



**REPORT OF THE SELECT COMMITTEE OF TYNWALD
ON THE REPORT ON REDRESS FOR
MR AND MRS SPADONI
(ACTIONS OF THE MARINE ADMINISTRATION)**

REPORT OF THE SELECT COMMITTEE OF TYNWALD ON THE REPORT ON REDRESS FOR MR AND MRS SPADONI (ACTIONS OF THE MARINE ADMINISTRATION)

At the sitting of Tynwald Court on 21st April 2009 it was resolved –

“That Tynwald appoints a Committee of three Members with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to investigate and report on the conduct of the Marine Administration –

- (a) in preparing ministerial briefing for the debate in Tynwald in November 2003, with special reference to allegations that Mr and Mrs Spadoni had breached fishing vessel regulations; and*
- (b) in investigating the causes for major stability failure of the FV Suzanna D, owned by Mr and Mrs Spadoni, in May 2000;*

and make such recommendations as it sees fit.”

Mr D M W Butt MLC (Chairman)

Mr J D Q Cannan MHK (Michael)

The Right Reverend R M E Paterson MLC

The powers, privileges and immunities relating to the work of a committee of Tynwald are those conferred by sections 3 and 4 of the Tynwald Proceedings Act 1876, sections 1 to 4 of the Privileges of Tynwald (Publications) Act 1973 and sections 2 to 4 of the Tynwald Proceedings Act 1984.

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1. INTRODUCTION

1.1 Mr and Mrs Spadoni presented a petition for redress of grievance on Tynwald Hill on 5th July 2004. Their case is different from most Tynwald Hill petitions in that it has already been the subject of a series of Tynwald debates both before and after July 2004. The sequence of events is set out in section 2 below.

1.2 The present Select Committee was appointed on 21st April 2009. Our remit is set out in the following Tynwald resolution of that date:

“That Tynwald appoints a Committee of three Members with powers to take written and oral evidence pursuant to sections 3 and 4 of the Tynwald Proceedings Act 1876, as amended, to investigate and report on the conduct of the Marine Administration -

(a) in preparing ministerial briefing for the debate in Tynwald in November 2003, with special reference to allegations that Mr and Mrs Spadoni had breached fishing vessel regulations; and

(b) in investigating the causes for major stability failure of the FV Suzanna D, owned by Mr and Mrs Spadoni, in May 2000;

and make such recommendations as it sees fit.”

1.3 We have held seven meetings including two public oral evidence sessions. We have based our conclusions on the following evidence:

- oral and written evidence of Mr and Mrs Spadoni;
- oral evidence of Mr John Rimington, former MHK for Rushen, together with a collection of documents supplied to us by Mr Rimington;
- oral evidence of Mr Richard Corkill, former Chief Minister
- written and oral evidence of Mr Chris Baker, Marine Data Isle of Man Limited;

- the Report of the Council of Ministers Sub-Committee into the Complaint of Mr and Mrs Spadoni (GR37/08) which was laid before Tynwald in October 2008 (referred to in this report as “the CoMin Report”);
- previously unpublished documents referred to in the CoMin Report, one of which we obtained using our powers under the Tynwald Proceedings Act 1876.

1.4 Most of the documents we have referred to in the present report are reproduced in the Appendix to this Report. The only documents referred to but not reproduced are the CoMin Report itself together with its Annexes; the Report by Mr John Rimington which was laid before Tynwald in November 2003; and *Hansard*.

1.5 Mr and Mrs Spadoni gave oral evidence to the Committee on 13th May 2009. On 16th November 2009 they attended the public meeting at which Mr Baker and Mr Corkill gave oral evidence. At the end of the oral hearing Mrs Spadoni approached the Committee and asked if she could have an opportunity to give further evidence in public in order to respond to statements made during the course of the public oral hearing. The Chairman asked her to put her concerns to the Committee in writing in the first instance. On 1st February 2010 Mrs Spadoni contacted the Committee and asked if, rather than writing, she could be given a further opportunity to give oral evidence. We repeated our request that she put her concerns in writing for our consideration. Mr and Mrs Spadoni did this in a substantive submission sent to us by e-mail on 17th February. We have given this submission careful consideration, referred to it in a number of places in this Report, and included it in full within the Appendix to this Report.

ABBREVIATIONS

1.6 The following abbreviations are used throughout this report:

CoMin Report	Report of the Council of Ministers Sub-Committee into the Complaint of Mr and Mrs Spadoni (GR37/08)
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The Department	The Department of Trade and Industry
MA	Isle of Man Marine Administration
MCA	United Kingdom Maritime and Coastguard Agency

2. THE SUZANNA D

AND THE ASSOCIATED TYNWALD PROCEEDINGS:

CHRONOLOGY

2.1 This section summarises the most significant events and dates associated with the *Suzanna D* and the grievance of Mr and Mrs Spadoni. Further detail on initial events of 1999 to 2000 can be found in the CoMin Report at pages 9 to 21. (Events associated with the *Solway Harvester* case are interpolated in brackets. This high profile tragedy is likely to have been in the minds of the key players in our own case.)

2.2 In April 1999 Mr and Mrs Spadoni bought the *Suzanna D*, a beam trawler built in the Netherlands in 1966 which had been registered in the UK since 1981. Mr and Mrs Spadoni had the vessel refitted at Vosper Thorneycroft in the south of England, where the refurbishment was completed in November 1999. In May 1999 they had transferred the vessel to the Manx register. This necessitated the vessel being submitted for survey to the MA. The MA arranged for the stability of the *Suzanna D* to be tested by Mr Paul Lucas, an MCA surveyor acting on behalf of the MA. This was done by means of a roll test on 16th November 1999.¹ On 10th January 2000 Mr Lucas issued to the MA a “letter of satisfaction”.

2.3 In January 2000 Mr Spadoni sailed the *Suzanna D* to the Isle of Man. (On 11th January 2000 the *Solway Harvester* went down off the Isle of Man with the loss of seven lives. On 21st January 2000 the Manx authorities announced their intention to raise the *Solway Harvester*.)

2.4 On 31st January 2000 the MA issued to Mr and Mrs Spadoni a short term Fishing Vessel Safety Certificate valid until 29th February 2000. However, the MA already had reservations about the vessel’s stability. On 8th February 2000 they issued a full term Fishing Vessel Safety Certificate but with the “full term” restricted to two years rather than the usual four years, and with a condition that a further roll test be carried out on the *Suzanna D* during her next periodic inspection in June 2001. A representative of the MA later explained to the Council of Ministers Sub-Committee which produced the CoMin Report that “the

¹ For an explanation of the terms “roll test” and “full inclining test” see Annex 6 of the CoMin Report.

decision to issue a 'temporary' certificate was a judgement call made with the business interests of the petitioners in mind".²

2.5 Later in 2000 the MA received from the MCA the regulatory file on the *Suzanna D*. The file gave them sufficient concern to request a roll test at the earliest opportunities. On 11th April 2000 they wrote to Mr and Mrs Spadoni's representatives requesting this. On 26th April 2000 the *Suzanna D* underwent a "roll test" at Port St Mary and failed. The two-year certificate was withdrawn. Further investigations were conducted including a full inclining test at Ramsey on 5th May 2000.

2.6 (On 26th June 2000 the *Solway Harvester* was raised.)

2.7 Between 2000 and 2004 there followed a protracted dispute involving Mr and Mrs Spadoni, the MA and the MCA. Initially the discussions were of how to rectify the stability of the *Suzanna D* and who should pay for any modifications needed. It later became clear that modification was not a viable option. At this point Mr and Mrs Spadoni concentrated their efforts on obtaining compensation.

2.8 At an early stage, on 29th August 2000, an internal memorandum was written by Mr Peter Chreseson of the MA to his colleague Mr John Wade which included the statements that the *Suzanna D* "at no time satisfied the 1975 Rules" and "consistently failed roll tests". We regard this memorandum as highly significant. It is discussed further at paragraphs 4.9 to 4.14 below.

2.9 During the discussions as to liability and compensation Mr Rimington, as Mr and Mrs Spadoni's MHK, was extensively involved and there were also a series of meetings involving successive Chief Ministers. The implication of a similar case in England, *Reeman v. Department of Transport*, was that Mr and Mrs Spadoni could not seek redress from the MCA through the English courts but would be able to do so via the UK Parliamentary Commissioner for Administration. The effect was much the same in that the MCA recognised an obligation to offer compensation and there followed a process of mediation.

² CoMin Report, paragraph 3.12.2.

2.10 (On 13th June 2003 the interim report of the Marine Accident Investigation Branch into the *Solway Harvester* tragedy was published. It included recommendations to the MCA.)

2.11 On 19th November 2003, frustrated with the lack of progress in resolving the case, Mr Rimington had brought the case before Tynwald. At this stage Mr and Mrs Spadoni had not yet brought their grievance to Tynwald Hill. Instead, Mr Rimington laid his own report on the case before Tynwald for debate. He moved that Tynwald set up a Select Committee which would (a) investigate the circumstances of the *Suzanna D's* stability failure; (b) investigate the role of the Isle of Man authorities; (c) seek a means of redress for Mr and Mrs Spadoni; and report back with recommendations. The debate was adjourned for three months on the understanding that further tests would be conducted.

2.12 In February and April 2004 the adjourned motion was back on the Order Paper but on those occasions Mr Rimington did not pursue it. It came back yet again on 18th May 2004. This time the debate was concluded when Tynwald accepted an amendment expressing concern and calling upon the Chief Minister to act – rather than set up a Select Committee of Tynwald. During the debate in May 2004, Mr Rimington reported that further tests had been conducted in January 2004. He said:³

“The tests have completely disproved these allegations and demonstrate that the vessel is a major stability failure in any condition. Further, the presence of the concrete blocks was deliberate, completely open and known to all the authorities.”

2.13 At some point after that debate Mr and Mrs Spadoni accepted a confidential final settlement. Mr Alex Downie MHK, as Minister for the Department of Trade and Industry, had told Tynwald on 19th November 2003 that at that time Mr and Mrs Spadoni had received a partial settlement of £375,000, although this was disputed by Mr Rimington.⁴ Mr Rimington told us in May 2009 that the eventual settlement had been considerably less than £1 million.⁵

³ *Hansard*, page 1339.

⁴ *Hansard*, page 425.

⁵ *Hansard*, 13th May 2009, page 10 column 2.

2.14 On 5th July 2004 Mr and Mrs Spadoni presented a Petition for Redress of Grievance at Tynwald Hill. The full text of their Petition, which ran to four pages, is reproduced as Annex 2 to the CoMin Report. The Petition was found to be in order and was picked up by Mr Philip Gawne MHK. In the debate on 22nd June 2005 Mr Alex Downie MLC, as Minister, defended the actions of the Marine Administration and denied the maladministration alleged in the Petition. The motion to set up a Select Committee was defeated.

2.15 (Meanwhile, on 19th May 2005 the manslaughter charge against the owner of the Solway Harvester, Mr Richard Gidney, had collapsed. The full report on this case by the Marine Accident Investigation Branch was published on 20th January 2006.)

2.16 A series of Tynwald Questions about the *Suzanna D* were answered in writing in July and October 2005. According to the CoMin Report, the matter was discussed in October 2005 by the Council of Ministers; the Chief Minister (Mr Gelling) met Mr and Mrs Spadoni in November 2005; and Mr Rimington agreed to defer moving a motion at the December 2005 sitting to allow the Chief Minister to address matters. The Chief Minister concluded that the best way to move the issue forward was through a Committee, and in June 2006 he set up a Sub-Committee of the Council of Ministers to assess the Petition independently.⁶

2.17 The Sub-Committee of the Council of Ministers considered Mr and Mrs Spadoni's Petition in considerable detail and in much the same way that a Select Committee of Tynwald might have done, except that it sat only in private and took oral evidence in private. Its Report was laid before Tynwald in October 2008. Following on from recommendations in it, statements were made in Tynwald by Mr Downie (in a personal capacity) on 18th November 2008 and by Mr Cretney (as current DTI Minister) on 17th December 2008.

2.18 On 21st April 2009 Mr Peter Karran MHK moved that Tynwald to allow Mr Rimington to be examined by Tynwald Court. This motion failed but a subsequent motion on the same Order Paper in Mr Karran's name to appoint the present Select Committee was successful. The Members of the Council of Ministers Sub-Committee who were still Members of Tynwald (Mrs Christian and Mr Anderson) commented in the debate that they were not sure how much further a Select Committee would get. The Chief Minister (Mr

⁶ CoMin Report, Annex 3.

Brown) also supported the work done by the Council of Ministers Sub-Committee but signalled his acceptance of a Select Committee on the grounds that if it were rejected, the accusations which had been made would “always hang in the air”.⁷

⁷ *Hansard*, page 854

3. MINISTERIAL BRIEFING FOR THE DEBATE IN 2003

3.1 The first element of our remit is: “to investigate and report on the conduct of the Marine Administration in preparing ministerial briefing for the debate in Tynwald in November 2003, with special reference to allegations that Mr and Mrs Spadoni had breached fishing vessel regulations.”

The briefing papers used by the Minister

3.2 It became clear during our investigation that the Department of Trade and Industry had not kept copies of the briefing provided to the Minister and political Members of the Department for the debate in November 2003. The Council of Ministers Sub-Committee had, therefore, relied on a copy produced by Mr Alex Downie MLC. This explains the inclusion in their Report of a recommendation “That the Government Code be amended to direct that all Departments/Boards and Offices keep a record of all Parliamentary Briefings given to Ministers and Members”.⁸

3.3 We have examined the ministerial briefing produced to the Council of Ministers Sub-Committee by Mr Downie. This typescript matches very nearly word for word his speech in Tynwald as reported by *Hansard*. The comparison shows that in the debate Mr Downie was speaking on the advice of the Department. We asked the Department who had written the speech. They said it had been written by the then Director of the MA Mr Desmond Howell with the assistance of the officers involved. They also commented that there are no officers remaining in the Ship Registry who were either involved in the preparation of these briefings or who were involved with the Suzanna D during its period on the Register.⁹

⁸ CoMin Report, paragraph 4.10.7, recommendation 10.

⁹ Letter from the Department of Trade and Industry dated 2nd June 2009.

The allegation about “propaganda” against Mr and Mrs Spadoni

3.4 Towards the end of Mr Downie’s speech he said:¹⁰

“What was not clear was why the roll test at Portsmouth in November showed a pass, while the tests in the Isle of Man showed a significant failure. Until recently there has never been an explanation for this...”

“The MCA have made further investigations and discovered that Mr and Mrs Spadoni added additional ballast to the vessel after she was tested in November. They added a quantity of concrete blocks. This was never revealed to the MCA, or to the Isle of Man Marine Administration. Both organisations only became aware of it quite recently...”

“The MCA have made this calculation and they say it reveals the difference between the test in Portsmouth in 1999, and the test in the Isle of Man, is fully explained by the extra ballast. If the concrete is removed, the stability will be exactly as measured in Portsmouth – in other words, the MCA test in November 1999 actually did come up with the correct value.”

3.5 Mr and Mrs Spadoni’s grievance is that, to quote point 9 of their Petition for Redress of Grievance:¹¹ “In the November 2003 debate, both Mr Downie MHK and Mr Singer MLC made many incorrect and damaging statements as to the validity of our case. In particular, they repeated the allegations that we illegally made an addition of concrete blocks to our vessel which was the cause of its instability”.

3.6 The CoMin Report concluded in relation to this point that Tynwald had been given inaccurate information and they called on Mr Downie and the DTI to apologise. Mr and Mrs Spadoni and their representatives were not satisfied with this. Mr Gawne said in the debate establishing the present Committee that the expression “inaccurate information” represented “the cautious words of a Government committee acting under legal advice”. He went on: “Tynwald was deliberately misled. Mr and Mrs Spadoni were accused in Tynwald of breaking the law. This was an abuse of the privilege of Tynwald”.¹² In her oral evidence to

¹⁰ Hansard, pages 426–427.

¹¹ Reproduced as Annex 2 of the CoMin Report.

¹² Hansard, page 850.

us Mrs Spadoni said:¹³ “the objective of the Minister’s claim... was to mislead the Hon Members and the listening public that the vessel’s stability issue occurred only from the time of our ownership”.

3.7 The propositions which offended Mr and Mrs Spadoni so greatly were (a) that they had added concrete blocks; and (b) that this might have adversely affected the vessel’s stability. The propositions were offensive because of the implications (c) that Mr and Mrs Spadoni had committed a breach of fishing regulations which would have amounted to a criminal offence; and (d) that Mr and Mrs Spadoni were responsible in some way for the vessel’s stability failure, which if it had been established might have reduced the amount of compensation payable by the MCA.

3.8 Mr and Mrs Spadoni do not deny proposition (a) above, that they added the concrete blocks. In Mr Rimington’s November 2003 report he states at Appendix G that “Mr and Mrs Spadoni deliberately and openly placed the blocks in the fish hold and were fully aware of the condition of all the water tanks.” In his oral evidence to us Mr Rimington explained:

“The concrete blocks... when a vessel goes... when a vessel is tested, sorry, when it is given its roll test for stability purposes, it has to be in what is called a ‘depart port condition’, i.e. it has got to mimic if it was going out to sea and therefore it has to have its fuel tanks full, its water tanks full and it would have, in the case of this vessel, approximately four tons of ice in the fish room because the boat would normally go out with ice on board. When it had been tested previously, when it was tested in November 1999, a quantity of iron was used in substitution for that four tons of ice. That was in Portsmouth harbour and in Port St Mary when the Spadonis knew that it was going to be tested and they knew that the vessel was unlikely to go much further, because they had already illustrated their deep concerns about the vessel, they put in concrete blocks and I think it was a weight of 3.85 tonnes when they were actually lifted out and weighed afterwards, so they put concrete blocks in the hold of the vessel, newly cemented in.”

3.9 The CoMin Report draws attention at paragraph 3.44.1 to evidence that the MA and the MCA knew in 2000 that Mr and Mrs Spadoni had added the concrete blocks, quoting Documents 141, 193, 367 and 465. The Council of Ministers Sub-Committee adopted Mr and

¹³ Hansard, page 29.

Mrs Spadoni's view that Mr Downie and Mr Singer had "insinuated that the MA did not know [in 2000] about the concrete blocks".

3.10 The relevant extract by Mr Downie in the 2003 debate is:

"Mr and Mrs Spadoni added additional ballast to the vessel after she was tested in November. They added a quantity of concrete blocks. This was never revealed to the MCA, or to the Isle of Man Marine Administration. Both organisations only became aware of it quite recently..."

3.11 We do not believe that Mr Downie's words imply that the MA did not know in 2000 about the existence of the concrete blocks. Rather they imply that the MA did not know until "quite recently" when the concrete blocks had been added, and by whom. The Department's position in the 2003 debate was that the effect of the concrete blocks needed to be established – in other words that propositions (b), (c) and (d) above needed to be tested.

3.12 The Department's side of the story of the concrete blocks is set out in the Answer to Written Question 63 on 18th October 2005. The Department acknowledged in this Answer that the MA were aware from their attendance in April and May 2000 of the presence of the concrete blocks. They affirmed, however, that in November 2003 it remained absolutely true that the MCA claimed to have evidence of additional ballast. They indicated further that some of the aspects of the vessel's stability characteristics were as yet unexplained.

3.13 The Department maintained a similar stance in their answer to Question 64 of the October 2005 sitting. The Department were asked why, if they thought Mr and Mrs Spadoni breached the regulations, they had not been referred to the Attorney General for prosecution. The Department explained in the answer that yes, making a substantial change would be a criminal offence, but no, in November 2003 they did not have enough evidence on this to precipitate a criminal action in the Isle of Man.

3.14 We have examined again the documents highlighted by the CoMin report in relation to this matter. We agree that the documents show that the MA knew in 2000 of the presence of the concrete blocks. They do not show, however, whether the MA had at that time clearly determined whether the addition of the blocks had had a good, bad or indifferent effect on the vessel's stability (cf propositions (b) and (d) above). Neither do they show that the MA

had approved the addition of the blocks (cf proposition (c) above). Therefore, when, in April 2003, the MCA raised the issue of the concrete blocks with the MA, we do not accept that the MA could instantly have discounted it as an issue.

3.15 We accept as possible, in other words, that by November 2003 there remained questions about the concrete blocks which were from the Department's point of view unresolved. **We would comment, however, that these questions both could and should have been resolved by then and we do not understand why this was not done.**

3.16 The fundamental question is that referred to as proposition (b) above, namely whether the addition of the concrete blocks had any effect on the vessel's stability. We put this question to Mr Chris Baker, a naval architect who had been present at the tests of the *Suzanna D* in the Isle of Man in 2000 and subsequently. He stated very clearly that the concrete blocks would have made no material difference to the vessel's stability. The relevant extract from his oral evidence is the following (EP lines 600-05 and 624-33):

"The Chairman: Can you just confirm you said in the tests in 2000 there was no material difference with the concrete blocks? You thought it would not have made a difference. I am saying in 2004, when you took the blocks out, was there a material difference?"

Mr Baker: No, there was no material difference.

...

The Chairman: There have been allegations that the Minister for the Department and his political colleagues were misinformed by the Marine Administration about the concrete being a factor – that the Spadonis had made the vessel unstable themselves by adding the concrete – and the Minister and his staff then told Tynwald that, which is part of our brief today. I wonder, was there anything in the conversations you had with the Marine Administration or the MCA which would have given that impression, that they would then pass on to their political Members?

Mr Baker: No. I have never expressed the view that the concrete made a significant difference to the vessel. No, I do not know. A very unfortunate remark, I think. It was totally untrue."

3.17 Given the clarity of Mr Baker's thinking on the issue very nearly ten years after the event, we do not think it would have taken enormous effort for the Marine Administration to have reached a considered view between April and November 2003. Indeed, Mr and Mrs Spadoni recall that Mr Corkill had requested a report on the issue from the Marine Administration in their presence in June 2002.¹⁴ If a thorough report had been prepared in mid-2002, it would presumably have been of assistance in ensuring the Marine Administration was fully informed by the time of the debate in November 2003.

3.18 The Department may not have known in April 2003 that the concrete blocks made no material difference to the vessel's stability, but they should have found this out by November 2003. Moreover, given that they had not resolved the issue, it is clear with the benefit of hindsight that they should not have advised their Minister even to mention the issue in Tynwald, let alone to rely on it as an argument against the setting up of a Select Committee.

3.19 Does this episode show that the Department had deliberately decided to mount a campaign of "propaganda" against Mr and Mrs Spadoni? This accusation is not proven. We would only comment that in its handling of the issue of the concrete blocks between April 2003 and November 2003, the Department would appear to have fallen short of the high standards of professionalism and impartiality to which Tynwald expects all public servants to aspire.

The apologies made in Tynwald in 2008

3.20 The CoMin Report concluded (at paragraphs 3.44.5 and 4.10.4) that the statements made by the then Minister for the Department of Trade and Industry, Mr Downie, were incorrect and misled Tynwald Court. They found that there was dissemination of information from Department of Trade and Industry that was conveyed in a manner that was detrimental and damaging to the petitioners' cause (paragraph 4.10.6). The Sub-

¹⁴ See Mr and Mrs Spadoni's comments on Mr Corkill's oral evidence, contained within their written evidence to the Committee submitted on 17th February 2010.

Committee recommended to the Council of Ministers that Mr Downie be asked to apologise to Tynwald and that the Department of Trade and Industry consider issuing a formal apology to Mr and Mrs Spadoni.

3.21 Mr Downie apologised to Tynwald on 18th November 2008, saying:¹⁵

“Hon. Members, I wish to make a Personal Statement responding to the Report of the Council of Ministers into the complaint of Mr and Mrs Spadoni, reference (GR37/08), which was laid before Tynwald Court in October 2008.

On page 34, recommendation 11 reads: ‘that the Council of Ministers invite Mr A Downie MLC to apologise to the Court of Tynwald for the inaccurate statements (based on his briefing notes) made in Tynwald on 19th November 2003.’

The Council of Ministers accepted this recommendation. Accordingly, the Chief Secretary’s Office wrote to me on 6th October on behalf of the Council of Ministers, inviting me to make this apology.

As Hon. Members will recall, the inaccurate statements referred to were about the addition or otherwise of concrete ballast which could have affected the stability of the fishing vessel Suzanna D. This information was provided to me by the Marine Administration Section of the Department of Trade and Industry, where at that time I was the Minister and therefore responsible for the accuracy of information being given to Tynwald.

The problems relating to the fishing vessel Suzanna D date back to her arrival in the Isle of Man in early 2000, when severe problems with her stability were identified. This was two years before I joined the Department.

I understand that the UK authorities have accepted responsibility for their actions in this matter and have come to an agreement or an arrangement with Mr and Mrs Spadoni for the settlement, which is confidential between the two parties.

¹⁵ Hansard, page 224.

Meanwhile, in accordance with recommendation 11, I wish to make my apology to Tynwald Court for the inaccurate statements made by me on 19th November 2003. Thank you, Mr President."

3.22 Mr Cretney apologised on behalf of the Department of Trade and Industry in Tynwald in December 2008, saying:

"Mr President, I thank you for the opportunity to make a statement to Hon. Members in relation to the Council of Ministers' Report on the complaint of Mr and Mrs Spadoni, which was laid before the Court at the October sitting.

As Hon. Members will be aware, one of the recommendations contained in the Report is, and I quote: 'The Department of Trade and Industry gives consideration to issuing a formal apology to Mr and Mrs Spadoni for conveying inaccurate information to the then Minister, the Hon. A Downie MHK.' This recommendation is based upon a finding of the Committee that there was, and again I quote from the Report: '... dissemination of information from the Department which was conveyed in a manner that was detrimental and damaging to the petitioners' cause.'

Hon. Members, this is a difficult issue for my Department to address. The case dates back to 1999 and the current situation is such that no officers with significant involvement in the case remain within the Department or within Government. I can only assume that information conveyed by my Department's officers to the Minister was believed to be accurate and was provided in good faith. In fact, the Committee's Report states that there was no written evidence this was intentionally meant to damage the petitioners' case, or that it was organised misinformation.

Having now had the opportunity to review and reflect on the contents of the Report and, in particular, the recommendation to which I have already referred, I recognise that it is my duty, as Minister, on behalf of the Department, to apologise to Mr and Mrs Spadoni. Therefore, I apologise to both Mr and Mrs Spadoni if information provided to my predecessor and referred to by him in this Hon. Court was subsequently found to be inaccurate."

3.25 Mr and Mrs Spadoni told us they had not had the Department's apology in writing outside Tynwald. The following is an extract from their oral evidence to us on 13th May 2009:¹⁶

"The Chairman: Can I ask one final question, and then we must go. In the Committee's Report, they make a recommendation 'that the Department of Trade and Industry gives consideration to issuing a formal apology to Mr and Mrs Spadoni.' Have you had that apology?"

Mrs Spadoni: No.

Mr Spadoni: No.

Mrs Spadoni: And Mr Rimington went to see Mr Cretney and asked where was it, and Mr Cretney turned round and told him that the Department had been legally advised not to send us a copy of his apology because this would invite a claim against the Department.

Mr Spadoni: Disgrace!"

3.26 We asked the Department if they had sent a written apology to Mr and Mrs Spadoni and if not, why not. They replied that the Minister had apologised to Mr and Mrs Spadoni in Tynwald, and that the Department believed that it had complied with the wishes of Tynwald.¹⁷

3.27 We consider that the Department has complied with the terms of the CoMin Report, but we note that that Report contained recommendations from the Council of Ministers Sub-Committee to the Council of Ministers, and was only laid before Tynwald for information. To that extent, therefore, while the apologies which have been made may comply with the wishes of the Council of Ministers we do not believe that Tynwald itself has until this point had the opportunity to take a view.

¹⁶ *Hansard*, page 29.

¹⁷ Letter from the Department of Trade and Industry dated 16th October 2009.

3.28 Having given the matter careful consideration, it is our conclusion that apologies made in Tynwald on the public record are sufficient; however, the Committee is of the opinion that a formal letter of apology from the relevant Department (now the Department of Economic Development) would be appropriate.

4. INVESTIGATING THE CAUSES OF THE STABILITY FAILURE

4.1 The second element of our remit is: “to investigate and report on the conduct of the Marine Administration in investigating the causes for major stability failure of the FV Suzanna D, owned by Mr and Mrs Spadoni, in May 2000.”

4.2 For Mr and Mrs Spadoni a critical question is whether the vessel was built unstable, or became unstable. If it became unstable at some stage after it was built, it is important from the point of view of Mr and Mrs Spadoni to be clear whether this was as a result of their actions or as a result of the actions of previous owners.

4.3 Throughout the case the MA has not focused particularly closely on the question of historic causes. As noted above, in 2000 the MA called the vessel in for a test on the basis of their reading of the most recent roll test, namely that conducted in Portsmouth the previous year, after the boat had been refitted by Mr and Mrs Spadoni. On 29th August 2000 Mr Chreseson of the MA wrote that the vessel had “at no time satisfied the 1975 Rules” (this was in the memorandum subsequently named “Document 437” which is discussed in more detail below). Nevertheless, in November 2003 the Department had considered that there was a possibility the vessel’s stability might have been affected at least in part by the actions of Mr and Mrs Spadoni in adding concrete blocks. In the short debate on 18th May 2004 and in the more substantive debate on 22nd June 2005 the Department did not directly address the question of investigating the historic reasons for the vessel’s stability failure. On 22nd June 2005 Mr Downie alluded to the notion of investigations but only to point out the extensive “investigations” which had been done on the vessel as she then was.¹⁸ In Written Answer 72 on 12th July 2005 he said in terms: “The duty of the Marine Administration is to examine a vessel presented to it and establish if that vessel meets the requirements. The vessel’s past history is not of immediate concern in this exercise.”

4.4 The CoMin Report commented (4.8.1) that there was no statutory duty for the MA to conduct an investigation into the vessel’s stability failure. The Council of Ministers Sub-

¹⁸ *Hansard*, pages 1453–1454.

Committee also asked the DTI to comment on the issue of an investigation but on 27th November 2007 they declined (3.34.1 and Doc 445), making reference to “the significant level of correspondence and debate in the Department’s response to the statements made in Mr and Mrs Spadoni’s original petition”. In other words, they had nothing to add to what had already been said by their predecessors.

4.5 This was not enough for Mr and Mrs Spadoni and their representatives. In the debate on 21st April 2009 establishing the Select Committee, Mr Gawne explained their view as follows:¹⁹

“If the Marine Administration had made a formal investigation, the MCA would promptly have settled with Mr and Mrs Spadoni, as the MCA’s fault would be fully acknowledged, and no future allegations of misconduct against our constituents, Mr and Mrs Spadoni, could have been made. Conversely, if Mr and Mrs Spadoni were found to be responsible for the stability failure by unauthorised actions, then they could and should have been prosecuted.”

4.6 Mr Gawne went on to posit that the most likely reason there had been no formal investigation was because the MA did not wish to endanger their good working relationship with the MCA and jeopardise the commercial success of the Manx Shipping Register.

4.7 In oral evidence to us on 13th May 2009, Mr Rimington expanded on this. He said he believed that in the circumstances of the case:

“it is the responsibility – I will not say it is the legal duty – but it is the responsibility of the Marine Administration to investigate and investigate on, what I would call, a formal basis.”

He said the lack of an investigation led to three things: delay in the settlement with the MCA, time in which slurs could be made against Mr and Mrs Spadoni, and a failure in meeting the MA’s responsibility to the public good.²⁰

¹⁹ Hansard, page 849.

²⁰ Hansard, pages 8–10.

4.8 Mrs Spadoni indicated in her oral evidence to us on 13th May 2009 that she was disappointed that, even after the publication of the CoMin Report in October 2008, “nobody has actually said why this vessel failed to fulfil the statutory stability requirements.”²¹

What would a historical investigation have found?

4.9 Mr Peter Chreseson of the Marine Administration wrote in an internal memorandum of 29th August 2000 addressed to his colleague Mr John Wade that the *Suzanna D* “at no time satisfied the 1975 Rules” and had “consistently failed roll tests”.

4.10 Mr Chreseson’s memorandum was later submitted to the Sub-Committee of the Council of Ministers which produced the CoMin Report. They listed it in Annex 4 to their Report as “evidence submitted to the Committee” and they named it “Document 437”. However, they did not refer to it in the body of their Report and accordingly it was not reproduced in their Annex 5.

4.11 We obtained a copy of Document 437 from the Chief Secretary’s Office using our powers under the Tynwald Proceedings Act. In complying with our statutory Order, the Chief Secretary’s Office advised us that “the Isle of Man Shipping Registry has requested that the Document be kept confidential as the United Kingdom Maritime and Coastguard Agency have still not agreed to its release”.²²

4.12 Having considered Document 437 and recognising its importance, we notified the Chief Secretary that we were minded to publish it and asked for further advice on the possible implications of such publication.²³ In response the Chief Secretary suggested that we seek the consent of the Department of Trade and Industry.²⁴ We duly offered the Department the opportunity to make any comments, writing to the on 4th February 2010. By 31st March 2010 we had received no reply. We could only infer from this that the

²¹ *Hansard*, page 25.

²² Letter dated 15th May 2009 from the Office of the Council of Ministers.

²³ Letter from the Committee Clerk dated 20th January 2010.

²⁴ Letter from the Chief Secretary dated 1st February 2010.

Department had no further comment to make; accordingly, we have decided to include Document 437 within the Appendix to this report.

4.13 Noting that Document 437 was part of an ongoing exchange of correspondence between the MA and the MCA about the *Suzanna D*, we obtained from the Chief Secretary's Office a copy of the MCA analysis upon which Mr Chreseson had been commenting when he produced Document 437. This MCA analysis, which is dated 16th August 2000, was named by the Council of Ministers Sub-Committee as Document 151 and is reproduced in the Appendix to this report.

4.14 Within Document 151 there is contained an allegation that there could be errors in figures produced by Marine Data Isle of Man, i.e. by Mr Chris Baker. We asked Mr Baker to comment on this allegation. Having examined Document 151 he did not wish to revise his analysis. On the contrary, he maintains that the MCA were in error. His explanation, dated 9th February 2010, is included within the Appendix to this report.

4.15 Mr Baker in his oral evidence to us was very clear that the reasons for the vessel's stability failure were of long standing. The following extracts are relevant:²⁵

***The Chairman:** Do you know why the vessel failed on both of these occasions?*

***Mr Baker:** It is just inherent in its design. As an exercise for the Spadonis, I... There was originally a very early stability book available. I do not have a copy of that, unfortunately, but there were copies around and I went back to some of the original data. I think you have this particular letter here.*

***The Chairman:** Yes.*

***Mr Baker:** You can demonstrate that, comparing it with current criteria, it only ever passed in one small area, in one condition, so the vessel, under current criteria, would never have passed."*

...

²⁵ Early Publication, lines 174–182, 220–239 and 299–306.

***“Mr Cannan:** So you would say that the boat was unseaworthy from the beginning?*

***Mr Baker:** It never complied with the stability criteria.*

***Mr Cannan:** Right from the beginning –*

***Mr Baker:** Right from the beginning.*

***Mr Cannan:** – up to your involvement?*

***Mr Baker:** I would say right from the beginning of the boat’s life.*

***Mr Cannan:** From the beginning of the boat’s life, in your professional opinion, it was never seaworthy?*

***Mr Baker:** It never met the statutory criteria for stability, which would... Yes, which would say it would be –*

***Mr Cannan:** It is the same thing, surely?*

***Mr Baker:** – unseaworthy, yes.”*

...

***“Mr Cannan:** So from the time Mr and Mrs Spadoni purchased the boat it was in fact, if I can use the slang word, ‘duff’?*

***Mr Baker:** When they purchased the vessel it did not meet the stability requirements –*

***Mr Cannan:** It did not meet them, no.*

***Mr Baker:** – and had not done for some time, had not done for many years.”*

4.16 Taking all of the above into consideration we find that, if Mr and Mrs Spadoni had had access to Document 437 at an earlier stage, this could have made a difference to the way in which their case unfolded both in relation to the MCA and within the Isle of Man. This episode illustrates the importance of progress being made with the Access to Information Bill which is included in the Government's legislative programme. Accordingly we make the following recommendation.

RECOMMENDATION 1

That the Council of Ministers bring forward as a matter of urgency their proposals on access to information, in order to reduce the risk of non-disclosure in future of documents such as "Document 437".

Should the Marine Administration have conducted a historical investigation?

4.17 According to Mr Rimington the MA should have gone into the history of the vessel further because (a) it would help Mr and Mrs Spadoni in their case against the MCA; (b) it would be better for Mr and Mrs Spadoni's reputation; and (c) it would be in the common good. We will address these points in turn.

4.18 Mr Rimington's first point (a) is that the MA should have investigated the history in order to support the Mr and Mrs Spadoni's claim. We do not accept that it was the responsibility of the MA to help Mr and Mrs Spadoni in their case against the MCA, nor do we believe that this would have been an appropriate use of the resources voted to the MA by Tynwald. We have already commented that releasing Document 437 would have made a difference. Beyond that, advancing the case of Mr and Mrs Spadoni is a matter for Mr and Mrs Spadoni and their legal representatives – no-one else. Mr and Mrs Spadoni had the MCA file and had access to specialist advice. They did not need the MA to lend its weight to their argument.

4.19 Mr Rimington's second point (b) is that the MA should have investigated the history in order to protect Mr and Mrs Spadoni's reputation. We have already recognised that Mr and Mrs Spadoni felt their reputation was tarnished by statements in Tynwald suggesting they may have had some part in causing the stability failure. We think such statements should not have been made in Tynwald. But that is not to say public resources should have been put into shoring up Mr and Mrs Spadoni's case against another body, the MCA. Mr and Mrs Spadoni's reputation would have been equally enhanced (or at least not tarnished) if they had established on the basis of their own efforts that the cause of the stability failure pre-dated their ownership of the vessel. Again, if they had had access to Document 437 this would have helped their argument.

4.20 Mr Rimington's third point (c) is that the MA should have investigated the history in the interests of the common good, both in the Isle of Man and the UK. Mr Rimington seems to present some notion of the Isle of Man as a sort of "whistle blower" or "giant killer" in the face of a climate of corruption in the neighbouring jurisdiction's MCA. In this sense he compares the *Suzanna D* case with the *Solway Harvester*. If the Isle of Man was prepared to stick up for itself, and for all seafaring people, against the UK authorities in the *Solway Harvester* case, he asks, then why not in *Suzanna D*?

4.21 We would posit that there are a number of possible explanations. The *Solway Harvester* and *Suzanna D* cases are different. In the *Solway Harvester* case, lives were lost. That vessel was raised at the insistence of the Manx police on suspicion that a crime had been committed not by the MCA but by the vessel's owner, Mr Gidney. In *Suzanna D*, by contrast, the owners and their representatives suspected criminal negligence on the part of the MCA.

4.22 Whatever representations had been made by the Marine Administration, the Chief Minister and even Tynwald itself, the idea that the UK MCA would institute on the basis of the *Suzanna D* case a systematic re-assessment of vessels previously "passed" by the MCA was always unrealistic. As far as the common good in the UK was concerned, it was for Mr and Mrs Spadoni to make the best case they could against the MCA and to make sure the issue was known to the UK Ombudsman. A letter from that officer dated 4th August 2004 provided to us by Mr Rimington shows that this was indeed done. Ann Abraham wrote:

“The issues surrounding stability tests received wide publicity in the light of the Reeman case and a number of vessel owners submitted complaints concerning comparable problems to this Office in consequence. MCA have co-operated with our consideration of these complaints and, as it stands, I have seen no evidence that they have failed to address the problems with stability tests for fishing vessels revealed by this Office’s investigation of the Reeman complaint.”

As for the common good in the Isle of Man, there was no need for the MA to undertake, nor to call for anyone else to undertake, any more comprehensive investigation of the causes than they did in order to protect Manx lives. If the case of the *Suzanna D* illustrates nothing else it illustrates that the MA took this responsibility seriously.

An alleged conspiracy

4.23 Mr and Mrs Spadoni have alleged that the reason why the MA did not conduct a historical investigation was because of a conspiracy against them. This conspiracy was motivated, they contend, by the desire of the authorities in the Isle of Man to re-build working relations with UK authorities, particularly the MCA, which had supposedly been damaged as a result of the *Solway Harvester* case.

4.24 By way of evidence for such a conspiracy, Mr Rimington provided us with information about a conversation he had had in February 2004 with the then Chief Minister, Mr Richard Corkill. Mr Rimington’s motion to set up a Select Committee on the Spadoni case had been debated in November 2003 but the debate had been adjourned to the February sitting of Tynwald. The following is an extract from the oral evidence we heard on 13th May 2009:²⁶

“Mr Rimington: I met with Mr Corkill on 6th February. He had been authorised via the Director of the Marine Administration, and from the United Kingdom authorities, that there was a substantial offer coming forward to Mr and Mrs Spadoni and he gave me a figure to which – or two figures – which it would lie between, which I was duty bound not to tell Mr

²⁶ Hansard, page 10.

and Mrs Spadoni. I have, in fact, kept that to this date, although a lower figure had already been put forward in another piece of evidence. Those two figures were between £1 million and £1.5 million and that offer was to come forward within two to three weeks.

On the basis of that evidence, of that offer, which I think being given through the Chief Minister of the day with the authorisation of the various parties that is an offer that you would expect to be honoured to there or thereabouts. Having received that offer, the matter was withdrawn from debate in Tynwald.

The Chairman: *By you.*

Mr Rimington: *By me. I withdrew it again in March. I accept I probably should not have done, one of probably many mistakes I have made in this over the years dealing with this case and then the offer came through – the first offer that came through at under £200,000. So you can understand the feeling of deception that might have taken place between Mr and Mrs Spadoni and myself by the United Kingdom authorities...”*

4.25 We do not consider that the conversation with the Chief Minister reported by Mr Rimington establishes a conspiracy. We are told that the Chief Minister quoted a figure of £1 to £1.5 million which he had been told the UK authorities were about to offer to Mr and Mrs Spadoni. We are told that the UK authorities subsequently offered a lower sum. There are any number of explanations for this. The message from the UK authorities could have been transmitted inaccurately by a mistake anywhere along the line, either within the UK administration between there and the Isle of Man, or within the Isle of Man administration. The message from the UK authorities could have been transmitted accurately but misunderstood either by Mr Corkill or by one of his advisors in the Isle of Man, including in the MA. Or, as seems most likely, the message from the UK authorities could have been accurately transmitted and correctly understood, but the UK authorities could subsequently have changed their position.

4.26 Having considered this and all the other evidence before us, we have concluded that there is no persuasive evidence of a deliberate conspiracy against Mr and Mrs Spadoni.

A secret tape

4.27 Such was the significance to Mr Rimington in 2004 of his conversations on this matter with the Chief Minister that he attempted to record them on audio tape without the Chief Minister's knowledge. Mr Rimington told us this in oral evidence on 13th May 2009. He commented:²⁷

"I am not proud to have done that – it is probably what I would call a dishonourable move – but at that time I felt that I was being treated dishonourably by many parties around the place and I felt I could trust nobody. My abilities as an amateur sleuth are close to zero and you will find that the tape is rather mottled and indistinct, but there is a transcript there, such as it is, and obviously you can play with the tape as you wish to verify the transcript."

4.28 A Select Committee would not normally accept such a recording as evidence. We initially determined that we would not accept it unless we had Mr Corkill's permission to do so. In the event Mr Corkill did give that permission and we considered a corrected transcript of the relevant part of the tape. It told us nothing that we did not already know from Mr Rimington's oral evidence.

4.29 The making of secret recordings of private conversations between Honourable Members is underhand conduct which falls short of that expected of Honourable Members. Had Mr Rimington still been a Member of Tynwald we would have considered referring this matter to the Standing Committee on Standards and Members' Interests. We sincerely hope that no other Member would ever contemplate similar behaviour, which brings the whole of Tynwald into disrepute.

²⁷ *Hansard*, page 3.

5. CONCLUSION

5.1 We do not underestimate the impact that the events described in this report have had Mr and Mrs Spadoni. As they put it in their most recent communication to us:²⁸

“The MCA with the complicity of the IOMMA are responsible for this matter and whilst they have continued to hide behind their lies we are the people who have suffered the disastrous consequences of their criminal negligence. We have been treated like criminals throughout and have had to listen to glib statements such as ‘you have been paid compensation by the MCA, so what’s the problem?’ It has been easy for members of the DTI and Marine Administration and others to make such statements. They did not lose their business, suffer financial ruin and forced to spend many years of their lives fighting for compensation. It is a fact that neither the Sub-Committee nor the Select Committee asked us any questions in connection with the details of the consequences we have suffered. For that reason such glib statements continue to misrepresent the truth of the consequential effects we have suffered and continue to suffer.”

We have no wish to brush off Mr and Mrs Spadoni’s concerns in a glib manner. On the contrary, it has been our objective to give them a fair opportunity to voice their concerns. We have given careful consideration to all that they have said and written.

5.2 It is now more than ten years since the *Suzanna D* arrived in Manx waters. Many of the key players involved in the affair in the early days have retired, emigrated or died. The *Suzanna D* has been the subject of substantive debate in Tynwald on no fewer than four previous occasions – 19th November 2003, 18th May 2004, 22nd June 2005, 21st April 2009. It has been the subject of Tynwald Questions and statements. It has had been examined by a Sub-Committee of the Council of Ministers who considered 450 items of documentary evidence and produced a Report which is three-quarters of an inch thick.

²⁸ Letter from Mr and Mrs Spadoni dated 16th February 2010, attached to e-mail dated 17th February 2010.

5.3 The CoMin Report commented that:

“The Committee finds that Politicians, including two former Chief Ministers, Officers of the MA, Officers in the Department of Trade and Industry and Officers in the Chief Secretary’s Office, including the former Chief Secretary, gave a considerable amount of time, consideration and advice to the Petitioners.”

5.4 To this can now be added a further investigation by a Tynwald Select Committee, complete with oral evidence in public and the production of the present Report – none of which is without cost to the public purse.

5.5 When our Report is published, Mr and Mrs Spadoni may think that it is deficient in some respects. We acknowledge that we have not commented on every last document related to the case. Rather, we have concentrated our efforts on the issues identified in our remit and on the evidence most directly relevant to those issues. We have gathered and considered that evidence to the best of our ability and we have arrived at certain findings which are set out above and summarised below. We now turn finally to the question of what, if anything, should happen next.

5.6 As far as the UK authorities are concerned, Tynwald has no jurisdiction. Mr and Mrs Spadoni have received a confidential financial settlement from the MCA, agreed through a process of mediation. We presume that the MCA is regarding the case as closed.

5.7 Within the Isle of Man, Mr and Mrs Spadoni have received the direct attention of their MHKs and of successive Chief Ministers and Ministers for Trade and Industry. They have received formal apologies on the public record in Tynwald for any inaccurate statements made against them in Tynwald – apologies which, we have concluded, are sufficient. There is nothing further that for Tynwald or the Departments, Boards and Offices of the Isle of Man Government to do for Mr and Mrs Spadoni.

5.8 Accordingly we make our second recommendation as follows.

RECOMMENDATION 2

That Tynwald, noting the extent of parliamentary and Government resources expended over ten years in connection with the stability of the Suzanna D and to the associated grievance of Mr and Mrs Spadoni, and accepting that there is nothing further for Tynwald or the Departments, Boards and Offices of the Isle of Man Government to do for Mr and Mrs Spadoni, resolves that this case be now closed.

6. SUMMARY OF KEY FINDINGS AND RECOMMENDATIONS

6.1 The Council of Ministers Sub-Committee adopted Mr and Mrs Spadoni's view that Mr Downie and Mr Singer had "insinuated that the MA did not know [in 2000] about the concrete blocks". We accept as possible that by November 2003 there remained questions about the concrete blocks in the *Suzanna D* which were from the Department's point of view unresolved. We would comment, however, that these questions both could and should have been resolved by then and we do not understand why this was not done. (paragraphs 3.9–3.15)

6.2 The Department may not have known in April 2003 that the concrete blocks made no material difference to the vessel's stability, but they should have found this out by November 2003. They should not have advised their Minister even to mention the issue in Tynwald, let alone to rely on it as an argument against the setting up of a Select Committee. (paragraph 3.18)

6.3 The accusation that the Department had deliberately decided to mount a campaign of "propaganda" against Mr and Mrs Spadoni is not proven. We would only comment that in its handling of the issue of the concrete blocks between April 2003 and November 2003, the Department would appear to have fallen short of the high standards of professionalism and impartiality to which Tynwald expects all public servants to aspire. (paragraph 3.19)

6.4 The apologies which have been made in Tynwald on the public record are sufficient; however, the Committee is of the opinion that a formal letter of apology from the relevant Department would be appropriate. (paragraph 3.28)

6.5 The reasons for the stability failure of the *Suzanna D* were of long standing. The vessel never complied with the stability criteria. (paragraph 4.15)

6.6 If Mr and Mrs Spadoni had had access to Document 437 at an earlier stage, this could have made a difference to the way in which their case unfolded both in relation to the MCA and within the Isle of Man. We recommend:

RECOMMENDATION 1

That the Council of Ministers bring forward as a matter of urgency their proposals on access to information, in order to reduce the risk of non-disclosure in future of documents such as “Document 437”.

(paragraph 4.16)

6.7 We do not accept that it was the responsibility of the MA to help Mr and Mrs Spadoni in their case against the MCA, nor do we believe that this would have been an appropriate use of the resources voted to the MA by Tynwald. (paragraph 4.18)

6.8 As far as the common good in the UK was concerned, it was for Mr and Mrs Spadoni to make the best case they could against the MCA and to make sure the issue was known to the UK Ombudsman. As for the common good in the Isle of Man, there was no need for the MA to undertake, nor to call for anyone else to undertake, any more comprehensive investigation of the causes than they did in order to protect Manx lives. The MA took this responsibility seriously. (paragraph 4.22)

6.9 There is no persuasive evidence of a deliberate conspiracy against Mr and Mrs Spadoni. (paragraph 4.26)

6.10 The making of secret recordings of private conversations between Honourable Members is underhand conduct which falls short of that expected of Honourable Members. (paragraph 4.29)

6.11 There is nothing further that for Tynwald or the Departments, Boards and Offices of the Isle of Man Government to do for Mr and Mrs Spadoni. We recommend:

RECOMMENDATION 2

That Tynwald, noting the extent of parliamentary and Government resources expended over ten years in connection with the stability of the Suzanna D and to the associated grievance of Mr and Mrs Spadoni, and accepting that there is

nothing further for Tynwald or the Departments, Boards and Offices of the Isle of Man Government to do for Mr and Mrs Spadoni, resolves that this case be now closed.

(paragraphs 5.7-5.8)

D M W Butt (Chairman)

J D Q Cannan

R M E Paterson

APPENDIX

PREVIOUSLY UNPUBLISHED DOCUMENTS REFERRED TO

	From	To	Note	Page
16 August 2000	Maurice Storey (MCA)	Colin Douglas (MA)	"Document 151"	A1
29 August 2000	Peter Chreseson (MA)	John Wade (MA)	"Document 437"	A17
4 August 2004	Ann Abraham, UK Parliamentary Commissioner for Administration	John Rimington MHK		A21
15 May 2009	Office of the Council of Ministers	Chairman of Committee	Covering letter accompanying Document 437	A23
2 June 2009	Chief Executive of DTI	Committee Clerk		A25
16 October 2009	Chief Executive of DTI	Committee Clerk		A27
7 January 2010	Mrs Clare Christian MLC	Committee Clerk		A29
20 January 2010	Committee Clerk	Chief Secretary		A31
13 January 2010	Mr and Mrs Spadoni	Committee Clerk		A33
15 January 2010	Committee Clerk	Mrs Spadoni		A35
1 February 2010	Mrs Joan Spadoni	Committee Clerk	E-mail and attachment. The attachment bears the date 30 January 2010	A37
1 February 2010	Chief Secretary	Committee Clerk		A41
3 February 2010	Committee Clerk	Mrs Joan Spadoni		A43
4 February 2010	Committee Clerk	Chief Executive, DTI		A45
9 February 2010	Chris Baker	Committee Clerk	Comments on "Document 151"	A47
17 February 2010	Mrs Joan Spadoni	Committee Clerk	E-mail and three attachments (the attachments contain the date 16 February 2010)	A49



Maritime and Coastguard Agency

COMM
Doc 151

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Colin Douglas
Director of Marine Administration
Isle of Man Government
Peregine House
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Douglas
Isle of Man
IM1 5EH

Our ref: CE 138/2000

16 August 2000

Dear *Colin*

MFV SUZANNA D (PL 72) - OFFICIAL NO. M134
STABILITY: ROLL TEST & INCLINING EXPERIMENT

Thank you for your letter of 10 August 2000 enclosing copies of the Maritime Data reports concerning the recent roll test and inclining test on the above mentioned fishing vessel. The reports have been closely examined on the basis of the information they contain. A copy of our assessment is enclosed.

Given the obvious differences in the roll tests carried out by the MCA surveyor and Maritime Data surveyor and the apparent inconsistency in the tests carried out by Maritime Data there is clearly a need to arrange a meeting to discuss and resolve this issue. I propose that John Downie, of the MCA Fishing Vessel Safety Branch, visits the Isle of Man to meet the surveyors involved with this vessel to discuss the issues he has raised with a view to resolving the current situation.

Assuming you are agreeable to this proposal I suggest that John Downie be contacted direct to make the necessary arrangements.

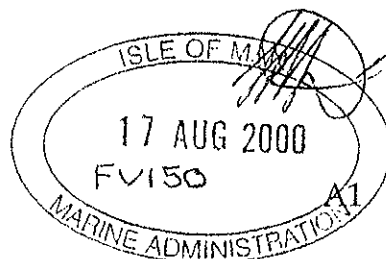
Yours sincerely

Maurice

Maurice Storey
Chief Executive



INVESTOR IN PEOPLE



*Refer
Please review info contained
then discuss with Des re set
up a meeting.
I would be grateful if
John Wark was
involved in the
discussions with*



(151)

(151/2)

A2

MFV "SUZANNA D"
Examination of the Maritime Data stability assessment reports

The stability information produced by Marine Data on behalf of the Isle of Man Marine Administration, as forwarded to the MCA under covering letter of 10 August (ref. FV.150), has been examined. No obvious errors have been identified. There appeared to be some initial confusion as to the measurement of fore and aft freeboards but this is reported as being resolved.

The information supplied suggests that the inclining test and the roll test were carried out in broadly similar conditions. Assuming this to be the case, it is interesting to note the inconsistency in the freeboards measured during the tests;

	aft	minimum	forward
inclining	0.909m	0.475m	1.850m
roll test	0.748m	0.528m	1.893m

From the only hydrostatic information available the difference in freeboard equates to approximately 7 tonnes difference in deadweight items (total deadweight is 21.5 tonnes). The information supplied does not account for this difference.

As a further check the Maritime Data and the last MCA roll tests have been checked (see attached) and found to be correct. Two additional computations have been carried out. One using the Maritime Data roll period figures with the MCA freeboards and one using the Maritime Data freeboards with the MCA roll period figures. The results of this clearly indicate that the differences in the measured freeboard give rise to the difference in the test results. In addition it is of note that the freeboard differences equate to an apparent displacement increase of at least 14 tonnes (8% lightship) since the vessel was last roll tested in the UK (November 1999).

Ignoring for the moment the differences in the freeboard recordings for the Maritime Data tests, there are only two probable explanations for the different roll test results;

1. The freeboards were measured incorrectly by either the MCA or Maritime Data.
2. The vessel was modified at some time between the MCA the Maritime Data tests being carried out, i.e. ballast was added

Given the above and the indicated inconsistency in the Marine Data information (i.e. freeboard) it is clear that further investigation will be needed to identify where the error (assuming there is one) lies or the extent to which modifications may or may not have been made to the vessel. Such investigations will most likely require further examination of the vessel and discussions with the owner.



John P Downie
Bay 1/29, Spring Place
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BEAM TRAWLER STABILITY - Roll Test assessment *(UK Roll TEST)*

Name of vessel: Susanna D

Date of Test:
 Date of calculation: 11-Aug-00
 Surveyor: J Downie

DIMENSIONS AND READINGS:

Moulded breadth (B):
6.120 m

Moulded depth (D):
3.400 m

FREEBOARDS:

	(m)	
Aft	Minimum	Forward
	0.650	
0.990	0.650	2.010
	0.650	

<-- Port
 <-- Centre or Mean
 <-- Starboard

SHEER:

$$\text{Sheer (S)} = [(F_f + F_a)/2] - F_{\min}(\text{mean})$$

$$(S) = 0.850 \text{ m}$$

ROLL PERIOD:

		Test No 1	Test No 2	Test No 3	Overall
Oscillations	(n)	3.000	3.000	4.000	
Stopwatch No 1	(s)	20.400	20.800	27.600	
Stopwatch No 2	(s)				
Mean Period	(s)	6.800	6.933	6.900	6.880

INDICATED GM:

$$GM(\text{ind}) = (0.83 \cdot B/T)^2 \text{ m}$$

$$GM(\text{ind}) = (0.83 \cdot 6.120/6.880)^2$$

$$GM(\text{ind}) = 0.545 \text{ m}$$

INTERPOLATING FROM THE TABLE:

$$\text{For } F/B = 0.106$$

$$\begin{aligned}
 a &= 0.718 \\
 b &= 1.550 \\
 GM(\text{req}) &= 0.613 \text{ m} \quad \leftarrow \leftarrow
 \end{aligned}$$

INSERTING VALUES INTO THE FORMULA TO OBTAIN THE MODIFIED GM:

$$\begin{aligned}
 GM(\text{mod}) &= GM1 + [(GM1 - 0.40) \cdot (6.00 - B)/B] \\
 &+ \{a \cdot (D/B - 0.5)\} \\
 &+ \{b \cdot (S/B - 0.12)\} \\
 GM(\text{mod}) &= 0.545 + [(0.545 - 0.40) \cdot (6.00 - 6.120)/6.120] \\
 &+ [0.718 \cdot (3.400/6.120 - 0.5)] \\
 &+ [1.550 \cdot (0.850/6.120 - 0.12)] \\
 GM(\text{mod}) &= 0.545 + [(0.145) \cdot (-0.020)] \\
 &+ [0.718 \cdot (0.056)] \\
 &+ [1.550 \cdot (0.019)] \\
 GM(\text{mod}) &= 0.545 + [-0.003] + [0.040] + [0.029] \\
 GM(\text{mod}) &= 0.611 \text{ m} \quad \leftarrow \leftarrow
 \end{aligned}$$

CONCLUSION:

As GM(mod) is greater than GM(req) - by 0.8 cm - the vessel is deemed to PASS the test.

(The statement above takes due regard of the 1cm deficiency permitted to allow for experimental errors.)

151/4

BEAM TRAWLER STABILITY - Roll Test assessment

(I 4M Roll Test)

Name of vessel: Susanna D

Date of Test:

DIMENSIONS AND READINGS:

Date of calculation: 11-Aug-00

Surveyor: J Downie

Moulded breadth (B):
6.120 m

Moulded depth (D):
3.400 m

FREEBOARDS:

	(m)	
Aft	Minimum	Forward
0.735	0.545	1.895 <-- Port
0.747	0.528	1.893 <-- Centre or Mean
0.760	0.510	1.890 <-- Starboard

SHEER:

$$\text{Sheer (S)} = [(Ff + Fa)/2] - F_{\min}(\text{mean})$$

$$(S) = 0.793 \text{ m}$$

ROLL PERIOD:

		Test No 1	Test No 2	Test No 3	Overall
Oscillations	(n)	16.000	16.000	14.000	
Stopwatch No 1	(s)	110.770	111.490	95.600	
Stopwatch No 2	(s)				
Mean Period	(s)	6.923	6.968	6.829	6.910

INDICATED GM:

$$GM(\text{ind}) = (0.83 \cdot B/T)^2 \text{ m}$$

$$GM(\text{ind}) = (0.83 \cdot 6.120/6.910)^2$$

$$GM(\text{ind}) = 0.540 \text{ m}$$

INTERPOLATING FROM THE TABLE:

$$\text{For } F/B = 0.086$$

$$a = 0.800$$

$$b = 1.740$$

$$GM(\text{req}) = 0.705 \text{ m} <-- <--$$

INSERTING VALUES INTO THE FORMULA TO OBTAIN THE MODIFIED GM:

$$GM(\text{mod}) = GM1 + [(GM1 - 0.40) \cdot (6.00 - B)/B]$$

$$+ [a \cdot (D/B - 0.5)]$$

$$+ [b \cdot (S/B - 0.12)]$$

$$GM(\text{mod}) = 0.540 + [(0.540 - 0.40) \cdot (6.00 - 6.120)/6.120]$$

$$+ [0.800 \cdot (3.400/6.120 - 0.5)]$$

$$+ [1.740 \cdot (0.793/6.120 - 0.12)]$$

$$GM(\text{mod}) = 0.540 + [(0.140) \cdot (-0.020)]$$

$$+ [0.800 \cdot (0.056)]$$

$$+ [1.740 \cdot (0.009)]$$

$$GM(\text{mod}) = 0.540 + [-0.003] + [0.044] + [0.017]$$

$$GM(\text{mod}) = 0.598 \text{ m} <-- <--$$

CONCLUSION:

As GM(mod) is less than GM(req) - by 9.7 cm - the vessel is deemed to FAIL the test.

A5

(The statement above takes due regard of the 1cm deficiency permitted to allow for experimental errors.)

151/5

BEAM TRAWLER STABILITY - Roll Test assessment

(I of M Roll Test with UK Roll Period)

Name of vessel: Susanna D

Date of Test: 0.003

Date of calculation: 14-Aug-00

Surveyor: J Downie

DIMENSIONS AND READINGS:

Moulded breadth (B):
6.120 m

Moulded depth (D):
3.400 m

FREEBOARDS:

	Aft	(m) Minimum	Forward	
	0.735	0.545	1.895	<-- Port
	0.747	0.528	1.893	<-- Centre or Mean
	0.760	0.510	1.890	<-- Starboard

SHEER:

$$\text{Sheer (S)} = \{(\text{Ff} + \text{Fa})/2\} - \text{Fmin}(\text{mean})$$

$$(S) = 0.793 \text{ m}$$

ROLL PERIOD:

		Test No 1	Test No 2	Test No 3	Overall
Oscillations	(n)	3.000	3.000	4.000	
Stopwatch No 1	(s)	20.400	20.800	27.600	
Stopwatch No 2	(s)				
Mean Period	(s)	6.800	6.933	6.900	6.880

INDICATED GM:

$$\text{GM(ind)} = (0.83 \cdot B/T)^2 \text{ m}$$

$$\text{GM(ind)} = (0.83 \cdot 6.120/6.880)^2$$

$$\text{GM(ind)} = 0.545 \text{ m}$$

INTERPOLATING FROM THE TABLE:

$$\text{For } F/B = 0.086$$

$$a = 0.800$$

$$b = 1.740$$

$$\text{GM (req)} = 0.705 \text{ m} <-- <--$$

INSERTING VALUES INTO THE FORMULA TO OBTAIN THE MODIFIED GM:

$$\text{GM(mod)} = \text{GM1} + \{(\text{GM1} - 0.40) \cdot (6.00 - B)/B\}$$

$$+ [a \cdot (D/B - 0.5)]$$

$$+ [b \cdot (S/B - 0.12)]$$

$$\text{GM(mod)} = 0.545 + \{(0.545 - 0.40) \cdot (6.00 - 6.120)/6.120\}$$

$$+ [0.800 \cdot (3.400/6.120 - 0.5)]$$

$$+ [1.740 \cdot (0.793/6.120 - 0.12)]$$

$$\text{GM(mod)} = 0.545 + \{(0.145) \cdot (-0.020)\}$$

$$+ [0.800 \cdot (0.056)]$$

$$+ [1.740 \cdot (0.009)]$$

$$\text{GM(mod)} = 0.545 + [-0.003] + [0.044] + [0.017]$$

$$\text{GM(mod)} = 0.603 \text{ m} <-- <--$$

CONCLUSION:

As GM(mod) is less than GM(req) - by 9.2 cm - the vessel is deemed to FAIL the test.

(The statement above takes due regard of the 1cm deficiency permitted to allow for experimental errors.)

A6

151/6

BEAM TRAWLER STABILITY - Roll Test assessment

(I & M Roll Test with UK FREEBOARDS)

Name of vessel: Susanna D

Date of Test: 0.003

DIMENSIONS AND READINGS:

Date of calculation: 14-Aug-00

Surveyor: J Downie

Moulded breadth (B): 6.120 m

Moulded depth (D): 3.400 m

FREEBOARDS:

	Aft	(m) Minimum	Forward	
		<u>0.650</u>		<-- Port
	<u>0.990</u>	<u>0.650</u>	<u>2.010</u>	<-- Centre or Mean
		<u>0.650</u>		<-- Starboard

SHEER:

$$\text{Sheer (S)} = [(Ff + Fa)/2] - Fmin(\text{mean})$$

$$(S) = 0.850 \text{ m}$$

ROLL PERIOD:

		Test No 1	Test No 2	Test No 3	Overall
Oscillations	(n)	<u>16.000</u>	<u>16.000</u>	<u>14.000</u>	
Stopwatch No 1	(s)	<u>110.770</u>	<u>111.490</u>	<u>95.600</u>	
Stopwatch No 2	(s)				
Mean Period	(s)	<u>6.923</u>	<u>6.968</u>	<u>6.829</u>	<u>6.910</u>

INDICATED GM:

$$GM(\text{ind}) = (0.83 \cdot B/T)^2 \text{ m}$$

$$GM(\text{ind}) = (0.83 \cdot 6.120/6.910)^2$$

$$GM(\text{ind}) = 0.540 \text{ m}$$

INTERPOLATING FROM THE TABLE:

$$\text{For } F/B = 0.106$$

$$a = 0.718$$

$$b = 1.550$$

$$GM(\text{req}) = 0.613 \text{ m} <-- <--$$

INSERTING VALUES INTO THE FORMULA TO OBTAIN THE MODIFIED GM:

$$GM(\text{mod}) = GM1 + [(GM1 - 0.40) \cdot (6.00 - B)/B]$$

$$+ [a \cdot (D/B - 0.5)]$$

$$+ [b \cdot (S/B - 0.12)]$$

$$GM(\text{mod}) = 0.540 + [(0.540 - 0.40) \cdot (6.00 - 6.120)/6.120]$$

$$+ [0.718 \cdot (3.400/6.120 - 0.5)]$$

$$+ [1.550 \cdot (0.850/6.120 - 0.12)]$$

$$GM(\text{mod}) = 0.540 + [(0.140) \cdot (-0.020)]$$

$$+ [0.718 \cdot (0.056)]$$

$$+ [1.550 \cdot (0.019)]$$

$$GM(\text{mod}) = 0.540 + [-0.003] + [0.040] + [0.029]$$

$$GM(\text{mod}) = 0.606 \text{ m} <-- <--$$

CONCLUSION:

As GM(mod) is greater than GM(req) - by 0.3 cm the vessel is deemed to PASS the test.

(The statement above takes due regard of the 1cm deficiency permitted to allow for experimental errors.)

151/7

151/8



Marine Administration

Oaseirys Lhuingys

Peregrine House, Peel Road, Douglas,
Isle of Man, IM1 5EH, British Isles.

Department of Trade & Industry

Maritime and Coastguard Agency
Spring Place
105 Commercial Road
Southampton
SO15 1EG

FILE COPY

File Reference: **FV.150**
10 August 2000

For the attention of: Mr M Storey, Chief Executive

Dear *Maurice,*

MFV "Suzanna D" (PL 72) - Official No. M134
Stability: Roll Test & Inclining Experiment

Further to our telephone conversation on Tuesday concerning the recent roll test and inclining test on the above mentioned fishing vessel, please find enclosed the documents requested.

Summarising these are:

Roll Test at Port St Mary on 27/04/2000

1. Dated 27/04/2000: Preliminary analysis by Marine Data (IoM) Ltd showing that the vessel fails the roll test for a single or twin boom trawler.
2. Dated 27/04/2000: Response by Marine Administration accepting the results from Marine Data (IoM) Ltd.
3. Dated 27/04/2000: Letter (also faxed) from the Marine Administration to the owner withdrawing the Manx Fishing Vessel Certificate.
4. Dated 02/05/2000: Letter from the Marine Administration to Marine Data (IoM) Ltd stating the regulations that would be applied to the vessel in respect of freeboard, stability and loading and the associated information to be provided on board.

Inclining Test at Ramsey on 05/05/2000

An inclining test was arranged to enable the lightweight particulars to be derived so that full stability calculations could be done to confirm whether or not the vessel complied with the statutory stability requirements for single or twin boom trawlers in Rule 16 of the Fishing Vessels (Safety Provisions) Rules 1975 as they have affect in the Isle of Man, and to provide a basis for proposals to improve stability if that was found to be necessary.

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Previous investigations of other vessels indicated that this vessel was unlikely to satisfy the stability requirements, especially as the roll test for single or twin boom trawlers generally requires a lower initial metacentric height (GM) than the standard test for fishing vessels despite the requirement in Rule 16 for the dynamic stability, righting lever (GZ) and GM values for single or twin boom trawlers to be 20 percent more than for other fishing vessels. A representative from the Marine Administration was, however, invited to attend and assist with the inclining test so that any results could be accepted officially had it been found subsequently that the vessel could comply with the stability requirements for single or twin boom trawlers.

The main correspondence was as follows:

1. Dated 08/05/2000: Preliminary analysis by Marine Data (IoM) Ltd using loading conditions provided by the owner from on board the vessel. (Note: in the inclining test analysis 78.5 millimetres was incorrectly used for the forward pendulum deflection for weight shift no. 6 by Marine Data (IoM) Ltd.)
2. Dated 15/05/2000: Revised analysis by Marine Data (IoM) Ltd using hydrostatic data derived from offsets lifted from the line plan. It should be noted that the freeboards measured at the inclining test were measured from a weld seam which was recorded (at the time) as being between 20 and 80 millimetres above the deck line. The analysis by Marine Data (IoM) Ltd did not account for this correction which would have reduced the freeboard by "about" 50 millimetres. Consequently, the as-inclined draught was actually "about" 50 millimetres more than that used in the analysis. This means the displacement (and consequently the lightweight) is about 6 tonnes more. (Note: the forward pendulum deflection for weight shift no. 6 was corrected from 78.5 millimetres to 76.5 millimetres in this analysis.)
3. Dated 22/05/2000: Proposed work schedule prepared by Marine data (IoM) Ltd for the vessel to comply with the stability requirements of the Fishing Vessels (Safety Provisions) Rules 1975 as they have affect in the Isle of Man for single or twin boom trawlers. The owner mentioned in conversation that this work will cost between £70,000 and £100,000. Neither the volumes, nor indeed the spaces to be used in the derivation of cross curves have been finalised.
4. Dated 30/05/2000: Response from the Marine Administration to the proposed work schedule. The GZ curves in the loading conditions can only be considered preliminary because:
 - (a) the as-inclined condition has not been agreed (see above), and
 - (b) the enclosed spaces and associated volumes is subject to confirmation.

The above covers the analysis and correspondence with the owners and their consultant since the roll test at Port St Mary in April including the latest proposals for rectifying the deficiency in stability. If you need any more assistance please do not hesitate to contact me.

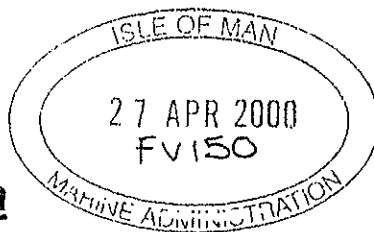
Yours sincerely



C F Douglas
Director of Marine Administration

Enc.

(151/10)



Telefax

Marine Data IOM Ltd. Ship Designers and Consultants
1 Forest View, Bowring Road, Ramsey, Isle of Man, IM8 2LQ, British Isles
e-mail marine.data.iom@advsys.co.im

To:	Mr Chreseson	From:	Chris Baker
Company:	IOM Marine Administration	Tel. & Ans.	+44 (0) 1624 817680
Fax:	688501	Fax:	+44 (0) 1624 817688
Date:	27/04/00 09:15	Pages	Including this page

Re. Suzanna D - Roll test

Dear *Mr. Chreseson*,

Reading and results from yesterdays roll test carried out on Suzanna D at Port St Mary.

The vessel was tied alongside the harbour wall in departure condition.

Dredges were in place on the bulwarks, 10 per side, and booms were topped.

Sea conditions were calm with light winds pushing the vessel against the harbour wall.

The vessel roll was excited by pull on a warp attached to the upper part of the main mast.

The vessel was pulled away from the wall with a small launch prior to the roll periods being timed.

Readings

Times, taken by Chris Baker of Marine Data IOM, Peter Chreseson Marine Administration and John W of the Marine Administration.

	period	No. rolls	period	No. rolls	period	No. rolls	period	No. rolls
CB	27.16	4	28.20	4	27.49	4	27.92	4
PC	27.43	4	27.94	4	27.95	4	28.17	4
JW	20.46	3	20.45	3	26.88	4	27.81	4

Mean period for a single roll = 6.91 seconds

Freeboards

Freeboards were measured to the top of the welded seam outboard on the bulwark then reduced by 40mm to align the datum point with the top of deck at side.

	act	-40		act	-40		-40
Aft Port	775	735	Aft Starboard	800	760	Aft Mean	748
Min Port	585	545	Min Starboard	550	510	Min Mean	528
Forward port	1935	1895	Forward Stbd	1930	1890	Forward Mean	1893

Sheer forwards = $1.893\text{m} - 0.528\text{m} = 1.365\text{m}$

Sheer aft = $-0.748\text{m} - 0.528\text{m} = 0.220\text{m}$

Marine Data (Isle of Man) Ltd.

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Directors: C. J. Baker & R. E. Baker ~ Registered in Isle of Man - No. 072397C ~ VAT Registered No. 001304848

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B from existing documentation = 6.12m

D from existing documentation = 3.40m

F/B = 0.0863

From tables;

"a" = 0.7922

"b" = 1.73

GMs min. reqd. = 0.699m

from calculation;

$$GM_1 = \left(\frac{0.83 * B}{T} \right)^2 = \left(\frac{5.0796}{6.91} \right)^2 = 0.735^2 = 0.541$$

GM1 = 0.541m

$$\begin{aligned} GM_2 &= GM_1 + (GM_1 - 0.4) \left(\frac{b - B}{B} \right) + a \left(\frac{D}{B} - 0.5 \right) + b \left(\frac{S}{B} - 0.12 \right) \\ &= 0.541 + (-0.141 * 0.0196) + (0.7922 * 0.056) + (1.73 * 0.000) \\ &= 0.541 - 0.003 + 0.044 + 0.017 \\ &= 0.599 \end{aligned}$$

GMs actual = 0.599

VESSEL IS 0.1m SHORTFALL IN GM
* FAILS REQUIREMENTS *

Regards

For Marine Data Isle of Man Limited



C. Baker Director



699 required
10 dec

15/12

Marine Data (Isle of Man) Ltd.

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MODE = MEMORY TRANSMISSION

START=27-APR 13:52

END=27-APR 13:53

FILE NO.= 183

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	OK	S	817688	001/001		

-MARINE ADMINISTRATION -

***** -IOM DTI

- ***** -

441624688501- *****



Isle of Man Government

MARINE ADMINISTRATION

Department of Trade and Industry

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TO:	Marine Data (Isle of Man) Limited	ATTN:	Mr C Baker
		FAX NO:	817688 (Tel: 817680)
YOUR REF:		FROM:	Peter Chreseson
JOB NO:	99/529	PAGES:	(Including this one) 1
FILE REF:	FV.150	DATE:	27 April 2000
SUBJECT:	SUZANNA D - ROLL TEST RESULTS		
	If any pages are missing or illegible please telephone +44 (0)1624 688500		

Chris,

We are in receipt of your brief report of the Roll Test of the above mentioned vessel at Port St. Mary yesterday, 26th April 2000.

Having reviewed the contents of the report we accept the results presented.

Best Regards

P. J. Chreseson

Peter J Chreseson
Marine Surveyor

Doc Ref: pjc/Mdl003

151/13



MODE = MEMORY TRANSMISSION

START=28-APR 09:28

END=28-APR 09:29

FILE NO. = 218

NO.	COM	ABBR/NTWK	STATION NAME/ TELEPHONE NO.	PAGES	PRG.NO.	PROGRAM NAME
001	OK	S	835946	003/003		

-MARINE ADMINISTRATION -

***** -IOM DTI

- ***** - 441624688501- *****



Isle of Man
Government
Imannaghyn

Department of Trade & Industry

Mr & Mrs D Spadoni
10, Sunnydale Avenue
Athol Park
Port Erin
Isle of Man
IM9 6ET

Marine Administration

Oaseirys Lhuigys

Peregrine House, Peel Road, Douglas,
Isle of Man, IM1 5EH, British Isles.

File Reference: FV.150
27 April 2000

Dear Mr & Mrs. Spadoni

MFV "Suzanna D" (PL 72) - Official No. M134
Manx Fishing Vessel Certificate
Job No. 99/529

We are in receipt of a report prepared by Marine Data (Isle of Man) Limited (a copy of which is enclosed) of the Roll Test of the above mentioned vessel at Port St. Mary on 26th April 2000. The results presented, which have been accepted by this Administration, show that the vessel has not satisfied the requirements for exemption from Rules 15, 16, 74 and 75 of the **Fishing Vessels (Safety Provisions) Rules 1975** as they are applied in the Isle of Man. These exemptions, are therefore, withdrawn.

Consequently the **Manx Fishing Vessel Certificate** (in duplicate) issued at Douglas on 8th February 2000 is cancelled with immediate effect. Please return both certificates to this office. The vessel must not leave port until such time that either (i) a certificate permitting the vessel to be moved for alterations is issued, or (ii) a new **Manx Fishing Vessel Certificate** is issued.

We will consider an application for a new **Manx Fishing Vessel Certificate** at such time that it can be demonstrated that the vessel complies with the stability provisions (Rule 16) of the **Fishing Vessels (Safety Provisions) Rules 1975** as they are applied in the Isle of Man, whilst maintaining sufficient freeboard (Rule 15).

We will also consider application for exemptions from specific requirements of the **Fishing Vessels (Safety Provisions) Rules 1975** as they are applied in the Isle of Man. It is, however, noted that some exemptions will no longer apply and that other exemptions granted to the vessel in the United Kingdom may not be granted as a result of the recently completed substantial refurbishment of machinery, accommodation and navigation spaces.

Yours sincerely

Colin F Douglas
Director of Marine Administration

Enc.

151/14

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Department of Trade & Industry

Marine Administration

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Marine Data (Isle of Man) Limited

First Floor

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Bowring Road

Ramsey

Isle of Man IM8 2LQ

File Reference: FV.150
02 May 2000

For the attention of: Mr C J Baker

Dear Sirs,

MFV "Suzanna D" (PL 72) - Official No. M134
Stability & Freeboard Requirements
Job No. 99/529

Further to our telephone conversation this morning please find enclosed a copy of the Fishing Vessels (Safety Provisions) Rules 1975 (as they are applied in the Isle of Man) and a copy of UK Merchant Shipping Notice No. M 975. When considering compliance of the above mentioned vessel with the stability provisions of the Fishing Vessels Rules your attention drawn to the following specific requirements:-

- Rule 15 on freeboard;
- Rule 16 and 74 on stability;
- Rule 75 on loading and ballasting;
- Schedule 3 on stability information.

You will find other parts of the Fishing Vessels (Safety Provisions) Rules 1975 helpful in providing guidance with regard to "watertight" and "weathertight" integrity. Freeboard will be considered adequate if the vessel satisfies the recommendations in Shipping Notice No. M 975.

Although this may be premature, do you have a timescale for submitting preliminary stability assessments?

Yours faithfully

Peter J Chreseson
Marine Surveyor

Enc.

Doc Ref: pjc/Md1005

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(5) *Orig. Manx Govt Dept* (437)

MARINE ADMINISTRATION

Department of Trade and Industry

Isle of Man Government

MEMORANDUM

TO: John Wade, Principal Marine Surveyor

FROM: Peter Chreseson

FILE REF: FV.150

JOB NO: -

DATE: 29 August 2000

SUBJECT: MFV "SUZANNA D" (PL 72) - OFFICIAL NO. M134
STABILITY: ROLL TEST & INCLINING EXPERIMENT
COMMENTS OF MCA LETTER OF 16TH AUGUST 2000

*File letter
ref: 151*

John,

I have considered the above letter (reference CE 138/2000) and the assessment enclosed with it.

As discussed on the phone, incorporate parts or all of this note as necessary in your note to Colin.

In particular in dealing with the MFV "Suzanna D", I believe that we must be seen to be even handed in our application of the Rules. To do otherwise would be wrong and would undermine our credibility with the fishing industry.

Bearing the foregoing in mind, I have the following comments and observations:

- and always
has been.*
1. In the letter it is stated that there are "... obvious differences in the roll tests ...". This is indeed the case. The test at Port St Mary included an aft tank that was full (the owner stating that the tank was normally kept full) and about 4 tonnes of "breeze" block ballast at the aft end of the fish hold. The MCA have, however, missed the point. The vessel failing a roll test is no longer the issue. There is sufficient information available to carry out a full analytical assessment of stability. We are obliged to use this information - we cannot pretend that it does not exist and neither can the MCA.
 2. I cannot see why we need to get involved in discussions with the MCA. This vessel has failed a roll test and we have requested that the vessel be presented again for assessment. In the absence of any better information this could have been another roll test, but the better information does exist and we have asked that it be used. We do not have a choice. There are precedents in that we have been through this with the MFV "Marida" and we are in the process of following a similar procedure with the MFV "Peter M". In the former case new information was generated to ensure that the vessel, when presented again, satisfied the 1975 Rules. In the latter case the vessel came to the Isle of Man Register in October 1992, from the UK, as a roll test vessel. It has subsequently been roll tested and was again recently (23.08.2000). On this occasion it failed to satisfy the roll test criteria. Review of the files showed that the vessel, when built in 1970, was assessed against the stability requirements in IMO Resolution A.168 (ES.IV) which are the same as those in the 1975 Rules. We are obliged to use this information rather than the vessel being subjected to a further roll test. Because of the vessel's hull form a roll test may never have been appropriate and it appears likely that the vessel may fulfil the requirements of the 1975 Rules without modification. Confirmation of this should be available by 1st September 2000. We are, therefore, entirely consistent in applying the same Rules to the MFV "Suzanna D". We cannot be seen by our industry to do otherwise.

3. The MCA failed to carry out our reasonable request that the vessel be assessed against the 1975 Rules. That this request was reasonable is shown by the fact that the relevant information to make such an assessment was obtained quickly and with little difficulty. This information showed that the vessel at no time satisfied the 1975 Rules. Had we been aware of this it is unlikely that we would have considered the vessel fit for registration in the Isle of Man until such time that the vessel did comply with the Rules. (See note below concerning beam trawlers currently on the Isle of Man Register.)
4. The contents of Survey Memorandum No. 24 dated 31st July 1980 (particularly the first sentence of paragraph 3) and Management Memorandum No. 46 (particularly paragraphs 2(a) and (c)) should be noted.
5. There is also the matter of safety. Without modification and without including any deadweight the stability of the MFV "Suzanna D" is significantly less than statutory requirements. There is clearly some anomaly between the required GM derived from a roll test for beam trawlers and the margins of stability required by the 1975 Rules.
6. We should not forget the historical data. The MFV "Suzanna D" has consistently failed roll tests and should have been assessed fully by the MCA.
7. Taking the assessment by Mr Downie point by point:
 - Paragraph 2 - There is no significant inconsistency in the freeboards. The aft freeboard as inclined was 0.757 metres. The forward and minimum freeboards are consistent (about 50 mm less in the as-inclined condition which can be explained by inclining weights being on board and a difference in the specific gravity of water at Port St Mary and Ramsey). The measurement of the aft freeboard is made difficult by the shape of the hull in way of the aft side of the rudder stock so, in combination with sheer and slight vessel movements, a difference of 50 to 60 mm is quite possible. The freeboard of 0.909 metres is at the stern which is also difficult to measure.
 - Paragraph 2 continued - The MCA surveyor measured the freeboard at the stern rather than at the aft end of the registered length (the aft side of the rudder stock). Had the freeboard at the stern been measured during the roll test and been used in the calculations, the GM from the roll test may have been as much as 3 cm more than that calculated by Marine Data (IoM) Ltd. The vessel would still have failed the roll test. This point being only of academic interest because we have all the information required to assess the vessel in accordance with the 1975 Rules.
 - Paragraph 3 - The deadweight refers to the deadweight as-inclined. As noted above, the differences in freeboard can be accounted for. Otherwise the vessel was inclined in much the same condition as the roll test.
 - Paragraph 4 (4th sentence) - The comment that "... the differences in the measured freeboards give rise to the difference in the test results" is wrong. The vessel was in a different condition. And in any case the vessel failed the roll test anyway irrespective of the analysis, unless the 1 cm allowance is applied.
 - Paragraphs 5 and 6 - The second explanation is correct: the vessel was in a different condition. There is no need for discussions with the MCA. The only differences between the roll tests was the adding of ballast as described above.
8. A crucial point is that the MCA has failed to evaluate the stability of this vessel correctly in the past. Had this been done the vessel would have been either (i) modified with reduced masts, booms and dredges with or without a change to the mode of fishing or (ii) "scrapped". The Isle of Man appointed MCA surveyor has subsequently failed to evaluate the stability of the MFV "Suzanna D" (and just about everything else on the boat) in accordance with the requirements of this Administration. Given that the MFV "Suzanna D" has undergone substantial modifications to accommodation and machinery in order to prolong her working life it is entirely appropriate that the vessel should comply with the current requirements as fully as possible in accordance with the conditions under which exemptions are granted. Even in the absence of a lines plan it would have been appropriate, in this particular case, to consider the application of full stability.

9. That the work done by Marine Data (IoM) Ltd demonstrates that the vessel can be configured to comply with Rules, albeit with a reduced fishing capability merely confirms what should been done in the past.

Beam Trawlers Currently on the Isle of Man Register

As an aside, the following vessels have been roll tested as beam trawlers:

- Catherine A (PL 72) (LOA = 24.70 m) - believed to have been scrapped. Status being established. GM(required) = 0.696 m; GM(actual) = 0.697 m; Margin = 0.001 m. There are hydrostatic particulars and cross curves in the file. It is likely that these could be used to assess stability according to the 1975 Rules.
- De Bounty (CT 73) (LOA = 19.35 m) - GM(required) = 0.574 m; GM(actual) = 0.618 m; Margin = 0.044 m. Renewal survey due 08.09.2001.
- Elizabeth C (LOA = 19.50 m) - currently for sale. GM(required) = 0.682 m; GM(actual) = 0.703 m; Margin = 0.021 m. Renewal survey due 14.09.2002.

CATHERINE A
No LONGER ON THE
REGISTER.

Considering that there may be an anomaly between the required GM derived from a roll test for beam trawlers and the margins of stability required by the 1975 Rules, having established the actual status of the Catherine A, we will need to keep an eye on these vessels. It is likely that they would all have problems if, in the future, we were to insist upon vessels of 12 metres (or some other length) and over complying with full stability requirements of the 1975 Rules.

Peter

Peter Chreseson
29 August, 2000

DOC. REF: pjc/Mem002

THE PARLIAMENTARY
OMBUDSMAN

OFFICE OF THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

MILLBANK TOWER, MILLBANK, LONDON SW1P 4QP.
SWITCHBOARD 020 7217 3000, FAX 020 7217 4000, DIRECT LINE 020 7217 4121

From the Commissioner
Ann Abraham

Our Ref: P.328/02

Mr John Rimington MHK
House of Keys
Legislative Buildings
Isle of Man
IM1 3PW

4 August 2004

Dear Mr Rimington

MARITIME AND COASTGUARD AGENCY

Thank you for your letter of 14 April 2004. The matters you highlighted were indeed of concern to me and I asked one of my officers to look into those further. Following enquiries of the Maritime and Coastguard Agency (MCA) and research of relevant files held in this Office I am now in a position to reply. I am very sorry I have not done so sooner.

In October 2000, the then Chief Executive of MCA told my predecessor, Sir Michael Buckley, that they planned to review those remaining fishing vessels with possible contingent liabilities as a result of flawed stability tests. On 16 May 2001 he provided this Office with the results of that review and, since then, MCA have continued to advise us of progress in those cases where the review concluded that they bore responsibility.

From our enquiries, it would appear that the *Suzanna D* did not form part of MCA's review because they had, by that stage, accepted responsibility and were discussing proposals for redress. I am told that that has since led to them making two payments to Mr and Mrs Spadoni, totalling £225,000. Also, I understand that MCA also wrote to Mr and Mrs Spadoni's solicitors proposing mediation in order to resolve the outstanding issues regarding redress.

The issues surrounding stability tests received wide publicity in the wake of the Reeman case and a number of vessel owners submitted complaints concerning comparable problems to this Office in consequence. MCA have co-operated with our consideration of those complaints and, as it stands, I have seen no evidence that they have failed to address the problems with stability

A21

tests for fishing vessels revealed by this Office's investigation of the Reeman complaint. However, it remains open for anyone who believes that they have suffered an unremedied injustice as a result of MCA's actions or omissions in this matter to refer a complaint to me (through a Member of the UK Parliament), and I will look carefully at whether or not I can help them.

I trust the information provided in this letter is of some assistance to you and I thank you for raising the matter.

Yours sincerely

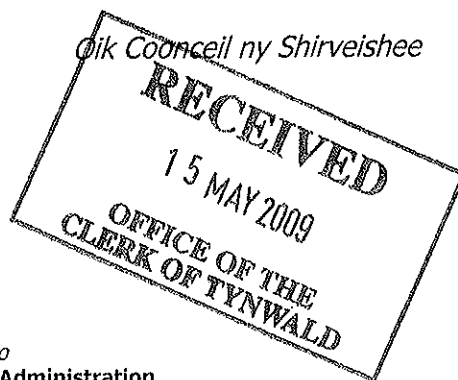
A handwritten signature in black ink, appearing to read 'Ann Abraham', with a long horizontal flourish extending to the right.

Ann Abraham
Parliamentary Commissioner for Administration



Isle of Man
Government
Reiltys Ellan Vannin

OFFICE OF THE COUNCIL OF MINISTERS



All correspondence to be addressed to
The Head of Council of Ministers Administration

Your reference:

Government Office
DOUGLAS
Isle of Man,
IM1 3PN
Direct Line (01624) 685293
Fax No. (01624) 685710
email: enquiries.cso@gov.im

CHIEF SECRETARY
Mrs Mary Williams, CPFA

Our reference : 137 (60) LM

15 May 2009

Mr D Butt MLC
Chairman of the Select Committee of Tynwald on Redress of Mr and Mrs Spadoni
C/O Clerk of Tynwald
Legislative Buildings
Douglas

DELIVERED BY HAND

Dear Mr Butt

Select Committee of Tynwald on Redress of Mr and Mrs Spadoni – Committee **Order Document 437**

In accordance with the Order dated 13 May 2009 delivered to the Chief Secretary on 13 May 2009, I enclose a copy of the Document Number 437 supplied by the Isle of Man Shipping Registry which was previously requested by the Select Committee.

I would advise you that that the Isle of Man Shipping Registry has requested that the Document be kept confidential as the United Kingdom Maritime and Coastguard Agency have still not agreed to its release. I have advised the Isle of Man Shipping Registry that the Chief Secretary will be releasing the Document 437 upon the compulsion of a precept at 5pm on the 15 May 2009.

Yours Sincerely

Linda McCauley
Head of Policy and Research
Council of Ministers

Department of Trade & Industry

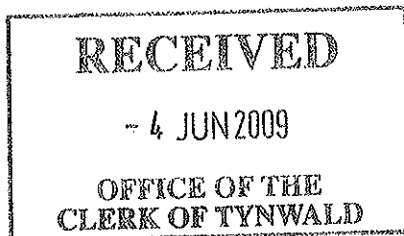
Rheynn Dellal as Jeadys

Chief Executive
Chris Corlett

Chief Executive's Office

Hamilton House
Peel Road, Douglas
Isle of Man, British Isles
IM1 5EP
Telephone (01624) 682352
Fax (01624) 682355
E-mail Chris.Corlett@gov.im

Mr R Phillips
Clerk to Committee
Legislative Buildings
Douglas
Isle of Man IM1 3PW



2 June 2009

Dear Mr Phillips

Re: Select Committee on Redress for Mr and Mrs Spadoni

I acknowledge receipt of your letter dated 14 May 2009.

In your letter you requested answers to the following questions:

- who prepared the briefing and other information for Mr Downie and Mr Singer in relation to the Spadonis, with special reference to preparation for debates in Tynwald (especially the debate in November 2003, where it was alleged that the Spadonis had breached the fishing vessel regulations); and
- what the basis was for the briefing given to Mr Downie and Mr Singer.

In providing the information in response to these questions, the Department would wish to make it clear to the Committee that there are no officers remaining in the Ship Registry who were either involved in the preparation of these briefings or who were involved with the 'Suzanna D' during its period on the Register.

With this in mind the Committee should also be aware that the information provided is factual and based on the information available on file in both the Ship Registry and the Department itself. The answers contain no assumptions or opinion, unless it can be backed up by evidence.

For my part, I took up the post of Chief Executive of the Department in March 2003. Given this matter pre-dated my appointment and related to technical matters regarding the fishing vessel, my involvement in this matter was limited principally to observing discussions during Department Meetings around the time of the matter being raised in Tynwald of November 2003 and so I can provide no more information that is in the minutes of the relevant Department Meetings.

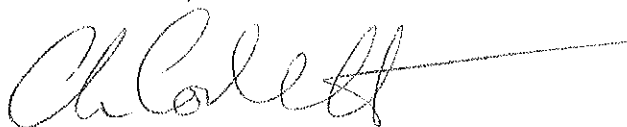
In relation to the first part of the question as to who prepared the briefing papers and supplied other information to Mr Downie and Mr Singer, the Department can confirm from the files that the then Director of the Marine Administration Mr Desmond Howell prepared the briefing notes and ministerial speeches used through the period of the delayed Tynwald debates with the assistance of the officers involved.

In relation to the second part of the question as to what the basis of the briefings was, the information indicates that the briefings were intended to provide relevant information in relation to the Tynwald motion finally moved on the 19th of November 2003 by the then Member for Rushen, Mr Rimington. The information indicates that these briefings were prepared based on a combination of information including some facts already on file, details of allegations raised by Mr and Mrs Spadoni and Mr Rimington and the information provided to refute these allegations.

In addition you request that: "The Committee would welcome any further comments which you would like to make about this matter." Given my limited knowledge of this matter and given I understand that all DTI records in relation to this matter have been shared with the Committee, I am afraid I can provide no additional factual information.

Further, you request that: "A particular point in issue appears to be why the Spadoni's vessel, the FV Suzanna D failed the stability test – whether it was because the vessel was unstable or because the test itself was flawed." It is not clear from this statement which of the many stability tests is being discussed. However, from review of the evidence contained in the files, it is apparent that the vessel did not have sufficient stability to meet the criteria for a vessel of this type. The files also show that the roll test completed by the MCA on behalf of the Marine Administration may have been flawed as a number of inconsistencies were noted at the time the information was finally received by the Marine Administration and this was immediately advised to all parties.

Yours sincerely



Chris Corlett
Chief Executive



Isle of Man
Government

Reillys Eilan Vannin

Department of Trade & Industry
Rheynn Dellal as Jeadys

Chris Corlett
Chief Executive

Hamilton House
Peel Road, Douglas
Isle of Man, British Isles
IM1 5EP
Telephone: (01624) 682350
Fax: (01624) 682355
Email: chris.corlett@gov.im

16th October 2009

Jonathan King
Clerk of the Committee re Mr and Mrs Spadoni
Tynwald
Legislative Buildings
Douglas
Isle of Man IM1 3PW

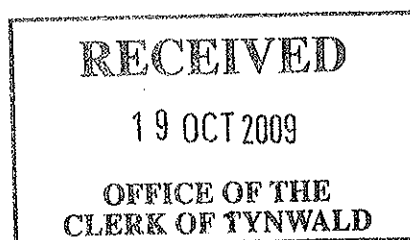
Dear Jonathan

Re Written apology to Mr and Mrs Spadoni

As you rightly note in your letter dated 9 October, the Minister for Trade and Industry apologised to Mr and Mrs Spadoni in Tynwald. The Department therefore believes it has complied with the wishes of Tynwald. It is for this reason that no written apology has been sent to the Spadonis.

Kind regards

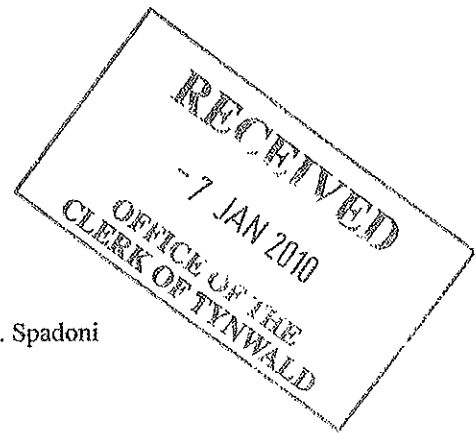
Chris Corlett
Chief Executive



INVESTOR IN PEOPLE



LEGISLATIVE COUNCIL
LEGISLATIVE BUILDINGS
ISLE OF MAN



Mr. J King
Clerk of the Select Committee of Tynwald on Redress of Mr. and Mrs. Spadoni
Legislative Buildings
Douglas

Dear Jonathan

Select Committee of Tynwald on Redress of Mr. and Mrs. Spadoni

With regard to the letter from the above Committee dated 26 November 2009 I can advise as follows -

- 1) The Department of Trade and Industry did supply 151 and 437 to the Sub Committee.
- 2) The Sub Committee took correspondence received from all parties into consideration when preparing the Report.
- 3) With regard to whether the Department of Trade and Industry asked the Sub-Committee not to publish documents 151 and 437 the position is that the Committee's Report to the Council of Ministers was completed and submitted to the Council of Ministers in September 2008 and a copy was sent to Mr. and Mrs. Spadoni.

Para 1.7 of the introduction to the report advised the Council of Ministers that all original documentation could be viewed by contacting the Chief Secretary's office

I understand that Mr. and Mrs. Spadoni requested a copy of document 437 from the Chief Secretary's Office (22 October 2008)

The Chief Secretary's Office wrote to IoM Ship Registry to request that they consider the release of document 437 to Mr. and Mrs. Spadoni (22 October 2008) and followed up with a further letter to the Shipping Registry in a letter dated 19 November 2008.

The IoM Ship Registry did not release the document but contacted the UK Maritime and Coastguard Agency to request their permission to release the document as it contained information with regard to their part in the process.

I understand that no reply was received from the UK MCA with regard to the release of the document.

Please feel free to contact me again if you require any further clarification.

Yours sincerely

Mrs. Clare Christian MLC

Legislative Buildings
Douglas
Isle of Man
IM1 3PW
British Isles



Oikyn Slattyssagh
Doolish
Ellan Vannin
IM1 3PW
Ny Ellanyn Goaldagh

Telephone: 01624 686303
Fax: 01624 685504

Deputy Clerk of Tynwald
Lhiass Cleragh Tinvaal
Jonathan King

Chellvane: 01624 686303
Facs: 01624 685504

20th January 2010

Mary Williams
Chief Secretary
Government Office
Bucks Road
Douglas
IM1 3PG

Dear Mary

Stability failure of the *Suzanna D*

I am grateful to Rose Dawson for her letter of 6th January 2010 enclosing a copy of Document 151. You will recall that you also released another document to the Committee, Document 437, last May but that you did not feel able to release Document 437 without a precept from the Committee. Linda McCauley wrote in her letter of 15th May 2009: "I would advise you that the Isle of Man Shipping Registry has requested that the Document [437] be kept confidential as the United Kingdom Maritime and Coastguard Agency have still not agreed to its release."

I have also received a letter from Mrs Clare Christian (undated, but received in this office on 7th January 2010), in which she provides further background information on the handling of Document 437. She says:

"Mr and Mrs Spadoni requested a copy of document 437 from the Chief Secretary's Office (22 October 2008). The Chief Secretary's Office wrote to IoM Ship Registry to request that they consider the release of document 437 to Mr and Mrs Spadoni (22 October 2008) and followed up with a further letter to the Shipping Registry in a letter dated 19 November 2008. The IoM Ship Registry did not release the document but

contacted the UK Maritime and Coastguard Agency to request their permission to release the document as it contained information with regard to their part in the process. I understand that no reply was received from the UK MCA with regard to the release of the document."

It is likely that the Select Committee will wish to publish Document 437 as part of its report to Tynwald. Please could you advise me further on the possible implications of such publication. Document 437 is an internal memorandum from one officer of the (then) Marine Administration to another. It is true that it contains criticism of the MCA's actions in relation to the *Suzanna D* but it does not say anything that has not already been said on the public record. The Committee will need to know why it should not publish Document 437 (with or without the consent of the MCA).

Thank you.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Jonathan', with a horizontal line drawn underneath it.

Jonathan King
Clerk of the Select Committee on the Report on Redress for Mr and Mrs Spadoni (Actions of the Marine Administration)

Jonathan King

From: ++++++ [joanspadoni@manx.net]
Sent: 13 January 2010 23:06
To: Jonathan King
Subject: Select Committee/Mr & Mrs Spadoni

10 Sunnydale Avenue
Athol Park
Port Erin
IM9 6ET

Jonathan King
Deputy Clerk of Tynwald and
Clerk of the Legislative Council
Legislative Buildings
Douglas
IM1 3PN

Dear Mr King,

Re: Select Committee/Mr & Mrs Spadoni

As it is two months since Mr Baker and Mr Corkill gave evidence we would very much appreciate any information you are permitted to give regarding the progress of the Committee's investigation.

Yours sincerely

Dante & Joan Spadoni

Jonathan King

From: Jonathan King
Sent: 15 January 2010 09:47
To: ++++++
Subject: RE: Select Committee/Mr & Mrs Spadoni

Mrs Spadoni

The Committee is continuing to consider the evidence before it and aims to report to Tynwald as soon as it can.

You spoke to the Members of the Committee at the end of the oral evidence session in November and indicated that you might wish to comment on what had been said. The Committee said that if you wanted to do this, they would like you to write to them. Are you going to do this?

Jonathan

Jonathan King
Deputy Clerk of Tynwald and Clerk of the Legislative Council
Legislative Buildings, Douglas, Isle of Man IM1 3PW
01624 686303

From: ++++++ [mailto:joanspadoni@manx.net]
Sent: 13 January 2010 23:06
To: Jonathan King
Subject: Select Committee/Mr & Mrs Spadoni

10 Sunnydale Avenue
Athol Park
Port Erin
IM9 6ET

Jonathan King
Deputy Clerk of Tynwald and
Clerk of the Legislative Council
Legislative Buildings
Douglas
IM1 3PN

Dear Mr King,

Re: Select Committee/Mr & Mrs Spadoni

As it is two months since Mr Baker and Mr Corkill gave evidence we would very much appreciate any information you are permitted to give regarding the progress of the Committee's investigation.

Yours sincerely

Dante & Joan Spadoni

Jonathan King

From: ++++++ [joanspadoni@manx.net]
Sent: 01 February 2010 13:26
To: Jonathan King
Subject: Select Committee/Mr & Mrs Spadoni
Attachments: Select Committee - 30.01.10.doc

Jonathan,

Attached reply to your recent email

kind regards

Joan Spadoni

10 Sunnydale Avenue
Athol Park
Port Erin
IM9 6ET

30th January 2010

Jonathan King
Deputy Clerk of Tynwald and
Clerk of the Legislative Council
Legislative Buildings
Douglas
IM1 3PN

Dear Mr King,

Re: Select Committee/Mr & Mrs Spadoni

Thank you for your recent response to our email concerning the progress of the Select Committee.

You ask if it is still our intention to write to the Committee. At the time we did consider writing to the Committee regarding certain points of Mr Baker's and Mr Corkill's evidence but decided not to do so before having the opportunity to examine a copy of the transcript of evidence. However, by the time the transcript was published it was almost Christmas so the matter was put back until after the festive season.

Since then we have had time to thoroughly examine Mr Baker's and Mr Corkill's transcript of evidence and also revisit the transcript of our own and Mr Rimington's evidence. Not surprisingly, examination of the transcripts highlights what appears to be the Select Committee's misinformation or misunderstanding of the facts on a number of important points. In view of this we consider it more appropriate to speak to the Committee on the public record rather than write to them with our concerns. This being the case we kindly request a further meeting in order to give evidence to the Select Committee.

Assuming the Committee's thorough investigation of this matter will also include taking evidence from those members of the Marine Administration involved in this matter, we would not wish to appear before the Committee until all witnesses have given evidence.

Yours sincerely

Dante & Joan Spadoni



Isle of Man
Government

Reillys Eilan Vannin

CHIEF SECRETARY'S OFFICE

Oik yn Ard-scrudeyr

Government Office

DOUGLAS

Isle of Man.

IM1 3PN

Direct Line

(01624) 685703

Fax No.

(01624) 685710

email:

enquiries.cso@gov.im

All correspondence to be addressed to
THE CHIEF SECRETARY

Your reference:

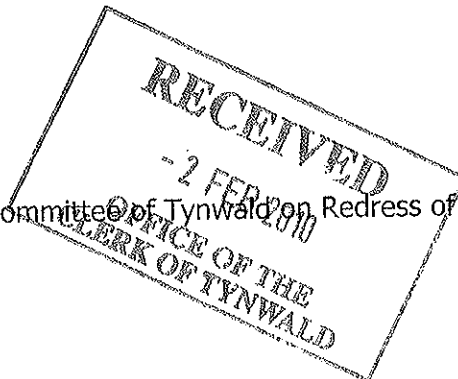
CHIEF SECRETARY
Mrs Mary Williams, CPFA

Our reference: MW/RD/137 (60)

Mr J King
Clerk of the Select Committee of Tynwald on Redress of Mr and Mrs Spadoni
Legislative Buildings
Douglas

1st February 2010

Dear Mr King



Select Committee of Tynwald on Redress of Mr and Mrs Spadoni – Document 437

I refer to your letter dated 20 January 2010 with regard to Document 437 which was released to the Select Committee pursuant to a precept with a request that it remain confidential.

As you are aware the document was released under compulsion by this office, the Department of Trade and Industry had requested that the document not be made public without first having received the permission of the UK for the release.

As it is not a Chief Secretary's Office document this Office remains neutral with regards to its release and issue and neither consent nor object. I would suggest that you may wish to request the consent of the Department of Trade and Industry to publish the document.

With regard to your final paragraph I can not advise as to the possible implications to the Select Committee on the consequences of publication.

Yours sincerely

Mary Williams

Mrs Mary Williams
Chief Secretary

Jonathan King

From: Jonathan King
Sent: 03 February 2010 11:05
To: ++++++
Subject: RE: Select Committee/Mr & Mrs Spadoni

Dear Mr and Mrs Spadoni

Thank you for your e-mail of 1st February 2010 and attachment dated 30th January 2010 asking for a further opportunity to give oral evidence in public. The Select Committee have no plans for any further public hearings. If you would like to put your remaining concerns in writing, to reach me by 5pm on Wednesday 17th February, they will be considered by the Committee.

Many thanks.

Jonathan

Jonathan King
Deputy Clerk of Tynwald and Clerk of the Legislative Council
Legislative Buildings, Douglas, Isle of Man IM1 3PW
01624 686303

From: ++++++ [mailto:joanspadoni@manx.net]
Sent: 01 February 2010 13:26
To: Jonathan King
Subject: Select Committee/Mr & Mrs Spadoni

Jonathan,

Attached reply to your recent email

kind regards

Joan Spadoni

Legislative Buildings
Douglas
Isle of Man
IM1 3PW
British Isles



Oikyn Slattyssagh
Doolish
Ellan Vannin
IM1 3PW
Ny Ellanyn Goaldagh

Telephone: 01624 686303
Fax: 01624 685504

Deputy Clerk of Tynwald
Lhiass Cleragh Tinvaal
Jonathan King

Chellvane: 01624 686303
Facs: 01624 685504

4th February 2010

Chris Corlett
Chief Executive
Department of Trade and Industry
Hamilton House
Peel Road
Douglas
IM1 5EP

Dear Chris

Stability failure of the Suzanna D: handling of Document 437

I enclose copies of a letter I sent to the Chief Secretary on 20th January 2010 and her reply dated 1st February 2010. Both are self-explanatory.

I can now confirm that the Select Committee wishes to publish Document 437 as part of its report to Tynwald. Has the Department of Trade and Industry any comment to make?

The Select Committee meets on 22nd February 2010 so I would be grateful for your response by 19th February 2010 if possible please.

Many thanks.

Yours sincerely

Jonathan King
Clerk of the Select Committee on Redress for Mr and Mrs Spadoni (Actions of the Marine Administration)

Jonathan King

From: Chris Baker [Chris@mdiom.co.im]
Sent: 09 February 2010 09:46
To: Jonathan King
Subject: RE: Stability Failure of Suzanna D

Mr King

Response to highlighted items in document, pages 151/3 and 151/10

The freeboards were measured using the welded lap seam in the bulwarks which was a feature we could see both on the inboard and outboard sides. The height of this seam was then corrected to allow for the actual deck thickness. Both myself and the IOM Marine Administration Surveyor (Peter Chreseson) were at great pains to make sure this was correct.

For the roll test we took an overall correction for the freeboards of -40mm

For the inclining trial, an inherently more accurate procedure individual corrections were taken for each location.

The remarks on page 151/3 and indeed the summary table above the remark have been made after misreading the data. The data is not in error.

Point 1 151/3

The reader is comparing readings taken at different positions.

The reading 0.909m is a single reading taken on the centreline

The reading 0.748m is an mean reading using port and starboard at the aft quarter (approx AP)

The equivalent inclining reading is in fact 0.757m, a difference of only 9mm

Point 2 151/3

The minimum mean freeboards before correction for the roll test is 0.568m

The minimum mean freeboard before correction for the inclining trial is 0.558m

These figures are entirely consistent and the subsequent difference is due to the more accurate survey of the seam height .v. the deck height where an individual correction was applied to each measurement position.

Point 3 151/10

An error in transferring one of the data points was made and subsequently corrected. This error of 2mm in 78.5mm when taken in conjunction with all the other measurements which are then plotted and a mean square value used will have had an insignificant impact on the final result.

Point 4 151/10

I am not clear which document this comment refers to? I repeat though that the freeboard measurements were carefully taken and documented by myself and checked thoroughly by Mr Chreseson. The appropriate corrections were made both after the roll and inclining trials.

I hope the above comments help the committee.

Regards

Chris Baker

Jonathan King

From: ++++++ [joanspadoni@manx.net]
Sent: 17 February 2010 16:39
To: Jonathan King
Subject: Suzanna D - Select Committee
Attachments: Suzanna D - Select Committee.doc; Jonathan ing 16.02.10.doc; Evidence of Mr Chris Baker.doc

Importance: High

Jonathan,

Please find attached documents for the attention of the Select Committee. Unfortunately, my printer isn't working so I will send the hard copy by post as soon as possible.

Regards

Mrs Spadoni

10 Sunnydale Avenue
Athol Park
Port Erin
IM9 6ET

16th February 2010

Mr Jonathan King
Deputy Clerk of Tynwald and
Clerk of the Legislative Council
Legislative Buildings
Douglas
IM1 3PW

Dear Mr King,

**Re: Select Committee of Tynwald on the Report on Redress for Mr & Mrs Spadoni
(Actions of the Marine Administration)**

In view of your recent email advising us of the Committee's decision not to grant us a further opportunity to give oral evidence in public, we attach a copy of all our outstanding concerns for the Committee's attention which will also be copied to the President of Tynwald in order to be placed on the public record.

Yours sincerely

Dante & Joan Spadoni

10 Sunnydale Avenue
Athol Park
Port Erin
IM9 6ET
16th February 2010

Mr Jonathan King
Deputy Clerk of Tynwald and
Clerk of the Legislative Council
Legislative Buildings
Douglas
IM1 3PW

Dear Mr King,

**For the attention of the Select Committee of Tynwald on the
Report on Redress for Mr & Mrs Spadoni**

As we have been advised by the clerk that our request for a further meeting with the Committee has been refused we are, reluctantly, submitting our concerns and comments in writing.

Firstly we would like to impress upon the Committee how disappointed we were to be informed by the Clerk, of the Committee's decision not to take any more evidence in public in respect of this matter. This decision means we have been denied the opportunity to hear the evidence of those members of the DTI and Marine Administration involved in this matter. We gave our evidence in public and by doing so the DTI and Marine Administration have being afforded an opportunity of examining that evidence at their leisure. We consider this extremely unfair particularly as we have also been denied access to the oral evidence given by those members to the previous Sub-Committee. In addition we have also been denied copies of various documents examined by the Sub-Committee during the course of its investigation.

With regard to Mr Baker's evidence presented to the Committee, he made it clear that his examination of the Suzanna D's original Dutch stability booklet proved the vessel's stability issue was "inherent in the design." Please note Mr Spadoni gave Mr Baker and Mr Peter Chreseson MA naval architect and marine surveyor a copy of the original Dutch stability booklet (details of the booklet can be found in Part 1 of our documentary evidence submitted to the Committee on 13th May 2009) at the time of the inclining trial in Ramsey in May 2000. It is clear, however, that the Marine Administration were in fact already aware that the vessel's stability issue was "inherent in the design" from the time they received the MCA vessel file. That they knew the truth is covered in Part 3 of our submission of documentary evidence given to the Committee on the 13th May 2009.

Mr Baker's evidence, the vessel documents and the Marine Administration Memorandum (doc 437) make it absolutely clear that **the vessel at no time satisfied the 1975 Rules**. The fact that it never satisfied the 1975 Rules proves the stability tests recorded in the MCA file are **a work of fiction**. Clear **irrefutable proof** that the MCA had certificated the Suzanna D for a period extending over 18 years, up to and including the time the vessel was registered in the Isle of Man, and were guilty of **criminal negligence**. The MCA's cavalier attitude to its own Safety Regulations knowingly placed innocent fishermen's lives (including Mr Spadoni and his crew) in mortal danger. However, the MA chose to disregard the evidence in its possession and took the contemptible decision not to carry out a formal investigation into the MCA's **criminal negligence**. Such action would have hopefully have resulted in the MCA's negligent practices being stopped. Instead the MA denied its own evidence and embarked on a course of action to **cover up the MCA's crime**.

It is obvious to us that the Marine Administration held a similar cavalier attitude to the Safety Regulations and this is demonstrated in Document 437. The Catherine A, a vessel previously owned by Mrs Spadoni for more than 20 years (a Manx registered vessel when purchased by Mrs Spadoni in 1976) was almost certainly a stability failure. The comments by Mr Chreseson that the Catherine A, Elizabeth and De Bounty would **all** have problems if requested to comply with full stability requirements of the 1975 Rules clearly indicate this. Regardless of this being the case Mrs Spadoni as owner of the Catherine A was never given a copy of any of the roll tests conducted by the department during the time of her ownership. Nor did the department give any indication that the vessel had potentially serious stability problems. It is apparent that the MCA and IOMMA's cavalier attitude to the Safety Regulations covers the period since the introduction of the 1975 Safety Regulations up to and including the present day.

Notwithstanding the irrefutable evidence in the Marine Administration's possession the department embarked on a smear campaign which included numerous, unsubstantiated allegations that we were to blame for the vessel's stability failure. Particularly the statement presented by Mr Downie in the Honourable Court of Tynwald in November 2003, when he publically made a number of slanderous and defamatory allegations of blame against us. By the power of his Office and position of Minister in the Isle of Man Government, he effectively "framed" us for the MCA's crime and in doing so mislead Tynwald and the wider listening public.

Mr Downie's allegation that the concrete blocks were the reason for the stability failure were comprehensively disproved when the vessel was re-tested, at Tynwald's request, in Douglas in January 2004. However, ignoring this information Mr Downie and the MA Director Mr Howell met with Chief Minister Corkill and continued to "frame" us for the MCA's crime by informing him that we had illegally put approximately 14 tons of "readymix" concrete in the vessel's fishroom and were therefore guilty of causing the stability failure of our vessel. This allegation is undoubtedly connected to the withdrawal of the MCA's original offer of full compensation.

The DTI Minister and the IOMMA are guilty of abusing their position of public office in order to **cover up** the MCA's **criminal negligence** and in doing so failed in their duty as a regulatory body with responsibility, before all else to ensure safety at sea in Manx ships. Please note that it was the seamanship skills of the Suzanna D's Skipper, Mr Spadoni, which undoubtedly prevented this matter resulting in a total loss of the vessel and crew. And although the IOMMA stopped the Suzanna D from going to sea the department's action did not expunge the MCA's **crime** which had already been committed. The MCA had a "track record" of criminal negligence and gave official assurances to the Parliamentary Ombudsman in the Reeman case that measures had been put in place, by way of internal and external inspection, that no-one else would ever find themselves in a similar situation. A full 10 years later we suffered the same fate as the Reemans and 2 years after us another Isle of Man resident with the same type of vessel (UK registered but Manx owned) found himself in the same position. The MCA's contemptible practices will continue to place innocent fishermen's lives in mortal danger as long as good men stand by and do nothing.

The question the Committee needs to ask itself is "what would have happened had the Suzanna D and her crew perished as a result of the MCA's **criminal negligence**?" We have Mr Corkill's answer to that same question asked of him by Mr Rimington "**I don't suppose we would have found a million pounds to get it off the bottom.**" We have no doubt that had the boat and crew been lost the IOMMA would have redoubled its efforts to **cover up** the MCA's **crime**. Conversely the IOM Government spent several millions of pounds of taxpayers money to raise the Solway Harvester (a vessel that had well documented stability issues) and investigate the reason for the tragic loss of the vessel and its 7 young fishermen. They did so at the very time the IOMMA was perverting our course to justice by burying the truth of the Suzanna D's stability failure.

The MCA with the complicity of the IOMMA are responsible for this matter and whilst they have continued to hide behind their lies we are the people who have suffered the disastrous consequences of their criminal negligence. We have been treated like criminals throughout and have had to listen to glib statements such as "you have been paid compensation by the MCA, so what's the problem?" It has been easy for members of the DTI and Marine Administration and others to make such statements. They did not lose their business, suffer financial ruin and forced to spend many years of their lives fighting for compensation. It is a fact that neither the Sub-Committee nor the Select Committee asked us any questions in connection with the details of the consequences we have suffered. For that reason such glib statements continue to misrepresent the truth of the consequential affects we have suffered and continue to suffer.

Please note the Parliamentary Ombudsman's Ruling that we "should be placed in the position we would have been in had this not happened" has not been fulfilled.

Dante & Joan Spadoni

**FOR THE ATTENTION OF THE SELECT COMMITTEE OF TYNWALD
ON THE REPORT ON REDRESS FOR MR & MRS SPADONI
(ACTIONS OF THE MARINE ADMINISTRATION)**

**Mr & Mrs Spadoni's comments on the evidence of Mr Chris Baker given to the
Committee on Monday 16th November 2009**

110-130

Mr & Mrs Spadoni contacted Mr Baker of Marine Data to arrange for the Suzanna D to be stability tested soon after meeting with the Marine Administration on 20th April 2000.

The first test, a roll period test, was carried out by Mr Baker in Port St Mary on 26th April 2000. The test was also witnessed by Peter Chreseson and John Wade, qualified naval architects and marine surveyors employed by the IOM Marine Administration. The costs of the test were met by Mr & Mrs Spadoni.

735-765

At the Marine Administration meeting dated 20th April 2000 Mr & Mrs Spadoni agreed not to take the Suzanna D to sea until it had been re-tested and the vessel's stability firmly established. When the vessel failed the roll period test conducted by Mr Baker on 26th April 2000 her Isle of Man Fishing Vessel Safety Certificate was withdrawn by the department. The vessel only sailed once after that time when it was required to do so by the Marine Administration. The Marine Administration issued the vessel with a "temporary" certificate to allow the vessel to be sailed from Port St Mary to Ramsey Shipyard where the requested "inclining test" was conducted by Mr Baker and Marine Administration surveyors Peter Chreseson, John Wade, David Ramsbottom and Bill Liddell. The costs of the test were met by Mr & Mrs Spadoni.

*The vessel did **not** go fishing after the meeting of the 20th April 2000 and we seriously question the source of the Committee's information suggesting Mr Spadoni may have continued to fish the vessel after it failed the stability test conducted on 26th April 2000. The vessel's landing sheets submitted to DAFF at the time will clearly show the vessel did **not** return to fishing after the 20th April 2000.*

Mr & Mrs Spadoni's comments on the evidence of Mr Richard Corkill given to the Committee on Monday 16th November 2009

1075

Mr Corkill claimed the Marine Administration were, at the very least “curious” as to what had happened to the vessel.

However, he failed to mention the Marine Administration's curiosity did not extend to preparing the Report that he, as Chief Minister, requested from the then MA Director, Mr Howell, at a meeting in the Chief Minister's Office in June 2002. In the presence of Mr Rimington, Mr & Mrs Spadoni, their son and daughter in law and Mr Wade of the Marine Administration.

1075-1080

Mr Corkill stated “Because of the time that has elapsed, I wonder whether anyone really knows the whole sequence of events. I think that is very difficult, but certainly the DTI, I suspect on behalf of the Marine Administration, said for quite a long time that concrete added to the vessel had altered its stability.”

Why did the Committee not ask Mr Corkill to reveal the source of this information and whether he as Chief Minister was ever offered any evidence to support the DTI “concrete” allegation?

1170

Mr Corkill stated “I remember thinking, ‘Well, this is a technical issue, someone technically should be able to actually decide this matter.’ I remember also that the person who had done the tests at the MCA (we believe he was referring to Peter Chreseson who was an IOMMA surveyor) had since died, and so the audit trail going back was a difficult one.”

At this point why did the Committee not bring document 437 to Mr Corkill's attention? If the Committee felt it appropriate to question Mr Baker, a private marine consultant, on the content of document 437, then surely it ought to have been even more appropriate to question Mr Corkill, the former Chief Minister, in connection with what is an internal Marine Administration Memorandum. Particularly as it was written by the “technically” qualified IOMMA naval architect and marine surveyor, Peter Chreseson who carried out the stability tests on the Suzanna D with Mr Baker in April and May 2000.

*We are of the opinion that the Committee should have considered it absolutely essential that Mr Corkill be questioned on such a **vital** and **crucial** document as 437. The opportunity to question Mr Corkill would surely have revealed whether or not he had any knowledge of Document 437, or indeed its content, he was after all, the former Chief*

Minister involved in this matter. Not to have questioned him on Document 437 is, we believe, a serious oversight.

1175

Mr Corkill stated “What was absolutely number one top of my mind was the fact that a **dangerous, unstable vessel** had been registered – or licensed, whatever the word is – and it was only because it had come to the Isle of Man that that aspect had been picked up by our own experts.”

*Here Mr Corkill appears to accept that the Suzanna D was already a “**dangerous, unstable vessel**” when on the UK Register and “it was only because it had come to the Isle of Man that that aspect had been picked up by our own experts.” This is at odds with part 1080 of his evidence where he states “but certainly the DTI, I suspect on behalf of the Marine Administration, said for quite a long time that **concrete** added to the vessel had **altered its stability**.”*

The Committee ought, in our opinion, have questioned Mr Corkill further on these two contradictory statements.

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