

NEW ZEALAND MERCHANT SERVICE GUILD
Helen McAra - General Secretary
helenm@nzmsg.co.nz

**Sarah Dench - Office
Manager**
sarahd@nzmsg.co.nz

PO Box 11878
ph 64 4 382 9131
Fax 64 4 382 9106



NEWSLETTER SPRING 2007

Collective Agreements

Negotiations have been concluded for renewal of agreements covering Port of Tauranga tugs and pilot launch; Port Taranaki tugs and pilot launch. Negotiations are underway for collective agreement renewals covering members at Holcim Ltd, Strait Shipping Ltd and Centreport pilots.

Shipping Companies:

Silver Fern Shipping

The *Nyathi*, replacement tanker for *Taiko*, has arrived in NZ. For several months since the redelivery of the *Taiko* its crew has been redeployed or taking leave, but last month Guild President, Captain Michael Webb and two other crew flew to Panama to sail back on her delivery voyage. The initial plans of the company to introduce a new build fell through due to problems with industrial action at the Korean ship yard. The *Nyathi*, will be introduced onto the coast initially with a foreign crew for a period of 28 days while the NZ crew familiarises. The company advised that changes in Silver Fern Shipping's business structure meant that a bare boat charter could not be entered into for delivery. This unusual method of introduction via time charter was questioned by the unions, and the Guild registered its protest with the Minister of Transport.

Real Journeys – dead slow ahead

Since 2003, Real Journeys masters have been raising their concerns with their employer directly and via the Guild, about, *inter alia*, training, qualifications, and operating conditions, design of the vessels, and safety procedures. More specific concerns about the vessel *Milford Sovereign*, including its lack of an external keel and handling difficulties, were also raised repeatedly following an incident in which the master lost control of the vessel.

Recently a TAIC report on the *Milford Sovereign* incident and another earlier incident involving the *Milford Navigator* was published which has vindicated the skippers' stance on many issues, including a refusal to sail her. The report found that:

- The design naval architect and owners of the *Milford Sovereign* had made the conscious decision to not fit an external keel without considering the consequences for the ship's manoeuvrability.
- The in-house nature of the design and building, coupled with an internal safe ship management system, led to less formal commissioning tests and documentation than otherwise may have been the case.
- Real Journeys management had been aware of the handling difficulties experienced on the *Milford Sovereign* through feedback and incidents reported by the masters. The fact that the issue had not been addressed for some 2 years indicates a flaw in the safe ship management system.
- Appropriately, the final decision on whether it was safe to sail was left to the Master's discretion, but the company had not provided any operational parameters of guidelines to assist that decision.
- Should it be necessary to cancel a trip, many hundreds of tourists would be inconvenienced and there would be a corresponding loss of revenue. This placed subconscious commercial and social pressure on the masters to maintain the service, even though the company said it supported a master's decision not to sail.

The company runs a safe ship management system internally instead of using an external contractor. TAIC found that, whilst Maritime NZ audits of the system assisted in maintaining its 'health', on this occasion they did not assist in identifying and addressing the control issues with the *Milford Sovereign*. It also found that the company did not investigate why the ship handled differently from similar ships operating in the area, nor were procedures put in place to reduce the likelihood of the ship being caught in adverse weather. TAIC has recommended the company specify maximum operating parameters for each vessel operating in Milford Sound, or establish guidelines to assist masters to decide on the maximum safe operating weather conditions.

The company's guidelines now prohibit sailing in winds exceeding 35 knots at the Milford Sound wharf, that "excessive winds should be monitored visually and trends recorded"; and a process for joint decisions involving the other operators in Milford Sound in cases of questionable sailing conditions.

The company has declined a TAIC recommendation to fit more efficient rudders which would increase the wind speed within which the vessels can safely manoeuvre or provide additional manoeuvrability in extreme conditions on the grounds that it considers the vessels are 'highly manoeuvrable and can turn in their own length'. The company has been advised by a naval architects and others that high lift rudders are inappropriate for the operating areas and conditions, and finally that 'the cost of fitting high lift rudders exceed [TAIC's] core statement of 'safety at reasonable cost'.

Our members responsible for navigating these vessels have been reporting their concerns about *Milford Sovereign* to the company and the Guild for many months. Constructive dialogue on best practice was often lacking or difficult despite Maritime New Zealand "facilitating" discussions between the skippers and the company.

Many of these issues could have been addressed much earlier, perhaps avoiding these incidents, if the company had adopted a more inclusive, proactive and less defensive approach to the concerns raised by Guild masters and their union. One of the difficult problems faced by the Guild during pay negotiations with this company was its insistence that it is not a 'maritime' employer, but part of the hospitality/tourism industry. The TAIC report in our view suggests this attitude is not confined only to pay rates, but spills over into the operating systems and how they are managed.

Because of the many operational issues raised by members employed in Real Journeys, the Guild Industry Safety Initiatives Group has invited a Real Journey's master to join its membership. This group (see below) is independent from the Guild's industrial arm, and already has a high degree of professional standing in the industry. Matters raised in the TAIC report will be an important item on GISICs next agenda.

Guild Industry Safety Initiatives Group

The GISIC group had its inaugural meeting in Wellington in August. Objectives have been set and the composition of the group determined. It was decided to open membership to any interested master or pilot, including tug masters and tourism sector masters. The committee will be writing separately to introduce itself and its objectives to the membership and to external organisations including the Shipping Federation, Maritime NZ and TAIC.

Victory against criminalisation of the job

The successful defence by Guild solicitors Paul McBride and Guido Ballara in the criminal prosecution of the Mate/Master of the *Santa Regina* highlights the need for an industry consensus of 'culpable behaviour'. In our opinion, the prosecution was based on the erroneous foundation of media pressure and the need for Maritime NZ to demonstrate

'control' in Cook Strait. The Mate/Master was acquitted of two criminal charges that he had 'caused unnecessary danger' to life and property. The Guild has always maintained that in situations where a master's actions fall short of reckless act, no criminal liability should attach. The Court's decision to throw out the charges has strengthened this argument. A third charge relating to alleged non-reporting of the incident was upheld by the Court on the grounds that the Mate/Master at the time of the incident, had a duty to report it. We consider the conviction to be wrong in law, because the obligation to report incidents attaches to the master only. The conviction, if not overturned, will have wide ramifications for any officer with the 'con' of the ship.

Kiwisaver

Legislation to finalise details of Kiwisaver is progressing through the parliamentary process and the Select Committee is due to report back in early November. Included in these proposed measures is the relationship of existing superannuation schemes to Kiwisaver. Once passed, the legislation will clarify the large degree of uncertainty that has prevailed in all sectors over the new Kiwisaver regime. We will update you with an explanation of the new rules as soon as they are available.

Government Domestic Sea Freight Strategy

The sector reference group convened to consider proposals by the Ministry of Transport on NZ's future sea freight strategy attended the recent launch of a consultation document. The document bears very close resemblance to the Shipping Federation commissioned report entitled *Roadways to Waterways*, and we congratulate the Federation for its achievement.

We urge members to assist with providing comment and feedback on this crucial document. Submissions can be made individually or via the Guild, or both. Reminders will be sent to members in due course.

CORRECTION

An alert reader has pointed out that the Winter newsletter contained an error in reference to "frightful" coffee at the Dunedin Mediation Service. The phrase should of course have read "frightfully good coffee...", and sincere apologies to Mrs Helen Jones of the Dunedin Mediation Service for any inadvertent besmirchment of her unblemished coffee-making reputation caused by this error.

and finally.....Meeting venues and dates

The Committee of Management has decided that for 2007, Wellington general meetings will be held bi-monthly, while Auckland will return to monthly meetings.

Auckland: meetings are held on the first Friday of every month and are held in the Aviation & Marine Engineers premises on the first floor Administrator House, 44 Anzac Avenue, with the year's final meeting commencing at 0930 hours on 7 December 2007.

Wellington: meetings are held on the first Wednesday of every odd numbered month (except January) at the Guild premises on the 6th floor, 94 Dixon Street, Wellington commencing at 0930 hours.