

COMPASS

FYBA
LICENSED AND BONDED YACHT BROKERS

A publication for
the Members of
the Florida Yacht
Brokers Association



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5th Annual Yacht & Brokerage Show Kickoff Party!

COCKTAIL BARGE AT 4700 BLOCK ON
COLLINS AVENUE, MIAMI BEACH

FEBRUARY 11-16

27th Annual Yacht & Brokerage Show in Miami Beach

COLLINS AVENUE, MIAMI BEACH

MARCH 26-29

30th Annual Palm Beach International Boat Show

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From the Boardroom

BY CROMWELL LITTLEJOHN

With 2015 upon us, the new FYBA Board of Directors has been appointed and will soon be hard at work, with the new Directors slowly settling into their positions and the Board setting priorities for the new year. Thanks to everyone who volunteered to run for the Board; I trust you will find your time serving tremendously satisfying as a member of the FYBA Board of Directors and working together with the Membership to further the interests of the yacht brokerage community – from sales and charter, to service and equipment, and the many ancillary sectors that comprise this fantastic industry.

After nine years on the Board, including two years as President and five as Vice President, it's time to step aside and provide others the opportunity to get involved and put their mark on the Association, and I have every confidence that the new Board is up to the task!

Thanks to the many industry professionals who have supported the FYBA over the years. Participation, via your membership dues, attending sales/charter Open Houses and/or the educational and motivational seminars, and our treasured event sponsors, is crucial – the FYBA is your Association and your involvement is needed to insure its success!

Having been a member of the FYBA since 1989, I've participated at just about every level – from passive “card-carrying” member, to seminar speaker (and I *HATE* public speaking!), to aggressively active Board Member, and will continue to be involved in several Committees that hold strong interest. I challenge you to ask yourself how you will participate in the FYBA in 2015.

Haul a listing to an Open House event (fantastic exposure!), join a committee that interests you, write an article for the Compass, participate in a seminar, sponsor an event (we *LOVE* sponsors!)... it's your Industry and your Association, let's work together to make it even better!

Best wishes for a healthy and prosperous 2015!

Crom

FYBA Announces 2015-2016 Board of Directors

The results of the 2015 Board of Directors election were announced at the FYBA Annual Dinner Meeting on Friday, January 30. Seven Board seats were open and the FYBA is pleased to announce that it was another year in which voter turnout was good.

Re-elected to serve a two-year term were Gary Smith of Sarasota Yacht & Ship, Bob Saxon of International Yacht Collection, Bruce Shattenburg of Allied Marine, and Paul Flannery of HMY Yachts. Elected to serve a two-year term were Jason Dunbar of Luke Brown Yachts, Paul Burgess of Sunseeker International, and Jeff Partin of Camper & Nicholson's. They join Bob Zarchen of Ardell Yacht & Ship Brokers, Bob Denison of Denison Yacht Sales, Jeff Erdmann of Allied Marine, and George Jousma of Sanlorenzo, all of whom return to complete their terms.



FYBA Board Members and Officers at the Annual Meeting, from left to right: Paul Burgess, Gary Smith, Paul Flannery, Jeff Erdmann, Bob Zarchen, Bruce Schattenburg, Jeff Partin and Bob Saxon. Not pictured: Bob Denison, Jason Dunbar and George Jousma

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2014 BOARD OF DIRECTORS

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Bob Zarchen
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George Jousma
Jonathan Burkard

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Bruce Schattenburg

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Bob Denison

AYCA:
Cromwell Littlejohn

NMMA & MIAF:
Jeff Erdmann

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Lon McCloskey

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Ann Vernon & Jeff Erdmann

CYBA:
Bob Zarchen

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Bob Denison & Jeff Erdmann

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Staley Weidman

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FYBA STAFF

Executive Director:
Ann Vernon

Director of Operations:
Shay Loudenslager

Communications Manager:
June Watt

*see website for full Committee listing

High Season

There seems to be no “easing into” 2015. Florida’s busy winter “Season” is here and the holidays already seem far behind us, although those extra days off were a blessing for all of us who were nursing the flu!



Ann Vernon

The January Third Thursday Open House was a huge success with 27 vessels and over 100 brokers attending. We also welcomed Cindy Sailor of AIM Marine Group (which includes *Power & Motoryacht* and *Yachts International* magazines) and the team from Yacht Controller who generously sponsor the Open Houses. Their sponsorship enables FYBA to offer the refreshments and canapés that help the brokers get through all those boats, as well as to give the members an opportunity to network. A highlight of these evenings comes at the end when Yacht Controller holds a drawing to win an iPad or a GoPro!

By the time this issue of *Compass* is printed, the 2015 FYBA Board of Director elections, along with the Annual Meeting & Dinner, will have taken place. I would like to correct an error I made in the December issue of *Compass* where I stated there were six seats open for election, as there actually were seven seats open this year. The annual Planning Session of the new FYBA Board is held in the first week of February. It is an all-day meeting at which the new Board gets together for the first time, elects the Officers and Committee Chairs, and plans out the year’s objectives.

With two major boat shows coming up – the FYBA/Show Management co-owned Yacht & Brokerage Show in Miami Beach in February and the Palm Beach International Boat Show in March – there is no time to relax! The FYBA stand will be in the same locations at these two shows as it was last year. In Miami, it is in the Yacht Pavilion at Booth #59/60; in Palm Beach, it is on Flagler Avenue at Booth #837/838. Shay, June, and I look forward to having you stop by the booth to visit, relax, and use the computer, printer, and fax we will have there for FYBA members.

Lastly, the 2015 FYBA Membership Directory will be mailed out the beginning of February, and we will also have directories available at the FYBA booth in Miami.

Wishing you all successful boat shows & see you on the docks,



Marine Industry Holiday Party

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2014 BROKER OF THE YEAR

Jon Burkard, president of Allied Marine Brokerage & Charter, a Ferretti Group Company, grew up in a large boating family in the heart of Fort Lauderdale, Florida. Both his father and grandfather were avid boaters, having owned more than 50 boats between them over their lifetimes. They instilled a passion for boating in Jon at a young age. Along with this passion came the responsibilities of maintaining the family boats, as well as the rewards of occasional trips to the islands and Keys.

While in high school, Jon worked in the ship's store of Allied Marine's Service Department as a parts clerk. Upon graduation from the University of Florida, he returned to Allied Marine to pursue a career in the boating industry. Over the last 35 years, Jon has worked in sales and sales management, has served on the FYBA Board for over 10 years, and has mentored many brokers you will find throughout the industry today.

In addition to his yachting career, Jon is active in many charities with his main focus being children's charities, including Big Brothers Big Sisters of Broward County and Hibiscus Children's Center in Martin County.

If you ever speak to Jon regarding his commitment to his passion, he will tell you he feels he is truly blessed to be able to combine his love for boats with his professional career.



JON BURKARD

2014 CHARTER PROFESSIONAL OF THE YEAR

Barbara Stork Landeweer joined the International Yacht Collection (IYC) team in October 2010 as a Charter Agent, bringing with her over 22 years of experience in the yachting industry and an impressive portfolio of success in the yacht charter field.

Originally from New York, Barbara began her yachting career in 1988 as a yacht brokerage assistant at Fraser Yachts, where she spent over four years. She then moved on to establish and manage the Charter Division at Allied Richard Bertram for almost 10 years, and was the sole charter agent. She obtained her Yacht Salesperson's License in 2000 in order to offer another service to her charter clients who wanted to move to the next step of purchasing a luxury yacht and trusted her to guide them in the proper direction.

Barbara and her husband, Peter, spend time aboard their boat cruising the Bahamas and Florida. His love of fishing and exploring has rubbed off on her over the years, so she has a fishing pole in her hands whenever possible! The only thing that Barbara enjoys more than being on the water is spending time with her little Yorkie, Maxi, who also is a fan of boating.



BARBARA STORK LANDEWEER

...CONGRATULATIONS...

SKIP MANSFIELD

2014

Lifetime Achievement

AWARD WINNER



“Skip” Mansfield, licensed yacht salesman and charter broker at Sarasota Yacht & Ship, is a veteran in the yacht brokerage business.

After graduating from Princeton, Skip worked and later managed Alta Ski Lodge in Utah and managed Sugar Bowl Ski Resort in Truckee, California. Missing the boating world, he took an apprentice job at Mt. Desert Yacht Yard in Maine; then moved to customer relations at Wm. Edgar John Yacht Yard in New York. He worked as a yacht and commercial surveyor and as a claims desk manager for a major insurer.

In 1952, Skip became a broker for Northrop & Johnson out of the company’s Manhattan office. He was instrumental in opening offices around the country, most of which still exist today. Skip later was hired by Dick Bertram to manage all of his operations in Miami and Fort Lauderdale. A few years after that, he returned to Northrop & Johnson, then was hired to establish Emerald Yacht and Ship, which he ran along with other corporate duties for 21 years.

Skip lives in Punta Gorda, Florida, and is a member of the Isles Yacht Club.



THE AMERICAN BOATING CONGRESS

LEGISLATIVE CONFERENCE

American Boating Congress 2015 Registration NOW OPEN!

Each year, the American Boating Congress (ABC) brings industry leaders like you together to champion recreational boating, formulate public policy and present a unified front on issues that impact marine businesses. In 2014, NMMA members, co-hosts and industry stakeholders completed more than 250 meetings on Capitol Hill! Elected officials listen when their constituents talk. **Your voice is our most valuable asset.**

ABC 2015 Registration NOW OPEN!

Please contact Courtney Erhardt for your personalized registration link at cerhardt@nmma.org.

Who?

YOU! Are you a boating industry advocate? A marine manufacturer, dealer, business owner or stakeholder? Do you have a keen interest in recreational boating policy and regulatory matters? Then you should attend ABC!

Why?

ABC is your chance to meet elected officials to discuss your policy concerns; Speak directly with policymakers in your Congressional district; Learn more about the Congressional process and how you can stay involved year round; Hear from elected officials, policy makers, and distinguished speakers; and join peers from all segments of the industry to help ensure a healthy future for recreational boating.

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Carefully Review Limitation of Liability Clauses Before Signing Yard Contracts

Written contracts are legally binding agreements that define the rights and duties between two or more signers. In other words, it's the law as far as the parties are concerned. Absent some incidence of fraud or a mistake, the contract's terms will define what each party does and does not have to do.

Typically most contract signers concentrate on those sections that define when one party is going to get paid, how much and when. But there is another contract section that usually doesn't get as much attention. It is frequently at the end, laced in boilerplate and often in fine print. It is known as the "Limitation of Liability" or the "Release of Liability" section; and as many poor souls know, it can make the difference between recovering hundreds of thousands of dollars or none at all.

Hopefully by the end of this column, you'll appreciate the importance of negotiating, or at the very least, finely reading this section prior to signing so that you are adequately informed should you need to bring an action against your contractual partner.

Imagine this Scenario:

You are the proud owner of a 150-foot yacht who has just pulled into a repair yard for some routine maintenance prior to the late fall/winter charter season. You have two charters on the books for November and December and are fielding offers for January and February. Prior to lifting your vessel out of the water and onto the hard, the yard has you sign a yard contract. You do so, and begin to prepare yourself for your maintenance and repairs.

The next day, your vessel is lifted out of water using the yard's travel lift. Suddenly, your worst nightmare strikes. In the process of setting the vessel down, a strap breaks and your yacht suffers hull damage – the type of damage that will keep you in the yard for at least three months. You are forced to cancel your charters, as your maintenance work has just turned into a repair job.

Three months later, your yacht is repaired at a cost of \$250,000. To get your vessel back to sailing condition you've used surveyors, marine architects, insurance adjusters and attorneys. And while your insurance has paid some of the claim, it has not covered all of it – Some costs are in dispute and others are outright not covered or denied. In addition, you have damages that are outside

the insurance contract, including the reduction of value to your boat, the loss of those charters and the cost of your idle crew during the repair time.

Whom will you turn to in order to recover these large-ticket items?

That is correct, the repair yard.

An Unwelcome Surprise

And so we come back to the contract you signed three months ago. Suddenly, the limitation of liability section, which you didn't pay much attention to at first, is now the most important section of the whole contract. Nervously you read through the section. It doesn't look good. The yard has limited its exposure significantly.

Not only have you agreed to waive all claims for consequential and incidental damages like loss of charter and diminution in value but you've also agreed to hold harmless the yard for all property damage, indemnify them in the event your insurance company seeks to recover against them and you've agreed to only look at your insurance company for recovery for any loss.

Will these contract provisions limit your action against the yard and leave you holding the bag on the uncovered portion of your damages?

The answer in most situations is, unfortunately, yes.

This is a cautionary but very real tale that plays itself out countless times. It's advisable to analyze and negotiate with the yard before signing any yard contract, if possible. Perhaps you pay slightly more for the haul out and yard space in exchange for better limitation terms. Or perhaps you take out additional coverage with your insurance carrier. But, what you don't want is to be stuck with \$100,000 in uncovered damage with no one to turn to for recovery.

A seasoned maritime lawyer can help you review and analyze the various issues that arise in these repair yard scenarios.

Benjamin Chiriboga is a litigation attorney practicing with the full service maritime art and aviation boutique law firm of Moore & Company, P.A. in Coral Gables, Florida.



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Member News

26 NORTH YACHTS is proud to announce the addition of Clark Jelley to our team. Clark joins us from Edwards Yacht Sales and since joining us has closed two sales, including the 1997 Mainship 390, SOMEDAY, and the 1995 Privilege 45, LAGOM. Please help us welcome him to our busy team.

26 NORTH's recent sales also include the 2005 Trinity 157, REBEL, the 2005 Marquis 65, MARE BELLA, and the 2009 Midnight Express 27, ANNA SOPHIA. New listings of note include the 2010 Sea Ray 390 Sundancer, WEEKEND LAUNDRY, the 1999 Horizon 70, OUTLIER, the 2001 Millennium 75, MISTIFIED, and the 2012 Ocean Alexander 78, ALEXANDRA.

Our featured listing is the 2005 Lazzara 116 Skylounge, HALF TIME, which is drawing a lot of attention in Fort Lauderdale. HALF TIME has a huge owner's suite and three VIP staterooms, is in flawless condition and is priced below market at \$5,200,000. Visit our website for full details: www.26northyachts.com.

ARDELL YACHT & SHIP BROKERS is pleased to announce that the 100' Cantiere Ferri, JUPITER, has sold. Launched in 1989, the Giorgetti & Magrini-Designed sailing yacht has circumnavigated the globe and set her sails in every ocean. Upon her sale, JUPITER was lying in Barcelona, Spain, with an asking price of €845,000 and VAT paid. Craig Cadwalader of Ardeell Yacht and Ship Brokers would like to thank Rodgers Yacht Sales, which represented the buyer, and Fraser Yachts, with whom she was co-listed.

CHEOY LEE is delighted to announce the sale of two Alpha 76 yachts, one a 76 Express and the other a 76 Flybridge.



In addition, a new Global 104 Motor Yacht recently was sold and is now under construction. The Alpha Series yachts are designed by Michael Peters Yacht Design and the interior decor is by Luiz De Basto Designs. The Global 104 currently under construction is the result of a collaboration between naval architect Overing Yacht Designs, Cheoy Lee, and interior designer Sylvia Bolton Design.

Additionally, Cheoy Lee is working on two new designs in collaboration with Overing Yacht Designs: EXPLORER 150, the first in new series of very long range yachts, and ONE-ELEVEN, an entirely new sleek 111'.

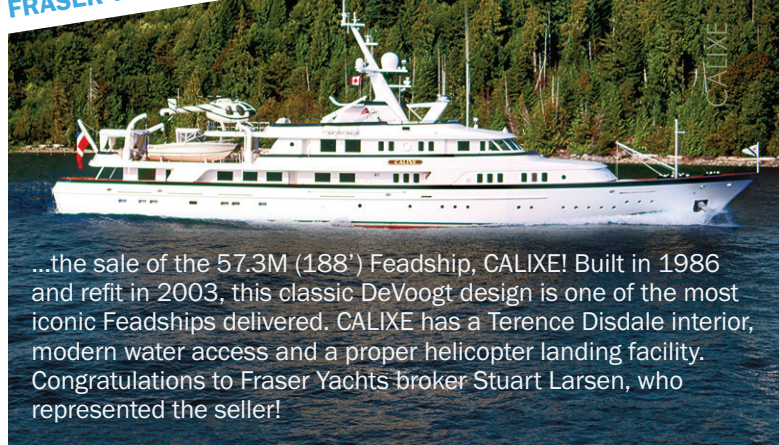
DENISON YACHT SALES announces the opening of its newest office in Fajardo, Puerto Rico, at Villa Marina, one of the area's largest yachting centers. Denison has announced its partnership with Puerto Rico-based Industrial & Marine Services (IMS), establishing a strategic partnership in the Caribbean for the South Florida-based yacht sales company. IMS has completed the integration of its yacht brokerage department into Denison's network, positioning the company to benefit from Denison's management, marketing support, and Super Yacht Division. Denison will be operating its yacht brokerage office out of IMS' Villa Marina office in Fajardo.

Denison Yacht Sales also welcomes aboard the following Florida yacht brokers to the Denison family: A.J. MacDonald, Bob Anslow, John Booyen, Morgan Bertram, Stanley Castro, and Spencer Markatos.

Denison is now accepting Bitcoin for the sale and charter of yachts.

FLORIDA YACHT GROUP is pleased to announce some exciting changes as we kick off the New Year and transform our organization. Congratulations to our VP of Sales, Phil Crane, as he slips the lines and leaves the dock to embark onto retirement and sail through new adventures on April 1, 2015. Phil's keen sense of business, energy and resourcefulness will be sorely missed. Luckily, he will continue to consult and work with his successors David Dodgen and Bo Brown in our respective Miami and St. Petersburg offices, sustaining his mantra, "Think like a customer – keep them satisfied". Check out www.floridayacht.com for more information about Phil, David, and Bo.

FRASER YACHTS is pleased to announce...



...the sale of the 57.3M (188') Feadship, CALIXE! Built in 1986 and refit in 2003, this classic DeVoogt design is one of the most iconic Feadships delivered. CALIXE has a Terence Disdale interior, modern water access and a proper helicopter landing facility. Congratulations to Fraser Yachts broker Stuart Larsen, who represented the seller!

Fraser Yachts also is proud to announce that Trevor Carroll has joined the Fort Lauderdale team as a sales broker. Trevor has worked in the yachting industry for 15 years and has spent the past 11 years building his career as a successful sales broker at Atlantic Yacht and Ship. Prior to working at Atlantic Yacht and Ship, Trevor was an engineer on private yachts.



The first yacht sold in 2015, FOUR WISHES, was sold by a Fraser Yachts broker, kicking off the year to a good start. We are confident that Trevor will contribute significantly to Fraser's continued growth and success in North America!

LUKE BROWN YACHTS reports that it had a flurry of activity at the end of the year. In the last 10 days of 2014, Jim Wilkey sold ATLANTIC, a 61' Hatteras; Ron McTighe, FIGHTING LADY, a 55' Viking, and Greg Sturgis, ISLAND BIRD, a 64' Out Islander. Andrew Cilla's 58' Kadey-Krogen, BLUEGRASS, closed along with John Todd's 85' Burger, LADY SARAH; Steve Deane's 68' Ocean Alexander, SEA LEAF, which was a co-listing with Ron Morgenstein of IYC, and Jason Dunbar's 76' Lazzara, LADY J.

MERLE WOOD & ASSOCIATES announces the following Central Agency price reductions:
127' Cantieri di Pisa Motoryacht, 2007, GLADIUS, was EURO 5,800,000, now USD 6,495,000;
116' Pershing Motoryacht, 2007/08, CARCHARIAS, was USD 12,900,000, now EURO 5,950,000.
Recent sales include: 130' Westport Motoryacht, 2005, TRISARA; 128' Oceanfast Motoryacht, 1990/2013, ECHO.

OUTER REEF YACHTS is proud to announce that the company will have a premier sales and service center located in the Al Barsha district of Dubai, United Arab Emirates. Outer Reef Yachts' Middle Eastern sales team, headquartered at this new retail center, will be led by the area's Director of Sales Peter N. Divers, who has extensive experience within the global yachting market, with his most recent venture as a partner in Imperial Yachting LLC, and prior to this, working with Princess Yachts in Qatar.

SAXTON DOCUMENTATION INC. has moved to its new office at 917 SW 19 Street, Ft. Lauderdale, FL 33315. Contact number, 954.764.6702, and email address, boatdocs@gmail.com, remain the same. Stop by and say hello to Jan Saxton and Hedy Day when you're in the area or when you have a pending closing.

TOM GEORGE YACHT GROUP (TGYG) is pleased to report the following sales: STOP THE PRESS, a 54GT Hatteras Sportfish, 2013, with TGYG representing both buyer and seller, and GEAR JAMMER, a 63GT Hatteras, 2013, with TGYG representing both buyer and seller in the sale.



STOP THE PRESS

WESTPORT LLC announced that the company recently has made two important changes to its management structure. Alex Rogers, who has over 25 years of experience in the

yachting industry and has been a successful broker with the Westport organization since 2001, has been appointed to the position of director of sales and will be in charge of new construction and brokerage operations worldwide. Alex will coordinate closely with the brokers, build client relations, and work closely on promoting the brand.

Ron Nugent, who has held the position of Westport's global director of marketing for nearly 14 years, and been involved in the yachting industry for over 20 years, has assumed additional duties as the director of the company's sales and service facility in Fort Lauderdale.

Westport Shipyard is celebrating its 51st year in business. In addition to the Florida facility, the company owns and operates three shipyards in Washington State where it builds composite yachts from 85 to 164 feet.

YACHTCLOSER announces a highly efficient new business tool for brokers who use its industry-leading online contract management solution – YachtCloser Documentation. Now all brokers need to do is click a button online, and YachtCloser will provide all the necessary U.S. Coast Guard documentation services for their customers, streamlining and simplifying the closing process even further. It doesn't cost brokers anything to use YachtCloser Documentation – it's a complimentary tool available exclusively to YachtCloser users. To learn more, call us at 800.669.2572 or visit us online at www.yachtcloser.com.

YACHTCONTROLLER announces a 40% increase in 2014 business and we thank the FYBA members for their assistance in helping us achieve the goal. We will again be supporting the FYBA Third Thursday events as a main sponsor and with a raffle for an iPad Air or GoPro camera at each event. Our Yacht Controller "Fusion" wireless joystick has been a great success and we are happy to demonstrate it to any and all FYBA members.

We will be launching our new award-winning technology "Yacht Connect" at the Miami boat show in our three stands. This is marine weatherproof dome housing a WiFi and 4G amplifier and router that will pick up weak signals and ramp them up to 5 bars and switch to 4g like your phone, for 5-bar reception 20 miles off shore. Preview it now at www.YachtConnect.com. Happy New Year to all; we thank you for your continued support.

YACHTZOO is pleased to announce the sale of the 2008, 161' Trinity Tri-Deck Motor Yacht, DESTINATION FOX HARB'R TOO. The yacht was sold to an American buyer represented by Yachtzoo.



DESTINATION FOX HARB'R TOO

Broker Open House

JANUARY 15, 2015

Bahia Mar Fort Lauderdale Beach

More than 100 industry professionals attended the January 15th Brokers Open House at Bahia Mar. There were 27 participating yachts ranging in size from 37' to 141'. Attendees enjoyed networking along with food and beverages. Event sponsor Yacht Controller hosted the iPad drawing and Veronica Pizza was the lucky winner! FYBA would like to thank Mayra's Personal Touch for catering the event and sponsors AIM Marine Group and Yacht Controller for their support.



Bruce Johnson, Jason Dunbar, Natalia Clarke, Cindy Sailor and Alex Clarke



iPad winner Veronica Pizza with sponsor Anthony Valiente of Yachtcontroller



Members networking while enjoying delicious food and beverages



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SALES BROKER: 26 North Yachts is seeking a qualified sales broker for its Fort Lauderdale office. Candidate must be self-motivated, aggressive and very internet-savvy, with a proven sales record. 26 North Yachts specializes in motoryachts between 70-140 feet, representing both new and brokerage yachts worldwide. Work in a fun and exciting sales environment supported by a full service department and one of the most advanced marketing teams in the industry. Please email owners@26northyachts.com. All correspondence will be kept completely confidential.

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BROKER/SALESPERSON WANTED: Pier One Yacht Sales, with four offices on the west coast of Florida, has openings for experienced licensed brokers or salespeople. Applicants must be self-motivated and able to work in a professional atmosphere. Qualified applicant must be able to handle his or her own aspects of the deal. E-mail resume to Len@pieroneyachtsales.com. All applications kept confidential.

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BY JENNIFER M. GARTLAN AND PHILIP LEE
Federal Maritime Commission

Avoid Complications When Hiring International Yacht Shipping Service Providers

Looking for a convenient and cost-effective method to transport yachts between the U.S. and international ports?

Shipping yachts via vessel common carrier is a safe method that can save brokers and owners time and money. Numerous legitimate companies offer to arrange yacht shipping services. However, unscrupulous practices appear to be on the rise.

The Federal Maritime Commission (“FMC”), the federal government agency responsible for regulating ocean shipping between the U.S. and foreign ports, has received complaints from yacht brokers and owners regarding problems encountered with companies hired to arrange for transportation of their yachts. For example, a yacht owner recently filed a formal complaint before the FMC seeking damages for an alleged violation of the U.S. Shipping Act. The company allegedly collected payment from the yacht owner, but failed to provide transportation or provide a full refund in *Barr v. Ocean Trade Lines*, FMC Docket No. 14-14 (2014) available at <http://www.fmc.gov/14-14/>.

While a determination on the merits of that case is currently pending before the FMC, this article discusses recent trends reported by brokers and owners, tips to avoid common problems, and options to address problems that arise when transporting yachts internationally.

The FMC’s Office of Consumer Affairs & Dispute Resolution Services (“CADRS”) frequently receives requests for assistance from parties that experience challenges when shipping yachts. Generally speaking, these requests for assistance involve the companies that offer to make yacht shipping arrangements with a vessel common carrier.

For purposes of this article, we will refer to these middlemen as yacht shipping service providers. Federal law generally requires yacht shipping service providers that offer to arrange transportation services on behalf of brokers/owners to be licensed with the FMC and bonded either as Non-Vessel-Operating Common Carriers (“NVOCCs”) or Ocean Freight Forwarders (“OFFs”).

However, there are unlicensed companies that provide these services illegally, and use of an unlicensed entity can present challenges in seeking recourse when problems arise due to the fact that such entities lack a surety bond or other meaningful assets.

Generally speaking, brokers and owners report three typical problem scenarios:

1. The broker/owner contacts the yacht shipping service provider and requests a guaranteed shipping time. The yacht shipping service provider agrees to the time frame and asks the broker/owner to sign an agreement and to provide payment for the shipment up front. The broker/owner makes payment and signs the agreement, which provides the yacht service provider up to a year to initiate the shipment.

The agreement requires the broker/owner to forfeit 30 percent or more of the total shipping charges if the broker/owner cancels the service prior to the year-long period. The yacht service provider fails to ship within the time frame promised by the yacht shipping service provider and refers to the terms of the written agreement, which requires the broker/owner to forfeit 30 percent or more of the total shipping charges if the broker/owner cancels the service prior to the year-long period. The broker/owner is left with the difficult decision of either losing access to the yacht for the remainder of the year-long period or losing 30 percent or more of transportation costs already paid to the company.
2. The broker/owner hires and pays the yacht shipping service provider. The yacht is loaded onto a vessel common carrier and shipped to destination, but the yacht shipping service provider fails to pay the vessel common carrier. The yacht shipping service provider then demands additional payment from the owner/broker to secure release. Meanwhile, the vessel common carrier places a lien on the yacht until full payment of freight, storage, and related charges are paid to the vessel common carrier.
3. The broker/owner hires the yacht shipping service provider. The yacht is loaded onto a vessel common carrier and shipped to destination, but due to the inexperience or negligence of the transportation provider, the shipment is delayed or otherwise undeliverable. Heavy additional expenses for storage and related fees may accrue during the delay period.

To avoid the problems described above, brokers and owners should take the following steps prior to engaging a yacht shipping service provider:

- Ensure that any prospective yacht shipping service provider is properly licensed and bonded with the FMC by consulting the agency's website, www.fmc.gov. The FMC provides and regularly updates a list of licensed, registered, and bonded OTIs. Parties can also contact the Bureau of Certification and Licensing by phone at 202.523.5787 or email at oti@fmc.gov.
- Report unlicensed or suspicious activity to the FMC's Bureau of Enforcement via email at boe@fmc.gov.
- Perform a general internet and Better Business Bureau search to ascertain whether the company has a history of unresolved complaints. Avoid companies that appear to have a history of problematic practices and/or unresolved complaints.
- Carefully read and understand all terms and conditions of the transportation contract prior to engaging the yacht shipping service provider. Note that any verbal assurances made by a company sales representative are not enforceable if such promises conflict with the terms of the written contract. Ensure specific delivery time requirements are written into the contract prior to signing it.
- If general questions or concerns arise regarding regulatory or commercial practices, consult with CADRS to obtain information prior to engaging a company. CADRS is available by phone at 866.448.9586 or by email at complaints@fmc.gov

While these steps can be helpful in preventing problems, sometimes difficulties can still occur. The following is a list of options available to consider when experiencing problems with a yacht shipment:

- Contact CADRS to obtain free and confidential ombuds services to explore resolution with the yacht shipping service provider on a voluntary basis. Ombuds services range from consulting and answering general questions regarding the problem to mediating the parties' dispute.
- Contact the company's surety to report the problem and to obtain requirements for filing a claim against the company's bond. To obtain bond information contact the FMC's Bureau of Certification and Licensing.
- Report unlawful activity to the FMC's Bureau of Enforcement via email at boe@fmc.gov.

- Consult with an attorney regarding both FMC and other legal options that may be available to address the problem.
- File a formal complaint for reparations with the FMC's Office of the Secretary. There is no minimum or maximum damage amount required to file a formal complaint. However, the broker/owner will have to demonstrate that the yacht transportation service provider violated the U.S. Shipping Act.

The cost to file a formal complaint is \$221. Alternatively, parties can file a small claims complaint for reparations with the FMC's Office of the Secretary. Small claims complaints may be filed where the owner/broker seeks reparations of \$50,000 or less and can demonstrate that the yacht transportation service provider violated the US Shipping Act. The cost to file an informal complaint is \$67.00.

For more information on specific requirements for filing an action for reparations at the FMC, parties can contact the Office of the Secretary by phone at 202.523.5725 or by email at secretary@fmc.gov.

Being aware of the common pitfalls and avenues of recourse identified can help brokers/owners to minimize and/or avoid the risks and potential harm associated with transporting their yachts. For additional information on shipping yachts internationally via vessel common carrier, please contact CADRS by phone or e-mail at 202.523.5807 or complaints@fmc.gov.

Jennifer M. Gartlan is the Deputy Director of the Federal Maritime Commission's Office of Consumer Affairs & Dispute Resolution Services (CADRS). Philip Lee is a CADRS attorney-mediator and ombuds. The opinions and views expressed in this article are those of CADRS are not binding on the FMC. This article is intended to provide general guidance and does not constitute legal advice or representation.



Charter Itinerary

BY DAPHNE D'OFFAY

CA Charter Manager, Ocean Independence USA

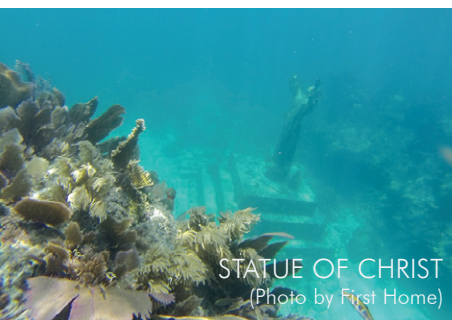
Kicking Back in the Florida Keys

Being a native of South Florida, I tend to be biased about the Keys, especially because my very first snorkeling adventure was at the age of seven in John Pennekamp Coral Reef State Park and to this day it still sticks in my head, even after all the places I have been. The Florida Keys are the kind of place other people have to go on vacation to experience, while it has been practically in my backyard for much of my life.

While cruising in the Keys typically is the province of smaller boats and fishing fleets, more and more larger yachts are frequenting the few accessible islands in these notoriously shallow waters because it is worth it!

Since Jewfish Creek in Key Largo is the deepest passage from ocean to Bayside in the Keys, and it is only about 5 feet at low tide, most yachts don't take the chance of crossing and remain oceanside all the way to Key West. Knowing where a yacht can pull in or anchor along this nearly 170nm stretch from Fort Lauderdale to Key West is the key (no pun intended) to a successful charter vacation.

Here are some ideas drawn from voyages I have made myself, as well as contributions from captains such as Christoff Spies of the 92-foot M/Y FIRST HOME, who has taken charter parties both one-way and round-trip through the Keys.



STATUE OF CHRIST
(Photo by First Home)

Elliott Key, which is part of the National Park Service system. Explore Elliott Key Park, go swimming or snorkeling, or fish Sands Cut on an incoming tide.

If departing from Miami at midday, consider making a straight run to Ocean Reef Club in Key Largo, approximately 35nm away. (It is tide-dependent for most boats to get in there.) Passing through Stiltsville en route is quite

intriguing since this unique housing community – only accessible by water and the place to “see and be seen” – was started in the 1930s and hit its peak in the 1960s. It is now also part of the National Park Service.

The alternative to going into Ocean Reef, depending on the weather, is to anchor on the lee side of Rodriguez Key for a splendid dinner prepared by your yacht's chef and a spectacular Keys sunset.

Day 2:

Wake up in the morning for a peace-and-tranquility dive or snorkel in John Pennekamp Coral Reef State Park. The underwater statue of Christ is a famous landmark here that can be seen just by snorkeling.

The better restaurants are in Islamorada area, if you are interested in a shore dinner via about a 10-mile taxi ride. Try Pierre's at Morada Bay and if it is a full moon, the beach party there is a lot of fun. Lazy Days offers a balcony ocean view. Most restaurants will prepare your very own fresh catch of the day any way you like it. Otherwise, the best option is the chef aboard your yacht!

Days 3&4:

Get an early morning start for the longest cruise of the trip (approximately 70nm), from Islamorada to Little Torch Key. About halfway, stop and snorkel at Alligator Reef Light. Established in 1873, this light became automated in 1963. It is named after the Navy Schooner *Alligator*, which grounded here in 1822. The underwater life will amaze you due to the years of growth at the base of this structure. For lengthier itineraries or if time allows, Bahia Honda State Park offers one of the few pristine white sand beaches along the Keys. In good weather, anchoring between the famous Seven Mile Bridge and the old railroad bridge can be done, placing you just offshore of a beautiful park for swimming and exploring.

Your evening destination, Little Palm Island Resort & Spa on Little Torch Key, is very exclusive resort (no cell phones allowed) that is not accessible by car. Take a spa day and/or enjoy a meal at its five-star restaurant.

Day 1:

If departing from Fort Lauderdale and heading down Miami's Biscayne Bay, it is worth a stop at Key Biscayne to anchor for lunch and play with the yacht's water toys. Or head on to





Days 4&5:

Take some time to run offshore about 5nm to dive or snorkel at Looe Key National Marine Sanctuary, one of my favorites. Experience something akin to an underwater theme park “ride” as you drift along in the natural currents through boulders and coral ledges to view a multitude of sea life, yet are still in shallow enough water for any level of swimmer, snorkeler or diver to be comfortable.

In the afternoon, continue on about 20nm to Key West. Little needs to be said about Key West aside from the Margaritaville and Hemingway lifestyle that draws so many visitors here – in addition to watching fiery sunsets from Mallory Square and taking photos at the “Southernmost Point of the U.S.” With more quality dockage and facilities becoming available to yachts, especially the new Stock Island Marina Village megayacht facility, Key West has become more accessible for charter itineraries such as this one.

7 MILE BRIDGE & OLD FLAGLER RR (Photo by First Home)



Days 6&7:

The Dry Tortugas are an exceptional landmark that many forget about once they land in Key West. If time allows for you to cruise out nearly 70nm to this 100-square mile national park, the trip is worth it. Not only is Fort Jefferson of fascinating historical significance, but the snorkeling and diving also are excellent here. There are several fast ferries from Key West that may save you time in getting to and from the Dry Tortugas.

With the week so chock full of cruising and adventures while heading south, you can now see why a seven-night/eight-day charter vacation is best configured as a one-way trip ending in Key West. Otherwise, the cruise back will likely begin on Day 7 with one overnight in the northern Keys and a return to Fort Lauderdale or Miami midday on Day 8.

Right in our backyard, the Florida Keys have a lot to offer that is often overlooked. It should be considered a great cruising destination for many yachts.

For more information on luxury yacht charter vacations, please visit [Ocean Independence USA](http://OceanIndependenceUSA.com) online at www.oceanindependence.com.

LITTLE PALM ISLAND (Photo by First Home)

BY DEBRA FRENKEL, LCSW

Boy, Brain Cancer, and Boating

"Look at that little boy, waving and smiling at all of us at the boat show while at the helm of that deck boat."

"How cute is that!"

"Who is he?"

"What is Freedom Waters Foundation?"

"Cool deck boat!"

These comments were heard as a special young man and deck boat passed by the Fort Lauderdale International Boat Show last fall.

His name is Hiram Folsom. He's six years old and he was referred to Freedom Waters Foundation through Broward General Hospital where he has been going through treatment for brain cancer since 2009. After a brief remission, in 2012, he relapsed and currently is back in for more chemo and possibly surgery. He was clean in April but it came back in September.

Hiram has been out with Freedom Waters Foundation four times, aboard four different vessels. He loves it so much that he asks to go out again and again.

He had never been on a boat before and found how much he loved being on the water during his first experience, aboard the Freedom Waters Foundation's private boat.

"He loves 'Captain Andy', since he taught him how to drive a boat that first time!" said Hiram's mother, Monica Folsom. "Captain Andy" is Andrew Cilla, owner of Luke Brown Yachts and president of the Freedom Waters Foundation.

Freedom Waters Foundation is a nonprofit organization, incorporated in 2006, with the mission of **"Enhancing lives by providing boating opportunities and marine related activities for people with disabilities, life threatening illnesses, youth at risk, others with special needs, and Veterans."**

Hiram has always loved trains, but since going boating with Freedom Waters Foundation, he now is also obsessed with boating and being on the water, according to his mom.

Hiram and his family are just one family out of hundreds that Freedom Waters Foundation has put on the water each year, leaving their challenges at the dock when they go out for a relaxing, natural, therapeutic day out on the water.

For more information on how you can get involved, assist, support other children like Hiram and their families, please visit www.freedomwatersfoundation.org.



Charter News

YACHTZOO announces a new addition to its charter fleet: **MUSTANG SALLY**, the 161' Trinity Tri-Deck Motor Yacht, built in 2008. Under the command of Captain Dale Parker, the stunning five-stateroom yacht is operating in the Bahamas/Caribbean for the winter season at charter rates of \$195,000 high/\$175,000 low, and in the Mediterranean for summer at charter rates of €195,000 high/€175,000 low. For full details please contact: usacharterfleet@yacht-zoo.com.



ALLIED MARINE announces Katy Carter's promotion to Charter Sales Manager in addition to her Charter Broker responsibilities. For more information on luxury charter yacht vacations, please visit www.alliedmarine.com.



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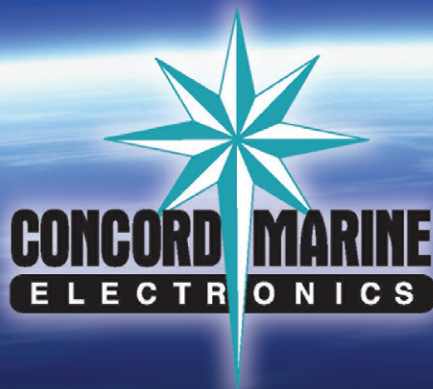
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