

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

United States of America
United States Coast Guard

vs

MERCHANT MARINER'S LICENSE
NO.: 865 802
ISSUED TO:
PIERRE DEPASSE
Respondent

Docket No. 00-0381
PA Case No.: PA00000931

APPEARANCES:

LT Elena McCullough, SIO;
LT J.W. Deese, Coast Guard (Aux);
For the Coast Guard
Captian Ron Wahl, Lay Representative
For the Respondent

BEFORE: **Hon. Parlen L. McKenna**
United States Administrative Law Judge

DECISION AND ORDER

This suspension and revocation proceeding was instituted by the United States Coast Guard in the discharge of its duty to promote the safety of life and property at sea. It was brought pursuant to the legal authority contained in Title 46 U.S.C. § 7701-7705 and was conducted in accordance with the procedural requirements of Title 46, code of Federal Regulations (CFR) part 5 and Title 33 CFR part 20.

The hearing in this matter commenced at Tampa, FL on Wednesday, September 27, 2000. LT Elena McCullough, Senior Investigating Office and LT J.W. Deese (Aux), USCG duly authorized Investigating Officers of Marine Safety Office, United States Coast Guard, appeared for and represented the Coast Guard. Respondent appeared personally and was represented by Captain Ron Wahl (Lay Representative). A record of the hearing was made by Montana Reporting Services, a Certified Court-reporting firm.

On September 15, 2000, the Coast Guard filed an Amended Complaint pursuant to 46 U.S.C. 7703 and 46 C.F.R 5.27 charging the Respondent with Negligence, Misconduct and Violation of Law or Regulation as follows:

NEGLIGENCE: The Coast Guard alleges that on September 12, 1999, at approximately 27-27.5N, 082-43.8W, the Respondent was negligent in that he committed an act or failed to perform an act that contributed to a collision between the vessel Flying Bandit and tow line connected from vessel FL 7560KP to the person on an inner tub, which resulted in injury to a person on the vessel (FL 7560KP).

MISCONDUCT: The Coast Guard alleges that on September 12, 1999, at approximately 27-27.5N, 082-43.8W, the Respondent wrongfully failed to safely navigate the Flying Bandit in that he collided with the towline connected between FL 7560KP and the person on the inner tube, which resulted in injury to a person on the vessel (FL 7560KP).

VIOLATION OF LAW OR REGULATION: The Coast Guard alleges that on September 12, 1999, at approximately 27-27.5N, 082-43.8W, the Respondent violated Title 33 United States Code Chapter 30, § 1602 et. seq.: Rule 5 – Failure to have a proper lookout; Rule 8 – Failure to take appropriate action to avoid collision; Rule 15 – Failure to give way to stand on vessel you were approaching on its port side in a crossing situation;

On September 27, 2000, a pre-hearing conference was held between the United States Coast Guard, the Respondent, Pierre Depasse, and the undersigned. At the conclusion of the pre-hearing conference, the parties requested that a Settlement Agreement be approved by the Administrative Law Judge;

WHEREAS, the Coast Guard withdraws with prejudice the charges of Negligence and Violation of Law or Regulation; the Respondent agrees to enter a plea of "no contest" to the following charge of Misconduct;

The Coast Guard alleges that on September 12, 1999, at approximately 27-27.5N, 082-43.8W, the Respondent:

- 1) wrongfully failed to safely navigate the Flying Bandit in that he collided with the towline connected between FL7560KP
- 2) wrongfully failed to take appropriate action to avoid collision; and
- 3) wrongfully failed to have a proper lookout.

WHEREAS, such plea was accepted after the Respondent was advised of his due process rights and knowingly and providently chose not to contest the merits of this case; and

WHEREAS, the Respondent has agreed to waive his right to appeal this case and to contest the validity of the instant motion and this Order; and

WHEREAS, the Respondent has no prior record with the Coast Guard; and

WHEREAS, the Respondent lists his current address as: *[REDACTED]*

WHEREAS, both the Respondent and the United States Coast Guard have agreed to the sanction set forth below; it is as follows:

ORDERED, that the Merchant Mariner's License No. 865 802 issued to Pierre DePasse, the Respondent herein, and all other valid licenses and/or documents issued to him by the United States Coast Guard, or any predecessor authority, now held by him, are hereby suspended for one (1) year, six (6) months outright, with the remaining six (6) months remitted on twelve (12) probation .

IT IS FURTHER ORDERED, that Respondent shall have the right to exchange two (2) months of his outright suspension for completion of a Rules of the Road Course. In addition, the Respondent shall have the right to exchange three (3) of the remaining four (4) months outright suspension by signing an agreement that he will not operate a parasail vessel for the next two (2) years.

Hon. PARLEN L. MCKENNA
Administrative Law Judge

DATED: October 27, 2000
Alameda, California

Copy: MSO Tampa, FL
CGD7(m)
ALJ Docketing Center