

SENIOR CONSTABLE UPSTON

Q1 This is an electronic record of interview between Senior Constable David Upston of the New South Wales Water Police and Peter Messenger on Friday, the 5th of November, '99 at the Cruising Yacht Club of Australia at Rushcutters Bay. Peter, as I've explained to you, Detective Senior Constable Gray, who is seated directly on my right, and I are making inquiries into the 1998 Sydney to Hobart Yacht Race and we are here to talk to you about your role in the 1998 Sydney to Hobart Yacht Race as a participant and also a safety officer of the club. As I explained to you earlier, we have been told certain things and I'd like to discuss those with you. For the purpose of the interview, could you please state your full name?

A Peter Bernard Charles Messenger.

Q2 Could you repeat that again, please?

A It's Peter Bernard Charles Messenger.

Q3 And your date of birth?

A 7/7/60.

Q4 And your address?

A 19 Salisbury Street, Waverley.

Q5 And your occupation, please?

A Yacht rigger.

Q6 O.K. Peter, could you please give us an indication of your sailing experience?

A Well, as from my date of birth I'm 39 years old, I've been sailing since I was eight, I've probably done, I

think it's 14 Hobarts to date as well as numerous coastal races, Southport races, Mooloolaba and a lot of deliveries, you know, from Sydney to Perth, from Whitsundays down to Sydney as well.

Q7 O.K. Peter, just prior to further questioning I neglected to add that the, the time of commencement of the interview was 11.55am. Do you agree with that?

A Yes.

Q8 O.K. And with your involvement with the C.Y.C.A. are you a member of the club?

A Yes, I'm a member of the club, my membership number is 7-7-6.

Q9 And how long have you been a member at this club?

A On and off, since my late teens.

Q10 O.K. And I understand you are now a safety officer with the C.Y.C.A. Is that correct?

A Yes. I've probably been a safety officer, probably about 6 years but I haven't done that many, you know, due to work because a lot of my work is down at the South Coast so, you know, I've probably done minimal amounts over the last year and a half.

Q11 O.K. How do you become a safety officer with a yacht club?

A Mainly from, from experience, as mine was started quite a while back, you know, there wasn't really any courses except for maybe upgrading of, of appliances or something like that which the A.Y.F. or the Y.A. would give to you as an update. But it's mainly everything

is in the A.Y.F. book and it's just mainly, a lot of it's common sense and, you know, just experience on boats over a period of years, you know, that you can notice something which would, you know, needs attention and stuff like that. So it's mainly also a help to owners in regard to maintenance of their boats too.

Q12 O.K. And with the A.Y.F. known as the Blue Book, are you familiar with the rules and regulations that are in the Blue Book?

A Yes.

Q13 Right. To what extent would you be familiar with those rules?

A Hard question, well, I've, you know, I mean I've, from, from doing a lot of safeties early on you do sort of, like, tend to read the book a fair bit more but I'd know more than probably what a normal owner of, of the yacht does.

Q14 O.K. All right. Well, that's good. Now I understand that you also sailed as a participant in last year's yacht race on the yacht Terra Firma. Is that correct?

A That's correct.

Q15 O.K. And who is the owner of Terra Firma?

A I think it's a joint ownership between Stewart Neeman and Peter Bartels, but mainly I think it is Stewart Neeman and Bartels just runs the boat for him.

Q16 O.K. All right. Now when did you become a crew member on the Terra Firma?

A I'd done I think one or two races on the boat late November, the boat had only just, a new mast put in the boat which the company I was working for had made, so I was mainly going out tuning that up. And then it would have been a day or two before Hobart that they were short a crew and ended up asking me to come along.

Q17 Right. Is that your normal way of getting on boats, just sort of you lay off and wait til something comes up or do you normally crew on boats - - -

A No.

Q17 - - - as they come along?

A No. I would normally crew, normally crew on a boat the whole season, you know, starting say at winter series and then all the prior races to the Hobart itself but, you know, this year, last year I should say was just from working down at Nowra most of the time you just don't get up here that often - - -

Q18 Mmm.

A - - - to sail on a boat every weekend.

Q19 Have you sailed on Terra Firma before?

A Not prior to the early part with the sail, with the new mast.

Q20 All right. Pardon me. Now I understand that as a safety officer you completed the safety inspection check which made the vessel eligible to race in the 1998 Sydney to Hobart Yacht Race. Is that correct?

A I don't know, I'd have to check up on the forms but if, if that was the case, yes, I would have checked it.

Q21 Well, let - - -

A Normally I don't sail, normally I don't do the safeties on the boats which I sail on.

Q22 All right. Well, let me tell you that your name appears on the bottom of the safety inspection, the current safety inspection for that for the 1998 Sydney to Hobart Yacht Race.

A Well, I must have done it then.

Q23 O.K. All right. And you would have completed that, to the best of your recollection, in accordance with the A.Y.F. Blue Book?

A Yes.

Q24 For I.M.S. vessels?

A Yes.

Q25 O.K. Now in that particular safety inspection check list there is a section where it mentions jack stays, are you familiar with that?

A Yes.

Q26 Now what is your understanding of how jack stays and, well, first of all can you tell me what a jack stay is?

A A jack stay is, is a, was a bit of webbing and now they've changed the rule this year, but last time around it was webbing to a certain breaking load of, I can't recall what it is, I'd have to look in the book, which people clip on in heavy air with their safety harnesses to be able to walk from one end of the boat to the other, from the bow to stern or vice versa. The line is normally, used normally is discontinuous, it's

continuous, I should say, so that the crew wouldn't have to unclip.

Q27 O.K. Now that webbing you, you're talking about is for, for the purposes, like, a seat belt material perhaps - - -

A Yeah.

Q27 - - - but a little bit thinner in width?

A Yes. It's, it's not exactly the same material but it's made of, made a similar way, it's normally spectra because of the amount of breaking loads required on that material and it is for that weight of breaking load is normally about 1 inch - - -

Q28 O.K.

A - - - in size.

Q29 So it also must comply with a load test as well?

A Yes.

Q30 O.K. All right. Now when you, when you conducted the safety inspection check for Terra Firma can you recall how the jack stays were fastened?

A No, not at this time.

Q31 All right. Can you recall seeing the jack stays?

A I would have inspected them, yes.

Q32 O.K. And can you recall whether they ran from the stem to the stern?

A Well, they always do, yes, I would imagine, as I said I can't quite recall the boat so yeah, I mean, like - -

-

Q33 O.K. Can you recall when you did, when you may have done the safety inspection?

A No.

Q34 No. So, but it was - - -

A I think it was just, like, the week prior to the boat going sailing or, prior to, yeah, putting the mast in one, you know, whether it was Monday or Tuesday of the week and it would have been the safety done by the end of that week.

Q35 And how, how far would that have been in, in time frame before the Sydney to Hobart Yacht Race?

A I'm pretty sure the boat was, the first race with the new mast was the Aud Minette Regatta or, it would have been mid November, I'd say.

Q36 O.K. So it wasn't very long, it was what, within 6 weeks of the, the Sydney to Hobart Yacht Race?

A I'd say so, yes.

Q37 O.K. And I've been informed that there was also a spot check done on Terra Firma on the day of the Sydney to Hobart Yacht Race and it would have been in the morning?

A Right. Well, I wouldn't, I don't think I was on board. I can't recall the spot check at all.

Q38 O.K. Did you have conversation with anybody in regards to the, a spot check being done?

A No.

Q39 O.K.

A I think I, I think where I was was checking weather forecasts with Roger Baddam or I think Ken Batt was down here that time.

Q40 O.K. What, what was your role on Terra Firma?

A I was one of the helmsmen.

Q41 O.K. All right. And as helmsman it's your normal duty to go and check the weather?

A Well, I was probably, you know, even a bit more of a tactical navigator as well, we had been told that it was going to, the breeze was supposed to be getting up to 50 knots sort of thing so, you know, just wanted to check whether that was going to happen or not and - -  
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Q42 O.K. All right. We've also been informed that the morning of the spot inspection by safety officers from the C.Y.C.A. that the jack stays that we've mentioned didn't comply with the, the A.Y.F. Blue Book specifications and in fact they were, the owner was directed to alter the jack stays so that they would comply and I understand that that was the case, the jack stays were altered to comply and then we've also been informed that at the start of the race or, correction, after the, the gun fired and the vessel was proceeding out to sea that in fact the jack stays were re-altered so that they did not comply, in fact that they did not run in one continuous length from the stem to the stern. Now do you have any knowledge of that?



A No, I don't, as I said, I wasn't there for the spot check at all and during the racing I can't recall them being altered at all.

Q43 All right. At the start of the race, what was your position there, where were you located at the start of the race?

A Position on the boat?

Q44 Yeah.

A I'm not exactly sure what I was doing actually, I really can't recall.

Q45 O.K. Would you have been standing near the owner of the vessel?

A No. The owner of the vessel, which is Stewart Neeman -  
- -

Q46 Oh well - - -

A - - - Peter, Peter Bartels was steering, Stewart Neeman was up the back of the boat who does runners.

Q47 Right.

A I think the person doing the main was Jamie Woolmart and I think I might have been doing the genoa trim or I might have been doing main and Jamie doing tactics, I can't quite recall.

Q48 O.K. But you, you can't recall hearing any directions being given by anybody and you can't recall seeing any alterations being made to the jack stays?

A No, I can't.

Q49 All right. But you were on deck at the time?

A Yes.

Q50 O.K. And you would have been standing either on the port or the starboard side either close to the jack stays?

A Yes. I would have either been sitting on the jack stay in the way of trimming the main if I was doing the main end, or if I was doing genoa trim I would have been probably a foot, a foot away from them.

DETECTIVE SENIOR CONSTABLE GRAY

Q51 Peter, if you had been aware that they had been changed back in, contrary to the rules, would you have said anything as a safety officer?

A I wouldn't have allowed it to happen in the first place.

Q52 Right. O.K. That's fine.

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Q53 All right. O.K. Is, is, Peter, is there anything else you'd like to add to this interview that you think may, may assist Detective Gray and myself in the - - -

A No.

Q53 - - - the inquiry?

A No. Well, I just can't recall, you know, one, the spot check, two, you know, because I would have been probably off doing the weather, weather check and, but I can't recall anything - - -

Q54 O.K.

A - - - happening at all.

Q55 All right, then. Thanks very much for your time,  
Peter. The time on my watch is now 8 minutes 12.00.  
This interview is now concluded.

INTERVIEW CONCLUDED