

UNITED STATES OF AMERICA  
U.S. DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD

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UNITED STATES COAST GUARD

Complainant

vs.

ERIC NORMAN SHINE

Respondent.

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Docket Number: CG S&R 03-0166  
CG Case No. 1671475

**DECISION AND ORDER**

**Issued: November 13, 2008**

**Issued by: Walter J. Brudzinski, Administrative Law Judge**

**Appearances:**

**For Complainant**

LCDR Christopher Tribolet, Esq.  
Coast Guard Island, Building 54A  
Alameda, CA 94501

**For Respondent**

Eric Norman Shine  
[REDACTED]

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## **I. PROCEDURAL HISTORY**

On March 6, 2003, the United States Coast Guard (Coast Guard) issued a Complaint against Eric Norman Shine (Respondent) that alleged he is medically incompetent due to a major depressive disorder or other psychiatric condition. In this Complaint, the Coast Guard sought revocation of Respondent's Coast Guard issued credentials. Respondent filed a timely Answer denying the factual and jurisdictional allegations. This case was heavily litigated and approximately 129 documents were filed prior to the original presiding Administrative Law Judge's (ALJ), Parlen L. McKenna, issuance of a Summary Decision. Judge McKenna issued his Summary Decision on February 20, 2004, revoking Respondent's merchant mariner credentials. Judge McKenna found Respondent suffered from mental impairment of sufficient disabling character which rendered him unable to safely perform his duties aboard a merchant vessel. Respondent appealed the Decision and on December 27, 2006, the Vice Commandant of the Coast Guard issued a Decision finding that a genuine issue of material fact existed. Appeal Decision 2661 (SHINE)(2006). The Vice Commandant vacated Judge McKenna's Summary Decision and remanded the case for hearing. Id.

On January 5, 2007, Judge McKenna issued an Order recusing himself from any further participation in this matter. On January 30, 2007, the Chief Administrative Law Judge assigned the remanded case to the undersigned for adjudication.

This case continued to be heavily litigated. More than forty (40) motions, replies, and orders were filed prior to this final Decision and Order.<sup>1</sup> During the remand, Respondent submitted many lengthy motions that individually approached or exceeded 100 pages in length.

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<sup>1</sup> Attachment A includes a complete index of the filings and issuances made in this case.

These motions raised a multitude of opinions and objections. In an effort to address these and other issues, I ordered an in-person pre-hearing conference to be held on October 23, 2007. On October 29, 2007, I issued a Memorandum and Order of Pre-Hearing Conference addressing the many matters that were heard during the pre-hearing conference.

On May 20, 2008, a hearing on these matters commenced in Long Beach, California; the hearing lasted for four (4) days and concluded on May 23, 2008. I conducted these proceedings in accordance with the Administrative Procedure Act, as amended and codified at 5 U.S.C. 551-59 and Coast Guard regulations located at 46 CFR Part 5 and 33 CFR Part 20. Lieutenant Commander Christopher Tribolet represented the Coast Guard at the hearing. Respondent appeared at the hearing *pro se*.

The Coast Guard introduced seventy-one (71) exhibits and the testimony of three (3) witnesses. The Respondent offered no witnesses and introduced two (2) exhibits into evidence. The witnesses and exhibits are listed in Attachment B.

On July 9, 2008, Respondent filed a 170 page post-hearing brief entitled “CONCLUSIONS [sic] OF LAW AND FACT ORDERED FILED BY JULY 10, 2008 – FILED UNDER DURESS AND BY COMPULSION.” The Coast Guard chose not to file a post-hearing brief.

After careful review of the entire record, including witness testimony, applicable statutes, regulations, and case law, the factual allegation of incompetence, in violation of 46 U.S.C. 7703, is found PROVED.

## **II. FINDINGS OF FACT**

1. Respondent was the holder of the Coast Guard issued license number 918736 which was issued June 1, 2000 and expired on June 1, 2005. (IO Ex. 2).<sup>2</sup>
2. Respondent graduated from the U.S. Merchant Marine Academy at Kings Point in 1991. (Tr. at 4).

### **A. SS MAUI**

3. Matson Navigation Company, Incorporated employed Respondent as a second assistant engineer on board the Steamship (SS) MAUI between March 6, 2001 and June 11, 2001. (Tr. at 60-63; IO Ex. 3).
4. The SS MAUI is a 24,544 gross ton, coastwise container ship. (IO Ex. 3).
5. On June 11, 2001, appropriate authority ordered Respondent to stand watch from 0400-0800. One of his responsibilities was to oversee the boilers in the engine room. (Tr. at 64-67; IO Ex. 6).
6. As a second assistant engineer, Respondent's job required that he assist in repairs conducted in the engine room. (Tr. at 67-74; IO Ex. 7).
7. On June 11, 2001, Respondent was permitted to go to breakfast while standing watch from 0400-0800. Following breakfast, the First Engineer and Chief Engineer ordered Respondent to return to the engine room and resume his watch. (Tr. at 66-68).
8. Respondent refused the direct order to return to his duty station. (Tr. 68, 75-76, 127).
9. Respondent was discharged for cause from the SS Maui for failure to return to his duty station on June 11, 2001. (Tr. at 79; IO Ex. 6, 7).
10. For unknown reasons, Matson Navigation Company, Incorporated later rescinded Respondent's discharge. (Tr. at 130, 145-46, 151; IO Ex. 8).

### **B. M/V PRESIDENT JACKSON**

11. American Ship Management employed Respondent as a third assistant engineer on board the Motor Vessel (M/V) PRESIDENT JACKSON between December 2, 2001, and January 5, 2002. (Tr. at 202; IO Ex. 4).

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<sup>2</sup> Citations referencing the transcript are as follows: Transcript followed by the page number (Tr. at \_\_\_); Citations referring to Agency Exhibits are as follows: Investigation Officer followed by the exhibit number (IO Ex. \_\_\_). Citations referencing to Respondent's Post Hearing Brief are as follows: Respondent's Post Hearing Brief followed by the page number (Rept's PHB at \_\_\_).

12. The M/V PRESIDENT JACKSON is a 50,205 gross ton, coastwise container ship. (IO Ex. 4).
13. Allen Hochstetler served as the First Assistant Engineer aboard the M/V PRESIDENT JACKSON between December 2, 2001, and January 5, 2002 and was Respondent's direct supervisor. (Tr. at 201-240).
14. Part of Respondent's duties as a third assistant engineer was to rotate "duty days" with the other engineers. During a duty day, the engineer would roam the engine room, generally observe and inspect the components therein to ensure the equipment was working properly. (Tr. at 202-03).
15. The "duty day" required an engineer to work eight (8) hours during the day and then to be on call during the night. (Tr. at 202-03).
16. When an engineer is not serving a "duty day," the First Engineer or Chief Engineer assigns the engineer individual tasks to complete. (Tr. at 202-05).
17. The First Engineer assigned Respondent only simple welding jobs because he deemed Respondent not competent to perform many of the tasks a third assistant engineer should be capable of performing. (Tr. at 208-09).
18. When conducting welding operations, the general practice is that a welder advises the bridge where the welding is occurring. The bridge then turns off or secures the appropriate fire alarm. When the job is complete, the welder so advises the bridge and the fire alarm is reengaged. (Tr. at 210-11).
19. During the shifts in question, Respondent would occasionally forget to inform the bridge when he completed his welding jobs. As a result, the area Respondent was working would be unprotected by fire alarms, affecting the safety of the ship. (Tr. at 211-13).
20. The engineers aboard the M/V PRESIDENT JACKSON conducted firefighter training drills. During the training drills, it was common for one member of the team to dress in a fire-suit on a rotational basis. The fire-suit includes a breathing apparatus, a full suit, and boots — it is uncomfortable to wear. (Tr. at 215-16).
21. Respondent resisted heavily when it was his turn to wear the fire-suit. When he did put on the suit, there were instances where he would make a mockery of the drill and disrupt training. (Tr. at 216-17).
22. On one occasion, the engineers discovered a switch in the engine room of the M/V PRESIDENT JACKSON but no one knew what it operated. It is dangerous to turn on a switch not knowing what it will do. (Tr. at 222-23).

23. The First Assistant Engineer ordered Respondent to trace the switch to its source. Instead of tracing the switch, Respondent disobeyed the order and flipped the switch on and off several times. (Tr. at 222-23).
24. On December 24, 2001, the Chief Engineer decided that no one would work on Christmas Day except Allen Hochstetler, the First Assistant Engineer, who was the duty day engineer. Knowing that Respondent was slow to follow orders, Mr. Hochstetler ordered Respondent several times not to work on Christmas Day. Respondent still showed up to work on Christmas Day as if it was a normal working day. (Tr. at 224-25).
25. Appropriate authority ordered Respondent to stand watch in the Engine Control Room at 0800 on December 31, 2001. Respondent showed up late for duty and received a letter of warning. (Tr. at 226-29, 290-94; IO Ex. 10).
26. Respondent informed the other engineers, including his supervisors, that he had attended Kings Point Merchant Marine Academy and that anyone who did not attend Kings Point was not as capable as he was. (Tr. at 214-15).
27. Respondent told Allen Hochstetler that he (Respondent) had sued people in the past who have caused him problems. Respondent also told Mr. Hochstetler that he (Respondent) had accessed the personnel records of the ship and had the entire crews' home addresses, and knew where Mr. Hochstetler lived. Respondent was not authorized to have access to this information. (Tr. at 243-46; IO Ex. 11-12).
28. The First Assistant Engineer sent an e-mail to his supervisors aboard the M/V PRESIDENT JACKSON on January 3, 2002 stating that because of Respondent's aggression and continuous threats of litigation, he feared for his safety and livelihood and requested that he not supervise Respondent on the upcoming voyage. (Tr. at 238-41; IO Ex. 12).
29. Donald Bazille, an electrician aboard the M/V PRESIDENT JACKSON, wrote a letter to American Ship Management on January 3, 2002 stating that Respondent's continued threats of lawsuits had made the entire ship an unpleasant place to work. (Tr. at 247-48; IO Ex. 11).
30. Richard English, the M/V PRESIDENT JACKSON's Chief Mate, wrote a letter to the ship's Master on January 4, 2002. In this letter, Mr. English stated that Respondent was the most disruptive crew member he had dealt with during his thirty-three (33) year mariner career. He stated that Respondent has made continuous threats of litigation against the crew and ship. (Tr. at 247-48; IO Ex. 14).
31. On January 5, 2002, Respondent was discharged for cause from the M/V PRESIDENT JACKSON because of his insubordination, continued intimidation of crew and officers, his confrontational attitude, unprofessional behavior, continued threats of lawsuits, and aggressive behavior. (Tr. at 250-58; IO Ex. 19).

### **C. Mental Health Treatment**

32. On July 18, 2002, Respondent filed disability insurance paperwork stating he was under a doctor's care and on January 30, 2002 was diagnosed with severe depression. (Tr. at 357-58; IO Ex. 24).
33. On October 1, 2002, Respondent sent a letter to the Marine Engineers' Beneficial Association (MEBA) Medical Plans Administrator requesting his medical coverage be reinstated. He claimed that Drs. Shafer, Riddle, and Tadros filed the proper insurance paperwork for him to obtain coverage. He further claims that he was diagnosed as "severely depressed," suffering from a "mood disorder," totally unable to work, and was treated by Dr. Tadros for emergency mental health care. (Tr. at 358-59; IO Ex. 25).
34. On November 13, 2002, Respondent filed a request with the Federal Family Education Loan Program to defer payment of his loans because he was disabled. He included a physician's statement that on January 30, 2002, he became unable to work and suffered from severe depression and "rule out bipolar." (Tr. at 361-64; IO Ex. 70).
35. The term "rule out" is a medical term meaning a certain diagnosis has not been confirmed, but that the particular diagnosis is highly suspected. (Tr. at 362; IO Ex. 32 at 162).
36. Severe depression and bipolar are lifelong conditions and are not temporary. (Tr. at 363-65).
37. Dr. Pamela Schafer, M.D. is a psychiatrist who treated Respondent. On February 20, 2002, Dr. Schafer sent a letter to Respondent informing him he needed to avoid conflict since he is "highly irritable and not as aware of it as you should/could/would be. I do think you need medicine for the irritability, depression, & disrepair." (Tr. at 369-76; IO Ex. 28, emphasis in original).
38. Dr. Emad Tadros, M.D. is a psychiatrist who treated Respondent. He diagnosed him as likely suffering from major depression and suggested that he avoid any stressful changes in this life. (Tr. at 358-59, 380-88; IO Ex. 25, 29, 30, 31).
39. On admission to Sharp Mesa Vista Hospital in San Diego, California on January 21, 2003, Respondent received a Global Assessment of Functioning (GAF) of 25-30. He was ultimately diagnosed with bipolar manic-depressive disorder and an unidentified personality disorder. The diagnosis also mentioned that he likely suffers from narcissistic and paranoid personality traits. (Tr. at 404-06; IO Ex. 71).
40. The DSM-IV is the standard diagnostic and statistical manual used by mental health providers in the United States. (Tr. at 383).

41. The DSM-IV contains the GAF scale. This scale is from zero (0) to one-hundred (100), with ninety (90) being normal. (Tr. at 382; DSM-IV at 34, (4th Ed. 2003, Text Revision)).
42. A GAF of 20-30 is characterized by behavior that “is considerably influenced by delusions, or hallucinations, or serious impairment in communication and judgment, e.g. sometimes incoherent, acts grossly inappropriately, suicidal preoccupation, or inability to function in almost all areas. Stays in bed all day. No job. No friends.” (Tr. at 412).
43. A personality disorder “is an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual’s culture. It is pervasive and inflexible. It has an onset in adolescent or early adulthood. It is stable over time and leads to distress or impairment.” (Tr. at 414).
44. Personality disorders are not treatable and last a lifetime. (Tr. at 416, 483).
45. Personality disorders normally manifest in early adulthood. (Tr. at 414,553).
46. “Narcissism is a self-grandiose opinion of yourself and stature. A narcissistic personality disorder is a pattern of grandiosity, need for admiration, and lack of empathy.” (Tr. at 415).
47. An individual who is bipolar manic will act in an uncontrolled manner. (Tr. at 417). Such behavior will often result in increased productivity but the activities will often be nonproductive and self-destructive. (Id.).
48. An individual who is bipolar depressive will suffer from symptoms of depression which can affect cognitive thinking. (Tr. at 417).
49. Dr. Francine Kulick, Ph.D. is a licensed psychologist who conducted a mental health examination of Respondent. This examination was conducted as part of Respondent’s lawsuit against American Ship Management. (Tr. at 423-38; IO Ex. 32 at 162).
50. Dr. Kulick diagnosed Respondent as having a major depressive disorder and a personality disorder with paranoid, obsessive-compulsive, and narcissistic features. (Id.)
51. Dr. Kulick diagnosed Respondent as having a “rule out” diagnosis of delusional disorder. (Id.)
52. Respondent took the Minnesota Multiphasic Personality Inventory-2 (MMPI-2) test on January 29, 2003. The results show that he has a moderate to severe level of functional instability. Test diagnoses show Respondent has emotionally explosive personalities to include paranoid personalities and states, passive aggressive personalities, atypical depressive, and suicidal thoughts. (Tr. at 429-35; IO Ex. 32).

53. Major depression is caused when there is a chemical imbalance in the brain. Although medication can treat the imbalance, the individual will always have the disease. Precipitating events, such as job loss and bereavement, can trigger an episode of major depression. (Tr. at 436).

### **III. DISCUSSION**

The purpose of Coast Guard suspension and revocation proceedings is to promote safety at sea. 46 U.S.C. 7701. To assist in this goal, Administrative Law Judges (ALJs) have the authority to revoke mariner credentials if a mariner commits an act of incompetence when acting under the authority of those credentials. See 46 U.S.C. 7703.<sup>3</sup> Under Coast Guard procedural rules and regulations, the Coast Guard bears the burden of proof and shall prove any allegations of incompetence by a preponderance of the evidence. See 33 CFR 20.701-702; see also Appeal Decision 2485 (YATES)(1989). In this case, the Coast Guard seeks to prove Respondent is medically incompetent.

#### **A. Jurisdiction**

Jurisdiction is a question of fact and must be determined before the substantive issues of the case are decided. Appeal Decision 2620 (COX)(2001). Under 46 U.S.C. 7703(1), the Coast Guard has jurisdictional authority to revoke a respondent's license if the respondent committed an act of incompetence "when acting under the authority of that license . . . ." A mariner is considered acting under the authority of their license if the holding of that license is required by law or is required by an employer as a condition of employment. 46 CFR 5.57(a); see also Appeal Decision 2615 (DALE)(2000); Appeal Decision 2393 (STEWART)(1985).

In this case, the Coast Guard asserts Respondent is medically incompetent; therefore, his merchant mariner license should be revoked. The Coast Guard alleged Respondent, while

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<sup>3</sup> Since the alleged factual allegations occurred between March 6, 2001 and March 6, 2003 (filing of Complaint), all statutory and regulatory references, unless procedural in nature, will reflect the 2001-2003 laws.

serving aboard the Steamship (SS) MAUI between March 6, 2001 and June 11, 2001, and the Motor Vessel (M/V) PRESIDENT JACKSON between December 2, 2001 and January 5, 2002, committed acts of incompetence. During these dates, Respondent was the holder the Coast Guard issued license number 918736. (IO Ex. 2; Tr. at 101).

Respondent's employment aboard the SS MAUI and M/V PRESIDENT JACKSON satisfies the "required by law test." The SS MAUI is a 24,544 gross ton coastwise container ship whereas the M/V PRESIDENT JACKSON is a 50,205 gross ton coastwise container ship. (IO Ex. 3, 4). Title 46 U.S.C. 8701 requires individuals serving on coastwise vessels over 100 gross tons to hold a Coast Guard issued credential. Because Coast Guard issued credentials are required for service aboard the SS MAUI and M/V PRESIDENT JACKSON, such service on those vessels constitutes "acting under the authority" of the credentials. See Appeal Decision 2414 (HOLLOWELL)(1985) (interpreting the predecessor statute to 46 U.S.C. 7701 and 46 CFR 12.02-7). Thus, the Coast Guard has established Respondent was acting under the authority of his credentials while serving aboard the SS MAUI and M/V PRESIDENT JACKSON. As such, the Coast Guard has jurisdiction to determine if Respondent committed an act of incompetence while working under those credentials.

### **B. Mental Incompetence**

The term "incompetence" is defined as "the inability on the part of a person to perform required duties, whether due to professional deficiencies, physical disability, mental incapacity, or any combination thereof." 46 CFR § 5.31. A person who suffers from mental incompetence may not "serve aboard any vessel, whether in port or at sea, in any capacity in which he could cause serious harm to himself, to others, or to the vessel itself." Appeal Decision 2181

(BURKE)(1980). The Coast Guard may investigate and issue a Complaint if reasonable grounds exist to believe the holder of a Coast Guard issued credential committed an act of incompetence while acting under the authority of that credential. See 46 CFR sections 5.101(a) (1) and 5.105(a). An ALJ finding of mental incompetence “must rest upon substantial evidence of a reliable and probative character showing that the person charged suffers from a mental impairment of sufficient disabling character to support a finding that he is not competent to perform safely his duties aboard a merchant vessel.” Appeal Decision 2417 (YOUNG)(1985). Ordinarily, allegations of mental incompetence should be based upon evidence subsequent to any fit for duty examination and issuance of a merchant mariner credential. Appeal Decision 2280 (ARNOLD)(1982).

### **C. Coast Guard’s Case in Chief**

In this case, the Coast Guard alleges Respondent suffers from a major depressive disorder or other psychiatric condition which renders him medically incompetent. The Coast Guard first seeks to prove these allegations by providing evidence that Respondent exhibited erratic behavior while serving as an engineer aboard the SS MAUI and the M/V PRESIDENT JACKSON. The Coast Guard also introduced reports from numerous psychotherapists who treated Respondent. These reports diagnosed Respondent as suffering from major depression and personality disorders. Finally, the Coast Guard presented expert witness testimony of Dr. Arthur French, M.D. Dr. French has knowledge of which medical conditions, including psychiatric, can affect maritime safety. Dr. French testified that Respondent’s psychiatric disorders, which manifested while serving aboard the SS MAUI and M/V PRESIDENT JACKSON, undoubtedly makes Respondent a danger to maritime safety.

## **1. Respondent's Behavior Aboard Vessels**

Respondent graduated from the U.S. Merchant Marine Academy at Kings Point in 1991, obtained a Coast Guard issued merchant mariner license, and has served aboard several marine vessels as an engineer. (Tr. at 4; IO Ex. 32). The Coast Guard alleged Respondent displayed erratic and paranoid behavior while serving aboard marine vessels. Specifically, the Coast Guard provided evidence of Respondent's irrational behavior while working as an engineer on the SS MAUI and the M/V PRESIDENT JACKSON. The Coast Guard believes the evidence shows that Respondent has a mental impairment which affects his ability to serve safely aboard maritime vessels.

### SS MAUI

Between March 6, 2001, and June 11, 2001, Matson Navigation Company employed Respondent as a second assistant engineer on board the 24,544 gross ton coastwise SS MAUI. (Tr. at 60-63; IO Ex. 3). Cecil Ray was the SS MAUI's Chief Engineer during this time period and was Respondent's supervisor. (Tr. at 62). Mr. Ray graduated from the California Maritime Academy in 1970 and is a well respected mariner. (Tr. at 56-60). Mr. Ray testified on behalf of the Coast Guard concerning Respondent's actions onboard the SS MAUI.

On June 11, 2001, Respondent was ordered to stand watch from 0400 to 0800 in the SS MAUI's engine room. (Tr. at 64-67; IO Ex. 6). Respondent's principle responsibility was to oversee the boilers, which were experiencing problems and in need of repair. (Id.). During his watch, Respondent was permitted to obtain breakfast, but was ordered to return to his watch station after eating breakfast. (Id.). However, following breakfast, Respondent told his supervisors that union rules prohibited him from continuing to stand watch and he refused to return to his duty station. (Tr. 68, 75-76, 127).

As the Chief Engineer, Mr. Ray was in Respondent's chain-of-command and served as Respondent's supervisor aboard the SS MAUI. (Id.). A command structure and the ability of individuals to follow orders are very important aboard merchant marine vessels as it promotes safety at sea. (Tr. at 78). Respondent's refusal to return to work negatively impacted the ability of the Chief Engineer to complete the needed repairs to the boiler, creating a potential safety issue. (Tr. at 74-75, 134-35). While an employee has the right to refuse an order which would put someone in danger, Respondent's refusal to work was based on a contractual dispute. (Tr. at 68, 140). As a result, Respondent was discharged for cause from the SS Maui for failure to return to his duty station on June 11, 2001. (Tr. at 79; IO Ex. 6, 7). Matson Navigation Company later rescinded Respondent's discharge; it is not known why the discharge was rescinded (Tr. at 130, 145-46, 151; IO Ex. 8).

Respondent's refusal to work on June 11, 2001 was not an isolated incident. Mr. Ray had the opportunity to work with Respondent over a period of about six (6) months and found Respondent very hard to supervise and direct. (Tr. at 96-97, 165-80). In a performance evaluation of Respondent, Mr. Ray wrote "Mr. Shine is a professional victim. He can never accept fault for his own actions or lack there of. . . [h]e lacks the skill to be a [second assistant engineer and] lacks the personality to seek knowledge from his fellow engineers." (Tr. at 92-94; IO Ex. 7). Mr. Ray testified that while Respondent is intelligent, he is very difficult to work with, has a hard time focusing on his job, and should not be serving as a merchant mariner. (Tr. at 180). I find Mr. Ray's testimony highly credible.

#### MV PRESIDENT JACKSON

Between December 2, 2001, and January 5, 2002, American Ship Management employed Respondent as a third assistant engineer on board the 50,205 gross ton coastwise MV

PRESIDENT JACKSON. (Tr. at 202; IO Ex. 4). Mr. Allen Hochstetler served as the First Assistant Engineer aboard the M/V PRESIDENT JACKSON during this time period and was Respondent's direct supervisor. (Tr. at 201-240). Mr. Hochstetler testified on behalf of the Coast Guard concerning Respondent's actions aboard the M/V PRESIDENT JACKSON. I find his testimony to be highly credible.

Part of Respondent's responsibilities aboard the M/V PRESIDENT JACKSON were to rotate "duty days" with other engineers. (Tr. at 202-03). A duty day required the engineer on duty to roam the engine room, keep an overall eye on everything, and ensure the equipment was working properly. (Id.). When an engineer was not serving a "duty day," the First or Chief Engineer assigned that engineer various tasks. (Tr. at 202-05). Respondent did not have the skills or desire to accomplish many of the tasks a third engineer was expected to undertake. (Tr. at 208-09 and his inability to perform complicated tasks interfered with the ability of the First Engineer to effectively delegate work within the engine room. (Id.). However, Respondent was capable of completing simple welding jobs and was often assigned such tasks. (Id.).

When conducting welding aboard a vessel, the welder needs to secure the fire zone in the area of the ship in which he is working. (Tr. at 210-11). This is accomplished by informing the bridge that welding is occurring and the bridge then turns off the fire alarm. (Id.). After the welding is finished, the welder informs the bridge the work is completed, and the bridge reengages the fire alarm. (Id.). When Respondent conducted welding, he would frequently forget to inform the bridge when he completed his work. (Tr. at 211-13). As a result, the area Respondent was working would be unprotected by fire alarms, affecting the safety of the ship. (Id.). Respondent's supervisors informed Respondent such actions were unacceptable and he needed to be more diligent. (Id.).

The engineers aboard the M/V PRESIDENT JACKSON also conducted firefighter training drills. (Tr. at 215-16). During training drills, it was common for one member of the team to dress in a fire-suit. (Id.). The fire-suit included a breathing apparatus, a full suit, and boots — it was uncomfortable to wear. (Id.). While each member of the team was ordered to wear the suit, Respondent would always protest greatly when it was his turn to put on the suit. (Tr. at 216-17). When Respondent would eventually dress in the suit he would proceed to make a mockery of the drill and disrupt the training. (Id.).

While Respondent did eventually obey orders to wear the fire-suit, Respondent did not always obey direct orders. For example, an unknown-switch was discovered in the engine room of the M/V PRESIDENT JACKSON. (Tr. at 222). Mr. Hochstetler ordered Respondent to not turn the switch on, but instead to trace the switch to its source; it can be dangerous to turn on a switch not knowing what it will do. (Tr. at 222-23). Instead of tracing the switch, Respondent disobeyed the order and flipped the switch on and off several times. (Id.).

Another example of Respondent's inability to follow orders concerns his actions on Christmas Day 2001. On December 24, 2001, the Chief Engineer decided that no one would work on Christmas Day except Mr. Hochstetler, who was the duty day engineer. (Tr. at 224-25). Knowing Respondent was slow to follow orders, Mr. Hochstetler ordered Respondent several times not to work on Christmas Day. (Id.). However, Respondent still showed up to work on Christmas Day and proceeded as if it was a normal working day. (Id.).

Respondent's failure to effectively follow orders was not the only manner in which he created a disruptive environment aboard the M/V PRESIDENT JACKSON. He was often confrontational with other officers and crew. For example, Respondent frequently informed other engineers, including his supervisors, that he attended Kings Point Merchant Marine

Academy and that anyone who did not attend Kings Point was not as capable as he. (Tr. at 214-15). Respondent would also inform crew members that he would sue anyone who caused him problems. (Tr. at 243-46; IO Ex. 11-12). In addition to this implicit threat, Respondent told Mr. Hochstetler that he had access to the personnel records of the ship and he knew the entire crews' home addresses, including where Mr. Hochstetler lived. (Id.). Mr. Hochstetler believed Respondent assertions even though Respondent was not supposed to have access to this information. (Id.).

Mr. Hochstetler was concerned about Respondents actions and wrote an e-mail to his supervisors on January 3, 2002. (Tr. at 238-41; IO Ex. 12). In this e-mail, Mr. Hochstetler stated because of Mr. Shine's aggression and continuous threats of litigation, he feared for his safety and livelihood and requested that he not supervise Respondent on the upcoming voyage. (Id.). This was not the only letter filed with the ship's chain-of-command addressing concerns related to Respondent. Donald Bazille, an electrician aboard the M/V PRESIDENT JACKSON, wrote a letter to American Ship Management on January 3, 2002. (Tr. at 247-48; IO Ex. 11). In this letter, Mr. Bazill stated Respondent's continued threats of law suits had made the entire ship an unpleasant place to work. (Id.). Richard English, the M/V PRESIDENT JACKSON's Chief Mate, wrote a letter to the ship's Master on January 4, 2002. (Tr. at 247-48; IO Ex. 14). In this letter, Mr. English said Respondent was the most disruptive crew member he had dealt with during his thirty-three (33) year mariner career. (Id.).

On January 5, 2002, Respondent was discharged for cause from the M/V PRESIDENT JACKSON because of his insubordination, continued intimidation of crew and officers, confrontational behavior, continued threats of lawsuits, and aggressive behavior. (Tr. at 250-58; IO Ex. 19).

## **2. Respondent's Mental Health Evaluations**

### ALJ Ordered Medical Evaluation

In this case, the Coast Guard alleges Respondent is medically incompetent due to a major depressive disorder or other psychiatric condition. Per the regulations, “[i]n any proceeding in which the physical or mental condition of the respondent is relevant, the ALJ may order him or her to undergo a medical examination.” 33 CFR 20.1313. Since this case concerns Respondent’s mental condition, the undersigned issued an order directing Respondent to undergo a medical examination by psychiatrist Dr. Nathan Lavid at government expense. During the hearing, Respondent stated Dr. Lavid called Respondent at his house in an attempt to schedule an appointment. (Tr. at 12-13, 797-98). Respondent took great offense to Dr. Lavid’s call and found it an invasion of privacy. (Id.). Respondent’s position is that Dr. Lavid’s staff should have called Respondent to make the appointment; he believes Dr. Lavid calling himself shows prejudice. (Id.). As a result, Respondent refused to undergo the ALJ ordered medical examination. (Id.).

A respondent’s refusal to undergo an ALJ ordered medical examination may be sufficient grounds for the ALJ to infer the results of such an examination would have been adverse to the respondent. 33 CFR 20.1313. While Respondent asserts Dr. Lavid is prejudiced, Respondent’s only basis for this determination is that Dr. Lavid called Respondent to make an appointment. A doctor’s attempt to schedule an appointment does not establish prejudice and is not sufficient grounds to refuse a medical examination. As a result, an inference is drawn, in accordance with 33 CFR 20.1313, that the results of the examination would have been adverse to Respondent.

### Respondent's Admissions and Medical Record

During the hearing, the Coast Guard introduced medical records and admissions made by Respondent concerning his mental health. As no physician-patient privilege exists in suspension and revocation hearings, the Coast Guard is allowed to introduce such evidence as long it is relevant to the charges alleged. See 33 CFR 20.802, 46 CFR 5.67. Since this case concerns Respondent's mental condition, Respondent's medical records and admissions concerning his mental health are relevant. Furthermore, in light of Respondent's refusal to be examined by a court appointed psychiatrist, these documents are of significant probative value. The following is a summary of Respondent mental health admissions and records.

Dr. Pamela Schafer is a psychiatrist who treated Respondent. (Tr. at 369-76; IO Ex. 28). On February 20, 2002, Dr. Schafer mailed a letter to Respondent informing him his insurance would cover an additional twenty-seven (27) sessions. (Id.). Within the letter, Dr. Schafer also informed Respondent she did not think he should leave town for school. (Id.). She wrote, "I think that you are too ill and will just get into more conflict there. You need time away from the conflict. You are highly irritable and not as aware of it as you should/could/would be. I do think you need medicine for the irritability, depression, & disrepair." (Id. – emphasis in original).

On October 1, 2002, Respondent filed a letter with his health insurance company requesting his medical coverage be continued. (Tr. at 358-59; IO Ex. 25). Respondent stated he was diagnosed as being "severely depressed" and suffering from a "mood disorder." (Id.). Respondent asserted his condition made him unable to work; he was being treated for emergency mental health care; and he needed his insurance to continue so he could continue his psychotropic medication. (Id.).

On November 13, 2002, Respondent filed a request with the Federal Family Education Loan Program to defer his educational loan payments because he was disabled. (Tr. at 661-64; IO Ex. 70). Within this request, a physician stated that on January 30, 2002, Respondent became unable to work and was diagnosed with severe depression and rule-out bipolar. (Id.). The term “rule out” is a medical term meaning a certain diagnosis has not been confirmed, but the particular diagnosis is highly suspected. (Tr. at 362; IO Ex. 32 at 162).

On January 21, 2003, Respondent was admitted into Sharp Mesa Vista Hospital in San Diego California. (Tr. at 404-06; IO Ex. 71). During his stay, Respondent was diagnosed with bipolar manic-depressive disorder, an unidentified personality disorder, and likely suffering from narcissistic and paranoid personality traits. (Id.). The psychiatrist treating Respondent was Dr. Emad Tadros. (Id.). Dr. Tadros treated Respondent for several months prior to the January 21, 2003 hospital admission and had previously diagnosed Respondent as likely suffering from major depression. (Tr. at 358-59, 380-88; IO Ex. 25, 29, 30, 31).

While at Sharp Mesa Vista Hospital, Respondent was given a Global Assessment of Functioning (GAF) rating of twenty-five (25) to thirty (30) upon admission. (IO Ex. 71). The GAF is a scale used by mental health professionals to assess a person’s current mental state. (Tr. at 382-84). This scale is from zero (0) to one-hundred (100), with ninety (90) being normal. (Id.). A GAF rating of twenty-five (25) to thirty (30) is characterized by behavior that “is considerably influenced by delusions, or hallucinations, or serious impairment in communication and judgment, e.g. sometimes incoherent, acts grossly inappropriately, suicidal preoccupation, or inability to function in almost all areas. Stays in bed all day. No job. No friends.” (Tr. at 412).

On January 23, 2003, Dr. Francine Kulick, a licensed psychologist, conducted a mental health exam of Respondent. (Tr. at 423-38; IO Ex. 32 at 162). This exam was conducted as part

of Respondent's lawsuit against American Ship Management. (Id.). Dr. Kulick diagnosed Respondent as having a major depressive disorder and a personality disorder with paranoid, obsessive compulsive, and narcissistic features. (Id.). She stated there is a "narcissistic quality is Mr. Shine's grandiosity about his accomplishments." (IO Ex. 32 at 162). Dr. Kulick also wrote that Respondent has a rule out diagnosis of delusional disorder and consistent with this diagnosis, Respondent "seems to feel conspired against and the victim of an injustice that must be remedied by legal action." (Tr. at 423-38; IO Ex. 32 at 162). She asserts Respondent's work is the focus of his life; however, his personality disorders create longstanding problems with his jobs. (IO Ex. 32 at 163).

On January 29, 2003, Respondent took the Minnesota Multiphasic Personality Inventory-2 (MMPI-2). (Tr. at 429-35; IO Ex. 32). The test results found Respondent has a moderate to severe level of functional instability. (Id.). It further indicated that Respondent has emotionally explosive personalities to include paranoid personalities and states, passive aggressive personalities, atypical depressive, and suicidal thoughts. (Id.).

### **3. Mental Conditions and Danger to Maritime Safety**

Coast Guard regulations do not list specific mental conditions that disqualify a mariner from holding a merchant marine document or license; however, the Coast Guard provides guidelines for evaluating a mariner's medical eligibility in its published Navigation and Vessel Inspection Circular (NVIC 2-98). (Tr. at 328-43; IO Ex. 63, 64). NVIC 2-98 addresses some, but not all mental health disorders which may disqualify an individual from holding a merchant mariner credential. (Id.). Examples of potentially disqualifying disorders include: having been diagnosed with a primary psychosis, having a condition requiring the use of psychotropic medications, and exhibiting suicidal behavior. (Id.). If a mariner is found to have a

disqualifying mental disorder and is denied a Coast Guard issued credential, the mariner may request a wavier from the National Maritime Center. (Tr. at 339-47; IO Ex. 64). Dr. Arthur French is Chief of the Medical Evolutions Branch at the National Maritime Center. (Tr. at 323). His department is responsible for determining if a mariner's medical condition will affect marine safety and if a wavier should be granted. (Tr. at 346-47).

Dr. Arthur French testified on behalf of the Coast Guard and provided an opinion on how Respondent's mental condition could affect marine safety. Dr. French entered the Coast Guard Academy in 1969, attended medical school in 1984, and continues to serve with the Coast Guard as a medical doctor. (Tr. at 323-27). Dr. French is knowledgeable on issues concerning mental health and has treated patients with psychiatric disorders. (Id.). Dr. French is not a psychiatrist and is not an expert at the diagnoses of mental conditions. (Tr. at 547, 558-59). However, a review of Dr. French's background and testimony establish that Dr. French has a strong understanding of how individual medical conditions can affect safe maritime operations. Therefore, instead of providing a diagnosis of Respondent, Dr. French reviewed the diagnoses previously made on Respondent and discussed how such medical conditions could affect maritime safety. Dr. French's testimony was found to be highly credible. Dr. French concluded that a mariner with Respondent's medical conditions would represent a great danger to himself and to others if allowed to operate under merchant mariner credentials. (Tr. at 638). I accord great weight to Dr. French's opinion.

As addressed above, Respondent has been diagnosed as suffering from several severe mental health conditions to include: mood disorders, personality disorders, and delusional disorder. Dr. French asserts that each of these conditions can affect a mariner's ability to safely perform duties aboard a vessel. Let us first consider Respondent's mood disorders.

Respondent was diagnosed as suffering from two (2) mood disorders, to include a major depressive disorder and as experiencing manic episodes. Major depressive disorder is caused by a chemical imbalance in the brain and results in loss of concentration and affects an individual's cognitive thinking. (Tr. at 417, 436, 476). Precipitating events, such as job loss and bereavement, can trigger episodes of major depression. (Id.). Likewise, manic individuals will often behave in an uncontrolled manner. (Tr. at 417-18). Such behavior may result in increased productivity; however the activities will often be ineffectual and self-destructive. (Id.). An individual who suffers from major depressive disorder and is manic is considered to be bi-polar manic depressive. Dr. French states the physical and cognitive manifestations of a person suffering from bi-polar manic depressive disorder are not conducive to a safe maritime environment. (Tr. at 416-17, 424-25). The ability to be in control of ones actions and to have rational thinking is necessary for adequate performance when working under maritime credentials. (Id.). While mood disorders can be treatable, they are lifelong conditions and are not temporary. (Tr. at 363-65, 480). Respondent provided no evidence he is currently seeking treatment for his mood disorders.

Respondent has also been diagnosed as suffering from, or has been deemed likely to possess, several personality disorders to include, narcissistic, obsessive-compulsive, and paranoid personality disorders. An individual with a narcissistic personality disorder will display a pattern of grandiosity, need for admiration, and lack of empathy. (Tr. at 415); DSM-IV at 714 (4th Ed. 2003, Text Revision). An individual with obsessive-compulsive personality disorder is preoccupied with interpersonal control at the expense of flexibility, openness, and efficiency. DSM-IV at 725. An individual with a paranoid personality disorder displays a pattern of distrust of others such that their motives are interpreted as malevolent. DSM-IV at 690. Personality

disorders are not treatable, last a lifetime, are always present, and get better or worse depending on the conditions. (Tr. at 416, 480-83). Dr. French attributes Respondent's argumentativeness, inflexibility, and inability to follow orders as outward manifestations of his personality disorders. (Tr. at 446, 480-84). Such behaviors result in more mishaps aboard maritime vessels. (Id.). Individuals with these types of personality disorders are dangerous to maritime safety. (Tr. at 480-84).

Finally, Respondent was also diagnosed as likely suffering from a delusional disorder. A person suffering from a delusional disorder will have one or more non-bizarre delusions that persist for at least a month. (Tr. at 437; DSM-IV at 323). Consistent with this diagnosis, a doctor who treated Respondent stated that "Mr. Shine seems to feel conspired against and the victim of an injustice that must be remedied by legal action." (Tr. at 438; IO Ex. 32 at 162). Dr. French states that such delusional thoughts can be exacerbated by precipitating events and a stressful environment. (Tr. at 556)

Dr. French summarizes his testimony by stating Respondent suffers from a bad disease and "is not medically, physically competent to hold a mariner's credential." (Tr. at 638). Certain events and environments can exacerbate Respondent's mental conditions, which cause delusional thoughts, paranoia, and aggression. (Tr. at 556-57). Dr. French states that while Respondent might be able to function in a job which entails very little social interaction, Respondent certainly is not able to function aboard a merchant vessel. (Id.). A merchant vessel creates lots of stresses on individuals, is very structured, and has a para-military environment. (Id.). Dr. French asserts that "[t]he personality disorders that Mr. Shine has are not consistent with the safe operation in that environment." (Tr. at 557).

#### **4. The Coast Guard has Satisfied its Burden of Proof**

The Coast Guard introduced substantial evidence establishing Respondent suffers from many severe mental health conditions, to include mood disorders, personality disorders, and a delusional disorder. As Respondent refused to undergo an ALJ ordered medical examination, an inference is drawn that the court ordered test would have confirmed Respondent suffers from these mental health conditions. In addition to medical records, the Coast Guard introduced evidence of Respondent's disruptive behavior aboard the SS MAUI and M/V PRESIDENT JACKSON. The Coast Guard's expert witnesses testified that these actions, which include argumentativeness, inflexibility, and inability to follow orders, are outward manifestations of Respondent's psychiatric disorders. Such behaviors result in more mishaps aboard maritime vessels and are not conducive to safe maritime operations. The undersigned finds the Coast Guard introduced substantial evidence of reliable and probative value which established Respondent suffers from a mental impairment which renders him unable to safely perform his duties aboard a merchant vessel. Absent a rebuttal of such evidence, the Coast Guard has put forth sufficient evidence establishing Respondent is a danger to himself and others, and should not be allowed to serve aboard a maritime vessel.

#### **D. Respondent's Rebuttal**

Respondent's actions throughout these proceedings have been very erratic and difficult to understand. Respondent's filings were often in excess of 100 pages in length and lacked coherent trains of thought. During the hearing, Respondent was very combative with all parties, made continuous interruptions of the judge and witnesses, and showed total discontent for the proceedings. The undersigned inquired with Respondent of why he continuously interrupted the judge and Respondent replied, "[b]ecause you're not a real judge." (Tr. at 116-17). In

accordance with 33 CFR 20.202(i), the undersigned was well within his power to exclude Respondent from the hearing for disrespect and rebellious conduct. However, taking into consideration Respondent was *pro se* and the Coast Guard charged Respondent with suffering from a mental impairment, the undersigned permitted Respondent to remain at the hearing. Furthermore, due to the convoluted nature of most of Respondent's arguments, it would have been within the power of the undersigned to dismiss such arguments outright as being not probative and without merit. However, the undersigned has attempted to decipher Respondent's arguments. After reviewing the transcript in-depth and upon studying Respondent's 170 post-hearing brief topics (which contained no subtitles, subsections, or enumerated findings of fact and conclusions of law), the undersigned determined Respondent's arguments fall within five (5) general categories. These categories are, (1) there is an inappropriate underlying reason behind the charges, (2) the ALJ acted inappropriately during the hearing, (3) the Coast Guard failed to present evidence of incompetence, (4) Respondent was not allowed to present his case, and (5) this is a military tribunal which has no jurisdiction over Respondent. These five (5) arguments will be addressed below.

### **1. Underlying Reason Behind Charges**

Respondent asserts his competency is not the real reason why the Coast Guard has initiated these proceedings against him. Instead, Respondent states “[s]omething is very wrong here and it is not a problem with the Respondent, it is what he knows and what the Coast Guard continues to try and quash and not allow to be heard, and not just now, but for the past five years or more” (Rept's PHB at 14). Respondent believes the Coast Guard has levied the charges against him as part of a larger plan to attack American shipping interests and likewise improve Europe's maritime fleet. (Rept's PHB at 77). Respondent asserts,

There is much, much more going on here, and no matter what one wants to imagine or believe the Coast Guard is being used as a Trojan Horse of sorts to administratively attack and injure American Flag shipping, and American Flag Federal Maritime Officers and crew, while the Germans begin to set to sea in numbers not seen since before World War II. One needs to stop and think about what the European Union actually is, and what it has been up to since the end of World War II before dismissing any of this or working aggressively to declare the Respondent ‘incompetent.’ Anyone who moves in this direction, rather than moving toward informing NAVAL INTELLIGENCE is and should be considered a spy and enemy of Americans.  
(Rept’s PHB at 77)

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The matters going on with former Governor and Attorney General Don Siegelman from Alabama, those that have occurred with Military Cpl. Pat Tillman, and CIA Agent Valerie Plume, Boarder Patrol Agents Jose Campean and Ignacio Ramos and other are all tied to these instant matters, as are the recent firing of the 8-9 U.S. Attorneys as one of them Carol C. Lam has been involved in these matters directly and was one of the 8-9 who were terminated, and there are many others as well.  
(Rept’s PHB at 56)

Respondent believes the Coast Guard targets mariners who stand up to such injustice. And, since Respondent rocked the boat by reporting a violation (whistle blowing) aboard the merchant marine vessel SS Comet, the Coast Guard has targeted Respondent. (Tr. at 35). Respondent believes that while the investigating officer, LCDR Tribolet, is trying to cover “up the incidents from the SS Comet,” he does not think LCDR Tribolet is aware of the grand scheme of the government to dismantle American shipping. (Rept’s PHB at 18). However, Respondent believes LCDR Tribolet “is becoming more and more aware [of the conspiracy], or willingly looking the other way as he has been placed on Notice.” (Id.). Respondent asserts that he is now being treated like a Japanese prisoner during World War II and what the Coast Guard

is doing to him is “nothing less than a ‘twist’ of sorts on ‘water-boarding’.” (Rept’s PHB at 24 – emphasis in original, 72).

Respondent provided no evidence of the allegations he alleges. For example, Respondent did not provide documentary or testimonial evidence addressing his “whistle blowing” actions aboard the SS Comet or why such actions relate to this case. The allegation of a governmental wide conspiracy to dismantle American shipping is also not supported by evidence. However, the lack of such evidence is immaterial. The purpose of these proceedings is not to review evidence and determine why charges were brought. Instead, the purpose of these proceedings is review evidence and determine if a mariner committed an act of incompetence. See 46 U.S.C. 7701, 7703. Respondent’s allegations that the charges were brought because of an improper, alternative reason are found to be without merit and are irrelevant.

## **2. Inappropriate Behavior of ALJ**

Respondent argues that the actions of the undersigned during the hearing were inappropriate and clearly demonstrate a “stacking of the deck” against Respondent. For example, Respondent claims the undersigned purposely delayed lunch on the second day of the hearing because he knew Respondent did not have the opportunity to eat breakfast. (Rept’s PHB at 69). Respondent states, “after the Respondent had somehow weathered the first day of the proceedings, Respondent raised the issue of when the proceedings might break for lunch as it was 11:45 am and Respondent had not had an opportunity to eat in the morning.” (Rept’s PHB at 69; Tr. at 429, 452). Lunch was not taken until 12:25 pm. (Tr. at 452). Respondent also claims he was treated unfairly because the air conditioning in the courtroom was not operating well. (Rept’s PHB at 68, 74). In an effort to suggest the Coast Guard is skilled at “playing games,” Respondent states “[o]ne can easily forget about the broken AC in Room ‘5150’ of the

Glen Anderson Federal Building . . . .” (Id.). In a more serious allegation, Respondent also accused the undersigned of instigating many ex-parte communications during the hearing. Respondent asserts the undersigned committed these, along with other, inappropriate actions during the hearing.

Such allegations are somewhat difficult to address because of their frivolousness. Respondent’s assertion the undersigned “delaying” lunch until 12:25 pm in an effort to impair Respondent is false. First, 12:25 pm is not a “late” time to take lunch and, second, lunch was taken at this time in an effort to allow a witness to finish his testimony at an appropriate point. (Tr. at 452). Respondent’s allegation the undersigned intentionally broke the air conditioning in the courtroom to impair Respondent is also false. While the courtroom was not overly cool, the air conditioning was working. And, upon a request from Respondent, the undersigned’s law clerk asked the buildings’ maintenance staff to attempt to lower the courtroom’s temperature.

Respondent also asserted that these proceedings were rife with ex-parte communications. These accusations are without merit; neither the undersigned nor did his staff discussed the merits of the case with either party separately. As set forth in 5 U.S.C. 557, unless both parties are present, an interested person is prohibited from making statements, to an ALJ, relevant to the merits of a pending proceeding. This is not Respondent’s definition of an ex-parte communication. Respondent asserts any communication “off the record” is ex-parte, even if such communications include both parties. (Rept’s PHB at 87; Tr. at 85). Respondent considers all pre-hearing telephone conferences ex-parte unless recorded. (Id.). Respondent also asserts communications between himself and fact witnesses are ex-parte communication. (Tr. at 75-77). For example, a Coast Guard witnesses testified as to Respondent’s actions aboard a merchant

mariner vessel. (Id.). Respondent believes communication between that witness and himself, while on board the vessel, are ex-parte communications. (Id.).

Respondent's definition of ex-parte communication is clearly divergent from the type of ex-parte communications restricted within statutory and case law. At no time did the undersigned or his staff discuss the merits of the case with any interested person unless both parties were present. Respondent's allegation that these proceedings were rife with ex-parte communications is found to be without merit.

### **3. Coast Guard's Evidence is Insufficient**

Respondent argues the Coast's Guards evidence establishing incompetence is insufficient and flawed in several ways. First, Respondent attempts to discredit the testimony of Dr. French, the Coast Guard's expert witness, by asserting he is not an expert in the interpretation of medical records. Respondent's supports this assertion by stating Dr. French is neither a psychiatrist nor does he make mental health diagnoses. (Rept's PHB at 135-43). These facts are not in dispute. However, Respondent attempts to expound upon his argument by stating that since Dr. French is not a psychiatrist, he is also not qualified to review or interpret mental health reports. (Rept's PHB at 141). Such assertions are incorrect.

As previously stated, Dr. French has served as a medical doctor within the Coast Guard for over twenty (20) years, treated patients with psychiatric disorders, and has extensive knowledge concerning the field of mental health. Furthermore, Dr. French's position as the Chief of the Medical Evaluation Branch at the National Maritime Center has allowed him to gain considerable expertise in reviewing mental health diagnoses and making determinations on how such diagnoses can affect maritime safety. Dr. French's opinion assisted the trier of fact not only in understanding the nature of Respondent's medical conditions but also how those

conditions affect his ability to perform the duties of a licensed merchant mariner. His knowledge, skill, training, and experience were very helpful in determining the central fact in issue.

Therefore, I find Respondent's assertion that Dr. French lacks the required expertise to evaluate and comment on mental health evaluations to be without merit.

Second, Respondent asserts the Coast Guard introduced little to no evidence from "health care providers" establishing Respondent suffers from a mental impairment. (Rept's PHB at 87, 144-45). Upon citing to Webster's Dictionary and the Federal Register, Respondent states that "the basic understanding and definition that can be drawn from these are that a 'Health Care Provider' is someone who is contracted with and so as to provide health care services to an individual as agreed to by that individual." (Rept's PHB at 146-47 – emphasis omitted). Since Respondent made no agreement with the Coast Guard or the undersigned to obtain health services, Respondent asserts the Coast Guard and undersigned are not "Health Care Providers" and are therefore unable to diagnose Respondent or interpret his medical records. (Rept's PHB at 149). Furthermore, in accordance with Respondent's definition, the Coast Guard introduced no documentation from a "true and proper 'HEALTH CARE PROVIDER'" of Respondent . . . ." (Id.). Respondent's position is that since the Coast Guard lacks sufficient diagnoses of Respondent from proper "health care providers," the Coast Guard cannot find Respondent medically incompetent.

Respondent's argument is convoluted and flawed. Neither the regulations nor case law require the undersigned to base his finding of mental incompetence upon the diagnosis of "health care provides" as defined by Respondent. Instead, an ALJ finding of mental incompetence "must rest upon substantial evidence of a reliable and probative character showing that the person charged suffers from a mental impairment of sufficient disabling character to support a

finding that he is not competent to perform his duties aboard a merchant vessel.” Appeal Decision 2417 (YOUNG)(1985). As addressed above, the Coast Guard has introduced substantial evidence comprised of witness testimony and exhibits establishing Respondent suffers from several severe mental health conditions, to include mood disorders, personality disorders, and a delusional disorder. Respondent’s argument that no “health care provider” has diagnosed Respondent as suffering from mental incompetence and therefore the charges are unsubstantiated is without merit.

A third manner in which Respondent attempts to discredit the Coast Guard’s evidence is by inquiring with Dr. French as to why he gave little weight to the mental health evaluation provided by Dr. Richard Rappaport, M.D. (Tr. at 533-34). Pursuant to a request from Peter Forgie, Esquire, Respondent’s prior counsel, Dr. Rappaport conducted a psychiatric examination of Respondent on August 1 and 22, 2003. (IO Ex. 68 at 757, IO Ex. 69 at 777). This examination concluded that Respondent is “too smart for his own good and parts of the world were not ready for him . . . Eric is not ‘crazy.’” (IO Ex. 68 at 769-71). Dr. Rappaport’s report which found Respondent competent, was in stark contrast to other evaluations which found Respondent suffered from severe mental health impairments. (IO Ex. 68; Tr. at 440-445). Respondent inquired with Dr. French as to why he did not give as much weight to Dr. Rappaport’s mental health evaluation as Dr. French gave to other evaluations. (Tr. at 533-34).

Dr. French testified that Dr. Rappaport’s evaluation contained extraneous and trivial information, did not appear to be objective, and failed to give a comprehensive evaluation. (Tr. at 534.). For example, Dr. Rappaport’s report did not provide a standard Axis 1-5 diagnosis of Respondent, the report’s verbiage such as “the world is not ready for him” is generally not used when making mental health evaluations, and the report did not detail Respondent’s past medical

history. (Tr. at 440-44, 472-73, 534). Dr. Rappaport's report stated there is no evidence Respondent is incompetent or unable to perform his duties. (Tr. at 443-44). Such a finding clearly failed to consider Respondent's extensive mental health history. In accordance with Dr. French's opinion, the undersigned finds Dr. Rappaport's report failed to provide a comprehensive evaluation of Respondent and therefore accords it less weight than accorded the other evaluations.

As the record shows, the undersigned has been provided a substantial amount of documentary and witness testimony concerning Respondent's mental health and actions aboard maritime vessels. This evidence, as detailed above, sufficiently establishes Respondent's mental condition would create a danger to himself and others if allowed to serve aboard maritime vessels.

#### **4. Not Allowed to Present Case**

During the hearing and in his filings, Respondent asserted he was not allowed to present his case. Respondent's two (2) chief-complaints are that he was unable to call witnesses and was not allowed to introduce exhibits. Such accusations are false. The issue of the allowance of witnesses is addressed first. On May 1, 2008, Respondent filed a Motion that was in essence his witness list. Within this Motion, Respondent listed 130 separate witnesses, including, Senator Feinstein, Senator Boxer, Admiral Thad Allen, Congressman Elijah Cummings, the undersigned, the undersigned's paralegal, the undersigned's attorney-advisor, and all personnel working in the ALJ Docketing Center. Respondent demanded "[a]ny and all individuals identified or un-identified at this point in time who have any knowledge of Coast Guard's EXHIBITS or WITNESSES are considered to be a part of the Respondent's EXHIBIT LIST and also

WITNESS LIST.” (Rept’s Motion - May 1, 2008). Respondent stated he required subpoenas issued by the undersigned for all witnesses.

In a May 12, 2008 Order, the undersigned denied Respondent’s request for subpoenas. Citing to 33 CFR 20.608, the Order stated any party may request the ALJ issue subpoenas for the attendance of witnesses at a hearing; however, subpoenas for witnesses will be limited to those whose testimony is deemed likely to be relevant to the issue at hand. See Appeal Decision 2328 (MINTZ)(1983); See 33 CFR 20.608. Respondent submitted an exhaustive witness list and failed to provide a summary of the expected witness testimonies. Respondent also failed to establish why each witness’s testimony would be relevant. Having failed to comply with the regulations, Respondent’s request for subpoenas was denied. The order did not restrict Respondent from calling witnesses to testify, telephonically or in person; the order merely denied Respondent’s request for court ordered subpoenas.

Respondent continued to assert that “[n]o matter how you look at this, the Respondent was denied, multiple times the ability to have any witnesses WHATSOEVER at the proceedings. . . .” (Rept’s PHB at 163). Respondent declared the denial of his subpoenas is the same as denying him a right to call witnesses. (Id.; Tr. at 54-55, 197-99, 644). Respondent further believes it is the duty of the Coast Guard to find his witnesses and order them to the hearing. (Tr. at 644). When the undersigned informed Respondent it was not the responsibility of the Coast Guard or the undersigned to locate Respondent’s witnesses, Respondent sarcastically stated “I understand that it’s hard for Homeland Security to find Senator Feinstein or some of the other individuals [on Respondent’s witness and subpoena list].” (Tr. at 625). Such statements typify Respondent’s conduct and convoluted actions throughout the proceedings. Respondent was provided ample opportunity to call witnesses that would attest to relevant facts, but

Respondent choose not to call such witnesses. Respondent's assertion that he was denied the ability to call witnesses is wholly false.

In addition to alleging he was unable to call witnesses, Respondent also alleges he was unable to introduce evidence. (Tr. at 708-09). On the third-day of the hearing, following the Coast Guard's case-in-chief, Respondent was offered the opportunity to put forth evidence. (Tr. at 658-60). At the beginning of the third-day, Respondent provided the Coast Guard and the undersigned a stack of documents which Respondent intended to introduce as exhibits 1-180. (Tr. at 658-65). However, these documents were not marked, tabbed, or arranged in any organized manner. (Tr. at 663-64). Respondent requested he be allowed to go through each document and match up the stack-of-paper with his exhibit list. (Tr. at 664). Respondent started to sort through and discuss his exhibits; however, considering the time it would take for Respondent to organize 180 exhibits individually, the Coast Guard offered to assist in the sorting and marking of documents. (Tr. at 669-73). Respondent appreciated the offered help; a recess was taken, and the parties attempted to organize Respondent's documents. (Id.).

Following the recess, the Coast Guard stated they would not object if Respondent's 180 exhibits were entered in bulk. (Tr. at 678). The undersigned agreed to admit all of Respondent's exhibits, but Respondent objected. (Tr. at 678-779). Respondent stated he had not had the opportunity to review his exhibits and was not sure if there were issues of privacy or privilege in the documents he intended to introduce. (Tr. at 681). Furthermore, the documents were still out of order and did not match Respondent's exhibit list. (Tr. at 689-95). Respondent stated he had the documents copied at Kinko's and it was not his fault the exhibits were mixed-up. (Id.). Respondent was clearly unprepared and unwilling to introduce exhibits; the hearing was postponed for the day in order to allow Respondent to further organize his exhibits. (Tr. at 784-

85). The undersigned informed the parties the hearing would commence the next morning and, since the Coast Guard did not object to the introduction of Respondent's exhibits, Respondent's exhibits would be entered in bulk the following morning. (Id.).

At the beginning of the fourth-day of hearings, the undersigned inquired with Respondent if he was prepared to introduce evidence; however, Respondent stated he was still not ready to introduce exhibits. (Tr. at 863). Respondent then proceeded to assert that the undersigned lacked jurisdiction and did not have authority over Respondent. (Tr. at 789-91, 891). Only two (2) of Respondent's exhibits, which were introduced on the third-day of hearings, were entered into evidence.<sup>4</sup> (Tr. at 793-94, 898). Respondent made no attempt to introduce the remainder of his 180 exhibits. (Tr. at 793-94, 898). Respondent's assertions that he was unable to introduce evidence are without merit. The Coast Guard did not object to the entering of any of Respondent's exhibits and the undersigned proposed multiple times that Respondent's exhibits may be entered into evidence. Respondent himself, having not organized or reviewed his exhibits, chose not to introduce his own exhibits.

## **5. Lack of Jurisdiction**

Respondent has maintained throughout these proceedings that proper authority for jurisdiction is lacking. Respondent states that the Coast Guard "believes and asserts, that now as a Special Branch of the Military that it can 'Regulate' civilians affairs let alone adjudicate them." (Rept's PHB at 100). Respondent thinks only shipping commissioners, serving under the Shipping Commissioner's Act of 1871, have the jurisdictional authority to initiate an administrative proceeding against Respondent. (Rept's PHB at 128; Tr. at 891-904).

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<sup>4</sup> These exhibits were designated as Respondent's Exhibits 179 and 180. (Tr. at 660-668). Exhibits 1-178 were not entered into evidence.

Respondent states the shipping articles are constitutional in nature because the founding fathers, not statutory law, enacted them. (Tr. at 38). Respondent's argument is that since the undersigned is not a shipping commissioner, the undersigned has no authority to adjudicate these matters. Respondent believes these proceedings are therefore unconstitutional and are like a "Special Court Martial coupled with a Medical Board all carried out by a Branch of Military upon an alleged civilian that is not in this Unformed Branch of [self-declared] 'Military Service.'" (Rept's PHB 12, 73, 106). Respondent cannot understand why a "military branch" is "prosecuting" a civilian. (Rept's PHB at 51, 127).

Respondent's assertion that only shipping commissions have jurisdictional authority to adjudicate these matters is without merit. Respondent was the holder of Coast Guard issued credentials, and in accordance with 46 U.S.C. 7703, the Coast Guard has jurisdictional authority to revoke Coast Guard issued credentials if the holder is found to have committed an act of incompetence while acting under those credentials. As addressed above in the jurisdiction section of this Decision and Order, the undersigned found Respondent was acting under the authority of his license during factual allegations alleged by the Coast Guard. In accordance with the statutory law, the Coast Guard does have jurisdictional authority to take action against Respondent's credentials. Respondent's assertion, that only shipping commissions may initiate administrative proceedings against Coast Guard issued credentials, is without merit.

## **6. Proceedings Influence Labor Dispute**

Respondent argued in both his Post Hearing Brief and during the hearing that these proceedings were initiated as a means of influencing a labor dispute. (Rept's PHB at 15, 74; Tr. at 41, 64, 361). Respondent believes the Coast Guard intentionally inserted itself into a pre-existing labor dispute and "[t]his very type of behavior, to favor on side in any sort of labor

dispute, shows just what the Coast Guard is really up to . . . .” (Rept’s PHB at 15, 74).

Respondent cited to 46 CFR 5.71 which states the Coast Guard shall not exercise its authority for the purpose of favoring any party in a maritime labor controversy. (Id.).

Respondent’s assertion that these proceedings are invalid because they are intended to influence a labor dispute is without merit. First, Respondent has failed to provide evidence that a labor dispute exists. A labor dispute “includes any controversy concerning terms or conditions of employment . . . regardless of whether or not the disputants stand in the proximate relation of employer and employee.” 29 U.S.C. 113(c). During the hearing, Respondent presented no witness or documentary evidence detailing the alleged employment controversy. Nor has Respondent articulated how the Coast Guard is favoring a party in the alleged labor controversy. And second, even if Respondent had provided evidence that a labor dispute existed, action can be taken if maritime safety is a concern. In accordance with 46 CFR 5.71, if the “the safety of the vessel or persons on board is presented, the [maritime labor dispute] shall be thoroughly investigated and when a violation of existing statutes or regulations is indicated, appropriate action will be taken.” In this case, the Coast Guard alleged Respondent violated 46 U.S.C. 7703 by committing an act of incompetence. Substantial evidence has established that Respondent’s mental incompetence has manifested in Respondent acting erratically while serving aboard maritime vessels. Such manifestations of mental incompetence are not conducive to safe maritime operations. As such, even if a maritime labor dispute existed, the Coast Guard can intervene since Respondent’s mental incompetence affects maritime safety.

#### **IV. ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. Respondent, Eric Norman Shine, and the subject matter of this hearing are within the jurisdiction vested in the Coast Guard under 46 U.S.C. 7703.
2. Respondent suffers from bi-polar, manic depressive disorder.

3. Bi-polar, manic depressive disorder negatively affects a person's ability to think rationally and is not conducive to safe maritime operations.
4. Respondent also suffers from several personality disorders to include, narcissistic, obsessive-compulsive, and paranoid personality disorders.
5. Individuals with the above mentioned personality disorders are argumentative, inflexible, have a difficult time following orders, and present a danger to maritime safety.
6. Respondent suffers from a delusional disorder which makes him feel conspired against.
7. Respondent is not currently seeking treatment for his psychiatric disorders.
8. Respondent's disruptive and erratic behavior aboard the SS MAUI between March 6, 2001 and June 11, 2001, and the M/V PRESIDENT JACKSON between December 2, 2001 and January 5, 2002, affected the safety of those vessels.
9. Respondent's disruptive and erratic behavior aboard the SS MAUI and M/V PRESIDENT JACKSON, which include argumentativeness, inflexibility, and inability of follow orders, were outward manifestations of Respondent's psychiatric disorders.
10. Respondent is suffering from mental impairments of sufficient disabling character to support a finding that he is not competent to perform safely his duties aboard a merchant vessel.

## **V. SANCTION**

Pursuant to the Table of Suggested Range of an Appropriate Order codified in 46 C.F.R. 5.569(d), the only proper order for a charge of Incompetence found proved is Revocation. The Commandant has repeatedly held that a person suffering from a psychiatric disability should not be permitted to serve aboard any vessel in a capacity in which he could cause serious harm to himself, to others, or to the vessel itself. See Appeal Decision 2514 (NILSEN)(1999); see also Appeal Decision 2460 (REED)(1987). Accordingly, outright Revocation of Respondent's license and merchant mariner credentials is the only appropriate order.

WHEREFORE,

**VI. ORDER**

**IT IS HEREBY ORDERED** that all valid licenses, documents, and endorsements issued by the Coast Guard to Eric Norman Shine are **REVOKED**. Respondent shall turn over his license together with other Coast Guard issued credentials, if any, to the Investigating Officer immediately.

**PLEASE TAKE NOTICE** that service of this Decision on the parties and/or parties' representative(s) serves as notice of appeal rights set forth in 33 CFR 20.1001–20.1004. (Attachment C).

Done and dated November 13, 2008  
New York, New York

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**HON. WALTER J. BRUDZINSKI  
ADMINISTRATIVE LAW JUDGE  
U.S. COAST GUARD**

**ATTACHMENT A**

**CHRONOLOGICAL HISTORY -- PLEADINGS FILED *PRIOR* TO REMAND**

<b><u>DOCUMENT</u></b>	<b><u>DATE RECEIVED/ISSUED</u></b>
1. LETTER FROM USCG TO DR. EBAD TADROS (with attachments)	January 30, 2003
2. THE COMPLAINT Initiated by MSO SAN FRANCISCO BAY Collected By: USCG Gathered; LT TRIBOLET, Witnessed By: USCG Witness; LT BRIAN HILL	March 6, 2003
3. MOTION FOR EXTENSION OF TIME TO RESPOND	March 24, 2003
4. REPLY OF USCG TO MOTION FOR EXTENSION OF TIME TO RESPOND	March 27, 2003
5. ORDER GRANTING IN PART AND ORDER DENYING IN PART RESPONDENT'S MOTION FOR EXTENSION OF TIME TO RESPOND	March 28, 2003
6. ANSWER OF RESPONDENT ERIC NORMAN SHINE	April 9, 2003
7. NOTICE OF ASSIGNMENT TO JUDGE MCKENNA	April 10, 2003
8. USCG MOTION FOR PRE-HEARING CONFERENCE	April 11, 2003
9. ORDER GRANTING IN-PERSON PREHEARING CONFERENCE FOR MAY 14, 2003 IN ALAMEDA, CA	April 15, 2003
10. USCG MEMORANDUM OF POINTS & AUTHORITIES ON RESPONDENT'S THIRTEEN AFFIRMATIVE DEFENSES	May 1, 2003
11. RESPONDENT'S ERIC NORMAN SHINE'S REQUEST FOR EXTENSION OF TIME TO RESPOND TO USCG MEMORANDUM OF POINTS AND AUTHORITIES	May 2, 2003
12. USCG REPLY TO RESPONDENT'S REQUEST FOR EXTENSION OF TIME TO RESPOND TO U.S. COAST GUARD MEMORANDUM OF POINTS & AUTHORITIES	May 5, 2003
13. ORDER GRANTING EXTENSION OF TIME	May 6, 2003

14. RESPONDENT'S COUNSEL HAIGHT BROWN & BONESTEEL'S APPLICATION TO WITHDRAW AS COUNSEL FOR RESPONDENT ERIC NORMAN SHINE & REQUEST TO CONTINUE BRIEFING RESPONSE DATE AND PREHEARING CONFERENCE UNTIL NEW COUNSEL IS APPOINTED May 12, 2003
15. REPLY OF THE CG TO WITHDRAWAL OF HAIGHT, BROWN & BONESTEEL, LLP AS ATTORNEYS FOR RESPONDENT (includes a 21 page attachment) May 13, 2003
16. ORDER (Granting Motion to Withdrawal; allowing Respondent Until May 20, 2003, to obtain new counsel; on or before May 30, 2003, Respondent shall file a Reply to CG's Memorandum of Points & Authorities; and pre-hearing conference set for June 3, 2003. May 14, 2003
17. USCG EXHIBIT LISTS (listing 1-64 CG Exhibits) May 27, 2003
18. LETTER FROM SHAWN STEEL TO JUDGE MCKENNA May 28, 2003
19. RESPONDENT'S EX PARTE MOTION FOR CONTINUANCE OF JUNE 3<sup>rd</sup> HEARING: TO BE TAKEN AND CONSIDERED UNDER SEAL May 30, 2003
20. ORDER (Denying Respondent's Ex Parte Motion for Continuance) May 30, 2003
21. ORDER (Respondent agrees to Filing a Notice of Appearance by New Counsel by June 9, 2003) June 3, 2003
22. NOTICE OF APPEARANCE June 9, 2003
23. USCG MOTION FOR ORDER FOR PRODUCTION OF MEDICAL, PSYCHOLOGICAL & DISABILITY RECORDS June 9, 2003
24. RESPONDENT'S NOTICE OF INTENTION TO OPPOSE MOTION FOR ORDER FOR PRODUCTION OF MEDICAL, PSYCHOLOGICAL & DISABILITY RECORDS June 13, 2003
25. RESPONDENT'S MOTION TO VACATE PRIOR COURT ORDERS June 13, 2003
26. RESPONDENT'S MOTION FOR DISCOVERY June 13, 2003

27. REPLY OF THE CG TO RESPONDENT'S MOTION TO VACATE PRIOR COURT ORDERS & MOTION TO DENY NEW AFFIRMATIVE DEFENSES June 17, 2003
28. REPLY OF THE CG TO RESPONDENT'S MOTION FOR DISCOVERY June 17, 2003
29. LETTER FROM C.A. TRIBOLET TO NAVAL MEDICAL CENTER DAN DIEGO June 17, 2003
30. REPLY OF THE CG TO RESPONDENT'S REQUEST FOR EXTENSION TO FILE AFFIRMATIVE DEFENSES June 19, 2003
31. ORDER DENYING MOTION TO VACATE June 19, 2003
32. RESPONDENT'S REQUEST FOR EXTENSION TO FILE AFFIRMATIVE DEFENSES June 19, 2003
33. ORDER – NOTICE OF HEARING June 20, 2003
34. RESPONDENT'S AMENDED ANSWER OF ERIC N. SHINE (original document) June 25, 2003
35. RESPONDENT'S OPPOSITION TO USCG'S REQUEST FOR ISSUANCE OF SUBPOENAS AND/OR THE ACQUISITION OF RESPONDENT'S MEDICAL/ PSYCHOLOGICAL RECORDS (original document) June 25, 2003
36. RESPONDENT'S REQUEST FOR EXTENSION TO FILE AMENDED ANSWER June 26, 2003
37. ORDER DENYING EX PARTE MOTION FOR CONTINUANCE OF JUNE 3<sup>RD</sup> PRE-HEARING CONFERENCE June 30, 2003
38. ORDER DENYING IN PART RESPONDENT'S MOTION FOR DISCOVERY June 30, 2003
39. ORDER GRANTING IN PART MOTION FOR PRODUCTION OF MEDICAL, PSYCHOLOGICAL & DISABILITY RECORDS July 1, 2003
40. REQUEST CONTINUANCE OF HEARING (Doc. # 40 is missing from the case file) July 4, 2003
41. RESPONDENT'S MOTION TO STAY PENDING UNLAWFUL DETAINER ACTION July 7, 2003

42.	ORDER (denying Motion for Continuance of the July 22, 2003 hearing)	July 7, 2003
43.	RESPONDENT'S MOTION TO EXTEND TIME WITHIN WHICH TO EXCHANGE DOCUMENTS	July 7, 2003
44.	RESPONDENT'S WITNESS LIST	July 7, 2003
45.	USCG WITNESS LIST	July 7, 2003
46.	ORDER DENYING RESPONDENT'S MOTION TO STAY	July 7, 2003
47.	ORDER TO SHOW CAUSE (affirmative defenses)	July 8, 2003
48.	ORDER GRANTING RESPONDENT'S REQUEST FOR EXTENSION TO FILE AMENDED ANSWER	July 8, 2003
49.	ORDER REJECTING RESPONDENT'S AFFIRMATIVE DEFENSES THAT ASSERT LACK OF JURISDICTION AND AUTHORITY	July 9, 2003
50.	ORDER (submission of summary as to what Respondent believes each witness will testify)	July 9, 2003
51.	SUBPOENA RESPONSE OF DR. EMAD TADROS (with attachments)	July 10, 2003
52.	LETTER FROM PAMELA R. SCHAFFER, M.D. TO COMMANDING OFFICER, ALAMEDA, CA	July 11, 2003
53.	USCG MOTION FOR CONTINUANCE & DATE-CERTAIN FOR PRODUCTION OF MEDICAL AND OTHER RECORDS	July 11, 2003
54.	USCG NOTICE OF APPEARANCE AND CHANGE OF INVESTIGATING OFFICER	July 11, 2003
55.	LETTER FROM GEORGIANA G. RODIGER, Ph.D. TO COMMANDING OFFICER, ALAMEDA, CA	July 15, 2003
56.	ORDER (Granting of CG unopposed Motion for Continuance. Hearing reschedule to August 25, 2003, San Diego)	July 15, 2003
57.	USCG MOTION FOR MENTAL HEALTH EXAMINATION	July 15, 2003

58. LETTER FROM PAMELA N. LAIDLAW, PH.D. TO  
COMMANDING OFFICER, ALAMEDA, CA July 16, 2003
59. RESPONDENT'S OBJECTION TO MOTION FOR  
MENTAL HEALTH EXAMINATION July 16, 2003
60. LETTER FROM PETER S. FORGIE TO JUDGE MCKENNA  
(Re: designation as the agreed Medical Examiner) July 16, 2003
61. LETTER FROM ROBERT C. STREFLY, PH.D TO  
COMMANDING OFFICER, ALAMEDA, CA July 17, 3004
62. MEMORANDUM FROM D.A. HOPPER, LT TO BRIAN HILL, LT  
RE: SUBPOENA DUCES DECUM; DR. DOUGLAS RIDDLE July 18, 2003
63. LETTER FROM C.A. TRIBOLET TO PETER FORGIE July 21, 2003
64. USCG WITNESS SUMMARY July 21, 2003
65. AFFIDAVIT REGARDING ACQUISITION OF  
MEDICAL/PSYCHOLOGICAL RECORDS July 21, 2003
66. RESPONDENT'S MOTION TO EXTEND TIME TO  
SUBMIT WITNESS SUMMARY July 22, 2003
67. ORDER (Granting Respondent's unopposed Motion to Extend  
Time to Submit Witness Summary List from July 21, 2003 to  
July 25, 2003) July 22, 2003
68. SCHEDULING ORDER - NOTICE OF HEARING DATE  
CHANGE July 23, 2003
69. USCG NOTICE OF INTENT TO DELAY OBJECTION TO  
RESPONDENT'S WITNESS LIST & TO DELAY  
PROVIDING A REBUTTAL WITNESS LIST July 24, 2003
70. RESPONDENT'S WITNESS SUMMARY AS REQUIRED  
BY COURT ORDER July 25, 2003
71. DECLARATION OF CUSTODIAN OF RECORDS FROM  
MARY R. July 25, 2003
72. RESPONDENT'S RESPONSE TO COURT ORDER TO  
SHOW CAUSE RE: CERTAIN AFFIRMATIVE  
DEFENSES (includes a 66 page attachment) July 25, 2003

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| 73. | RESPONDENT'S SECOND MOTION FOR DISCOVERY   | July 28, 2003  |
| 74. | USCG REPLY & MOTION TO STRIKE RESPONDENT'S WITNESS LIST AND WITNESS SUMMARY  | July 29, 2003  |
| 75. | USCG REPLY TO RESPONDENT'S RESPONSE TO COURT ORDER TO SHOW CAUSE   | July 29, 2003  |
| 76. | ORDER DENYING RESPONDENT'S SECOND MOTION FOR DISCOVERY   | July 30, 2003  |
| 77. | ORDER REGARDING PSYCHOLOGICAL EXAMINATION  | July 30, 2003  |
| 78. | RESPONDENT'S MOTION FOR RECONSIDERATION OF ORDER REGARDING PRODUCTION OF MEDICAL AND PSYCHOLOGICAL RECORDS               | July 31, 2003  |
| 79. | USCG REPLY TO RESPONDENT'S RESPONSE TO COURT ORDER REGARDING PSYCHOLOGICAL EXAMINATION                                   | August 1, 2003 |
| 80. | RESPONDENT'S RESPONSE TO COURT ORDER REGARDING PSYCHOLOGICAL EXAMINATION   | August 1, 2003 |
| 81. | USCG REPLY TO RESPONDENT'S MOTION FOR RECONSIDERATION OF ORDER REGARDING PRODUCTION OF MEDICAL & PSYCHOLOGICAL RECORDS   | August 2, 2003 |
| 82. | ORDER DENYING MOTION FOR RECONSIDERATION OF MEDICAL & PSYCHOLOGICAL RECORDS  | August 4, 2003 |
| 83. | ORDER (denying Respondent Motion for Reconsideration of the psychological examination)                                   | August 4, 2003 |
| 84. | FACSIMILE TO PETER FORGIE FROM CINDY ROBERSON  | August 6, 2003 |
| 85. | RESPONDENT'S MOTION FOR ORDER REQUIRING USCG TO TRANSMIT DISCOVERY DOCUMENTS AND/OR EXHIBITS DIGITALLY OR ELECTRONICALLY | August 6, 2003 |
| 86. | RESPONDENT'S MOTION FOR RECONSIDERATION OF THE COURT'S ORDER OF AUGUST 4, 2003 CONCERNING THE PSYCHOLOGICAL EXAM         | August 6, 2003 |

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| 87. | RESPONDENT’S MOTION FOR ORDER PRECLUDING PSYCHOLOGICAL RECORDS AND TESTIMONY AT HEARING  | August 6, 2003  |
| 88. | RESPONDENT’S MOTION FOR ISSUANCE OF SUBPOENA’S FOR ATTENDANCE AT HEARING   | August 6, 2003  |
| 89. | RESPONDENT’S MOTION FOR ORDER REQUIRING CLARIFICATION OF USCG ALLEGATIONS REGARDING “MENTAL INCOMPETENCE” AND/OR “MEDICAL INCOMPETENCE”  | August 6, 2003  |
| 90. | RESPONDENT’S MOTION TO CONTINUE HEARING  | August 6, 2003  |
| 91. | RESPONDENT’S MOTION TO SET SETTLEMENT CONFERENCE   | August 6, 2003  |
| 92. | ORDER DENYING MOTION FOR CLARIFICATION OF USCG ALLEGATIONS   | August 12, 2003 |
| 93. | REPLY MEMORANDUM OF RESPONDENT ERIC SHINE IN SUPPORT OF MOTION FOR RECONSIDERATION OF THE COURT’S ORDER OF AUGUST 4, 2003 CONCERNING THE PSYCHOLOGICAL EXAM                                  | August 12, 2003 |
| 94. | ORDER (granting joint agreement for settlement conference)   | August 13, 2003 |
| 95. | RESPONDENT’S REQUEST OF TRANSCRIPTS OF ALL PROCEEDINGS   | August 15, 2003 |
| 96. | RESPONDENT’S MOTION FOR ORDER PRECLUDING USE OF MEDICAL RECORDS FOR ANY PURPOSE  | August 15, 2003 |
| 97. | RESPONDENT’S MOTION FOR ORDER PRECLUDING EVIDENCE OF ANY COMMUNICATIONS BETWEEN RESPONDENT ERIC SHINE AND HIS PRIOR ATTORNEYS  | August 15, 2003 |
| 98. | RESPONDENT’S REPLY MEMORANDUM IN SUPPORT OF MOTION FOR RECONSIDERATION OF THE COURT’S ORDER OF AUGUST 4, 2003, CONCERNING THE PSYCHOLOGICAL EXAM ( <i>duplicate filing of Aug 12, 2003</i> ) | August 15, 2003 |
| 99. | RESPONDENT’S MOTION FOR ORDER THAT ALJ HAS THE ABILITY TO ORDER THE ISSUANCE OF A LICENSE AT A LOWER GRADE AS OPPOSED TO REVOKING LICENSE  | August 15, 2003 |

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| 100. | OPPOSITION TO UNITED STATES COAST GUARD'S MOTION TO STRIKE RESPONDENT'S WITNESS SUMMARY   | August 18, 2003 |
| 101. | RESPONDENT'S MOTION FOR ORDER APPLYING ADMINISTRATIVE LAW JUDGE BENCHBOOK TO THESE PROCEEDINGS  | August 19, 2003 |
| 102. | RESPONDENT'S MOTION FOR ORDER PRECLUDING INTRODUCTION OF ANY DOCUMENTS AUTHORED BY RESPONDENT ERIC SHINE COMPLAINING ABOUT HIS UNION  | August 20, 2003 |
| 103. | RESPONDENT'S RESPONSE TO COAST GUARD TO SHOW CAUSE RE: CERTAIN AFFIRMATIVE DEFENSES   | August 23, 2003 |
| 104. | USCG REPLY TO RESPONDENT'S MOTION FOR ORDER APPLYING ADMINISTRATIVE LAW JUDGE BENCHBOOK TO THESE PROCEEDINGS  | August 25, 2003 |
| 105. | USCG MOTION (no title specifying filed Motion)  | August 25, 2003 |
| 106. | USCG REPLY TO RESPONDENT'S MOTION FOR ORDER PRECLUDING EVIDENCE OF COMMUNICATION BETWEEN ERIC SHINE AND HIS PRIOR ATTORNEYS   | August 25, 2003 |
| 107. | RESPONDENT'S BRIEF RE: COAST GUARD'S BURDEN OF PROOF & PSYCHOLOGICAL RECORDS/EXAMINATION  | August 25, 2003 |
| 108. | RESPONDENT'S MOTION TO ORDER PARTIES INTO ALTERNATIVE DISPUTE RESOLUTION  | August 26, 2003 |
| 109. | RESPONDENT'S MOTION FOR ORDER CORRECTING THE COURT'S ORDER OF JULY 30, 2003   | August 28, 2003 |
| 110. | RESPONDENT'S THIRD MOTION FOR DISCOVERY   | August 28, 2003 |
| 111. | ORDER (denying Respondent's Motion requesting that the Procedural and evidentiary guidelines in Longshore & Harbor Workers Compensation Act be utilized in this proceeding) | August 28, 2003 |
| 112. | RESPONDENT'S MOTION FOR ORDER REGARDING JURISDICTION OVER RESPONDENT ERIC SHINE   | August 28, 2003 |

113.	RESPONDENT'S NOTICE OF RELATED CASES AND MOTION FOR REMAND	August 29, 2003
114.	ORDER (denying Respondent's August 20, 2003 Motion)	September 2, 2003
115.	USCG REPLY TO RESPONDENT'S MOTION FOR COAST GUARD TO TRANSMIT DISCOVERY DOCUMENTS AND/OR EXHIBITS DIGITALLY OR ELECTRONICALLY	September 2, 2003
116.	ORDER (denying Respondent's August 15, 2003 Motion)	September 2, 2003
117.	ORDER (denying Respondent's motion to be provided transcripts)	September 3, 2003
118.	ORDER GRANTING MOTION IN PART & DENYING MOTION IN PART	September 3, 2003
119.	ORDER (90 day continuance from Aug 26, 2003)	September 4, 2003
120.	ORDER (granted in part/denied in part to Respondent's August 6, 2003 Motion)	September 4, 2003
121.	ORDER DIRECTING PSYCHOLOGICAL EXAMINATION <i>(Doc. # 121 is missing from the case file)</i>	September 5, 2003
122.	RESPONDENT'S MOTION FOR ORDER CLARIFYING THE COURT'S STATEMENTS REGARDING THE PSYCHOLOGICAL EXAMINATION	September 5, 2003
123.	ORDER DENYING MOTION TO ORDER PARTIES INTO ALTERNATIVE DISPUTE RESOLUTION (denying Respondent's Motion dated August 6, 2003)	September 8, 2003
124.	FINAL ORDER DIRECTING PSYCHOLOGICAL EXAMINATION	September 8, 2003
125.	ORDER DENYING MOTION AS MOOT	September 9, 2003
126.	ORDER REJECTING CERTAIN AFFIRMATIVE DEFENSES	September 9, 2003
127.	ERRATA ORDER	September 9, 2003
128.	ORDER (denying Respondent's Motion dated August 28, 2003)	September 10, 2003

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| 129. | USCG CONTINGENT MOTION FOR SUMMARY JUDGMENT   | September 10, 2003 |
| 130. | LETTER FROM FORGIE JACOBS & LEONARD TO LT BRIAN HILL  | September 10, 2003 |
| 131. | ORDER RULING ON RESPONDENT'S PROPOSED WITNESS LIST  | September 12, 2003 |
| 132. | COMPLAINT FOR VIOLATIONS OF DUE PROCESS RIGHTS UNDER THE FIFTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION; AND FOR DAMAGES; DEMAND FOR JURY TRIAL | September 12, 2003 |
| 133. | MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION   | September 12, 2003 |
| 134. | NOTICE OF MOTION AND MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION  | September 12, 2003 |
| 135. | RESPONDENT'S MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER & PRELIMINARY INJUNCTION   | September 12, 2003 |
| 136. | DECLARATION OF PETER FORGIE IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER, AND PRELIMINARY INJUNCTION  | September 12, 2003 |
| 137. | ORDER DENYING RESPONDENT'S NOTICE OF RELATED CASES AND MOTIONS FOR REMAND   | September 12, 2003 |
| 138. | LETTER FROM LENA INGRANDE TO JUDGE MCKENNA  | September 16, 2003 |
| 139. | RESPONDENT'S RESPONSE TO FINAL COURT ORDER DIRECTING PSYCHOLOGICAL EXAMINATION  | September 16, 2003 |
| 140. | USCG REPLY OF THE COAST GUARD TO RESPONDENT'S PROPOSED SUBMISSION OF DOCUMENTS TO DR. HAROUN  | September 16, 2003 |
| 141. | RESPONDENT'S PROOF OF SERVICE   | September 16, 2003 |

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| 142. | LETTER TO DR. ANSAR HAROUN FROM JUDGE MCKENNA  | September 17, 2003 |
| 143. | RESPONDENT'S STATEMENT OF ATTEMPTED COMPLIANCE WITH COURT ORDER REGARDING THE PSYCHOLOGICAL EXAMINATION  | September 19, 2003 |
| 144. | ORDER AND NOTICE OF FAILURE TO COMPLY  | September 23, 2003 |
| 145. | ORDER ISSUED BY HON. THOMAS J. WHELAN<br>(United States District Court, Southern District of California)<br>DISMISSING CASE FOR LACK OF SUBJECT MATTER | September 23, 2003 |
| 146. | LETTER FROM LT BRIAN HILL TO PETER FORGIE<br>RE: SETTLEMENT REQUIREMENTS   | September 25, 2003 |
| 147. | RESPONDENT'S MOTION FOR RECONSIDERATION OF COURT'S ORDER AND NOTICE OF FAILURE TO COMPLY   | September 30, 2003 |
| 148. | DECLARATION OF PETER FORGIE IN SUPPORT OF MOTION FOR RECONSIDERATION OF COURT'S ORDER AND NOTICE OF FAILURE TO COMPLY                                  | September 30, 2003 |
| 149. | RESPONDENT'S MOTION FOR RECUSAL OF ALJ HON. PARLEN L. MCKENNA  | October 1, 2003    |
| 150. | AFFIDAVIT OF ERIC NORMAN SHINE IN SUPPORT OF MOTION FOR RECUSAL OF ALJ HON. PARLEN L. MCKENNA  | October 1, 2003    |
| 151. | RESPONDENT'S OPPOSITION TO CONTINGENT MOTION FOR SUMMARY JUDGMENT  | October 1, 2003    |
| 152. | DECLARATION OF ERIC SHINE IN SUPPORT OF HIS OPPOSITION TO COAST GUARD'S MOTION FOR SUMMARY JUDGMENT  | October 1, 2003    |
| 153. | DECLARATION OF RICHARD G. RAPPAPORT, M.D.<br>(with attachments)  | October 1, 2003    |
| 154. | USCG REPLY TO RESPONDENT'S MOTION FOR RECONSIDERATION OF COURT'S ORDER AND NOTICE OF FAILURE TO COMPLY   | October 1, 2003    |

155. OPPOSITION TO CONTINGENT MOTION FOR SUMMARY JUDGMENT (ATTACHED IS COURT REPORTERS TRANSCRIPT ETC., RECEIVED OCTOBER 8, 2003) October 2, 2003
156. USCG REPLY TO RESPONDENT’S OPPOSITION TO CONTINGENT MOTION FOR SUMMARY JUDGMENT October 3, 2003
157. USCG REPLY TO RESPONDENT’S MOTION FOR RECUSAL October 6, 2003
158. RESPONDENT’S RESPONSE TO USCG’S REPLY TO OPPOSITION TO CONTINGENT MOTION FOR SUMMARY JUDGMENT October 7, 2003
159. LETTER FROM DEBRA M. GUNDY, DOCKET CENTER TO COMMANDANT (G-LMI) November 4, 2003
160. ORDER – OFFICIAL NOTICE OF THE DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, FOURTH EDITION, TEXT REVISION (DSM-IV-TR) November 18, 2003
161. ORDER – NOTICE OF INTENT TO GRANT COAST GUARD’S MOTION FOR SUMMARY DECISION AND ORDER REQUIRING RESPONDENT TO SUBMIT A BRIEF DETAILING ANY AND ALL ALLEGED SUBSTANTIVE ERROR’S THE RESPONDENT/ COUNSEL WILL ASSERT ON APPEAL November 19, 2003
162. ORDER DENYING RESPONDENT’S MOTION FOR RECUSAL November 20, 2003
163. RESPONDENT’S APPEAL TO THE USCG COMMANDANT IN RESPONSE TO JUDGE MCKENNA’S NOVEMBER 20, 2003, “ORDER DENYING RESPONDENT’S MOTION FOR RECUSAL” (Volumes I, II and III) November 24, 2003
164. LETTER FROM KENNETH V. WILSON TO COMMANDANT (G-LMI) Re: Respondent’s Appeal November 24, 2003
165. RESPONDENT’S RESPONSE TO COURT’S NOTICE OF INTENT TO TAKE OFFICIAL NOTICE OF DSM-IV-TR November 24, 2003
166. RESPONDENT’S RESPONSE TO COURT’S ORDER DIRECTING RESPONDENT TO FILE BRIEF December 2, 2003

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| 167. | ORDER & CLARIFICATION AS REQUESTED BY RESPONDENT REGARDING PROPOSED TAKING OF OFFICIAL NOTICE OF DSM-IV-TR  | December 10, 2003 |
| 168. | RESPONDENT’S RESPONSE TO ORDER OF CLARIFICATION; REQUEST FOR HEARING  | December 12, 2003 |
| 169. | FACSIMILE FROM SCOTT DOW TO JUDGE MCKENNA   | January 5, 2004   |
| 170. | RESPONDENT’S APPEAL TO USCG COMMANDANT REGARDING ALJ RECUSAL (Reassertion of Appeal)  | January 12, 2004  |
| 171. | ORDER (Clarification Re: Counsel’s representative to Respondent)  | February 5, 2004  |
| 172. | RESPONDENT RESPONSE TO ORDER OF THE COURT ISSUED FEBRUARY 5, 2004; REQUEST FOR SCHEDULING CONFERENCE  | February 10, 2004 |
| 173. | RESPONDENT’S NOTICE OF APPEAL (On USCG’s Decision On Appeal – Appeal Decision No. 2644; Motion to the Ninth Circuit to proceed in Forma Pauperis under 28 USCA 1915 OR as a “Seaman” under 28 USCA 1916) with attachments | February 17, 2004 |
| 174. | ORDER GRANTING SUMMARY DECISION   | February 20, 2004 |
| 175. | RESPONDENT’S NOTICE OF APPEAL(S)  | March 9, 2004     |
| 176. | LETTER FROM KENNETH V. WILSON, DOCKET CENTER TO ERIC N. SHINE Re: NOTICE OF APPEAL  | March 12, 2004    |
| 177. | DENIAL OF STAY UNDER 46 CFR 5.707 AND ISSUANCE OF PROTECTIVE ORDER  | March 29, 2004    |
| 178. | NOTICE OF WITHDRAWAL OF COUNSEL   | April 12, 2004    |
| 179. | PROTECTIVE ORDER  | April 20, 2004    |

**ATTACHMENT A (cont'd)**

**CHRONOLOGICAL HISTORY -- PLEADINGS FILED AFTER REMAND**

<b><u>DOCUMENT</u></b>	<b><u>DATE RECEIVED/ISSUED</u></b>
1. DECISION OF THE VICE COMMANDANT ON APPEAL (NO. 2661)	December 27, 2006
2. ORDER OF RECUSAL ISSUED BY ALJ PARLEN L. McKENNA	January 5, 2007
3. NOTICE OF REMAND ASSIGNMENT TO ALJ WALTER BRUDZINSKI	January 30, 2007
4. LETTER TO ALJ BRUDZINSKI FROM PETER S. FORGIE, FORGIE & LEONARD DATED MARCH 8, 2007 (to advise the ALJ that he does not represent respondent)	March 8, 2007
5. ORDER (to parties to advise ALJ of availability to participate in a Pre-hearing Conference by April 17, 2007)	March 28, 2007
6. RESPONDENT'S NOTICE OF RECEIPT OF "NOTICE OF REMAND ASSIGNMENT"; NOTICE OF INCORPORATION OF RELATED INFORMATION; AND NOTICE OF RELATED CASES; NOTICE OF RECEIPT AND LIMITED RESPONSE TO EXECUTIVE OFFICER WALTER J. BRUDZINSKI'S ORDER OF MARCH 28, 2007	April 17, 2007
7. SCHEDULING ORDER – NOTICE OF HEARING (hearing scheduled to commence on September 25, 2007, Long Beach, CA)	June 20, 2007
8. NOTICE OF APPEARANCE BY LCDR CHRISTOPHER A. TRIBOLET ON BEHALF OF THE UNITED STATES COAST GUARD	August 27, 2007
9. COAST GUARD'S MOTION FOR STAY OF PROCEEDINGS PENDING REVIEW OF RESPONDENT'S APPEAL BY THE COMMANDANT	August 27, 2007
10. COAST GUARD'S REQUEST FOR PRE-HEARING CONFERENCE	August 27, 2007
11. NOTICE OF PRE-HEARING TELECONFERENCE (Pre-hearing teleconference scheduled for September 5, 2007 at 12:00 (PST))	August 28, 2007
12. VARIOUS NOTICES (FIRST PAGE ONLY) IN WHICH THE RESPONDENT ATTEMPTED TO FILE VIA FACSIMILE	September 5, 2007
13. NOTICE OF DEFICIENT FILING ISSUED TO RESPONDENT FROM ALJ DOCKETING CENTER	September 6, 2007
14. NOTICE OF PROCEDURAL HEARING ("In-Person" Pre-hearing Conference scheduled for September 25, 2007)	September 6, 2007

15. RESPONDENT’S NOTICE OF MOTION REGARDING UNKNOWN STATUS OF APRIL 17<sup>TH</sup>, 2007 MOTION AS FILED BY ALLEGED RESPONDENT IN RESPONSE TO ALJ ORDER OF MARCH 28, 2007 THAT ALLEGED RESPONDENT RESPONDED TO BUT COMPLAINANT DID NOT, DATED SEPTEMBER 4, 2007 September 10, 2007
16. RESPONDENT’S NOTICE OF MOTION IN OPPOSITION TO “NOTICE OF APPEARANCE” OF AND BY LT. TRIBOLET – [NOW LCDR] DUE TO CONFLICTS OF INTEREST; AND PREVIOUS AND ONGOING PROSECUTORIAL MISCONDUCT; DERELECTION OF DUTY; AND FAILURE TO “APPEAR”, DATED SEPTEMBER 4, 2007 September 10, 2007
17. RESPONDENT’S NOTICE OF MOTION REGARDING RECUSAL OF ALJ BRUDZINSKI DUE TO CONFLICTS OF INTEREST, DATED SEPTEMBER 5, 2007 September 10, 2007
18. RESPONDENT’S NOTICE OF MOTION IN OPPOSITION TO UNTIMELY APPEARANCE BY LCDR TRIBOLET; AND DUE TO CONFLICTS OF INTEREST AND PROSECUTORIAL AND PROCEDURAL MISCONDUCT, DATED SEPTEMBER 5, 2007 September 10, 2007
19. RESPONDENT’S NOTICE OF MOTION IN OPPOSITION TO “*MOTION FOR STAY OF PROCEEDINGS PENDING REVIEW OF RESPONDENT’S APPEAL BY THE COMMANDANT*” AS PROCEDURALLY DEFECTIVE; OPPOSITION TO MATTERS BEING TAKEN OUT OF ORDER, DATED SEPTEMBER 5, 2007 September 10, 2007
20. RESPONDENT’S NOTICE OF MOTION TO SEPT. 5<sup>TH</sup>, 2007 PRE-HEARING CONFERENCE AND DEFEREMENT OF ALL MATTERS TO SEPT. 25<sup>TH</sup> HEARING AND CONVERSION OF SEPT. 25<sup>TH</sup> “HEARING” TO INITIAL APPEARANCES AND DISCUSSION OF PROCEDURAL DUE PROCESS CONCERNS; VACATING ORDER FOR SEPT. 5<sup>TH</sup> CONFERENCE, DATED SEPTEMBER 5, 2007 September 10, 2007
21. RESPONDENT’S NOTICE OF MOTION ON ERRATA TO CORRECT MISSING ORDER FOR SEPT. 25<sup>TH</sup> HEARING, DATED SEPTEMBER 5, 2007 September 10, 2007
22. RESPONDENT’S NOTICE OF MOTION REGARDING UNTIMELY NOTIFICATION OF CALENDARED SEPTEMBER 25<sup>TH</sup>, 2007 “HEARING” AND DUE PROCESS VIOLATIONS ARISING THEREFROM AND CONVERSION DATED SEPTEMBER 5, 2007 September 10, 2007
23. RESPONDENT’S NOTICE OF MOTION REGARDING UNTIMELY RECEIPT OF NOTICE, MOTION AND ORDER FOR SEPT. 5<sup>TH</sup> 2007 “TELE-CONFERENCE” DATED SEPTEMBER 5, 2007 September 10, 2007

24. RESPONDENT’S NOTICE [ONLY] OF ERRATA; AND NOTICE [ONLY] OF MOTIONS IN OPPOSITION AND CORRECTION OF SUBSTANTIVE AND PROCEDURAL MATTERS AFFECTING DUE PROCESS AS PRESENTED WITHIN COMMANDANT’S ORDER ON APPEAL TO “VACATE ORDER FOR SUMMARY JUDGEMENT”, DATED SEPTEMBER 5, 2007 September 10, 2007
25. COAST GUARD’S NOTICE OF UNAVAILABILITY FOR THE SEPTEMBER 25, 2007 PROCEDURAL HEARING September 12, 2007
26. RESPONDENT’S SECONDARY NOTICE; AND INITIAL UNPERFECTED MOTION IN OPPOSITION TO “*MOTION FOR STAY OF PROCEEDINGS PENDING REVIEW OF RESPONDENT’S APPEAL BY THE COMMANDANT*” AS PROCEDURALLY DEFECTIVE; OPPOSITION TO MATTERS BEING TAKEN OUT OF ORDER; NOTICE AND MOTION IN OPPOSITION TO UNAVAILABILITY FOR THE SEPTEMBER 25<sup>TH</sup>, 2007 PROCEDURAL HEARING September 17, 2007
27. NOTICE AND ORDER OF PROCEDURAL HEARING (“In-Person” Pre-hearing Conference rescheduled to October 23, 2007) September 19, 2007
28. RESPONDENT’S NOTICE OF; AND RESPONSE IN OPPOSITION TO “NOTICE OF DEFICIENT FILING” AS FRIVOLOUS AND WITHOUT MERIT; NOTICE AND MOTION IN RESPONSE AND DECLARATION OF “NOTICE OF DEFICIENT FILING” AS MOOT, IMMATERIAL AND INACCURATE, DATED SEPTEMBER 18, 2007 September 20, 2007
29. RESPONDENT’S NOTICE; AND MOTIONS IN OPPOSITION TO “NOTICE OF UNAVAILABILITY FOR SEPTEMBER 25<sup>TH</sup>, 2007 PROCEDURAL HEARING; ADDITIONAL NOTICE OF MOTIONS FOR RECUSAL OF MR. TRIBOLET DUE TO CONFLICTS OF INTEREST AND MISCONDUCT; AND SECONDARY NOTICE AND INITIAL MOTION OF RECUSAL OF ALJ [AS UNPERFECTED], DATED SEPTEMBER 26, 2007 October 1, 2007
30. ORDER DENYING RESPONDENT’S MOTION OF SEPTEMBER 26, 2007 October 11, 2007
31. NOTICE AND ORDER OF PROCEDURAL HEARING October 11, 2007
32. RESPONDENT’S NOTICE; AND UNPERFECTED MOTIONS ON INITIAL PRIMA FACIE SHOWING TOWARD RECUSAL; AND CONFLICTS OF INTEREST AND INVESTIGATORY; PROSECUTORIAL AND JUDICIAL MISCONDUCT; SECOND NOTICE AND AMENDED OF RELATED CASES W/ATTACHMENTS, DATED OCTOBER 23, 2007 October 26, 2007
33. TRANSCRIPT (CONDENSED VERSION) OF THE OCTOBER 23, 2007, IN-PERSON PRE-HEARING CONFERENCE IN LONG BEACH, CA

34. RESPONDENT’S NOTICE OF ERRATA ON SERVICE FOR: NOTICE; AND UNPERFECTED MOTIONS ON INITIAL PRIMA FACIE SHOWING TOWARD RECUSAL; AND CONFLICTS OF INTEREST AND INVESTIGATORY; PROSECUTORIAL AND JUDICIAL MISCONDUCT; SECOND NOTICE AND AMENDED OF RELATED CASES, DATED OCTOBER 26, 2007 October 30, 2007
35. MEMORANDUM AND ORDER OF PRE-HEARING CONFERENCE October 29, 2007
36. LETTER TO ERIC SHINE (RESPONDENT) FROM LCDR TRIBOLET (COAST GUARD) WITH ATTACHED COPY OF “COAST GUARD MEMORANDUM OF POINTS & AUTHORITIES DATED MAY 1, 2003”, DATED OCTOBER 29, 2007 November 5, 2007
37. LETTER TO ERIC SHINE (RESPONDENT) FROM LCDR TRIBOLET (COAST GUARD) RE: EXHIBITS. COAST GUARD’S EXHIBITS NOS. 1 THROUGH 64 ATTACHED DATED NOVEMBER 9, 2007 November 29, 2007
38. COAST GUARD’S REQUEST FOR STATUS CONFERENCE February 22, 2008
39. ORDER DIRECTING PSYCHIATRIC EXAMINATION February 26, 2008
40. RESPONDENT’S NOTICE; AND MOTION IN OPPOSITION TO “ORDER DIRECTING PSYCHIATRIC EXAMINATION” [ISSUED FEBRUARY 26, 2008 BY LCDR. WALTER J. BRUDZINSKI – ACTIVE DUTY COAST GUARD] AS PROCEDURALLY, SUBSTANTIVELY, LEGALLY AND CONSTITUTIONALLY DEFECTIVE; OPPOSITION TO MATTERS BEING TAKEN OUT OF ORDER; OPPOSITION TO DESTRUCTION OF RECORDS AND INTENTIONAL SPOILIATION OF RECORDS AND EVIDENCE BEFORE RECORDS HAVE EVEN BEEN CREATED; NOTICE; AND MOTION REGARDING ORDER AND RECUSAL OF SAID DOCTOR, DATED MARCH 26, 2008 March 27, 2008
41. COAST GUARD’S MOTION FOR STATUS CONFERENCE, DATED MARCH 24, 2008 March 28, 2008
42. COAST GUARD’S MOTION AND REPLY TO RESPONDENT’S “NOTICE” DATED MARCH 26, 2008 March 31, 2008
43. STATUS NOTICE AND ORDER (Hearing scheduled to commence May 20, 2008, Long Beach, CA; Supplemental or resubmission of exhibit/witness list due May 1, 2008; Motions for Telephonic Testimony due May 1, 2008) April 11, 2008
44. RESPONDENT’S NOTICE; AND MOTION IN RESPONSE AND OPPOSITION TO THE COAST GUARD / JAG PROSECUTOR LCDR. CHRISTOPHER TRIBOLET’S “MOTION FOR STATUS CONFERENCE” [WHICH WAS NOT RECEIVED IN A TIMELY

- FASHION AND NO ABILITY TO RESPOND HAS BEEN ALLOWED];  
 NOTICE; UNPERFECTED [PARTIAL] ANSWER TO APRIL 11, 08  
 “STATUS NOTICE AND ORDER” NOTICE; AND MOTION AS  
 ANSWER TO OR IN RESPONSE TO “COAST GUARD’S MOTION  
 AND REPLY TO RESPONDENT’S “NOTICE” DATED  
 MARCH 26, 2008 . . . NOTICE; AND MOTION IN OPPOSITION  
 TO “ORDER DIRECTING PSYCHIATRIC EXAMINATION . . .”,  
 DATED APRIL 15, 2008 April 16, 2008
45. MEMORANDUM AND ORDER (RULING ON RESPONDENT’S  
 “NOTICE AND MOTION IN OPPOSITION TO ORDER DIRECTING  
 PSYCHIATRIC EXAMINATION. MOTION DENIED) April 16, 2008
46. RESPONDENT’S NOTICE; AND MOTION TO DEMAND A FULL,  
 FAIR, OPEN, VISUALLY AND AUDIBLY RECORDED HEARING  
 ON MAY 20, 2007 TOWARD ALL MATTERS IN THIS ENTIRE  
 PROCEEDING, DATED APRIL 22, 2008 April 28, 2008
47. RESPONDENT’S NOTICE; AND MOTION IN OPPOSITION AND  
 RESPONSE TO COAST GUARD’S “MEMORANDUM AND ORDER”  
 ISSUED APRIL 16, 2008, DATED APRIL 23, 2008 April 28, 2008
48. RESPONDENT’S NOTICE; AND MOTION IN OPPOSITION  
 AND RESPONSE TO COAST GUARD’S “STATUS NOTICE AND  
 ORDER” ISSUED APRIL 11, 2008, DATED APRIL 28, 2008 May 1, 2008
49. COAST GUARD’S REPLY TO RESPONDENT’S APRIL 22, 2008  
 MOTION May 1, 2008
50. COAST GUARD AMENDED WITNESS LIST May 1, 2008
51. COAST GUARD’S AMENDED EXHIBIT LIST (to include  
 Exhibit Nos. 32A; 58A; 65; 66; 67) May 1, 2008
52. COAST GUARD’S MOTION FOR TELEPHONIC TESTIMONY May 1, 2008
53. LETTER TO RESPONDENT FROM ALJ DOCKETING CENTER  
 TO INCLUDE A CHRONOLOGICAL HISTORY OF ALL  
 ACTIVITIES, MOTIONS, ETC. IN THIS MATTER, PURSUANT TO  
 RESPONDENT’S REQUEST May 1, 2008
54. ORDER (denying Respondent’s Notice; And Motion to Demand a  
 Full, Fair, Open, Visually and Audibly Recorded HEARING on  
 May 20, 2007 Toward All Matters In This Entire Proceeding) May 2, 2008
55. RESPONDENT’S NOTICE; AND MOTION IN RESPONSE AND  
 OPPOSITION TO “STATUS NOTICE AND ORDER” AS  
 PERTAINING TO WITNESS LIST; AND NOTICE; AND MOTION  
 IN RESPONSE AND OPPOSITION TO “STATUS NOTICE AND  
 ORDER” AS PERTAINING TO EXHIBIT LIST, DATED MAY 1, 2008 May 6, 2008

56. ORDER (denying Respondent's motion for oral hearing on all notices and motions, separately convened from the hearing on the allegation. Respondent's request to plead to the charges is DENIED) May 7, 2008
57. ORDER DIRECTING PSYCHIATRIC EXAMINATION May 7, 2008
58. SCHEDULING ORDER – NOTICE OF HEARING May 7, 2008
59. LETTER TO ERIC SHINE (RESPONDENT) FROM LCDR TRIBOLET (COAST GUARD) WITH ATTACHED DOCUMENTS RECEIVED FROM DR. FRENCH, DATED MAY 9, 2008 May 12, 2008
60. ORDER GRANTING COAST GUARD'S MOTION FOR TELEPHONIC TESTIMONY May 12, 2008
61. ORDER DENYING RESPONDENT'S MOTIONS OF MAY 1, 2008 May 12, 2008
62. RESPONDENT'S NOTICE; PETITION AND COUNTERCLAIM TO UNTIMELY FILING AND NOTICE OF COAST GUARD'S LETTER AND ATTACHED DOCUMENTS DATED 09 MAY 08 AS FORWARDED ON FROM COAST GUARD CHIEF MEDICAL OFFICER CAPTAIN FRENCH LEAVING INSUFFICIENT NOTICE FOR TRIAL PREPARATION FOR SIMULTANEOUS PUBLIC TRIAL AND UNNOTICED AND UNCALENDARED PUBLIC HEARING ON PUBLIC MENTAL HEALTH EXAMS, UNDATED May 22, 2008
63. RESPONDENT'S NOTICE; MOTION; PETITION AND COUNTERCLAIM IN RESPONSE AND OPPOSITION TO UNTIMELY FILING AND NOTICE OF COAST GUARD MILITARY JUDGE'S "SCHEDULING ORDER – NOTICE OF HEARING" AS ISSUED BY LCDR. ALJ / MLJ BRUDZINSKI ON MAY 07, 2008 FOR TRIAL ON MAY 20, 2008 LEAVING INSUFFICIENT NOTICE FOR TRIAL PREPARATION", UNDATED May 22, 2008
64. RESPONDENT'S PETITION FOR LEGISLATIVE /EXECUTIVE AND JUDICIAL NOTICE AS TO HR 2830, DATED MAY 19, 2008 May 22, 2008
65. RESPONDENT'S UNPERFECTED [PARTIAL] AMENDED WITNESS LIST AND [PARTIAL] SUMMARY, DATED MAY 20, 2008 May 27, 2008
66. LETTER FROM THE COAST GUARD TO THE ALJ RE: TRANSCRIPT OF HEARING, DATED JUNE 3, 2008 June 4, 2008
67. POST HEARING BRIEF SCHEDULING ORDER June 10, 2008
68. AFFIDAVIT AND DECLARATION OF RESPONDENT LT ERIC N. SHINE ON COAST GUARD "KANGAROO COURTS" AND NEED OF TRANSCRIPTS DATED JUNE 11, 2008 June 16, 2008
69. CORRESPONDENCE FROM RESPONDENT TO LINDA JACKSON, CEO/PRESIDENT OF PREMIERE ANALYSIS, UNDATED June 17, 2008

70. RESPONDENT’S NOTICE OF FILING OF: COUNTER-COMPLAINT AGAINST COAST GUARD, ALJ/LCDR. BRUDZINSKI, ADM. CREA, ADM ALLEN, AND LCDR. TRIBOLET, ET AL AND CONCLUSIONS OF LAW AND FACT AS ORDERED TO FILE BY COAST GUARD BY JULY 10, 2008, DATED JULY 9, 2008 July 11, 2008
71. RESPONDENT’S “CONCLUSIONS OF LAW AND FACT ORDERED FILED BY JULY 10, 2008” “FILED UNDER DURESS AND BY COMPULSION” DATED JULY 9, 2008 July 11, 2008
72. “REGARDING CONCLUSIONS OF LAW AND FACT – ORDERED BY JULY 10, 2008” “FILED UNDER DURESS AND BY COMPULSION” SUBMITTED BY RESPONDENT, DATED JULY 22, 2008 July 23, 2008
73. DECISION AND ORDER November 13, 2008

## ATTACHMENT B

### WITNESS AND EXHIBIT LIST

**Respondent Witnesses** – no witnesses called

#### **Coast Guard Witnesses**

1. Cecil Ray
2. Allen Hochstetler
3. Dr. Arthur French, M.D., CAPT USPHS

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#### **Respondent Exhibits**

179. Articles Referenced by Dr. French and Letter
180. Amnesty International Article

\* Exhibits 1-178 were not entered into evidence

#### **Coast Guard Exhibits**

1. The Complaint
2. License, Merchant Mariner Document and STCW certificate
3. Certificates of Discharge from the vessel MAUI, and "Coast Guard Vessel Documentation" printed out for the MAUI
4. Certificate of Discharge from the vessel PRESIDENT JACKSON, and "Coast Guard Vessel Documentation" print out for the PRESIDENT JACKSON
5. MATSON OER completed by Captain Marshall, dated 04/09/2001
6. Letter of Discharge for cause, signed by C/E Ray, dated 06/11/2001
7. MATSON OER completed by Chief Engineer Ray dated 06/11/2000
8. Mr. Percival's letter to Mr. Shine dated 08/27/2001
9. Letter of Warning, signed by C/E McMillan dated 12/28/2001
10. Letter of Warning signed by C/E McMillan dated 12/31/2001
11. Mr. Bazille's letter to ASM management dated 01/03/2002
12. Mr. Hochstetler's email to ASM management dated 01/03/2002
13. Mr. Hochstetler's fax to Mr. Morgan dated 02/08/2002
14. Chief Mate English's letter to Capt Kovary dated 01/04/2002
15. Mr. Soderlund's letter to Chief Engineer McMillan dated 01/04/2002
16. Captain Kovary's e-mail to ASM management dated 12/31/2001
17. Captain Kovary's e-mail to ASM management dated 01/02/2002
18. Captain Kovary's e-mail to ASM labor relations dated 01/03/2002

19. Entry of Official Logbook of the PRESIDENT JACKSON dated 01/05/2002
20. State of California, Notice of Automatic Disability Payment effective 1/30/2002
21. Complaint in the Matter of Eric Shine v. Matson, dated 10/05/2001
22. MESA Benefits computer printout dated 06/03/2002
23. MESA Statement of Claim for Members signed by Respondent and dated 06/07/2002
24. Respondent's appeal to the State of California concerning disability, dated 07/18/2002
25. Respondent's letter to the MESA Plan dated 10/01/2002
26. EDD Disability Status Inquiry, submitted by Respondent, dated 09/18/2002
27. Plaintiff Eric Shine's Response to Defendant's First Set of Interrogatories dated 10/10/2002
28. Dr Schafer's letter to Respondent dated 02/20/2002/
29. Dr Tadros' letter to MEBS Plans dated 10/04/2002
30. Dr Tadros' psychiatric evaluation of the Respondent dated 09/20/2002
31. Dr Tadros' letter "To Whom It May Concern" dated 11/22/2002
32. Dr. Kulick's report on the Respondent's psychological condition dated 02/20/2003
33. Regional Exam Center file of Eric Shine
34. Coast Guard investigation of Respondent's misconduct on the MV SUE LYKES on 04/01/1995
35. Chief Engineer's letter to ASM concerning the Respondent's termination from CAPE ISABEL dated 05/08/2000, and Letter of Disciplinary Warning, dated 05/30/2000
36. MATSON's response to NLRB investigation concerning Respondent's allegations dated 09/27/2001
37. Withdrawal of NLRB charges against MATSON at Respondent's request, dated 11/01/2001
38. Respondent's letter to Mr. Morgan dated 11/14/2001
39. ASM response to NLRB complaint concerning Respondent's termination from the CAPE ISABEL, dated 11/15/2001
40. Withdrawal of NLRB charges against ASM
41. Respondent's letter to Senior Chief Fong (MSO San Francisco), dated 11/17/2001
42. Respondent's letter to ASM CFO, Captain Kovary, dated 12/30/2001 (1700 hrs)
43. Respondent's letter to ASM CFO, Captain Kovary, dated 01/05/2002 (0800 hrs)
44. Respondent's letter to ASM CFO, Captain Kovary, dated 01/05/2002 (1608 hrs)
45. Respondent's e-mail to ASM CFO (Ms. Collins) dated 01/06/2002
46. Mr. Morgan's letter to the Respondent dated 01/08/2002
47. Respondent's letter to LT Tribolet (MSO San Francisco), dated 01/09/2002
48. Respondent's letter to ASM CFO (Ms. Collins) dated 01/16/2002
49. LT Wiley's investigative findings
50. LT Wiley (MSD Unalaska, Alaska) e-mail to Captain McCormick (PRESIDENT JACKSON) dated 01/25/2002
51. Respondent's letter to the Commandant of the Coast Guard, dated 01/28/2002
52. Coast Guard investigation of the SS COMET, dated 01/29/2002
53. Respondent's letter to CDR Metruck (MSO San Diego), dated 05/16/2002

54. Respondent's e-mail to Mr. Farley (Coast Guard Headquarters), dated 05/18/2002
55. LCDR Kummerfeld (MSO LAILB) e-mail to CDR Cummings (MSO LAILB), dated 05/21/2002
56. Respondent's e-mail to Mr. Farley (Coast Guard Headquarters), dated 05/22/2002
57. Coast Guard findings in the investigation of the MORMACSUN, as of 05/22/2002
58. Withdrawal of Mr. Haney as Respondent's attorney, dated 06/18/2002, and associated documents
59. Respondent's e-mail to the FBI, dated 07/08/2002
60. Respondent's e-mail to RADM Stewart, William Schubert, etc, dated 12/27/2002
61. Respondent's letter to Norm Mineta (Secretary of Transportation) dated 03/01/2003, Respondent's "Post-It Note," appended to MSO LAILB's letter dated June 10, 2002 the Coast Guard's final agency action dated 4/11/2003
62. Respondent's e-mail to LT Tribolet (MSO San Francisco) dated 05/06/2003
63. NVIC 6-89
64. NVIC 2-98
65. Official Navy Service Record of Mr. Shine
66. Policy letter detailing DD-214
67. Certain Department of the Navy Policies pertaining to issuance of Form DD-214
68. Declaration of Richard Rappaport
69. Declaration of Peter Forgie, Esquire
70. Temporary Total Disability Deferment Request
71. Sharp Mesa Vista Hospital Report

## ATTACHMENT C

### NOTICE OF ADMINISTRATIVE APPEAL RIGHTS

#### **33 CFR 20.1001 General.**

- (a) Any party may appeal the ALJ's decision by filing a notice of appeal. The party shall file the notice with the U. S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21201-4022. The party shall file the notice 30 days or less after issuance of the decision, and shall serve a copy of it on the other party and each interested person.
- (b) No party may appeal except on the following issues:
  - (1) Whether each finding of fact is supported by substantial evidence.
  - (2) Whether each conclusion of law accords with applicable law, precedent, and public policy.
  - (3) Whether the ALJ abused his or her discretion.
  - (4) The ALJ's denial of a motion for disqualification.
- (c) No interested person may appeal a summary decision except on the issue that no hearing was held or that in the issuance of the decision the ALJ did not consider evidence that that person would have presented.
- (d) The appeal must follow the procedural requirements of this subpart.

#### **33 CFR 20.1002 Records on appeal.**

- (a) The record of the proceeding constitutes the record for decision on appeal.
- (b) If the respondent requests a copy of the transcript of the hearing as part of the record of proceeding, then, --
  - (1) If the hearing was recorded at Federal expense, the Coast Guard will provide the transcript on payment of the fees prescribed in 49 CFR 7.45; but,
  - (2) If the hearing was recorded by a Federal contractor, the contractor will provide the transcript on the terms prescribed in 49 CFR 7.45.

#### **33 CFR 20.1003 Procedures for appeal.**

- (a) Each party appealing the ALJ's decision or ruling shall file an appellate brief with the Commandant at the following address: U.S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21201-4022, and shall serve a copy of the brief on every other party.
  - (1) The appellate brief must set forth the appellant's specific objections to the decision or ruling. The brief must set forth, in detail, the --
    - (i) Basis for the appeal;

- (ii) Reasons supporting the appeal; and
  - (iii) Relief requested in the appeal.
- (2) When the appellant relies on material contained in the record, the appellate brief must specifically refer to the pertinent parts of the record.
- (3) The appellate brief must reach the Docketing Center 60 days or less after service of the ALJ's decision. Unless filed within this time, or within another time period authorized in writing by the Docketing Center, the brief will be untimely.
- (b) Any party may file a reply brief with the Docketing Center 35 days or less after service of the appellate brief. Each such party shall serve a copy on every other party. If the party filing the reply brief relies on evidence contained in the record for the appeal, that brief must specifically refer to the pertinent parts of the record.
- (c) No party may file more than one appellate brief or reply brief, unless --
- (1) The party has petitioned the Commandant in writing; and
  - (2) The Commandant has granted leave to file an added brief, in which event the Commandant will allow a reasonable time for the party to file that brief.
- (d) The Commandant may accept an *amicus curiae* brief from any person in an appeal of an ALJ's decision.

**33 CFR 20.1004 Decisions on appeal.**

- (a) The Commandant shall review the record on appeal to determine whether the ALJ committed error in the proceedings, and whether the Commandant should affirm, modify, or reverse the ALJ's decision or should remand the case for further proceedings.
- (b) The Commandant shall issue a decision on every appeal in writing and shall serve a copy of the decision on each party and interested person.

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing *Decision and Order* by express mail courier (Federal Express) upon the following parties and limited participants (or designated representative) in this proceeding at the addresses indicated as follows:

LCDR Christopher A. Tribolet  
Coast Guard MLCPAC  
Building 54A, Coast Guard Island  
Alameda, CA 94501  
Telephone: (510) 437-3330  
Facsimile: (510) 437-3341

Eric Norman Shine  
**[REDACTED]**

USCG – ALJ Docketing Center  
40 South Gay Street, Room 412  
Baltimore, MD 21202-4022  
Telephone: (410) 962-7434  
Facsimile: (410) 962-1746

Done and dated November 13, 2008  
New York, New York

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Regina V. Maye  
Paralegal Specialist to the  
Administrative Law Judge  
Telephone: (212) 668-2970  
Facsimile: (212) 825-1230