

16 February 2015

TEL +64 4 473 0111 FAX +64 4 494 1263
Level 10, 1 Grey Street, PO Box 25620, Wellington 6146
New Zealand

Keith Ingram
Professional Skipper Magazine
keith@skipper.co.nz

Our ref: GSM 04064-009
By email

Dear Sir

Response to your information request to Maritime New Zealand

This letter responds to your email on 20 January 2015 seeking information about a prosecution involving the **Santa Regina** and Captain John Henderson.

You asked:

I formally request under the OIA a summary of total costs of legal fees, professional advice, court costs and expert witness fees and any other associated expenses incurred by Maritime NZ during the investigation and prosecution of Captain John Henderson, Master of the Santa Regina.

Also, separately, a summary of total costs associated with the first appeal, and second appeal.

Also, separately, the summary of the full costs in time, accommodation including the full costs in chargeable hours by Maritime NZ staff from the time of the Santa Regina collision during berthing on the night in question until the conclusion of the last appeal.

Also details of any costs ordered to be paid to the defendant or any other party at the conclusion of the last appeal.

As has been reported, charges were laid by the Director of Maritime New Zealand (the Director) against the Master of the **Santa Regina** under section 64 (unnecessary danger or risk by the holder of a Maritime Document) and sections 31 and 71 (failing to notify an incident/accident to Maritime New Zealand as soon as practicable) of the Maritime Transport Act 1994.

As stated previously by the Director, the decision to prosecute was made only after careful consideration of the safety and compliance issues involved. Maritime New Zealand stands by its decision to take a prosecution in this case.

The charges against the Master were laid by the Director in the Wellington District Court. As the defendant elected to be tried by a jury the Crown (distinct to Maritime New Zealand) assumed responsibility for the prosecution. Therefore not all costs in respect of this matter were incurred by Maritime New Zealand. For example, Maritime New Zealand did not incur all costs associated with the conduct of the jury trial (for example, the Crown Solicitor's time spent in Court as well as preparation and other work).

As the Director has stated, following the jury trial, an appeal was sought by the Crown because it was considered that clarity in this area of the law would be desirable.

Costs incurred by Maritime New Zealand

According to Maritime New Zealand's cost coding, the cost to Maritime New Zealand was approximately \$30,623.00 for the investigation and our involvement in the prosecution and appeals.

The cost stated above is likely to represent the minimum cost to Maritime New Zealand. It is made up of a combination of direct costs and staff time. It is difficult for us to readily provide the full breakdown you seek. While staff record their time, not all time spent on work associated with this matter would have been allocated exclusively to an individual cost code. For example, administrative and support staff do not generally record their time to case-specific codes.

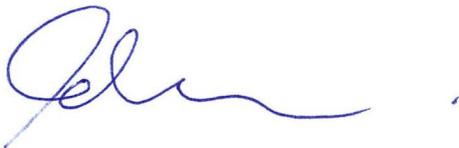
Calculating the actual cost and constructing the cost breakdown would require substantial work on the part of Maritime New Zealand. This is in part due to the time period involved and the way costs (particularly staff time) are corded. We therefore must, in part, refuse your request under section 18(f) of the Official Information Act 1982. This section provides a reason to refuse the information requested where it cannot be made available without substantial collation and research.

As we have refused, in part, your request you have the right to ask the Ombudsman to investigate and review our decision under section 27 of the Official Information Act.

Costs incurred by the Crown

As described above, Maritime New Zealand does not have information about all the costs you seek, in particular those in relation to legal work and the conduct of the jury and appeals. Accordingly under section 14(b)(i) of the Official Information Act we have transferred your request, in part, to Crown Law. You can expect a response from Crown Law in due course.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Andrew de Montalk', with a flourish at the end.

Andrew de Montalk
Adviser

4 March 2015

Keith Ingram
Professional Skipper Magazine

By email: keith@skipper.co.nz

Dear Mr Ingram

Official Information Act request
Our Ref: OIA353/1

1. The Crown Law Office has received a transfer of your Official Information request from Maritime New Zealand regarding costs incurred by Crown Law in the proceedings against John Henderson, Captain of the *Santa Regina*.
2. The information provided below is as at today's date.

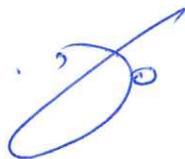
Post committal costs (District Court)

3. As you would be aware, costs incurred prior to Mr Henderson's committal for trial were incurred by the original prosecuting agency, Maritime New Zealand, and not by Crown Law. We only have information about the costs funded by Crown Law, namely the fees of the Crown Solicitor who conducted the prosecution from the point at which Mr Henderson was committed for trial.
4. Further, we only have information about costs of individual cases conducted by Crown Solicitors up to 1 July 2013. Since that date Crown Solicitors have operated in a bulk funding environment and do not invoice us for individual cases, so it is not possible to identify the cost to Crown Law of any one case in particular. We can however advise the number of hours that have been spent on the prosecution since 1 July 2013.
5. The fees paid by Crown Law to the Crown Solicitor at Wellington for the District Court prosecution, for work done between March 2013 and 30 June 2013, total \$2349.48 including GST and disbursements. In addition, since 1 July 2013 the Crown Solicitor has reported a total of 104.8 hours spent on this prosecution. This will include time spent in Court as well as preparation and other work.

Appeal costs

6. The fees paid by Crown Law to the Crown Solicitor in Wellington for work done on the appeal in this matter total \$2524.22 (GST exclusive).
7. In addition, staff from the Crown Law Office were involved with the work on the appeal. Crown Law Office staff are salaried workers and only present invoices for their work in certain circumstances. While generally the legal staff record their time, not all time within Crown Law is recorded. There is no record at all of the time spent by legal support staff and other non-legal staff.
8. With this caveat in mind, our records show that Crown Law Office staff have spent a total of 20.75 hours on the appeal.
9. You have a right, by way of complaint under s28(3) of the OIA, to seek an investigation and review of this decision by the Ombudsman.

Yours faithfully
Crown Law



Saar Cohen-Ronen
Crown Counsel