bids, is it Turner or -- does Turner  
15 solely review the bids?

16 MR. MEYERS: No, we work with  
17 Turner to review all of our bids.

18 SENATOR JOHNSON: And who

19 reviewed this bid?

20 MR. MEYERS: I did.

21 SENATOR JOHNSON: Okay. And

22 Seaworthy Systems was the highest and best bid; is

23 that the -- how did you make the determination that

24 Seaworthy Systems --

25 MR. MEYERS: They were the most

1

195

2 qualified bidder.

3

SENATOR JOHNSON: And how were

4

they more qualified than JMS to, I don't want to

5

say rehab because, you know, I want to get -- to

6

fix the boat, to repair the boat?

7

MR. MEYERS: Yes, rehab is also, I

8

think --

9

SENATOR JOHNSON: I think you

10

said you might have had a problem rehabbing so I

11

didn't want to --

12

MR. MEYERS: I don't have the

13

scoring sheets in front of me. But my recollection

14

of the bids received for that was that one of the

15

things that Seaworthy brought to the table that was

16

unique amongst the bids that we got was a prior

17

experience with using FTA funds to rehabilitate a

18

boat. They were the only bidder that we had that



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2 the bid process, the second bid process, what was  
3 your or GIPEC's relationship with JMS? Were you  
4 satisfied with JMS? Did you have a good experience  
5 with JMS? How would you characterize the business  
6 relationship?

7 MR. MEYERS: Their phase one  
8 contract was done and we elected to go with another  
9 vendor for phase one.

10 SENATOR JOHNSON: Would you  
11 recommend -- strike that.

12 At the time, at that time in  
13 September of '07, if someone came up to you and  
14 said I've got this JMS, you know, to take a look at  
15 a boat, would you recommend JMS, at that time, to  
16 review a boat?

17 MR. MEYERS: I don't know. I'm  
18 not sure.



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2 that they had done a reasonable assessment of the  
3 marketplace and I felt that they had been very  
4 helpful to us in understanding our needs, along  
5 with Turner, Harbor Ferry Services, and other  
6 consultants that we spoke with at that time.

7 SENATOR JOHNSON: And did you  
8 have any contact with JMS after you were awarded  
9 the Seaworthy System bid, the bid to Seaworthy --  
10 after Turner awarded the Seaworthy Systems --

11 MR. MEYERS: No.

12 SENATOR JOHNSON: Have you had  
13 any contact with JMS or any of its principals since  
14 September 2007?

15 MR. MEYERS: No.

16 SENATOR JOHNSON: Ms. Koch, have  
17 you?

18 MS. KOCH: I believe they sent

19 me a Christmas card.

20 SENATOR JOHNSON: So you get the  
21 report dated August 8, 2008.

22 Did you review the report?

23 MR. MEYERS: Yes.

24 SENATOR JOHNSON: And Ms. Koch,  
25 did you review the report?

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2

MS. KOCH: We discussed it

3

extensively.

4

SENATOR JOHNSON: You discussed

5

it, but did you actually read the report?

6

MS. KOCH: Yes, I did, though

7

we had extensive, very lengthy conversations about

8

the findings.

9

SENATOR JOHNSON: Did you

10

provide a copy of the report to the members of the

11

board?

12

MS. KOCH: I believe that

13

several members of the board requested copies and,

14

we course, provide information to any board member,

15

but we also discussed it verbally and had an

16

operations committee meeting. And the presentation

17

for that meeting I believe was provided to you in

18

our materials.



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2 would request.

3

SENATOR JOHNSON: Did you

4 provide the Castlerock Risk Solutions report at any

5 time to members of the board?

6

MS. KOCH: I would give the same

7 answer to that.

8

SENATOR JOHNSON: Okay. So the

9 report conducted by Seaworthy Systems, even my

10 understanding, correct me if I'm wrong, is prior to

11 a dry dock analysis, Seaworthy found the vessel to

12 be in a poor, worn out condition.

13

It found lax maintenance, you

14 know, in the later years based on active corrosion,

15 the coating failure. They saw the bottom was

16 damaged; the bottom was damaged, the bulkheads were

17 buckled and severely corroded.

18

And according to the report, the

19 vessel needed extensive steel renewal, 30 percent  
20 whole plating, 85 percent main deck at places, and  
21 90 percent boat deck, in that report.

22                                   Isn't their report, which is very  
23 extensive, based on several months, very similar to  
24 the report provided by Castlerock Services who did  
25 a four-hour analysis and came up with several

1

200

2 indications of causing -- again, applying several  
3 issues that were further highlighted and further  
4 developed and more comprehensive?

5 MS. KOCH: I can't speak for  
6 the different interpretations of reports. But I  
7 think you've heard previous testimony by the person  
8 who prepared that report that it was a cursory  
9 review where he identified a number of items that  
10 he did not review that were not -- he was -- that  
11 were not the subject of his inspection, nor was he  
12 provided with additional information.

13 And I think that there's been  
14 previous testimony that in my prepared remarks as  
15 well, that typical of purchasers of used vessels,  
16 that there's -- you're usually not able as a  
17 potential purchaser of a vessel to conduct a  
18 comprehensive report, a comprehensive inspection of



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2 survey of the vessel so that we had expected and  
3 that was why in our RFP we had outlined a very  
4 detailed scope of services for the contract that  
5 Seaworthy ultimately won and we expected that kind  
6 of comprehensive inspection necessary. And at the  
7 time, of course, we expected that that  
8 comprehensive inspection was the prelude to design  
9 of the work necessary to make the boat appropriate  
10 for the passage to and from Governors Island.

11 SENATOR JOHNSON: Hold on for a  
12 second. I'm sorry. Thank you.

13 I want to go back to the October  
14 ratification of the contract.

15 (P A U L K E L L Y, ESQ., having  
16 been recalled as a witness, was examined and  
17 testified as follows:)

18 MR. KELLY: Yes.

19 SENATOR JOHNSON: So you're

20 general counsel of GIPEC?

21 MR. KELLY: Counsel.

22 SENATOR JOHNSON: Counsel to

23 GIPEC.

24 And if you don't mind, whom are

25 you employed by?

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202

2

MR. KELLY: I'm actually

3

employed by the New York City Economic Development

4

Corporation. And as similar to Jon, I'm on loan.

5

SENATOR JOHNSON: You're on own

6

loan. Everybody's on loan to GIPEC.

7

And your duties as counsel?

8

MR. KELLY: Yes.

9

SENATOR JOHNSON: What are your

10 duties as counsel to --

11

MR. KELLY: I oversee, as Leslie

12

said, among other things, the day-to-day legal

13

operations of GIPEC. And I also do work with my

14

counterparts at Empire State Development

15

Corporation on legal matters also.

16

SENATOR JOHNSON: And I take it

17

your background is in the corporate field?

18

MR. KELLY: Primarily real

19 estate, then some corporate work, yes.

20 SENATOR JOHNSON: And so I take  
21 it that you are obligated to brief the board on  
22 legal matters?

23 MR. KELLY: Yes.

24 SENATOR JOHNSON: And at the  
25 October 17th board meeting, that was the first time

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203

2 the board met -- strike that.

3

Prior to the October 17, 2007

4

board meeting, when was the previous time the board

5

had met?

6

MS. KOCH: I believe that was in

7

April. We discussed that yesterday with your

8

counsel.

9

SENATOR JOHNSON: Okay. So April

10

of '07, okay.

11

So this was the first time and

12

this was the board meeting where the board ratified

13

the purchase. And this would be the first time

14

they could do it and a quorum could be present,

15

correct.

16

MS. KOCH: Yes, I believe so.

17

SENATOR JOHNSON: And during

18

your presentation, Mr. Kelly, prior to making that

19 presentation, had you reviewed the Castlerock  
20 Risk's survey and/or the Marine Safety consultants  
21 survey of the Islander?

22 MS. KOCH: I'd like to just  
23 clarify that it is customary practice at our board  
24 meetings for Mr. Kelly to present legal matters to  
25 the board. But it was Mr. Meyer's responsibility,

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2 overseeing our capital projects as the primary  
3 liaison to the operations committee, to provide  
4 whatever information is necessary.

5                   And it's also customary practice  
6 for us when there's a voting item presented to the  
7 board that there's a full briefing to the relative  
8 committee prior to the board meeting and a courtesy  
9 briefing to the chair of the other committee,  
10 again, prior to the board meeting.

11                   And that took place, in this case,  
12 as it always does.

13                   SENATOR JOHNSON: And Ms. Koch, do  
14 you prepare memorandums to the members of the board  
15 of directors on items with respect to voting?

16                   MS. KOCH: I think that's the item  
17 that you're referring to and those items are  
18 presented by different members of the GIPEC team

19 not necessarily by me. This particular item was  
20 presented by Mr. Kelly and I think it's the item  
21 that you have in front of you.

22 SENATOR JOHNSON: Prepared or  
23 there's a memorandum dated October 17th to the  
24 directors from Leslie Koch --

25 MS. KOCH: Yes. So that would

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2 -- that would be the same item. I apologize.

3 SENATOR JOHNSON: But did you  
4 prepare this memorandum?

5 MS. KOCH: I reviewed the  
6 memorandum. I believe probably Mr. Kelly and Mr.  
7 Meyers may have done the first draft, but that's  
8 customary procedure. I review every word of  
9 something goes out with my name.

10 SENATOR JOHNSON: Just like a  
11 senior partner at a law firm, you know, the junior  
12 partner is always, junior associate --

13 In reviewing the memorandum that  
14 was prepared, and I'm reading it now, there should  
15 be a copy. Beccah, could you just show them the  
16 binder where the copy is. It's the October, 2007  
17 memorandum.

18 It's October 17, 2007. I





19 then, of course, board members are invited to make  
20 any comments or questions at the board meeting or  
21 prior to the board meeting.

22                                   SENATOR JOHNSON: In reading the  
23 board minutes, by Mr. Kelly on page 26 and 27 of  
24 the meeting, the October 17, 2010 meeting, you  
25 know, it's says, JMS -- starting at line nine page

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2 27, JMS identified four or five boats. We went  
3 through all of them and really only one was  
4 suitable for our needs, the Islander Ferry. So we  
5 met with JMS, GIPEC, Turner. We talked to Ronay  
6 Menschel, ESD legal staff and we all agreed that  
7 the Islander was the appropriate pick.

8                   The issue with the Islander was it  
9 was owned by Woods Hole, Martha's Vineyard and  
10 Nantucket Steamship Authority and it was selected  
11 to be auctioned off by the Authority on July 10th  
12 of the past year for the state minimum bid price of  
13 \$750,000.

14                   After discussions with JMS, they  
15 did not think there would be a lot of bids for the  
16 boat so they suggested we bid 500,000 which is what  
17 we did.

18                   The Authority accepted our bid on

19 August 14, 2007. I think that's -- on October 14,  
20 2007 we closed and purchased the boat.

21                                   But here's the problem: I don't  
22 see anywhere a discussion where a key document was  
23 delivered or provided to a member of the board or  
24 any member of the board which would have raised, I  
25 think, substantial questions concerning the

1

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2 suitability of the boat.

3 MS. KOCH: The recommendation that  
4 the GIPEC staff made to the board of directors to  
5 purchase this boat was discussed extensively with  
6 City and State officials and with Ronay Menschel at  
7 the time that the bid was prepared. That included  
8 all of the information made available to us. And we  
9 addressed any questions.

10 And as we previously testified, in  
11 addition to answering any questions, we provided  
12 copies of whatever additional information  
13 individual board members requested for us. It is  
14 not customary practice for us to provide board  
15 members with additional sort of staff level  
16 documents as documents at board meetings. But we  
17 do, of course, respond to any of those requests.

18 So felt that, again, in the -- we

19 don't -- do not have minutes or transcripts of the  
20 operations committee meeting, but generally  
21 committee meetings are used for much more  
22 extensive, detailed discussions of matters that are  
23 coming before the board.

24                                   SENATOR JOHNSON:     But I'm just a  
25 little confused that you -- did you give Ronay

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2 Menschel a copy of the Castlerock Risk Services LLC  
3 report?

4 MS. KOCH: I can't answer the  
5 question whether or not I gave it to her because I  
6 don't recall and you would have to ask her directly  
7 whether she had reviewed that report herself.

8 I do recall specifically our  
9 conversations with her and our briefing of  
10 operations committee where we would have summarized  
11 and characterized that. Because our role as staff  
12 is to do the detailed due diligence for any matter  
13 that's coming before the board and to answer any  
14 questions that the board raises about any matter  
15 that they have responsibility for.

16 SENATOR JOHNSON: But wouldn't  
17 the board members want to be fully, have full  
18 information necessary to make those actual

19 questions? And what I can't seem to find out is if  
20 anybody got a copy of the inspection report before,  
21 any member of the board, got a copy of the  
22 inspection report by Castlerock Risk Services  
23 before or after the purchase of the boat.

24 And we're going to go in circles.

25 I mean --

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2

MS. KOCH: No, no. I mean

3

you're asking questions about what board members

4

would have asked, but I'm not a member of the board

5

so I can't answer that question.

6

And, again, to clarify, Castlerock

7

was one piece of data that was used in the

8

assessment. There were multiple pieces of data that

9

we provided to you and multiple consultants. And

10

those were factored into the recommendation that we

11

made to the board.

12

SENATOR JOHNSON: Was there any

13

other, any other type of report provided by any of

14

your consultants, anybody who inspected it, that

15

established almost explicitly that there was a

16

potential safety risk with respect to the boat

17

i.e., Castlerock's statement: The engine room has

18

limited ingress and egress and could potentially

19 have blockage and fires on car deck?

20 MS. KOCH: As we stated  
21 previously, we expected to do work on the boat in  
22 order to adapt it to the needs for GIPEC. And as I  
23 recall, one of the areas that we were addressing  
24 not only for safety reasons or expected to address,  
25 was the way the car deck was configured.

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2

So I don't believe -- and, again,

3

that particular concern that would have been raised

4

by Castlerock was something that we were not

5

unaware of and we were expecting to address in our

6

work.

7

And I believe that Castlerock

8

previously testified to you that they were not

9

given any information by their client about

10

expected uses or future work to the boat.

11

SENATOR JOHNSON: But you can't

12

tell me if whether or not at the time that this

13

contract was ratified on October 17th, any of the

14

board members had Castlerock documents so they

15

could have asked a question with respect to any

16

type of safety risk with respect to this particular

17

ferry?

18

MS. KOCH: I believe that you have

19 the transcript of the board meeting in front of you  
20 and so you can see what questions were raised at  
21 that time. But there aren't any transcripts for the  
22 operations committee meeting and so I unfortunately  
23 don't have notes from that meeting so I can't  
24 recall exactly what questions were asked by board  
25 members in that more detailed discussion.

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2

SENATOR JOHNSON: Well, I'll

3

tell you. Here was the -- after Mr. Kelly's

4

presentation of roughly three pages, one director

5

asked this important question: Is there a board

6

room being built into this?

7

And then another member said: You

8

have a free ride any time you want.

9

Any other questions, or comments,

10

requests? No. Okay.

11

Any comments from the public?

12

And then there's a reference to a

13

Mr. Kelly, Mr. Kelly saying something about Yankee

14

Pier on Governors Island. And Chairman Doctoroff

15

talked about that was one of our main tourist

16

attractions. Maybe it was a side conservation.

17

There were no questions about the

18

ferry boat. There were no questions about the



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213

2 say, GIPEC makes the determination not to invest  
3 any resources into that boat; is that correct?

4 MS. KOCH: Yes. At the time  
5 after extensive review of the Seaworthy inspection  
6 and understanding of what the projected costs would  
7 be, we discussed with staff to make the  
8 recommendation to the board that no further work be  
9 done, that it was not a prudent investment, and  
10 that we attempt to recover some of the funds by  
11 going through an appropriate public sales procedure  
12 of the vessel.

13 SENATOR JOHNSON: I have a  
14 question for counsel.

15 Is Ms. Cassidy here by any chance?

16 Ms. Cassidy, can I ask you a quick question?

17 (M A R I A C A S S I D Y, ESQ.,

18 called as a witness, was examined and testified as

19 follows:)

20                                 SENATOR JOHNSON:  There was  
21 testimony that you cannot participate by telephone  
22 in GIPEC's board of director's meeting, correct?

23                                 MS. CASSIDY:  Yes.

24                                 SENATOR JOHNSON:  So just for  
25 the record, I'm looking at the January 26, 2009

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214

2 board minutes. And it indicated that Ronay  
3 Menschel and Sherida Paulsen appeared via  
4 telephone. Would that be by video or I have here  
5 via telephone?

6 MS. CASSIDY: Well, if we have a  
7 quorum in person that constitutes a valid board,  
8 meeting, --

9 SENATOR JOHNSON: Okay.

10 MS. CASSIDY: -- then you can have  
11 other members participating, but it's --

12 SENATOR JOHNSON: By telephone?

13 MS. CASSIDY: Yeah.

14 SENATOR JOHNSON: How many  
15 members does it take to participate by quorum of  
16 GIPEC?

17 MS. CASSIDY: Well, it's a  
18 majority of the board then in office. So if we

19 have a fully constituted board of twelve, it would  
20 be seven.

21 SENATOR JOHNSON: Do you recall  
22 or could you recall in 2007 how many board members  
23 you had?

24 MS. CASSIDY: I don't.

25 SENATOR JOHNSON: Okay. Thank

1

215

2 you. Thank you for that clarification.

3

So in 2008, who made the

4

presentation to the board with respect to the

5

recommendations on the disposal of the boat? Did

6

Seaworthy make a presentation or appear before the

7

board?

8

MS. KOCH: No, that would be

9

staff responsibility.

10

SENATOR JOHNSON: Do

11

consultants ever appear before the board?

12

MS. KOCH: It is not customary

13

practice. This is the staff responsibility to

14

employ consultants to perform the tasks that

15

fulfill the GIPEC strategy and we are held

16

accountable.

17

I am held accountable by the board

18

and the staff is in turn held accountable by me.

19 And then, we of course, reference in our  
20 presentations what are appropriate recommendations  
21 made by consultants. There have been, I think, a  
22 couple of occasions when consultants have presented  
23 but I -- none that I can personally recall at full  
24 board meetings.

25 SENATOR JOHNSON: And you prepared

1

216

2 a report similar to the October -- prior to the  
3 October 17th report. On January 26, 2009 you also  
4 prepared -- a memo was similarly prepared under  
5 your name for recommendation for the board,  
6 correct?

7 MS. KOCH: Yes, I believe so.

8 SENATOR JOHNSON: And prior to  
9 this meeting, you testified that the Seaworthy  
10 System's report was delivered to certain members of  
11 the board of directors, correct?

12 MS. KOCH: I believe I  
13 testified that board members who had requested it,  
14 because we had been -- we had discussed this matter  
15 with members of the operations committee, would  
16 have received any materials that they would have  
17 requested.

18 SENATOR JOHNSON: Okay. So

19 Mr. Meyers, you presented to the board, you updated  
20 the board as to the current situation in January  
21 2009 with respect to the Islander, correct?

22 MR. MEYERS: Yes, I did.

23 SENATOR JOHNSON: And prior to  
24 making that presentation, did you consult with  
25 Seaworthy Systems with respect to the report?

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2

MR. MEYERS: Uh --

3

SENATOR JOHNSON: Prior to the

4

board meeting, did you meet at all with Seaworthy?

5

MR. MEYERS: I was meeting with

6

Seaworthy ever other week for most of the early

7

half of 2008.

8

SENATOR JOHNSON: And what was the

9

conclusion, what was Seaworthy's conclusion with

10

respect to the vehicle, with respect to the boat?

11

MR. MEYERS: Seaworthy's

12

conclusion was that the vessel required

13

substantially more steel replacement than we had

14

expected and would require other improvements as

15

well in order to meet the level of service that we

16

needed.

17

SENATOR JOHNSON: And in

18

November of 2008 you issued an Invitation for Bid

19 with respect to the Islander, correct?

20 MR. MEYERS: Yes.

21 SENATOR JOHNSON: Ms. Koch, when

22 GIPEC issues an Invitation for Bid, does that

23 require board approval prior to having that IFB be

24 issued or can you do that without board approval?

25 MS. KOCH: I don't believe

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218

2 that that requires board approval. Board approvals  
3 are required for any contract.

4 SENATOR JOHNSON: Contract?

5 MS. KOCH: Yes.

6 SENATOR JOHNSON: Okay. And was  
7 there any thought to, while submitting the  
8 invitation for bid -- or strike that.

9 The Invitation for Bid suggests or  
10 gets submitted, sent to anybody who would be  
11 purchasing it for scrap?

12 MR. MEYERS: Yes. We identified  
13 essentially every scrap yard and marine wrecker on  
14 the Eastern Seaboard including Texas and they were  
15 all mailed directly a copy of the IFB.

16 SENATOR JOHNSON: And did  
17 anybody express any interest in -- any of the scrap  
18 dealers express any interest?

19 MR. MEYERS: Nobody responded to  
20 the IFB.

21 SENATOR JOHNSON: Did you  
22 consult Turner at the time with respect to the sale  
23 of the Islander?

24 MR. MEYERS: In what context? I'm  
25 sorry.

1

219

2

SENATOR JOHNSON: What to do

3

with that boat.

4

MR. MEYERS: Based on the

5

information that we had, we -- as we were

6

formulating our recommendation to sell the vessel,

7

Turner was certainly a part of those conversations,

8

yes.

9

SENATOR JOHNSON: Prior to

10

coming and testifying today, Mr. Meyers, did you

11

have an opportunity to review the January 2009

12

board minutes?

13

MR. MEYERS: Prior to my testimony

14

today I've review, I think everything we've given

15

you. But it's been a lot of material.

16

SENATOR JOHNSON: Would it be

17

safe to say in reviewing it that the directors this

18

time had a lot of questions with respect to the

19 Turner -- with respect the Islander and the  
20 situation involving the Islander?

21 MR. MEYERS: At the 2009  
22 meeting?

23 SENATOR JOHNSON: Yes.

24 MR. MEYERS: And, again, I think  
25 to reiterate what Leslie has said, as we do with

1

220

2 all of our meetings, preceding this meeting were  
3 meetings with the operations committee as well as  
4 other members of the board who -- and, again,  
5 questions were asked during those as well.

6 SENATOR JOHNSON: Besides Ms.  
7 Menschel, who else serves on the operations  
8 committee?

9 MS. KOCH: There's been some  
10 recent changes in our board membership so we would  
11 have to answer that question in terms of specific  
12 points in time.

13 SENATOR JOHNSON: In January  
14 2009, prior to this board meeting, who did you  
15 brief in the operations committee with respect --

16 MS. KOCH: Again, I can't  
17 tell you exactly who was at the meeting, but I can  
18 tell you who the members were.

19 SENATOR JOHNSON: That's fine.

20 MS. KOCH: I believe Liz Berger,

21 Dennis Walcott, Don Capoccia, Ronay Menschel.

22 There was actually a change in the board membership

23 in the beginning of the year so I actually can't

24 characterize when that change took place. So Martha

25 Gallo is currently a member of the operations

1

221

2 committee and the board and she replaced someone  
3 but I actually don't recall the date of her  
4 appointment to the board.

5 SENATOR JOHNSON: Mr. Meyers, at  
6 that January --

7 MS. KOCH: Just for clarification.

8 SENATOR JOHNSON: Oh, sure.

9 MS. KOCH: That the chair and the  
10 vice chair of the board are always invited to both  
11 the operations and the planning committee meetings.

12 SENATOR JOHNSON: Gotcha.

13 Mr. Meyers, at the January 9,

14 2009, the January, I'm sorry, the January 2009

15 board meeting, did you brief the board about the  
16 Castlerock survey?

17 MR. MEYERS: We briefed the board  
18 at that time about what we had learned since we had

19 last briefed the board.

20 SENATOR JOHNSON: I'd like to  
21 read into the record. I'm looking at page 16 of --

22 Director Gill: What was the  
23 organization that we hired to make the initial due  
24 diligence, the six-day due diligence that was done  
25 before the purchase at the auction?

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222

2

Mr. Meyers: We actually had

3

several organizations who did an initial or not an

4

appraisal, but an initial investigation of the

5

vessel for us. We were working at the time with a

6

naval architect which is a firm named JMS which is

7

essentially the boat equivalent of a real estate

8

broker. They go and find suitable vessels and/or

9

design suitable vessels. So they're really an

10

engineering firm as well.

11

Our own ferry boat operator, the

12

current ferry boat operator who obviously has a

13

fairly long history of operating vessels on our

14

behalf, and then we hired -- and then we hired a

15

marine surveyor at that time. And honestly the name

16

of that company escapes me at the moment, although

17

I can look it up.

18

That maritime surveyor, was that

19 Castlerock?

20 MS. KOCH: No, that was the marine  
21 survey firm that we referred to earlier. That was  
22 the firm that was hired to do the gauging work  
23 because it was determined that the most critical  
24 information that we wanted to obtain as much as  
25 possible, prior to the purchase, was doing whatever



19 do more than surface investigations. And we were  
20 certainly aware when we purchased the vessel, that  
21 there were steel replacement needs. And what we  
22 were not aware of, and could not have been aware of  
23 without, as I said, something on the order of six  
24 months worths of very detailed investigation, was a  
25 sort -- the sort, the nature and placement of the

1

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2 specific areas of steel degradation, and, as I  
3 said, the nature of the level of deferred  
4 maintenance from the previous owner of the vessel.

5 But at no time did you reference  
6 that there was a report by Castlerock Risk  
7 Solutions of the boat as part of the due diligence  
8 done by your own ferry operator.

9 MS. KOCH: I believe -- and again,  
10 if you look at the transcript, we make reference to  
11 the role that Harbor Ferry played and Harbor Ferry  
12 procured that inspection as part of their own due  
13 diligence in their potential role as operator of  
14 the vessel.

15 And so that information, which was  
16 provided to GIPEC and to Turner, as we've discussed  
17 previously, also factored into the point of view  
18 that Harbor Ferry had related to previous points of

19 view that they had articulated to us about  
20 available vessels and that is referenced in the  
21 comments that Mr. Meyers made at our board meeting.

22                                   SENATOR JOHNSON:     Mr. Meyers,  
23 you didn't say that our own ferry operator hired  
24 somebody to do an inspection. You just simply  
25 referenced, our own ferry boat, correct?

1

225

2

MR. MEYERS: The transcript is

3

quite clear, yes.

4

SENATOR JOHNSON: And what's very

5

interesting is, and maybe -- are you a member of --

6

are you an attorney, Mr. Meyers?

7

MR. MEYERS: No.

8

SENATOR JOHNSON: And Ms. Koch,

9

are you an attorney?

10

MS. KOCH: No, I'm not.

11

SENATOR JOHNSON: Mr. Kelly, you

12

are counsel, correct?

13

MR. KELLY: I am counsel, yes.

14

SENATOR JOHNSON: And actually,

15

Ms. Laremont, is she gone? Oh, can you come on up?

16

Thanks.

17

(A N I T A L A R E M O N T,

18

ESQ., having been recalled as a witness, was

19 examined and testified as follows:)

20                                   SENATOR JOHNSON:       So Ms.

21 Laremont, and I don't profess to be Marty Golden,  
22 but Senator golden, I don't know if you were here  
23 when he was speaking previously. But he certainly  
24 raises a concern, I think, echoed by, well, not a  
25 concern, but an issue raised by one of the

1

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2 directors of the board, that is there liability  
3 here on the part of Turner or JMS with respect to  
4 this purchase?

5 In the January meeting, Director  
6 Gill asks on page 19: Have our lawyers taken a  
7 look at that? I'm sorry. Let me step back a little  
8 bit because I have to give you the context.

9 Director Gill: The question is  
10 whether or not we have an action over -- against  
11 those that gave us the price which was so far off.

12 Mr. Meyer's response: We've been  
13 through this and everybody was quite clear at the  
14 time that these were not, you know, sort of, I  
15 can't think of an analogy except to go to a car  
16 shop, that these were not estimates of how much the  
17 work was going to be. It was really an estimate  
18 based on a set of eyeballs who spent, in that case,

19 somewhere between four hours and sixteen or so  
20 hours looking at the boat, taking it for a test  
21 drive, which we were able to do, and a number of  
22 other things, but that they were not in any way  
23 actionable, you know, from a liability standpoint.

24 Director Gill: Have our lawyers  
25 taken a look at that?

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2

And Ms. Laremont, you said, yes. I

3

don't think there's any -- there's any chance that

4

we would have a colorable claim here given the very

5

limited nature, you know, an invasive kind of

6

testing that could be done under the circumstance.

7

I don't think there's a cause of action here.

8

Here's my question: Whom don't you

9

think we have a -- whom don't you think GIPEC has a

10

colorable cause of action against?

11

MS. LAREMONT: I think we -- well,

12

in that conversation, what I was referring to was

13

the consultants who we hired in advance of our

14

purchase of the boat.

15

SENATOR JOHNSON: Turner or

16

JMS?

17

MS. LAREMONT: JMS. JMS.

18

SENATOR JOHNSON: Why didn't you

19 think that JMS had any --

20 MS. LAREMONT: Because of the  
21 nature of the contract that we have with JMS and  
22 the undertaking that they -- that they, you know,  
23 prosecuted on our behalf. They -- they did  
24 limited, you know, work in terms of exploring the  
25 ability of the boat. And their -- their

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2 recommendation to us was caveated in a wide variety  
3 of ways based on the limited extent of work that  
4 they could do on the boat prior to our purchase.

5 SENATOR JOHNSON: But that's the  
6 work on the boat.

7 MS. LAREMONT: Uh-huh.

8 SENATOR JOHNSON: But the Turner  
9 RFP, for which they won the bid on phase 1, was to  
10 create a short list of the three, best three  
11 vessels for detailed inspections, conduct  
12 inspections of three short listed vessels with a  
13 representative of GIPEC, Turner and any other  
14 designated personnel.

15 It is expected that the qualified  
16 marine surveyor be utilized for the detailed hull  
17 and machinery assessment, development estimates of  
18 probable costs for the three compatible vessels.

19 Cost estimates should include cost to acquire the  
20 vessel, shipyard dry dock cost, repair and upgrade  
21 costs.

22 So it would seem to me that their  
23 requirements more than just talk a walk for Mr.  
24 Meyers or anybody else --

25 MS. LAREMONT: They did more than

1

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2 talk a walk.

3 SENATOR JOHNSON: But --

4 MS. LAREMONT: But what I'm saying

5 is that if you look at all the work they undertook

6 in advance of the determination by staff to buy the

7 boat being made, was such, and the report that they

8 gave us in connection with that work, was such that

9 there were many caveats in there. They never, ever

10 said unequivocally, this boat is going to cost X

11 amount of money to repair.

12 It was very clear that they were

13 telling us what they learned on the basis of the

14 very, I guess you'd call it cursory, although I'm

15 sure that wouldn't be the right -- the right

16 phrase, and that we knew that based on that

17 recommendation that we were going to have to do a

18 lot more work before we had any real idea of how

19 much it costs.

20                               SENATOR JOHNSON:     Is this the  
21 JMS report that they provided to you in our  
22 presentation? This is the only JMS report that we  
23 received. If you have --

24                               MS. LAREMONT:   No, I don't have it  
25 -- I'm just saying to you --

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2

SENATOR JOHNSON: I mean because

3

you said there's a report.

4

MS. LAREMONT: No, I wasn't

5

really -- I didn't mean a report. I meant that the

6

work that JMS did and the advice that they gave us,

7

because my advice to the board is based on

8

conversations that I had with staff about the

9

extent of the work that these consultants had done.

10

SENATOR JOHNSON: According to

11

the Turner RFP, page three, make a recommendation

12

for the best vessel for Governors Island. Both the

13

written report and presentation of findings be part

14

of the work.

15

Did they present a written report

16

--

17

MS. LAREMONT: I -- you'd have to

18

ask Jon and Leslie that. I -- they didn't present

19 it to me.

20 SENATOR JOHNSON: Okay. Ms.

21 Koch, did they present a written report?

22 MS. KOCH: I believe that we

23 provided you with the powerpoint presentation and a

24 detailed matrix that they did; is that right?

25 MR. MEYERS: Yes.

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231

2

MS. KOCH: And that was presented

3

to us in the context of extensive discussions about

4

the vessels available which we had previously

5

testified about.

6

SENATOR JOHNSON: Well, we'll

7

review to see this detailed matrix.

8

But there is nothing in the sense

9

of a report like, I'm not saying it says, like what

10

Castlerock Solutions -- I know they're different

11

topics. But nothing like a Castlerock Solution, a

12

Castlerock Risk surveys where they address

13

something to say this is our report, or Marine

14

Safety.

15

I got a matrix, which I'll find --

16

which we'll look for and a powerpoint presentation.

17

But did we get a written report?

18

MR. MEYERS: Just to be clear, the

19 Marine Safety report, as Bill testified earlier,  
20 was done under JMS's contract. It was part of what  
21 they were -- yes, so there was -- they did, in  
22 fact --

23 SENATOR JOHNSON: The Marine  
24 Safety -- so JMS went to Marine Safety?

25 MR. MEYERS: Yes.

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2

MS. KOCH: Marine Safety has

3

expertise, as was discussed previously, because

4

they use a specific technique to test the thickness

5

of steel. And that is not expertise that JMS had

6

resident. And that was determined in conversations

7

with JMS, Turner, Harbor Ferry and others, as Mr.

8

Meyers previously testified, was an important data

9

point for us to procure before proceeding with a

10

recommendation to purchase the vessel.

11

SENATOR JOHNSON: Is there

12

anything in writing, in a written report form from

13

JMS to GIPEC that says, JMS hereby recommends GIPEC

14

purchase the Islander?

15

MS. KOCH: We provided you with all

16

of the written information that we have from JMS.

17

SENATOR JOHNSON: That JMS

18

provided you or that you have?

19 MS. KOCH: I'm sorry. I see those  
20 as interchangeable so I'm not sure that I  
21 understand the question.

22 SENATOR JOHNSON: Not  
23 necessarily. It's always possible that JMS gave you  
24 something that you may or may not -- I'm not  
25 implying anything, may or may not have provided us.

1

233

2

Is there a written report --

3

MS. KOCH: Yeah. We have

4

been, throughout this process, very forthcoming

5

with every piece of information --

6

SENATOR JOHNSON: So there's

7

nothing else from JMS --

8

MS. KOCH: Of course not.

9

SENATOR JOHNSON: -- in your

10 files --

11

MS. KOCH: Of course not.

12

SENATOR JOHNSON: -- other than

13

what you gave us? Fine. That's all I'm just trying

14

to figure out.

15

I'm wrapping up.

16

Ms. Koch, I'm just curious about

17

something -- oh!, final question on JMS.

18

How much were they paid?

19 MS. KOCH: Mr. Meyers.

20 MR. MEYERS: It's in the detailed

21 accounting of that. It is --

22 SENATOR JOHNSON: I have

23 \$50,755.48.

24 MR. MEYERS: That is indeed.

25 SENATOR JOHNSON: And nothing

1

234

2 else is owed to them?

3 MR. MEYERS: No.

4 SENATOR JOHNSON: You think you

5 got your money's worth with JMS?

6 MR. MEYERS: I have no sense of

7 this service overall.

8 SENATOR JOHNSON: Ms. Koch, and

9 Mr. Meyers and Mr. Kelly, -- and I think your

10 statement started by saying -- but what lessons did

11 GIPEC learn or what lessons do you believe were

12 learned during this process?

13 MS. KOCH: I think that the

14 experience that we had and actually Mr. Welch

15 testified about this quite extensively from his

16 quite different experience as a private entity

17 working the maritime field, that we did as

18 comprehensive a survey of information that was



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2                   As you saw, we very quickly moved  
3 to try and recover as many taxpayer dollars as  
4 possible. And we're very disappointed in the lack  
5 of response to the IFB, because as I believe you  
6 stated in perhaps your opening remarks, there was  
7 some hope that the recovery of additional dollars  
8 would be possible in a scrap market. And given  
9 that, again, with advisement from state officials  
10 at the Office of General Services as well as ESDC  
11 procurement, the only recourse was to sell the boat  
12 on eBay.

13                   And so that, you know, I think is  
14 something that none of us feel good about, both  
15 because of the use of taxpayer dollars but also  
16 'cause we not have been able to address the  
17 redundancy needs which was part of our plan for the  
18 redevelopment of Governors Island.



1

236

2 service to Governors Island, correct?

3

MS. KOCH: The Governors

4

Island Ferry operates year round both during our

5

public access seasons and during the rest of the

6

year when work is performed. And so visitors, just

7

to be clear, those would be public access visitors

8

who enjoyed the Island as a public space. And then

9

there are people who work on the Island doing a

10

variety of capital projects both for us and for the

11

additional tenants on the Island. And so that

12

includes vehicles as well as passengers during

13

those work runs.

14

SENATOR JOHNSON: The public

15

access period of time, is it a free ferry?

16

MS. KOCH: Yes, that is

17

correct.

18

SENATOR JOHNSON: Right now, do

19 you contract with other ferry companies to provide  
20 additional redundant, provide redundant ferry  
21 service?

22 MS. KOCH: We contract with a  
23 private ferry -- we have in the past contracted  
24 with a private ferry operator not to provide  
25 redundancy but to provide additional runs on

1

237

2 Saturdays to accommodate the growing visitation to  
3 Governors Island. So we have done that in the past  
4 and we expect to do that for the public access  
5 season of 2009 as well.

6 SENATOR JOHNSON: How much did you  
7 pay in the past for that additional Saturday  
8 weekend service?

9 MR. MEYERS: We pay a thousand  
10 dollars an hour and it is with a minimum of four  
11 hours. And the service is essentially on call. So  
12 we make a judgement as to whether we believe we'll  
13 need it, you know, for a coming weekend.

14 SENATOR JOHNSON: And is that  
15 still the same price, a thousand dollars last year,  
16 a thousand dollars this year?

17 MR. MEYERS: We're in the middle  
18 of procuring that service so we don't know yet.

19                                 SENATOR JOHNSON:     Did you obtain  
20   that service yet?  Is New York Ferry, New York  
21   Ferry Service doing that for your guys?

22                                 MS. KOCH:     We haven't obtained  
23   the service yet for this 2009 season.

24                                 SENATOR JOHNSON:     I thought I  
25   saw somewhere that they were going to build a

1

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2 beach.

3

MS. KOCH: That's the New

4

York Water Taxi. They would be running -- we do

5

have a dock on the Island that vessels, commercial

6

vessels can dock, but that would not be the free

7

service that we're referring to which we refer to

8

as supplemental service as opposed to redundant

9

service.

10

SENATOR JOHNSON: Gotcha.

11

The last questions, substantive

12

questions.

13

What was the total calculated loss

14

for GIPEC with respect to this purchase of the

15

ferry, you know?

16

MS. KOCH: You mean the total

17

expenses incurred?

18

SENATOR JOHNSON: Total expenses

19 incurred.

20 MS. KOCH: I think we provided  
21 that. Jon, do you remember the accounting?

22 MR. MEYERS: Yes. It's -- in  
23 addition to the \$500,000 for the purchase, it's  
24 just over \$198,000 in consulting costs.

25 SENATOR JOHNSON: You also

1

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2 include the insurance costs and stuff like --

3 MR. MEYERS: It's consulting  
4 includes in this case, insurance and maintenance on  
5 the vessel, yes.

6 MS. KOCH: Those are all  
7 public. That's the sum total.

8 SENATOR JOHNSON: And the  
9 transportation costs?

10 MR. MEYERS: Correct.

11 SENATOR JOHNSON: Well, I want  
12 to thank you. I appreciate it. I don't know if you  
13 want to make a closing statement and I'd give you  
14 the opportunity to do that as well. But I  
15 appreciate your candor and your willingness to come  
16 and testify on the issue.

17 I did invite Avi Schick and Mr.  
18 Doctoroff to testify. Both of them -- Avi Schick

19 had sent us a letter indicating that he was  
20 unavailable today for a previous engagement. I was  
21 told Mr. Doctoroff has just returned from overseas  
22 late last night. We had Albany as overseas because  
23 I certainly was too and I returned home late this  
24 morning.

25 But obviously we may submit some

1

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2 additional questions to them.

3                   But I really want to thank you  
4 very much for taking the time. I really appreciate,  
5 again, your candor, but more importantly, your  
6 forthrightness in delivering all the documents.  
7 You've been terrific. Your staff has been terrific  
8 and it's been a privilege to work with you and I  
9 appreciate your testifying today.

10                   MS. KOCH:           Thank you. We take  
11 our accountability very seriously so thank you.

12                   SENATOR JOHNSON:    Thank you very  
13 much.

14                   MR. ADLER:    We stand in recess.

15                   Thank you very much.

16                   (At 3:34 p.m., the proceedings  
17 were concluded.)

18

19

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25