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Maritime Law: Foreign Registration vs. U.S. Documentation (Part )

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**Dianed Garcia** 

Michelle DeSantis

# Greetings from Your FYBA President

BY GARY SMITH

When reflecting on FYBA's accomplishments over the past years, I am reminded of how far we've come from our humble beginnings. Starting basically with no budget in 1987. your Board of Directors now operates a budget of approximately \$1 million dollars annually. These funds come from our esteemed supporters, who have become like family to many of us active in the association. Without their contributions we would not have achieved the level of success we are experiencing today.



Our momentum over the years has had a powerful and measurable impact on our industry. It was my privilege to be on the board during the Sales/Use Tax Cap legislation push in 2010. I witnessed the hard work and dedication of the board to get this done, especially Jason Dunbar and Jeff Erdmann. I would like to specially thank them for the many hours they contributed seeing this through to its final fruition. Jeff is retiring from the board, so please take a moment to thank him next time you see him.

Our current push to pass federal legislation is gaining momentum. Many of you know this as the "Deferred Importation or Foreign Flagged Initiative". We currently have a bill with a new co-sponsor and very soon we will reach out to you regarding a call to action.

Jeff Erdmann has done the heavy lifting on this issue and I will be tackling this effort in his retirement. Favorable legislation is currently being introduced at the state level, which will benefit brokerages with multiple locations. We will seek to guide this legislation to fruition on your behalf. More to come on these two issues!

Another positive report is the level of professionalism brought by our new staff members. From our website redesign to increased communication and outreach to our members, their efforts continue to elevate our association and improve our ability to facilitate change within the industry.

I would like to thank Cindy Sailor, FYBA Executive Director, for bringing a fresh perspective and devotion to FYBA. Also new to FYBA are Dianed Garcia and Michelle "Mimi" Desantis. They are already contributing to new successes of FYBA. Shay Loudenslager, Director of Operations, continues to amaze with her commitment to our organization and continues to keep us all in line!

FYBA membership is on the rise, growing almost 10 percent in the past year. I am pleased to see so many newcomers join our community at such a dynamic and exciting time.

On February 11, we will kick off the 28th annual Yachts Miami Beach on Collins Avenue. Please let all your clients know that our show is still on Collins and we did not move! We are excited to see its continued growth and are enjoying a strong partnership with Show Management.

In order to address the longstanding need to differentiate our show from

Continued on next page...

other shows in the area, the name of FYBA's show was changed to Yachts Miami Beach. We hope you will join us in embracing the new name, which we believe aligns well with the culture of South Beach.

By the time we go to press, our Annual Dinner, which was held January 23, will be a memory. Our new venue at the Seminole Hard Rock Casino in Fort Lauderdale allows us to grow the event over time and is sure to thrill. If you've never attended, you are really missing out!

Our wonderful FYBA staff planned many surprises with the new location and format. Please let them know what you enjoyed most about the event.

In this limited amount of space, it is difficult to mention everything that we currently are working on, as well as our achievements over the years. However, I would like to name one more endeavor. Our seminars are now bigger and more productive than ever before.

In 2015, we started with the Yacht Engineering Seminar. This will now be an annual event based upon your comments from our first year. If you are looking to hone your skills, please attend one of our wonderful seminars offered throughout the year on both the East and West Coasts of Florida.

By the time you read this, my time as President will have come to an end. I will remain on the board throughout 2016 as "Immediate Past President". I am confident that our new President will continue to expand our abilities to serve Florida's yachting community.

It is truly my great honor to serve on the board and work alongside such a dynamic group of board members and staff. It has been one of the most rewarding experiences of my life.

Yours Truly,

Gary Smith, President **FYBA** 

# From the Desk of the Executive Director

This past week I attended a luncheon hosted by the MIASF in conjunction with Show Management and the NMMA (organizers of the Miami International Boat Show). The purpose of the meeting was to get the exhibitors of both shows together to talk about how each show has been enhanced and how the two shows are coordinating logistics to shuttle people between the two locations. Both have gone to great pains to make the trek as



painless as possible. They have established a convergence spot at the Miami Beach Marina - 18th St & Purdy Ave, just off of Alton Rd. While neither are able to offer door-to-door service, between the two shows this location will serve as the central depot point to and from which each show will have continuous shuttle bus service running thoughout the day.

Show Management hopes to have some last-minute announcements for additional parking options, but as of press time, here is what we know:

- · 6 parking garages on & around Collins Ave.
- · VIP valet parking just north of the Eden Roc.
- · 8 pick-up points for the shuttle buses on Collins and to the
- · Water taxi pick-up on the Venetian Causeway to Miami International Boat Show on Virginia Key.

See you on the docks!

Yours truly.

**Cindy Sailor** 

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# Maritime Law

## A Brief Summary of Brokers' Rights Part 1.

One way to secure your right to be paid a commission is to enter into a written contract with the seller. Where a valid and binding written contract exists, the terms of the contract govern rather than the common law doctrine of procuring cause. In the brokerage industry, this contract is usually referred to as a Listing Agreement. In other words, where a listing or commission agreement exists, a commission will be earned if the specific terms of the contract are fulfilled which trigger the broker's right to be paid a commission.

Many brokerage agreements are triggered when a broker procures a buyer. However, Florida courts have held that there is nothing to prohibit parties from entering into "special" contracts with unique terms upon which a broker would be due a commission under different circumstances.

Under Florida Law, a breach of contract claim requires:

- A valid contract
- A material breach
- Damages.

A so-called Open Listing Agreement is a valid contract with the obligation to pay triggered by performance. In Florida, the rules of contract interpretation require the court to determine the intention of the parties. To do this, the court must review the entire contract without fragmenting any segment or portion. And it is a truism that "every provision in a contract should be given meaning and effect and apparent inconsistencies reconciled if possible." Courts are required to read provisions of a contract harmoniously in order to give effect to all parts of the contract.

The right to a commission vests when the potential buyer enters into a binding agreement to purchase the asset, not when a potential purchaser is found. A broker's claim for a commission vests with the Seller's acceptance of the Purchaser's offer. ("A property is deemed sold for commission purposes when the purchaser and seller enter into a binding contract to sell the property").

The law in Florida is clear that a party cannot avoid its contractual responsibilities to a broker by the simple expediency of making a contract through a substitute entity. A broker is entitled to commission when a broker negotiates with an individual, and where the individual, even if through another party, later purchases the property.

For example, a broker who showed a residence to a party who ultimate buys it is entitled to commission where an intervening buyer was a straw man. The broker is entitled to a commission where the evidence supported an inference that the person who signed the contract was actually an agent or a straw person for the real purchaser, with whom the broker had negotiated.

BY MICHAEL MOORE, Moore & Co. Law Firm

#### PROCURING CAUSE

Under a Listing Agreement, a broker is due a commission as the procuring cause of the sale of the vessel if the only reasonable interpretation of the agreement is that the right to a commission is triggered by the broker's procurement of a willing buyer. A commission is due pursuant to the procuring cause doctrine. Equitable remedies are also triggered by a showing of procuring cause.

In the absence of a special contract, a broker is entitled to a commission when he or she is the 'procuring cause' of a sale". It may be said that even in the absence of an express or written contract a broker would be entitled to a commission where the broker is the procuring cause of the sale or transaction.

In a case that involved a yacht broker's right to a commission, courts have noted that "the procuring cause doctrine comes into play when a court is called upon to determine whether a party is entitled to a commission due to his or her efforts in effectuating the ultimate sale." Whether a broker is a procuring cause is a question of fact to be determined from the surrounding circumstances.

Generally, to be the procuring cause of a sale, "a broker must show that he called the potential purchaser's attention to the property and that it was through his efforts that the sale was consummated." It is not essential for the broker to have been the one to physically introduce the seller and purchaser.

The Florida Supreme Court, interpreting its own seminal precedent on the doctrine of procuring cause, found that to earn a commission a broker must perform just two essential

First, the broker must "initiate negotiations by doing some affirmative act to bring buyer and seller together."

Second, the broker must remain "involved in the continuing negotiations between the seller and the buyer," unless "the seller and buyer intentionally exclude the broker from the negotiations."

Further, the broker must merely get the "snowball rolling down the hill" to earn a commission. As held in one case, that a broker will be regarded as the "procuring cause" of a sale, so as to be entitled to commission, if his efforts are the foundation on which the negotiations resulting in a sale are begun. A cause originating a series of events which without break in their continuity result in accomplishment of prime objective of the employment of the broker who is producing a purchaser ready, willing and able to buy the property on the owner's terms.





Moore & Company, P.A.

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# Maritime Law

# A Refresher on the Choice of Foreign Registration or U.S. Documentation - Part Two

The first installment of this article, published in the December 2015 issue of FYBA COMPASS, addressed some of the most common factors that might lead an owner to choose foreign registration over U.S. documentation of a yacht. In Part Two we will look at the other side of the coin, and consider some of the potential disadvantages of foreign registration that might cause a U.S.-based owner to choose U.S. documentation over foreign registration.

#### Disadvantages of Foreign vs. U.S Registration

- 1.) Restrictions on Lawful Uses in the U.S.: The privilege of engaging in the coastwise trade in the U.S. (i.e., carrying either merchandise or "passengers for hire", which term includes crewed charter guests, from any port or place in the U.S. to any other port or place in the U.S.) is restricted to vessels that (i) were built in the U.S., (ii) are owned by U.S. citizens, and (iii) are U.S. documented. Thus one of the greatest disadvantages of foreign registration is that there are substantial restrictions on the legal uses of a foreign registered yacht within the U.S., such as:
- Foreign registered vessels are prohibited from engaging in the "coastwise trade" in U.S. waters, and thus they cannot engage in crewed charters in the U.S. The only charters permitted are valid bareboat charters for pleasure purposes only.
- Carriage of business guests is considered by U.S.
   Customs to be the carriage of passengers. Thus carrying business guests on a foreign registered yacht from one U.S. point to another U.S. destination. may be deemed to be the carriage of passengers for hire, in violation of the coastwise trade laws. (See, 50 Customs Bulletins and Decisions, Vol. 36, No. 23, pp. 50-56, June 5, 2002). It should be noted with caution that any U.S.-built vessel of more than 200 gross tons that has ever been placed under foreign registry will permanently lose any U.S. coastwise trade eligibility it may have had, even if returned to U.S. documentation. (46 U.S.C. §12132(a))
- 2.) Geographic or Time Limitations on Use: If foreign registration is used as a strategy to attempt to avoid any liability for state sales or use tax, or U.S. import duty, it can substantially hinder the owner's ability freely to use the yacht either within a particular state, or within the U.S. generally, because the owner must avoid any acts that would constitute importation of the yacht either into a state, or into the U.S. This can significantly limit the length

BY MARK BUHLER. Buhler Law Firm P.A.



of time a foreign registered yacht can be used or even physically be present in a particular state, or in the United States.

- 3.) Inconvenience of Cruising License Renewal: A cruising license is needed for a foreign yacht to be able to move about freely within the U.S., and to avoid various federal tonnage taxes, fees, formal entry and clearance requirements, etc. (19 C.F.R. §4.94). Cruising licenses are issued for a maximum period of one year and are not supposed to be issued successively. The yacht must first leave the country and traveling to a foreign port before returning at least 15 days after the prior cruising license has expired. From many U.S. locations, having to travel to a foreign port and back in order to renew a cruising license would be very inconvenient, time consuming, and expensive.
- 4.) Maritime Safety Codes / Port State Control: The relatively recent proliferation of yacht safety codes (such as the MCA Large Yacht and Small Yacht Codes) and other regulations adopted in some of the more popular foreign yacht registries is making the registration and operation of certain yachts, especially charter yachts, more complicated and more highly regulated than ever.
- In some cases, the regulations are considerably more extensive than those applicable to U.S. documented yachts. Sometimes the costs to comply with such foreign safety codes or other regulations could substantially diminish any potential savings on sales or use tax and/or import duty that an owner might have sought to achieve through foreign registration.
- In a very recent development, the U.S. Coast Guard has indicated its intention to increase Port State Control examinations of foreign flagged yachts, particularly those of 300 or more gross tons, and those engaged in trade. (See, <u>Guidance on Port State Control Examinations for Foreign Flagged Yachts</u>, 16700, CG-CVC Policy Letter 15-04, November 18, 2015)
- 5.) Maritime Labor Convention 2006: The Maritime Labor Convention 2006 (the Convention) entered into force in the signatory countries on August 20, 2013. It imposes

numerous extensive, and in some cases potentially expensive, requirements and obligations for the benefit of crewmembers of vessels that are ordinarily engaged in commercial activities (such as commercial charter yachts) while operating within signatory countries. The United States has not ratified the Convention, and is unlikely to do so any time soon. Neither does it issue the certificates required by the Convention. This could favor U.S. documentation of a yacht, but could be disadvantageous for owners of U.S. documented yachts that want to engage in charters in countries that are signatories to the Convention. One of the more unsavory provisions of the Convention, from a U.S. yacht owner's perspective, is the so-called No More Favorable Treatment principle, buried in Article V, Section 7, which reads:

- "Each Member shall implement its responsibilities under this Convention in such a way as to ensure that the ships that fly the flag of any State that has not ratified this Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it."
- This provision not only authorizes, but indeed obligates, states that have ratified the Convention to impose the requirements of the Convention on vessels of states that have not ratified the Convention, whenever a vessel of a type to which the Convention applies enters into the jurisdiction of a ratifying state. So, at least in the case of commercial charter yachts that want to charter within a signatory country, this factor could favor foreign registration over U.S. documentation.
- 6.) Mandatory Reporting of Foreign Entities or Accounts to IRS / Treasury. There are often owner citizenship requirements for foreign registration of a yacht, which may require the formation and maintenance of a foreign legal entity as the registered owner. When such an entity is owned or controlled by a U.S. taxpayer, the taxpayer will be required annually to report its interest in the entity to the IRS on Form 5471, which must be submitted along with the owner's income tax return (See, Internal Revenue Code Sections 6038 and 6046).
- Certain specified foreign financial assets also must be reported to the IRS on Form 8938 pursuant to Section 6038D of the Internal Revenue Code.
- In addition, any foreign bank accounts or other "financial accounts" relating to the yacht or the foreign entity must be reported on the taxpayer's U.S. income tax returns, and must also be separately reported to the Treasury Department on FinCEN Form 114. Noncompliance with any of these reporting requirements could potentially result in draconian penalties.

- 7.) Higher Costs Related to Foreign Registration: Initial transaction costs and recurring corporate and vessel registration costs for foreign registration are considerably higher than costs relating to U.S. documentation.

  Some of the typically higher costs include, (i) Initial vessel registration fees and costs, (ii) annual vessel registration and tonnage fees, (iii) company formation costs, (iv) company annual government fees, (v) company maintenance fees by foreign company administrators or law firms, (vi) stamp duty payable on ship mortgages, (vii) recording fees for Bills of Sale, Mortgages, and other instruments, (viii) fees for various certificates, licenses, etc. and (ix) vessel inspection fees and surveyor costs.
- 8.) Higher Attorneys' Fees: The attorneys' fees, both for the U.S. attorneys and the foreign attorneys, involved in a foreign yacht registration typically are considerably higher than with U.S. documentation because the transactions are typically more complicated and the documentation is usually much more extensive. The attorneys' fees will be much higher yet if a foreign registered yacht will be financed.
- 9.) Potential Adverse Financing or Insurance Implications: There may be disadvantages both as to the availability and the costs of financing and/or insurance for a foreign registered yacht. Space limitations prevent discussing the reasons in greater detail.

#### **IN SUMMARY**

A multitude of factors may bear on an owner's decision whether, in a particular case, it may be more advantageous for a yacht to be foreign registered or U.S. documented. Different factors may be of different importance to different owners. And, there could be other factors relevant to some owners that have not been addressed in these

In any case, the formerly dominant factor of avoidance of state sales or use tax has become less important as a result of the sales and use tax caps that have been enacted in Florida and in several other key East Coast states. The non-tax factors now take on much greater relative weights. As a result, a higher proportion of cases may now favor U.S. documentation over foreign registration.

Mark Buhler specializes in yacht transactions. He is Board Certified in Admiralty & Maritime Law by The Florida Bar.

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# Member News



BOATHISTORYREPORT.COM would like to congratulate Tampa Yacht Sales on its one-year anniversary of being an Elite Partner. It's been great working with Shane who is a forward-thinking and innovative leader in the yacht industry!

We are also excited to release our new Team Accounts and Dealer Branding! These two features were designed based on the demand and needs of our current Elite Partners. They will allow brokers to brand reports with their brokerage logo and location information, as well as to add team members to an account for easier use.

Lastly, we'd like to thank FYBA for the continued opportunity to sponsor the Broker Open House Events, alongside our friends at Yacht Controller and AIM Marine Group. Please be sure to stop by and say hello every third Thursday!



BRADFORD MARINE'S high activity at FLIBS led to an onsite survey by Pliske Marine of Whit Kirtland's 96' Hargrave RESTLESS and ultimate sale. Bradford Marine also reports the recent sales of the 105' Tarrab PLATYPUS, 105' Crescent CLOUD9, and 58' Hatteras BRANDY by Whit Kirtland; 97' Marlow KAKAWI by David Nichols; 65' Marquis BARBARA RITA, 65'

Alaskan, 56' Neptunus MIMI, 52' Sea Ray LAKE WATER, and 44' Sea Ray by Chris Saumsiegle; 60' Ocean C VISTA and 55' Maritimo by Tucker Fallon; 56' Sea Ray RENAISSANCE and 56' Sea Ray NOBLE HOUSE by Iain Lawrie; 63' Hatteras SANDY SUN by Jack Nitabach, and 48' Sunseeker DARE TO DREAM by Carlos Navarro.

Visit Bradford Marine's Yacht Showroom now OPEN 7 DAYS A WEEK to view New Listings 80' Hatteras BLUE MOON II and 73' Dauntless UNDAUNTED by Whit Kirtland; 74' Marlow EMILIE by David Nichols; 70' Azimut ALFOZ, 55' Fairline VESTAVIA, 54' Meridian, and 52' Neptunus SEA ACCESS by Iain Lawrie, and 54' Meridian BELLE AMOUR and 42' Sea Ray ENDLESS WEEKEND II by Chris Saumsiegle. Contact Bradford Marine for details at bradford-marine.com or 954.377.3900.



DENISON YACHT SALES Juno Prudhomm received his Certificate of Achievement in the "Fundamentals & Essentials of Yacht Brokerage" from the Yacht Broker Institute (YBI). Presenting Certificate # 55 was Rae Whitt and Kevin Ralph, YBI founders and co-partners, at the FYBA Yacht Sales and the Law Seminar in October 2015.

HORIZON YACHTS
will showcase three
new luxury yachts
- the Horizon E88
motoryacht, PC60
power catamaran
and PC52 power
catamaran - at the
2016 Yachts Miami
Beach show, Feb
11-15th. You can
see all the yachts

at our display on



Ramp 6, slips 1226-1228. The Horizon E88 is the first open bridge version built and features a four-stateroom layout and crew quarters, CAT C32 1,800hp engines, and beach club design with a Hi-Lo swim platform. We also invite you to stop by to learn about our latest models, the E56XO sport yacht and FD85 fast displacement motoryacht. Contact Horizon Yacht USA for more information: 561.721.4850 or elise@horizonyachtusa.com.

JORDAN YACHT & SHIP CO.is proud to announce the sale of the Southerly 57' TAL LIRA and the Cabo Rico 56' JAMA IV by Kevin Bray. Congratulations to him on an excellent 2015. Thank you to all cooperating brokers.



LUKE BROWN YACHTS has been appointed the exclusive East Coast marketing and sales representative for Offshore Yachts, ranging in size from 54 to 92 feet. Luke Brown's decades of sales and experience in this category creates a natural fit with Offshore West, the exclusive West Coast Offshore Yachts dealer. Steve Deane, Offshore Yachts brand manager at Luke Brown Yachts will work with John Olson, president of Offshore West, to navigate the entire

scope of the build process from sales, through construction, commissioning and final delivery of the yachts. Bobby Davis, Geir Ingolfsrud, Jason Dunbar, Gary Slatkow and Greg Sturgis will round out the Offshore Yachts sales team at Luke Brown Yachts. For more information, contact: <a href="mailto:Steve@Lukebrown.com">Steve@Lukebrown.com</a>, cell 954.224.4572 or office 954.525.6617.

Luke Brown Yachts remains an authorized dealer for Selene Trawlers and Nordic Tugs. In the past month, Luke Brown Yacht has delivered two new Nordic Tugs and a new Selene.

NAUTICAL VENTURES GROUP, INC. reports that coming off a highly successful boat show, the company has been aggressively approached by several boat builders and has taken on the lines of SACS tenders, Glasstream fishboats, Buddy Davis, and Axopar. As a result, we are seeking four new, full-time sales associates. Candidates must have sales experience and product knowledge of boats, fishing, trailering, and boat handling. Yacht broker license and bi-lingual skills a plus. If you are a team player with a positive attitude and are self-

motivated, disciplined, energetic & tenacious, we want to hear from you. Salary, plus commission, plus benefits. Interested brokers should contact Roger Moore, 954.926.5250; 007@ nauticalventures.com or visit www.nauticalventures.com

SUNSEEKER INTERNATIONAL won the award for Best Sportscruiser Over 45 Feet at the 2016 Motor Boat Awards. The award was given to Sunseeker's hugely popular new three-cabin Predator 57 model, which officially launched in January 2015. Dubbed the "Oscars of the Motor Boat World," the Motor Boat Awards' shortlist includes every boat tested by Motor Boat & Yachting Magazine in 2015, across eight main categories. Members of Sunseeker's senior team – including CEO Phil Popham – were present to collect the award at a gala ceremony in London's Rosewood Hotel on January 11th.

On accepting the award, Popham said, "We have seen an extremely positive response to the Predator 57, which became our fastest-selling model to date in 2015 with over 50 retail orders in its first six months."

THE YACHT BROKER INSTITUTE LLC (YBI) AND THE YACHT BROKERS ASSOCIATION OF AMERICA (YBAA) have signed an agreement to mutually support the broker education and professional certification efforts as provided by each organization.

YBI offers online training for individuals seeking to join the yacht brokerage industry. The Yacht Broker's course has been quite successful in attracting students from Florida, other U.S. states and abroad. A new course for Professional Administrative Assistants (PAA) was launched in January 2016. Over 20 FYBA member firms have graduates and/or students in their firms.

YBI founders, Kevin Ralph and Rae Whitt are excited about this mutually beneficial agreement, "as it helps promote a uniform methodology, along with ethics and codes of conduct to further the yacht sales profession," stated Ralph.

YBAA manages the Certified Professional Yacht Broker program (CPYB). According to YBAA Executive Director, Vin Petrella, "The YBAA / YBI agreement provides a comprehensive process for encouraging new entrants to the profession with sound educational support. The combined efforts will greatly assist our industry to attract and maintain a qualified, professional workforce in the coming years."

For more information, contact Rae Whitt at <a href="mailto:rae@">rae@</a> <a href="mailto:yachtbrokerinstitute.com">yachtbrokerinstitute.com</a> or visit <a href="mailto:yachtbrokerinstitute.com">Yachtbrokerinstitute.com</a>.



UNITED SHIP SERVICE – LUXURY YACHT DIVISION is pleased to announce that Richard Kniffin has been appointed the General Manager for our Luxury Yacht Division located at Lauderdale Marine Center. Richard brings a wealth of maritime experience as a licensed captain of 35

years, former yacht broker (The Marine Group of Palm Beach) and previous Director of Marine Operations at the University of Miami. As a broker, owner, and captain, Richard has a well-

rounded understanding of a vessels needs and what it takes to consistently deliver great service. His mission statement is to "solve problems and build relationships". He will focus on increasing our market share in servicing large yachts with electrical and mechanical engineering projects as well as yacht project management. Please feel free to reach out to Richard with any questions or requests concerning your next project at (954) 780 8198 and rkniffin@uss-us.com.

YACHTZOO reports a very busy 2015 year-end with the following recent sales:

AMADEUS, the 230' Jadewerft, constructed in steel to a design by Reymond Langton and DNV-classed. Accommodating 12 guests in six staterooms, she was delivered in 2007 and proved to be a popular charter yacht. Yachtzoo introduced the buyer and the vessel has been renamed FELIX. For details please contact: Rob Newton at rob@yacht-zoo.com.

The 164' Trinity IMAGINE was delivered to an American buyer just in time for Christmas. Built in aluminum and launched in 2010, she features a varnished mahogany interior and generous accommodations for 10 guests in five cabins. Renamed ASPEN ALTERNATIVE, she will be joining the Yachtzoo Charter Fleet. For further details please contact: Rob Newton.

The 2006 54' Grand Banks Eastbay SX, TOTO was sold to an American buyer in conjunction with Sarasota Yacht and Ship. For further information, please contact: Neil Emmott at <a href="mailto:neil@yacht-zoo.com">neil@yacht-zoo.com</a>.







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**PRESENTS** 

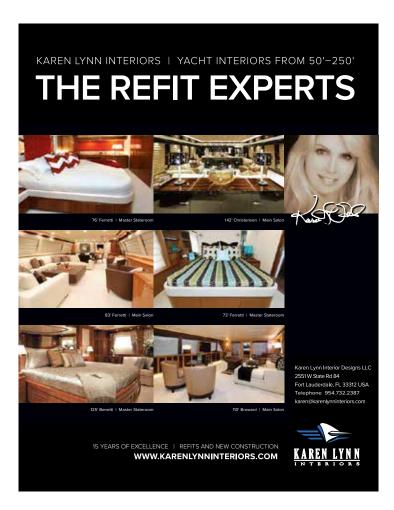
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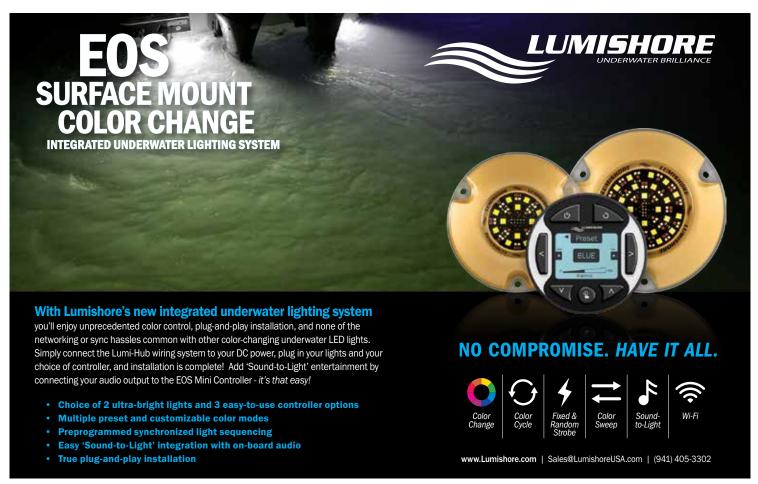
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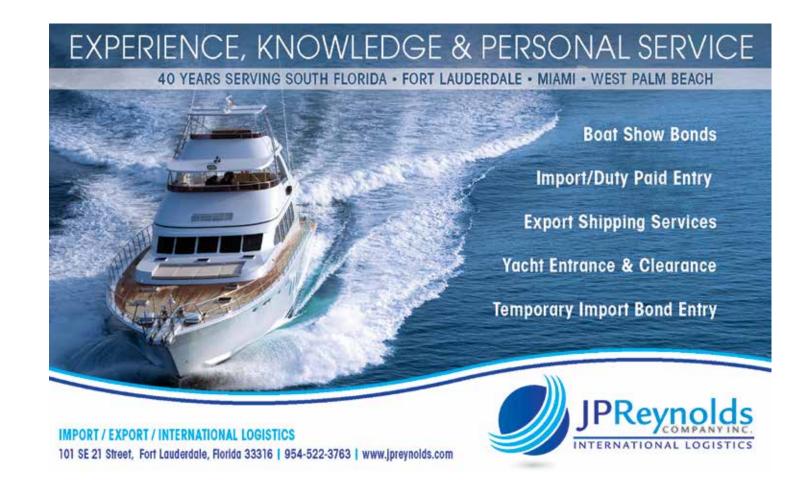
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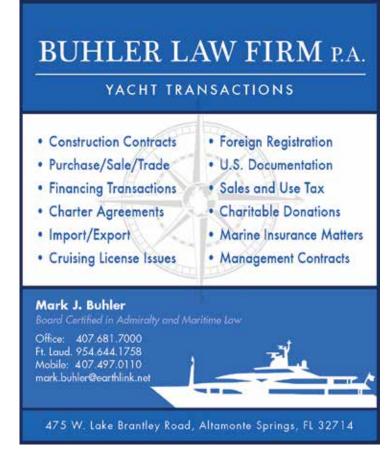
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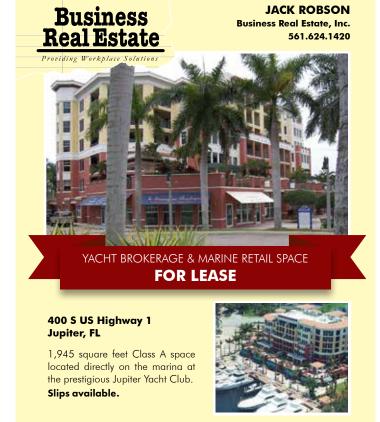
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# Feature

BY LOUISA BECKETT, Turnkey Communications & PR, Inc.

## Wet & Wild

# The latest yacht tenders and water toys on the market pack big thrills!

#### FreeStyle Slides NLS+

Inflatable slides quickly are becoming a key component of every successful superyacht's water toy chest. The latest launch from FreeStyle Slides is the Non-Leg Support Plus (NLS+) Cruiser Yacht Slide. A streamlined alternative to FreeStyle's Leg Support (LS) model, the NLS+ is engineered for faster setup and take-down by the crew. FreeStyle customizes its slides to fit each yacht and can make them up to 39 feet in height. <a href="https://www.freestyleslides.com">www.freestyleslides.com</a>



#### **Triton 1650/3 LP**

Until now, only the largest superyachts have been able to support their owners' desire to explore the subterranean depths. But Triton Submarines recently unveiled plans for a sub that is light, low-profile and compact enough to fit in a superyacht tender garage. With a height of 5.9 feet and a crane weight of 8,818 pounds, the Triton 1650/3 LP can be launched and retrieved with an overhead davit. When deployed, the sub is capable of taking a trained pilot and two passengers in airconditioned comfort to depths of up to 1,650 feet. www.tritonsubs.com



#### Quadrofoil

Slovenian company Quadrofoil set out to create a craft that would be exciting to ride but also environmentally friendly. The result is the world's first electric hydro-foiling personal watercraft. Designed to run quiet and emissions-free where traditional PWC's are banned, the Quadrofoil has a top speed of 21 knots and a range of up to 54 nautical miles. Its battery can be fully charged in under two hours. The watercraft's foil technology makes riders feel like they are flying over the water. Several models are available from distributors in the U.S. and Europe. <a href="https://www.quadrofoil.com">www.quadrofoil.com</a>



#### **Williams Minijet**

Known for its superyacht support RIBS, British builder Williams Jet Tenders just unveiled a line of "Minijets" – smaller, lighter, shallower-draft, and more affordable inflatables designed to attend yachts under 45 feet. The first Williams Minijet is just 9 feet in length, weighs in at under 441 pounds, and thanks to its BRP Rotax Ace 900 water jet engine, is capable of running 35 mph. Best of all, it showcases the fine fit and finish of the larger Williams tenders. <a href="https://www.williamsjettenders.com">www.williamsjettenders.com</a>



## 2015 vs. 2014 by the Numbers\*

YachtWorld.com (YW) reports that 2015 unit sales of brokerage boats in Florida increased by 6 percent over 2014, based on information supplied by brokers reporting sales to YW's Soldboats.com database. However, the overall value of boats sold fell by 9 percent. Looking more closely at the numbers, each size category posted increases with the exception of the 80-foot and up category. YW said this may be because many large yacht brokerage houses did not report sales data, which means YW does not have complete data for the 80-plus category.

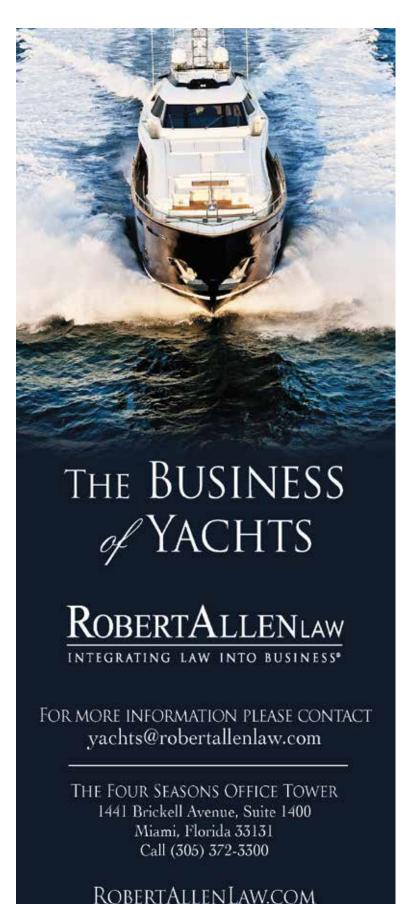
#### SALES YEAR TO DATE

YTD	2014	2015	YoY % Change
Boats Sold	5,786	6,131	6%
Value of Boats Sold - USD	\$1,647,774,976	\$1,504,692,533	-9%
Avg Boats Value - USD	\$284,787	\$245,424	-14%
Avg Days to Sale	248	239	-4%

#### SALES BY BOAT LENGTH

< 26'	2014	2015	YoY % Change
Boats Sold	1,364	1,477	8%
Value of Boats Sold - USD	\$32,645,473	\$39,484,708	21%
Avg Boats Value - USD	\$23,934	\$26,733	12%
26' to 35'	2014	2015	YoY % Change
Boats Sold	2,009	2,188	9%
Value of Boats Sold - USD	\$146,858,382	\$160,187,472	9%
Avg Boats Value - USD	\$73,100	\$73,212	0%
36' to 45'	2014	2015	YoY % Chang
Boats Sold	1,438	1,451	1%
Value of Boats Sold - USD	\$242,137,194	\$246,899,372	2%
Avg Boats Value - USD	\$168,385	\$170,158	1%
46' to 55'	2014	2015	YoY % Chang
Boats Sold	514	562	9%
Value of Boats Sold - USD	\$166,677,041	\$193,648,446	16%
Avg Boats Value - USD	\$324,274	\$344,570	6%
56' to 79'	2014	2015	YoY % Chang
Boats Sold	331	356	8%
Value of Boats Sold - USD	\$320,543,526	\$373,900,875	17%
Avg Boats Value - USD	\$968,409	\$1,050,283	8%
80' +	2014	2015	YoY % Chang
Boats Sold	130	97	-25%
Value of Boats Sold - USD	\$738,913,360	\$490,571,660	-34%
Avg Boats Value - USD	\$5,683,949	\$5,057,440	-11%

<sup>\*</sup>This report should be used for comparative analysis for period sales. This information reflects only those sales recorded in YachtWorld's database.

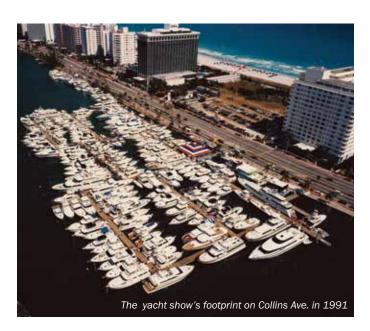


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# Yachts Miami Beach

STORY BY LOUISA BECKETT, Turnkey Communications & Public Relations. Inc.

## FBYA's Miami Show: Yesterday & Today



What's in a name? the newly re-christened Yachts Miami Beach in-water yacht show has had many names over the years, including the "Brokerage Yacht Show", the "Yacht & Brokerage Show in Miami Beach" and more informally, "Collins Avenue". But throughout the 28 years of its existence, it has remained a premier venue for displaying, shopping for and viewing large new and pre-owned yachts.

Ironically, Yachts Miami Beach owes its creation the National Marine Manufacturers Association (NMMA). producers of the rival Miami International Boat Show, which this year moves to its new location at the Miami Stadium Marina & Basin in Key Biscayne. During the new boat boom years of the 1980s, NMMA barred exhibits of brokerage or pre-owned boats at its Miami boat show. In response, FYBA and Show Management created the Brokerage Yacht Show to run concurrently with the Miami International Boat Show.

The first brokerage show was held in 1988 at Sunset Harbor with 34 boats on display. However, history apparently doesn't count this as the true inaugural event. Instead, the 1989 show is considered the official "first" Brokerage Yacht Show, making this year the 28th annual edition.

Over the ensuing years, the yacht show weathered many economic storms, along with the entire recreational marine industry, including the disastrous luxury tax period of 1991-1993. However, with the repeal of the luxury tax and a rebounding worldwide economy, the large yacht market witnessed phenomenal growth that in turn greatly increased the show's physical footprint along Collins Avenue. New boat builders also began to see the value of the location and clamored to display their yachts at the docks along the south end of the avenue. Compare old aerial photos of the event in the early '90s to those taken last year, and it's easy to see just how incredible the show's expansion has been.

International Boat Show), it's easy to see why Yachts Miami Beach has become such a popular and entertaining event.

For exhibitors, the show also has become one of the most

The show has long owed its popularity to the visual spectacle it creates with nearly a mile-long display of some of the world's largest and most impressive yachts, which easily can be viewed from Collins Avenue and from the famous Miami Beach resort hotels that line the opposite side of the street. Given the fact that admission is free (unlike the Miami important events on the annual calendar due to the increasing number of yacht owners and serious shoppers who regularly attend each year. This year's Yachts Miami Beach should be no different. In fact, with the Miami International Boat Show moving south, Yachts Miami Beach should attract even more attention from large yacht owners and buyers.

#### **New Superyacht Location**

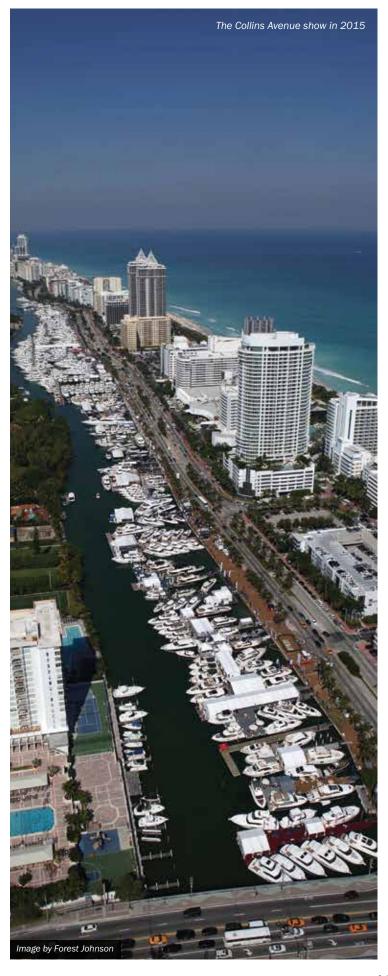
With the new and yacht brokerage market again experiencing solid growth, this year's Yachts Miami Beach is expected to be the largest and best ever.

Produced and co-sponsored by Show Management and co-sponsored by FYBA. Yachts Miami Beach runs February 11-15. It will offer displays of more than 500 yachts, along with yachting accessories and equipment and related services valued at more than \$1 billion.

The exciting news this year is that the show has grown to include two locations. In addition to the display along the Indian Creek Waterway, which this year runs from 41st Street to 54th Street on Collins Avenue, Yachts Miami Beach will boast a superyacht venue at the brand new Island Gardens Deep Harbour marina on Watson Island, a purpose-built supervacht marina capable of berthing yachts up to 550 in length. The superyacht location will be accessible by free shuttle bus from Collins Avenue.

On behalf of FYBA, we look forward to seeing you there!





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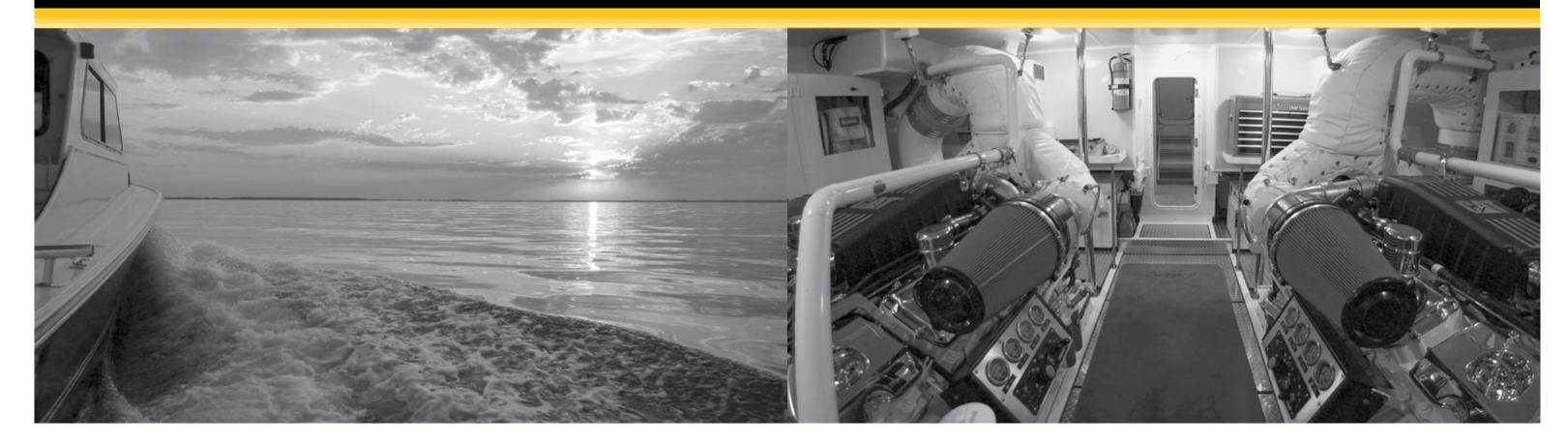
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# Charter Itinerary

# It's as Easy as ABC

Island-hopping among Aruba, Bonaire and Curaçao in the Southern Caribbean literally is a "Dutch treat".

Even when the northern Caribbean is "old hat" to repeat charter clients who like to spend their vacations afloat in the luxury of a private yacht, the southern Caribbean still can offer adventure and delightful surprises. The ABC Islands, Aruba, Bonaire and Curaçao, located just a few miles north of the Venezuelan coast, have something for every taste – beautiful beaches, spectacular diving and watersports, as well as excellent shopping, dining and nightlife. They are all part of the Kingdom of the Netherlands, but due to the number of visitors from the U.S. and Canda, you can hear English spoken here as often as Dutch.

Here is a sample week-long itinerary in the ABCs from a charter captain who specializes in the region.

# Day 1:

Meet your charter yacht's crew at the airport in Curaçao. Head to the boat, where you are greeted with a tray of "Island Taxis", a local favorite drink made with the blue spirit that's named for the island. After cocktails on the aft deck, the captain will take the yacht out for a sunset cruise. Look back at Christoffel Hill, the highest point on Curaçao, named after Christopher Columbus.

# Day 2:

Head to Bonaire, 25nm due east. This tranquil island is known for its laid-back attitude and warm climates. Tie up to a mooring buoy in a beautiful bay for lunch prepared by the yacht's chef, then spend the afternoon playing with the water toys. This is a great place to watch kiteboarders zip by or to kitesurf yourself. Spend the night at the mooring or in the very quiet marina.



# Day 3:

Wake up and enjoy the incredible scuba diving (by arranged rendezvous) or snorkeling that Bonaire offers. The Caribbean Journal has named Bonaire one of the top

#### BY CAPT BEN STEPPENS OF M/Y LILLY

10 snorkeling and dive destinations in the Caribbean. If you are looking for a local bite to eat, check out Cactus Blue on the Beach. This quaint beach shack has high ratings on Trip Advisor, especially for its Lionfish burger.

# Day 4:

Head to Klien Curaçao (Little Curaçao), 10nm south of Curaçao. This tiny uninhabited island has picture-perfect views with the clearest blue waters you have ever seen. If you are looking for some peace and tranquility, this is a great place to relax and unwind on the long, deserted white sand beach. This spot is also known for its sea turtles!

# Day 5:

After running the short distance to Curaçao, tie up in Fuik Bay for lunch. This is another peaceful and serene little bay – except for one day each year, Fuik Dag in early January, when the locals celebrate the New Year here with what is reported to be the largest gathering of boats in the Caribbean. Continue on to Spanish Water, a picturesque harbor at the foot of high bluffs, and anchor or tie up in the marina. This is a great place to try out the wakeboards. Look sharp – you might spot a celebrity at one of the waterfront resorts.



# Day 6:

Head to the north to the Westpunt area at the westernmost point of Curaçao. Take the tender to explore the many small bays in the area. Make sure to check out the "Blue Room," an underwater cave known locally as Boka Fluit, which you can reach by tender, kayak, or by foot. That evening, it's back to port for your last evening. Sample the local nightlife in town or enjoy another evening sitting on the flybridge under the stars.

# Day 7:

Enjoy one last wakeboard ride or swim, and have a cold drink for the road. You will take lasting memories of your charter cruise in the ABC's home with you.





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# Marketing Savvv

# **Best Practices for Shooting DIY Photos & Videos with a Smartphone**

As a sophisticated shooter of video and photography for years, it's hard for a professional photographer like me not to feel threatened, but for some time now the iPhone and Android smartphones have changed the game. Yacht brokers now have the option to shoot your own photos and videos for a listing, and there are apps you can download for additional post editing for just a few bucks. However, please keep in mind that if you have a budget, it's still worth hiring a pro to do the job correctly for you.

Here are some tips and thoughts on shooting better amateur photos and video for your brokerage listings.



BAD SHOT: Boat is distracted by the sport fish in the right background.

#### **Location Shooting**

If at all possible, it's always best to shoot the boat away from the dock. Be sure the boat is washed and no fenders are hanging off the side and she is looking tidy. Pick a background that will feature the boat; nothing that will distract your eye from seeing the boat you're selling.

Ask the boat captain to do some pass-bys. Shoot from the flybridge or top deck of another boat if you can, in order to give you a higher view so you can look down on the listing boat's decks and get some nice, full-frame photos. Have the captain make some 360-degree turns so you can get all angles. You can take some nice photos in a burst mode and also shoot video clips, along with slow-motion video, on the newer model smartphones.





Original Shot: Gray overcast

Edited Shot with an iPhone

If you have no choice but to shoot the boat at the dock, just be sure you take the best angles you can get showing the full profile, and the same goes for a boat in a boatyard, up on the hard. Remember you can always crop and edit the photos afterward with the post app tools you can download.

#### **Interior Photos**

Take photos of the key areas on board such as the main salon, galley, master, VIP, bridge, aft deck, engine room, crew quarters, etc.... Before you get started, be sure it is looking tidy. Move out any clutter; keep it simple. Turn all the lights on.

BY SUSAN (SUKI) FINNERTY, Suki@YachtingToday.TV

Be sure to take photos from all corners, showing the full view of the room. Also be aware of the angles you are shooting. Is it at a higher, lower, or medium view? Use your best judgment. Experiment! You can pick and choose and edit in post.

If the boat shows well with natural light coming in, then take note what time of day that is for shooting. Keep in mind to shoot extra shots of any key selling points you want to emphasize in your listing.

It is also a good idea to shoot a video walkthrough while you're there. Always keep the camera wide; there is no need to zoom in when shooting photos or video with these smart phones. Use a tripod or monopod whenever possible. The key is to keep all your photos focused and stable. The newer smartphones have stabilizers built in, but the tripod will make it even better.





Original Shot

Post Editing Apps

Keep in mind you can mix short video clips with photos and it can make for a good sales promo. There are lots of smartphone apps to pick from so research the them to find the one that works best for you and your smartphone. Here are some great apps to check out.

- Photogene 4: An intuitive, easy to use application offering a comprehensive set of professional editing tools: Crop and straighten. Sharpen. Has a full set of color adjustments (including levels). Can correct underexposed photos. Add text bubbles of different styles, colors and fonts. Add frames in various shapes and colors, including shadows and glows. Add special effects such as reflection or vignette. Multiple undo and redo. Resize your photo to a different resolution. Supports photos up to 5 megapixel. Upload your edited photo directly to Facebook, Twitter, Flickr; email it, or simply save it to your iPhone's photo gallery.
- Animoto: This is a cloud-based video creation service that produces video from photos, video clips, and music into video slideshows.
- Replayapp (iPhone & iPad) This app is easy to use and has a broad selection of tools packed into it. Has a bunch of sharing options.
- **Hyperlapse.instagram:** Using cleaver algorithm processing, the app makes it simple to use your phone to create tracking shots and fast, time-lapse videos.
- Big Lens: When it comes to creating great-looking images, it's all about focus. Big Lens gives you the ultimate in focus and filter tools for your mobile device. Whether you're a novice or pro photographer, Big Lens is your secret weapon that will turn

your mobile device into a professional SLR camera.

- Camera Plus (free, iTunes): Anti-shake feature prevents blur. Also has cropping, filters and big-button shooting features.
- Fast Camera (iTunes) Rapid-fire shooting as soon as you open the app, and it keeps shooting until you press the stop button
- Aviary (Android, iOS, Windows Phone): Easy to add text, drawings and stickers to your photos. Has all basic editing tools such as filters, effects, crop, rotate, etc. It doesn't have much in the way of advanced options, but that shouldn't be a problem for casual users.
- Litely (Android, iOS): You can easily apply preset effects to any photo. A two-finger swipe shows you a before-and-after view of the picture. This makes it easy to see how an edit has changed the picture.
- Photo Studio (BlackBerry 10, Android): A good option for those using BlackBerry 10. It is a simple image editor that lets you take pictures and apply effects and frames. Although its collection of filters is better than those on Instagram, the app lacks advanced editing tools. Photo Studio also lets you make collages and apply sketch effects to your photos.
- Flickr (iPhone, Android, Windows Phone): This app offers advanced editing tools, which is better for enthusiasts. Another advantage is that Flickr doesn't restrict you to square photos. Its built-in filters are fairly good too. The only major negative is that Flickr's Window phones app isn't as good as iOS and Android variants.
- Snapseed (iPhone, iPad, Android): Interface is intuitive. Once you add photos to the app, select manual tuning and swipe upwards or downwards on the picture. This shows you different variables such as contrast, saturation, etc. Select any one and simply swipe towards the right to increase its value or in the opposite direction to reduce it.
- VSCOCAM (free): Now available for Android too! This
  powerful photo-editing app offers a lot of filters and tools. It
  gives you the ability to view your photo before-and-after edits.
- Photo Grid Collage Maker: Photo Grid makes it easy to create a square collage and share it on Instagram. It includes options for different photo quantities and collage styles and colors.
- Rhonna Designs: In addition to the traditional photo-editing options, you can add text, color and stickers to really make your pictures stand out!
- PixIr Express PixIr Express (Android, iOS): Provides so many different types of effects that there are almost endless choices.
   More than two million combinations, including filters, overlays, collages, frames, text, lighting effects, and so many more.
- PicsArt: An all-in-one photo editor that's great for all photography levels. The drawing tools truly lets you create art with your photos!
- Flipagram: This lets you easily turn your photos into a short video that you can share on Instagram, Facebook and Twitter!

# 10 Basic Tips to Remember

- 1. Clean the lens first. Your smartphone is always in your pocket or bag so it gets dirty. It only takes a second to clean it.
- 2. Check you have space on your phone for capturing images before you start. You can always use a Dropbox to upload as you go and then delete the images from the phone to create more space.
- 3. Hold the phone like you would a camera. Use two hands and tap the shutter with your right. Or use your headphone set and volume as a shutter release.
- 4. Don't zoom in: If you want to take something close up, walk up to it. Smartphones lose quality and become really grainy and pixilated when you zoom.
- **5. Shoot the same thing a few times.** One of them will be good.
- **6. Adjust the lighting.** The lower the light, the more grainy and bad the image quality. Add artificial light or use natural light.
- 7. Check out the resolution and picture quality settings, and set them on high.

Keep the camera as still as you can because the jitters will make your picture blurred. Use a tripod or monopod when possible.

- 8. Move around and get in different positions. The smartphones are small and easy, and you can shoot different angles and heights.
- **9. Process**, **edit**, **upload**. Pick your favorite app and see what you can create.
- 10. Have fun! Experiment! Be creative!



Susan (Suki) Finnerty is the spirit behind YachtingToday.

TV. In the multimedia business since '81. Suki has been providing international & editorial marine industry clientele with a complete array of services specializing in digital video & photography along with producing, directing, and editing promotional videos.

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& MEETING

Billy & Laura Hogle, Ulla & Jeff Stanley, Pam Creagan, Hector & Martha Torres

**SATURDAY, JANUARY 23, 2016** Seminole Hard Rock Hotel & Casino







Carmen Cunningham & Tucker Fallon



**Guest Enjoying Swing Dancing** 



**Ballroom Decorated for the FYBA Event** 



Jeff & Sarah Cox and Robb Maass



**Team Burgess** 



Chaz & Kris Kerr, Christine Battles & Natalia Rodriguez



Udo Willerson, Wendy Meade, Bonnie & Lars Edson



Lori Wheeler, Amie Nappi, Cheryl Kaiser Bill Barrett & Patience Cohen



Laura Tempest, Gina Last & Uta Scarlata





Dave and Shay Loudenslager























Left to Right: Bob Saxon, Paul Burgess, Gary Smith, Jeff Stanley, Bob Denison, Bob Zarchen, Paul Flannery, Jason Dunbar & Jeff Partin. Not pictured: Rob Newton

# Brokers Open House

## **JANUARY 21. 2016 Bahia Mar, Fort Lauderdale**

More than 100 industry professionals attended the January 21st Brokers Open House at Bahia Mar. There were 44 participating yachts ranging in size from 28' to 171'. Attendees enjoyed networking along with hors d'oeuvres and cocktails.

#### Thank you to our Sponsors

The Yacht Group, Boat History and AIM Marine Group

#### Yachts in Attendance

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# Recognition Awards

## CROMWELL LITTLEJOHN | 2015 BROKER OF THE YEAR



A native of Miami, Crom moved to Fort Lauderdale in 1981. He has served on the America's Cup Committee boat, Black Knight, as well as captain of a large yacht that charted and cruised in the Bahamas, US east coast the Great Lakes. In 2000, Crom joined Merle Woods, where for 15 years he was deeply involved in both charter and sales. He joined Northrop & Johnson in 2015.

Crom's volunteer efforts with FYBA include serving 11 years on the FYBA board of directors and two years as association president from 2010-2011. He currently holds a board seat on the American Yacht Charter Association.

## TOM COLLINS | 2015 CHARTER PROFESSIONAL OF THE YEAR



Raised in Newburyport, Massachusetts, Tom is a graduate from the University of Massachusetts with a BA in Political Science. Tom began his career with a Morgan Yachts dealership in Miami, where he was promoted to manager of their charter division, eventually managing seven to nine boats. After attending his first charter show in Antigua in 1983, Tom "got the bug" and began to focus on crewed charters. He started Tom Collins Yachts Worldwide, which he ran through 2006. Tom joined Burgess in 2006.

## **BOB ZARCHEN | 2015 HONORARY LIFETIME MEMBER AWARD**



Bob moved to Florida in 1984 and worked as a yacht captain from 1984 - 1987. He joined Merrill-Stevens in 1987 where for 22 years he worked as a broker and managing broker until the agency shut its brokerage division in December 2008. He joined the Fort Lauderdale office of Sparkman & Stephens in 2009, and moved to Ardell Yacht and Ship in 2012.

Bob is a graduate of Yale University with a degree in Mechanical Engineering and previously held a USCG 500 Ton Master License. He was in the first group of 16 brokers nationally to receive the CPYB designation in 2002.

Bob has been a FYBA director since 1993 and also has served the association as president and secretary. He has been FYBA treasurer since 2006. Bob started the FYBA Seminar program in 1996 and has been sponsor chairman of the Yacht Sales & the Law, Annual Golf Tournament and the East Coast Yacht Sales Seminar. Bob is licensed and bonded as a broker in both Florida and California.

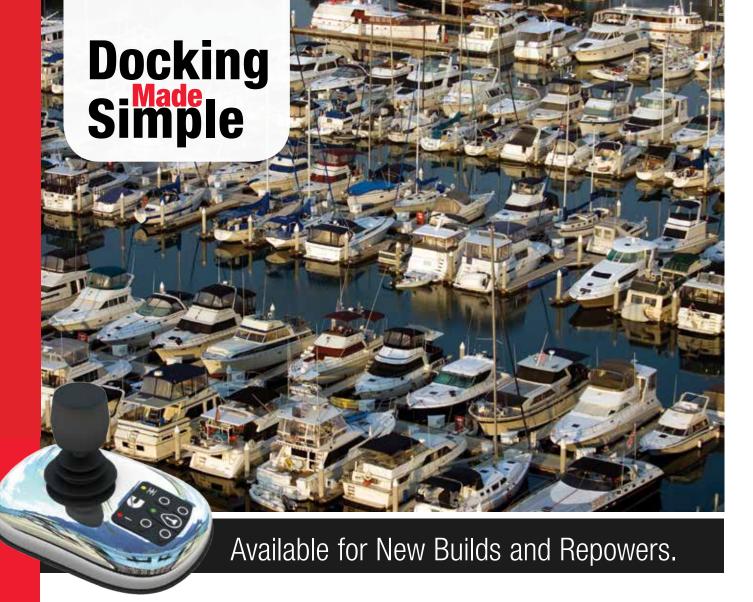
## FRANK HERHOLD | 2015 LIFETIME ACHIEVEMENT AWARD



Frank Herhold | 1990-2010 Executive Director of MIASF

Frank Herhold served as executive director of the Marine Industries Association of South Florida from 1990-2010. During his tenure, Frank accomplishments included:

- Doubling MIASF membership
- Elevating MIASF to a nationally recognized trade association
- Leading the organization during the 1991-1993 Luxury Tax debacle
- Steady development growth of the Ft Lauderdale International Boat Show
- 2007 Nominated Fort Lauderdale's Citizen of the year
- 2010 Commodore of the Winterfest Boat Parade
- Devoted advocacy of the marine industry through economic recessions, hurricanes and legislative battles



# Confidence Around the Docks. **Cummins Inboard Joystick.**

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Join an illustrious group of brands already offering Cummins Inboard Joystick: Carver Yachts, Ocean Yachts, Princess Yachts, Sea Ray, Tiara Yachts







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# New Year. New Goals. **Think Donation**



Thank you to Bill Sanderson of Palm Beach Global Yachts for facilitating the contribution of the extraordinary sailing yacht Hannibal. This all aluminum, ketch rigged, shoal draft schooner was originally the flagship of Crocs shoes and subsequently owned by the inventor and co-founder of Crocs, Scott Seaman. She will be available for lease in January, 2016. Details through Palm Beach Global Yachts 561-766-1909.



Thank you to Mark Stauber of Watermark Yacht Sales for facilitating the donation of Red Feather (name reserved, now ORIGAMI) a custom built 53' 2008 Gorbon Deck Salon sailboat located in Portland, Maine, Mark Stauber can be contacted at 207-233-5075.

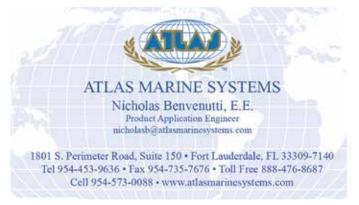
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