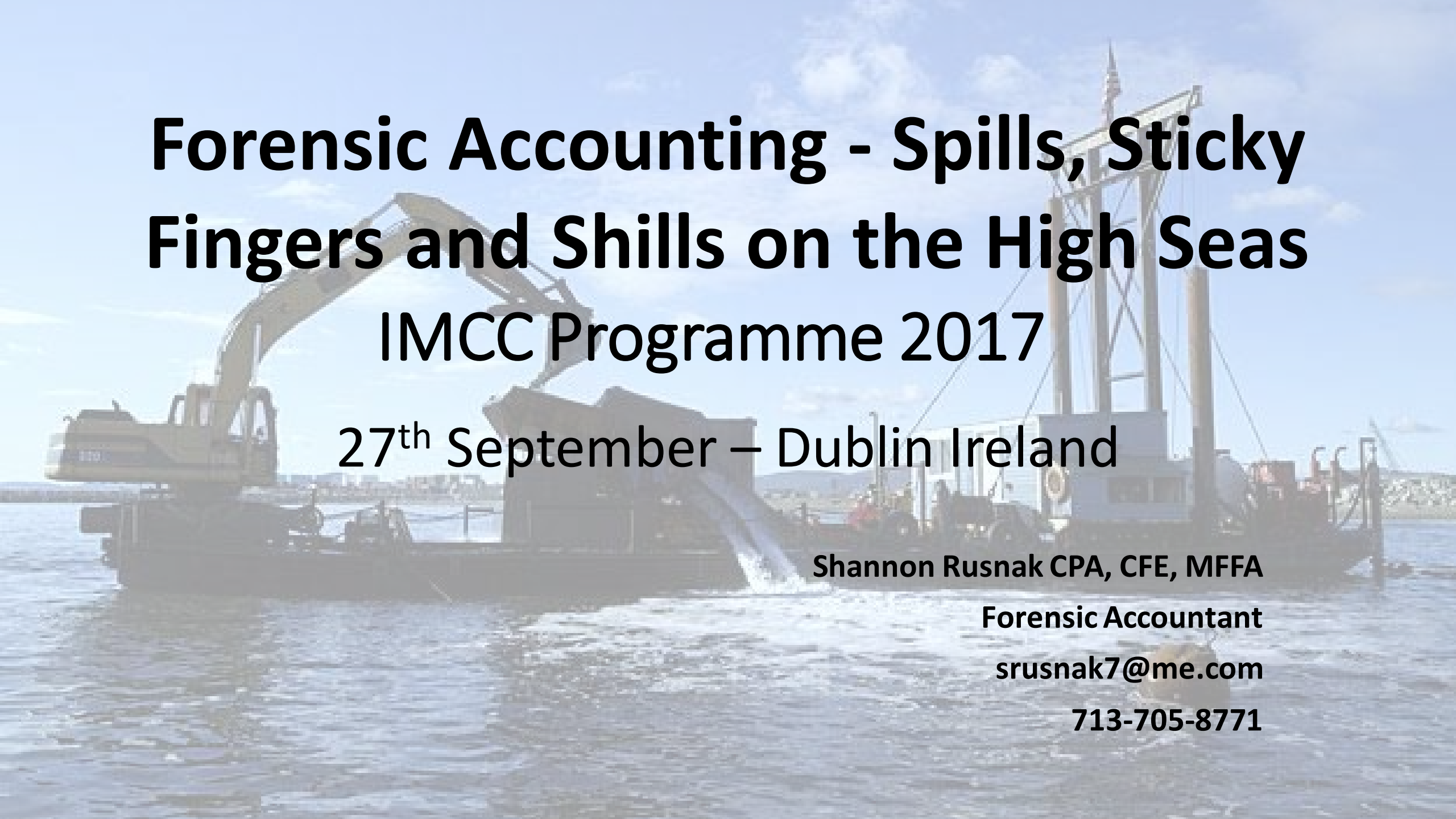


The background image shows a large ship, possibly a cargo or construction vessel, on the water. A yellow excavator is mounted on the deck, and its arm is extended, dumping a large amount of material (likely debris or waste) over the side of the ship into the water. The ship has a complex structure with masts and rigging. The sky is blue with some clouds.

Forensic Accounting - Spills, Sticky Fingers and Shills on the High Seas

IMCC Programme 2017

27th September – Dublin Ireland

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Forensic Accounting in Maritime Matters and the Aftermath of Numbers

- Not all matters are “intriguing”
- Wide variety of files after 33 years in the business, 24 of which stemmed from residing in a major port city
- Involvement typically after an event or series of events such as:
 - Catastrophic Weather Event
 - Spill
 - Allision or Collision
 - Breach of Contract
 - Misappropriation, Fraud and/or Theft

Forensic Accounting in Maritime - Examples

- Various Cargo Losses
- A casino entertainment company was scheduled to commence river boat gaming activities at their new facilities. While on its maiden voyage to the new facilities, the river boat vessel was struck by a tug boat and damaged. The collision occurred just three weeks prior to the scheduled grand opening of the facilities which included a hotel, restaurants, entertainment and the river boat casino. As a result of the damage to the vessel, there was a 45 day delay to return the vessel to the state it was in as of the date of the collision and an additional 18 day delay between the scheduled and actual opening date of the facilities, or a total of 63 days.

Forensic Accounting in Maritime – Examples (cont'd)

- **Dispute between Owner and Contractor regarding agreement (“Agreement”) to repair and refurbish semi-submersible tender assisted drilling rig. The Agreement memorialized the Contractor was to do the work and procure the goods, materials and equipment needed for the project. As it pertained to the procurement aspects of the Agreement, the Contractor was to earn 3.5% on certain equipment, material and goods procured (Arbitration Matter)**
- **Breach of fiduciary duty – theft of petty cash and bogus vessel logs reported by management company to owner company (Arbitration Matter)**
- **Oil Spills including:**
 - **400,000 gallons of oil which spilled and then caught fire in Houston San Jacinto River due to 40” pipe broken by flood waters. Over 14,000 Claimants.**
 - **168,000 of intermediate fuel oil spilled as a result of a collision in Galveston, Texas. Over 1,500 claimants.**

Forensic Accounting in Maritime – Examples (cont'd)

- A petrochemical tanker ship collided with a jack-up rig. At the time, the rig was heading into port for load out and mobilization to the Far East to commence work under a Letter of Award. Under the award, the rig would receive a specified day rate. Due to the collision, the timeline for commencing operations was disrupted, causing the rig owner to suffer property damages, loss of use damages, and demurrage expenses.
- Cunard Shipping sued the US Dept of Justice for faulty maps when the QE2 hit a submerged rock off of Martha's Vineyard damaging 400 ft of its 963 ft hull. All 1,815 passengers were evacuated and the ship was dry-docked for repairs for more than a month.

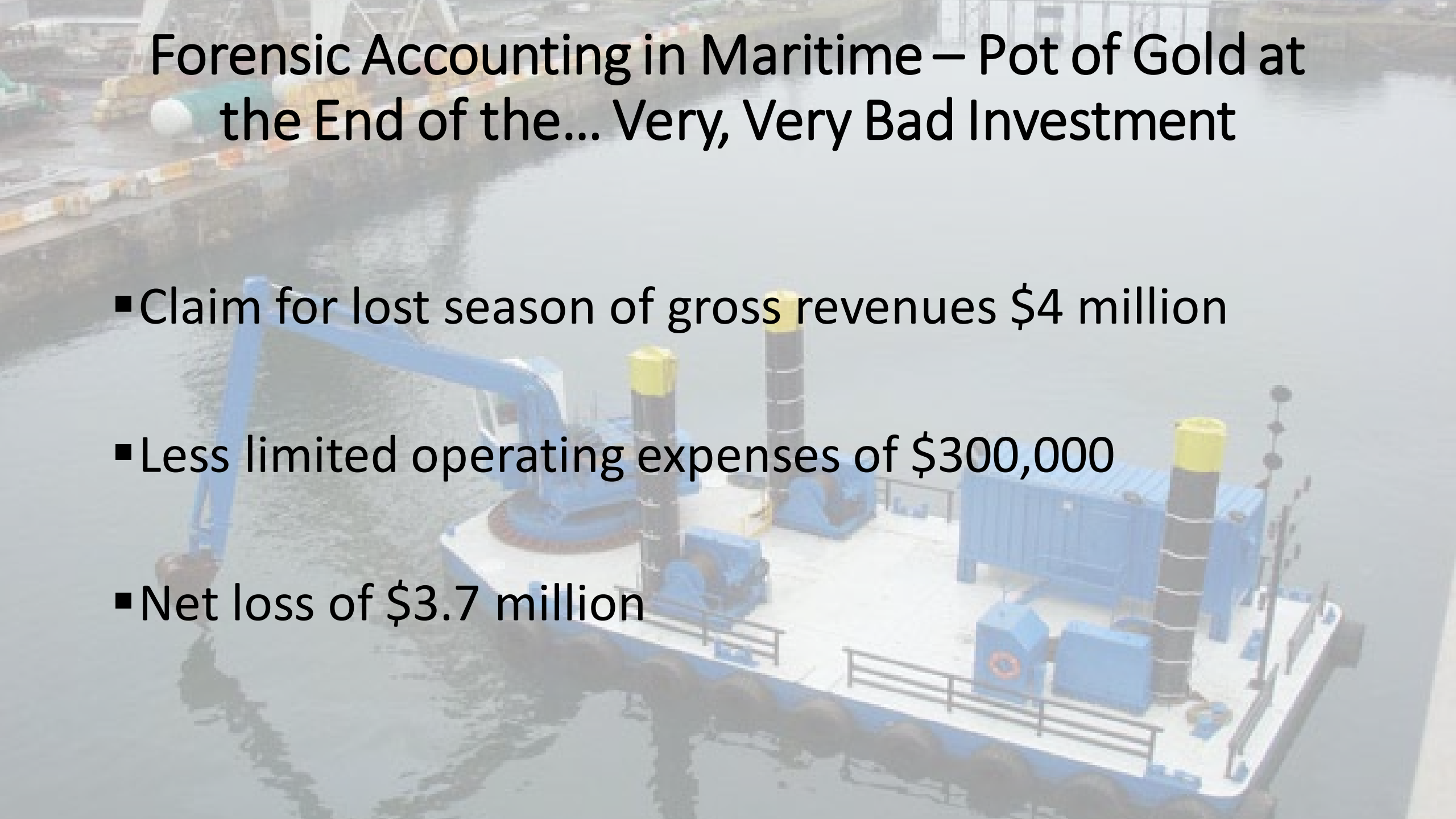
Forensic Accounting in Maritime – Pot of Gold at the End of the... Very, Very Bad Investment

AKA why I had to grovel after chiding my husband for watching every episode of 8 seasons of Bering Sea Gold

- Suit filed by owners of a walking spud barge against U/W for delayed payment of policy limits on claimed CTL
- Claim for season of lost revenues since repairs could not be made in time.
- Policy Limits \$3 million Hull and Machinery
- 4 months of operation per year and not to exceed 4 crew
- Lay up warranty - Oct 1 through June 1 each year

Forensic Accounting in Maritime – Pot of Gold at the End of the... Very, Very Bad Investment

- Claim for lost season of gross revenues \$4 million
- Less limited operating expenses of \$300,000
- Net loss of \$3.7 million



Forensic Accounting in Maritime – Pot of Gold at the End of the... Very, Very Bad Investment

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Forensic Accounting in Maritime – Claim Issues

- CTL document reported that while out dredging weather turned for the worse and cable broke while trying to lift spud. Dredge was evacuated and they were forced to leave dredge out in storm.
- Nome Nugget provided “nuggets” of info conflicting statement
- Further interview of crew members and harbor master provided further conflicting information

Forensic Accounting in Maritime – Claim Issues

- **Claim based on price of \$1,200 per oz.; 2015 prices as low as \$1,081 per oz.**
- **Divided by operating hours to arrive at revenues per hour of \$1.53 oz. per hour**
- **Both the days of production and the length of hours per day were overstated. Production ceased and started frequently due to repairs. Operations were projected to start on July 1; however, the mining efforts did not actually begin until August 3 and they mined 8 days in that month. September was not much better until the loss on September 22**

Forensic Accounting in Maritime – Claim Issues

- Claim projected person on the excavator to have a dredging cycle of 40-50 seconds per scoop for 18 hours a day to collect 250 cubic yards per hour.
- Expert geologist likened this to having the excavator operator literally spinning in circles like a carnival ride for 18 hours a day.

Forensic Accounting in Maritime – Claim Issues

- Claimed gross revenues overstated for:
 - o Leaseholder, operator and other volume reductions.
 - o Melt loss and assays

Forensic Accounting in Maritime – Claim Issues

- Gold deposits on the leases are not migratory in nature and, as a result, are not depleted by the passage of time.
- The damages, **if any**, are not the profits they would have made due to the loss of gold but rather the time value of money as it relates to delayed production.

Forensic Accounting in Maritime – Financial Issues

- Significant **crew expenses were not reported** as either W-2 wages or 1099 contract workers. According to crew interviews, at least some crew was told they were to be W-2 employees and this was not done.
- **Home claimed as an asset of the business**; however, it appeared as though it was owned by one of the owners
- **Income** on the Financial Statements was **manipulated** in order to try to get favorable financing on a LOC

Forensic Accounting in Maritime – Financial Issues

- Original equity investment was \$4.8 million which crept up to \$5.3 million by year end. An additional \$700,000 was already owed to partners along with interest in excess of \$18,000. Plaintiff had also incurred a letter of credit of \$250,000. These “cash calls” were due to delays and operating issues unrelated to the storm (which occurred at end of season).
- A quote for significant expenses was obtained for a new winch shortly before loss.

Forensic Accounting in Maritime – Intent to Repair

- **Payouts by** the various **insurers** were made in the following April, May and June after the loss. These monies were immediately used to pay off all of the investor loans and to make partner distributions.

Forensic Accounting in Maritime – Intent to Repair

- Effective June 1, 2015, Alaska introduced **new regulations** governing the operation of commercial vessels, including mining barges. See Marine Safety Information Bulletin 05-15. This would have required Plaintiff to carry a master mariner and chief engineer with coast guard credentials at all times.
- Further State inspection April 2015 indicated “Due to new rules being enforced by the coastguard requiring personnel with a captain’s license, the propulsion units might not be replaced. If the propulsion units are not replaced then **the barge will be moved by tug.**”

Forensic Accounting in Maritime – Intent to Repair

- Plaintiff produced an unsigned document as evidence of the projected **cost to replace** the vessel at \$3,250,000; however, the quote was \$500,000 per month for a minimum of 6 months to lease, meaning the lessee pays more than the vessel was worth in six and one half months. The agreement also claims that 3 months of lease payments were due up front (\$1,500,000) but the balance due upon signing is \$3,300,000
- Partners sold the recently purchased **air bags** for the vessel shortly after the loss

Forensic Accounting in Maritime – Intent to Repair

- Per investor proposals, they likened their operations to the Christine Rose from the “Bering Sea Gold” television series claiming it mined 100,000 ounces of gold in 2014 (and used this figure to support their own projections).
- Records reflect that the Christine Rose mined 1,145 ounces of gold for revenues of \$1.3 million in 2014.
- For the loss year, the Christine Rose mined 13.8 ounces of gold for revenues of \$16,560.

Forensic Accounting in Maritime – Intent to Repair

- Internal correspondence between partner/owners indicate discussions to use insurance \$ to buy Jack-Up Rig rather than repair
- Owners thought dredge they bought would be able to jack up in high seas which was not the case
- Did not typically operate in anything over 2' seas bringing it into the harbor by skiff. This severely limited operating days.

Forensic Accounting in Maritime – A Very, Very Bad Investment

Case was settled in the hours leading up to the Owner/Partner Depositions

Forensic Accounting in Maritime

Mahalo

