

COMPLAINT
EXHIBIT C

LAW OFFICES OF JERRY C. EFFREN

Jerry C. Effren

Neal J. Bingham

Paralegals

Margaret L. Burchard
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E-Mail Address: nbingham@effren.net

October 6, 2021

Via Email (foia.marad@dot.gov)
Maritime Administration
Freedom of Information Act Appeal
1200 New Jersey Avenue, SE
Second Floor, West Building
Room W24-220, Mailstop #4
Washington, DC 20590

**Re: ADMINISTRATIVE APPEAL
FREEDOM OF INFORMATION ACT REQUEST
CONTROL NO. 21-0085-FOIA**

Dear Sir or Madam:

This is an appeal under the Freedom of Information Act submitted on behalf of Waleed Sayed (“Mr. Sayed”).

This office submitted a request under the Freedom of Information Act on August 18, 2021 on behalf of Mr. Sayed. (*A copy of the FOIA request is attached as Exhibit A.*) The request was assigned the following Control No: 21-0085-FOIA. MARAD responded by letter dated September 29, 2021 (the “FOIA Response”). (*A copy of the FOIA Response and responsive documents are attached as Exhibit B.*) Purporting to have conducted a careful search, MARAD produced only two documents: (1) a Certificate of Capacity issued July 17, 2019, which was prepared by Mr. Sayed, the licensed engineer engaged by Epic Companies, LLC, the former owner of the Alabama Dry Dock, to certify the dry dock (the “July Certificate”); and (2) one page from RFP# 20-G-9029-137 concerning the docking of the SS Altair.

The FOIA Response is incomplete for the following reasons:

1. The July Certificate on its face is a two (2) page document, yet only one page was produced. In paragraph 1 of the July Certificate, it refers to an “attached Table – ALABAMA FDD Line Load as of March 8, 2019” (the “July Certificate Table”). The July Certificate cannot be separated from the July Certificate Table, which contains forty-eight (48) different maximum and minimum keel line load values that vary along the length of the Alabama Dry Dock. Without the July Certificate Table, it is impossible to determine if the Alabama Dry Dock was certified to lift any vessel, including the SS Altair, in accordance with approved stability and docking calculations. Please produce the complete July Certificate, including the July Certificate Table.
2. Additionally, Mr. Sayed is aware, because he was the engineer of record at the time, that the July Certificate is not the most recent certification of the Alabama Dry Dock. By November 2019, the Alabama Dry Dock was acquired from EPIC Shipyards by Alabama

Shipyard, LLC, who requested that Mr. Sayed conducted further inspections and recertification of the Alabama Dry Dock. Mr. Sayed, on behalf of his then employer, issued a revised Certificate of Capacity on November 26, 2019 (the "November Certificate"), which also had attached to it a revised line load table (the "November Certificate Table"). Please produce the complete November Certificate, including November Certificate Table.

3. Finally, Mr. Sayed believes that the safety of the vessel in dry dock may have been in jeopardy as there was no way for MARAD to have validated the docking calculations provided by the Shipyard without the attached Table, as the Certificate alone is insufficient to determine the maximum keel line load of the dry dock. Mr. Sayed believes this to be true because, according to his records, the maximum keel line load of the Alabama Dry Dock as of July 17, 2019 and November 26, 2019 was downgraded and insufficient for the purposes of drydocking the SS Altair, which was docked in the Alabama Dry Dock after November 26, 2019. If any Alabama Dry Dock Certificates were reissued after November 26, 2019, please produce those Certifications, along with their respective corresponding tables or confirm that none exist.

If you need to discuss this request, I can be reached at the telephone number and the email address set forth above. Thank you for your consideration.

Very truly yours,

LAW OFFICES OF JERRY C. EFFREN


Neal J. Bingham

cc: Client

EXHIBIT A

LAW OFFICES OF JERRY C. EFFREN

Jerry C. Effren

Neal J. Bingham

Paralegals

Margaret L. Burchard
Adrienne Cormier

25 West Union Street
Ashland, Massachusetts 01721
(508) 881-4950 – Telephone
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E-Mail Address: nbingham@effren.net

August 18, 2021

VIA EMAIL

Division of Legislation and Regulations
U.S. Department of Transportation
Maritime Administration
Second Floor, West Building
1200 New Jersey Ave., SE, W24-233
Washington, DC 20590

Re: FREEDOM OF INFORMATION ACT REQUEST

Dear Sir or Madam:

I am counsel for Waleed Sayed of Ashland, Massachusetts and I write on his behalf. This is a request by Mr. Sayed under the Freedom of Information Act directed to the Maritime Administration (MARAD). Mr. Sayed hereby requests that a copy of the following documents be provided to him, care of this law office, on an expedited basis:

1. All documents evidencing the certification status of the Floating Dry Dock “Alabama” (the “Alabama Dry Dock”) at the shipyard owned and/or operated by Alabama Shipyard, LLC. in Mobile, Alabama on and after November 26, 2019.
2. The complete two (2) page dry dock certification utilized by Military Sea Command (MSC), Naval Sea Systems Command (NAVSEA), or MARAD to authorize the drydocking of SS Altair beginning in April of 2020 in the Alabama Dry Dock. With respect to this request, the responsive documents should include, to the extent set forth on said responsive documents, the responsive documents must include:
 - a. The certificate’s start date and expiration date;
 - b. The tables attached to any of the certifications should include the data required for MARAD to have validated the capacity of the Alabama Dry Dock; and

c. The "Date", "Job No.", and "By" located on the attached table.

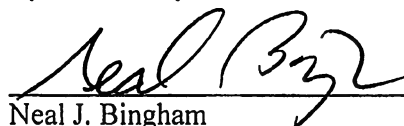
3. All documents concerning the "self-certification" of the Alabama Dry Dock by MSC, NAVSEA, or MARAD, or at the direction of MSC, NAVSEA, or MARAD, if any, undertaken or completed on or after November 26, 2019.
4. All documents concerning United States Navy certifications of the Alabama Dry Dock, if any, undertaken or completed on or after November 26, 2019.

In order to assist MARAD in determining fees, please be advised that my client is willing to pay fees up to \$250.00 for your services in responding to this request. If you expect the fees will exceed this, please contact me before proceeding.

If you need to discuss this request, I can be reached at the telephone number set forth above during regular business hours. Thank you for your consideration of this request.

WALEED SAYED

By his attorney



Neal J. Bingham

LAW OFFICES OF JERRY C. EFFREN

cc: Waleed Sayed

EXHIBIT B



U.S. Department
of Transportation
**MARITIME
ADMINISTRATION**

1200 New Jersey Avenue, S.E.
Second Floor, West Building
W24-220 Mailstop #4
Washington, D.C. 20590

T. Mitchell Hudson, Jr., FOIA Officer
(202) 366-5320
Ann Herchenrider, FOIA Public Liaison
(202) 366-5165

FOIA Service Center
(202) 366-2666
Facsimile: (202) 366-7485
Toll free: (800) 996-2723, Press "0"
Email address: FOIA.MARAD@dot.gov

VIA EMAIL

September 29, 2021

Mr. Neal Bingham
Law Offices of Jerry C. Effren
25 West Union Street
Ashland, MA 01721
nbingham@effren.net

Control No.: 21-0085-FOIA

Dear Mr. Bingham:

This letter is in response to your August 18, 2021 request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. You requested the following information:

1. All documents evidencing the certification status of the Floating Dry Dock "Alabama" (the "Alabama Dry Dock") at the shipyard owned and/or operated by Alabama Shipyard, LLC. in Mobile, Alabama on and after November 26, 2019.
2. The complete two (2) page dry dock certification utilized by Military Sea Command (MSC), Naval Sea Systems Command (NAVSEA), or MARAD to authorize the drydocking of SS Altair beginning in April of 2020 in the Alabama Dry Dock. With respect to this request, the responsive documents should include, to the extent set forth on said responsive documents, the responsive documents must include:
 - a. The certificate's start date and expiration date;
 - b. The tables attached to any of the certifications should include the data required for MARAD to have validated the capacity of the Alabama Dry Dock; and
 - c. The "Date", "Job No.", and "By" located on the attached table.
3. All documents concerning the "self-certification" of the Alabama Dry Dock

by MSC, NAVSEA, or MARAD, or at the direction of MSC, NAVSEA, or MARAD, if any, undertaken or completed on or after November 26, 2019.

4. All documents concerning United States Navy certifications of the Alabama Dry Dock, if any, undertaken or completed on or after November 26, 2019.

After a careful search of our files two pages of responsive records were found. This release of records represents the agency's final response to include all records located and determined to be responsive to your request. Please find enclosed the responsive documents released in their entirety.

The attached record is provided to you free of charge.

You have a right to appeal. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter. The appeal should be sent to foia.marad@dot.gov or mailed to the following address:

Maritime Administration
Freedom of Information Act Appeal
1200 New Jersey Avenue, SE
Second Floor, West Building
Room W24-220, Mailstop #4
Washington, DC 20590

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



T. Mitchell Hudson, Jr.
Freedom of Information Act Officer

Enclosure

Exhibit 2-1, Drydock Alabama Certificate

HEGER DRY DOCK, INC



CERTIFICATE of CAPACITY

FLOATING DRY DOCK 'ALABAMA'
EPIC COMPANIES, LLC
MOBILE, ALABAMA

ISSUED JULY 17, 2019
EXPIRES JULY 17, 2021

Heger Dry Dock, Inc. has inspected the subject dry dock and found it safe and adequate for dry-docking vessels displacing up to 46,400 long tons at 12 inches port/starboard and with a maximum keel line load not to exceed the load per foot limit as shown in the attached Table 1 - ALABAMA FDD Line Load as of March 8, 2019.

This certification is contingent on the following conditions:

- A) The vessel's weight and adjusted vertical center of gravity (VCG) must fall within acceptable levels of the dry dock stability.
- B) A safe and adequate blocking system must be used for all dockings.
- C) Maximum allowed head pressure limitation of 31 feet must not be exceeded.
- D) Normal acceptable dry-docking procedures must be followed at all times.
- E) Starboard wing walk crane shall not travel aft of frame 44.

Please note that the certification is for the safety of the vessel in the dry dock only. It does not address the safety of personnel in and around the dry dock, potential pollution spills, or transfers. Faulty handrails, stairs, tripping hazards, exposed equipment or any other hazard not specifically related to the safety of the vessel in the dry dock are not covered by this certification. Transfers must be reviewed and approved in advance on a case by case basis.

This certification expires on July 17, 2021. It shall automatically become void should any charges be made or damage occur to the basic dock structure or equipment.

REFERENCE: Heger Inspection Report, July 2019

HEGER DRY DOCK, Inc.
Waleed Sayed PE
Registration Alabama
Certificate No. 35117



SS ALTAIR

2020 DRY DOCK / REPAIR AVAILABILITY (RFP# 20-G-9029-137)

2. DRY DOCKING

2.1. Docking and Undocking

Abstract:

It is the intent of this item to describe the requirements for dry docking, and un-docking the vessel to accomplish all underwater work contained herein.

References:

Docking Plan
Capacity Plan
Trim and Stability Booklet
General Arrangement
Vessel Stability Run – Sailing Condition
Vessel Stability Run – Arrival

Location/Description

N/A

Owner Furnished Equipment / Material / Services:

MARAD Dry-Dock Report Form MA-57

Requirements

Proposed Dry docking Facility Requirements:

The dry dock facility length overall shall be equal or greater than the length of the ship overall. The side clearance between the dry dock walls and the ship's side shall be no less than 7'-0" on each side.

Contractor shall provide a copy of a current Condition Survey Certificate for the dry dock the Contractor proposes to use. Certificate may be certified by the Salvage Association, NAVSEA and or certified Regulatory Body. Certificate must be submitted as part of the original bid proposal.

Docking/Undocking Conferences: Contractor shall hold pre-docking and undocking conferences at a mutually agreed upon time with minimum attendance by Port Engineer, Ship's Master, Chief Engineer, and Contractor's Dock master to review weather and external factors as well as to coordinate all critical elements outlined by the specification. An official attendance form shall be available for signature and receipt by all parties and provided as documentation in Condition Report format.

Conferences shall cover at a minimum:

- Docking Position, blocking plan
- Time of Dry-docking/Undocking
- Weather impacts
- Available minimum clearance over the blocks
- Ballast and fuel loading
- List and trim requirements of the Dock master