

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD**

UNITED STATES COAST GUARD)
)
vs.)
) Docket No. S&R 00-0366
RICHARD EDWIN COOK,) Coast Guard Case No. PA00000989
)
Respondent)
_____)

DECISION AND ORDER

This proceeding was commenced by the Coast Guard pursuant to the authority contained in 46 CFR § 7701-7703(1)(A),(B); 46 CFR Part 5; 33 CFR Part 20 *et. seq...* The Coast Guard's initial complaint filed May 30, 2000 alleged four violations: Violation of Law and Regulation; Misconduct; Negligence; and Incompetence.

The Complaint was later twice amended. The final amendment filed on April 3, 2001 alleged as follows:

Violation of Law or Regulation

FIRST SPECIFICATION (AMENDED): The Coast Guard alleges that on or about May 18, 2000, while serving as operator on the un-inspected towing vessel BONNIE G. SELVICK (D227498), as required by law, the respondent failed to insure that a vessel sailing plan was reported to the Vessel Traffic Service (VTS) Saint Marys River, as required by Title 33, Code of Federal Regulations, Part 161.19. This failure involved the entry of the vessel into the VTS St Marys River area, defined in 33 CFR Part 161.45, at approximately 2:30 a.m. on May 18, 2000. The Respondent failed to file a sailing plan until approximately 4:40 a.m. on May 18, 2000, after the vessel had entered and traversed within the VTS Saint Marys River area for a distance of approximately 18 miles.

Misconduct

FIRST SPECIFICATION: The Coast Guard alleges that on or about May 18, 2000, while serving as operator on the uninspected towing vessel BONNIE G SELVICK (D227498), as required by law, the Respondent failed to insure the vessel was properly manned as required by Title 46, Code of Federal Regulations, Part 15.610. This failure involved the continuous navigation of the vessel from the port of Chicago, Illinois, departing at approximately 12:45 p.m. on May 15 2000, to the port of Sault Ste Marie, Michigan, arriving at approximately 11:45 am on May 18, 2000. During this voyage the Respondent was the only properly licensed operator on the vessel.

SECOND SPECIFICATION (AMENDED): The Coast Guard alleges that on or about May 18, 2000, while serving as operator on the uninspected towing vessel BONNIE G SELVICK (D227498), as required by law, the Respondent did relinquished [sic] the actual direction and navigational control of the vessel to a person not licensed by the Coast Guard as a master, mate, operator or second class operator of an uninspected towing vessel, while the vessel was underway in transit from the port of Chicago, Illinois, departing at approximately 12:45 p.m. on May 15, 2000 to the port of Sault Ste Marie, Michigan arriving at approximately 11:45 a.m. on May 18, 2000.

Negligence

FIRST SPECIFICATION: The Coast Guard alleges that on or about May 18, 2000, while serving as operator on the uninspected towing vessel BONNIE G SELVICK (D227498), as required by law, the Respondent responsible for the material condition of the vessel, allowed the vessel to be operated without the required equipment (EPIRB), navigation charts, navigation publications, lifesaving equipment, anchor ready for letting go, navigation lights, VHF FM radio, bell). The vessel was operated underway without the required equipment from the port of Chicago, Illinois, departing at approximately 12:45 p.m. on May 15, 2000 to the port of Sault Ste Marie, Michigan arriving at approximately 11:45 a.m. on May 18, 2000. Allowing the vessel to operate in this condition without the required equipment are actions which a reasonable and prudent

person of the same station, under the same circumstances, would not fail to perform.

Incompetence

FIRST SPECIFICATION (AMENDED): The Coast Guard alleges that on or about May 18, 2000, while serving as operator on the uninspected towing vessel BONNIE G SELVICK (D227498), as required by law, the Respondent was observed to be physically impaired due to a lack of physical dexterity, strength and stamina, that the Respondent was observed to experience limitations in physically moving about the vessel, was observed to be unable to depart the vessel to the dock without falling and that after falling was observed to be unable to get up, and that the Respondent is still susceptible to this condition.

Respondent answered the amended complaints in which he admitted his residence in Sault Ste Marie, Michigan, and he holds Coast Guard License Number 823785. Respondent denied he acted under the authority of that license on May 18, 2000 by serving as operator of the uninspected towing vessel BONNIE G SELVICK (D227498) as required by law or regulation. Respondent denied all other allegations in the amended complaint.

This matter was ultimately heard in Sault Ste Marie, Michigan on Thursday, May 31, 2001 and Friday, June 1, 2001. The Coast Guard presented six witnesses and 23 exhibits were admitted some of which were subject to certain limitations. Respondent testified and offered and had admitted 13 exhibits and three witnesses.

At the close of the Coast Guard's case, Respondent moved for a directed verdict dismissing the Coast Guard's case. Respondent contended that the Coast Guard had failed to meet its burden of proof with respect to the jurisdiction, particularly the failure to prove that Respondent was acting under the authority of his license.

That motion was considered under the standards for such motions in Federal Rule of Civil Procedure 41(b) because the Coast Guard's procedural rules do not address directed verdicts. Thus under the authority of 33 CFR § 20.103(c), federal rule 41(b) was applied. Under that rule and the authority of *Fullerton v. Monogahela Connecting Railroad Company*, 242 F.Supp 622 (WD PA, 1965) the evidence to that point was considered in a light most favorable to the non-moving party, here the Coast Guard. The motion was denied. See Transcript Record at pp. 496-500.

Considering the testimony of the witnesses and evaluation of the admitted exhibits, together with the depositions of various other witnesses, all of which constitute the record in this proceeding, I find that no further evidence has been presented which contradicts my factual findings and conclusions of law set forth in the transcript at pp.

496-500. I therefore find that the Respondent was acting under the authority of his license between 12:45 p.m. on May 15, 2000 from the port of Chicago, Illinois to the port of Sault Ste Marie, Michigan arriving at approximately 11:45 a.m. on May 18, 2000. I thus find the Coast Guard has jurisdiction in this matter.

Factual Findings

The BONNIE G SELVICK [Official Number 227498] is a 95 gross ton, 80 foot uninspected steel hulled, self propelled towing vessel owned by TNT Dredging, Inc. of Grand Rapids, Michigan. See Plaintiff's Exhibit 11 [Certificate of Documentation, USCG]. On May 15, 2000 the vessel was employed to tow a 289 ton dredge barge LOUISE and another tug WOLVERINE, both of which are also owned by TNT Dredging, Inc., from Chicago, Illinois to Sault Ste Marie, Michigan.

Respondent has been a mariner for more than fifty years. He was most recently licensed on August 10, 1998 with a physical waiver. He was licensed as a Master of Near Coastal Motor Vessels of not more than 200 gross tons restricted to uninspected towing vessels for domestic voyages. He was also licensed as an operator of uninspected Towing vessels upon the Great Lakes and Inland Waters. He is also licensed as an unlimited Radar Observer.

Respondent is 5' 5½" tall, and weighs 200 pounds. His vision uncorrected is 20/30 in the right eye (corrected 20/25) and uncorrected in the left eye 20/40 (corrected 20/20) together with a normal field of vision (180°). His color vision is normal. See Plaintiff's Exhibit 20.

As early as 1960, Respondent was diagnosed with arthritis and was (and continues to be) treated by medication culminating in surgical replacement of his two knees due to osteoarthritis [Transcript pp 549 ff.]. Respondent was also treated in 1994 for coronary artery disease by angioplasty (balloon) and there is no evidence of any current ischemia (arterial obstruction). Due to his arthritis, Respondent has some chest wall immobility restricting his lungs or breathing [Plaintiff's Exhibit 20]. This judge's observations of Respondent during the hearing revealed a man who walked slowly, carefully, and with short strides. His finger dexterity is marginal and his grip is weak but adequate.

Respondent was contacted by a Darren "Ted" McCoy of TNT Dredging, Inc. inquiring of his likelihood of helping out on a tow from Chicago [Transcript at p 563]. Respondent along with his friend Alvin Menard for some twenty or more years, traveled to Grand Rapids and from Grand Rapids they traveled by automobile to Chicago to commence the voyage aboard the SELVICK. Neither Respondent nor Menard were a full time employee of TNT Dredging.

McCoy informed Respondent that a Charles Hansford would be joining the crew for the voyage. McCoy represented to Respondent that Hansford was licensed to operate the SELVICK. Hansford is not so licensed by the Coast Guard.

Respondent was employed for this voyage because of his knowledge and experience, as a licensed operator on the Great Lakes [Transcript at pp. 614 ff.].

Respondent and Menard joined up with Hansford and James R. Morrison making up the crew of the SELVICK. They then departed the port of Chicago on May 15, 2000. Respondent piloted the SELVICK when it left the dock and Hansford piloted the WOLVERINE with the LOUISE in tow. The WOLVERINE and the LOUISE were then made up in a tow aft of the SELVICK and the SELVICK then commenced the voyage to Sault Ste Marie. See Plaintiff's Exhibit 22 [Deposition of Darren McCoy at p. 35 ff]. Respondent selected the SELVICK because it had hydraulic steering where the WOLVERINE had manual steering. He did so because it was easier for him to steer [Transcript p. 614].

The voyage took a northern direction following the west side of Lake Michigan about three to four miles from shore [Transcript p. 583]. The SELVICK had on board a new EPIRB which was not mounted but remained in its original container [Transcript at p. 587]

Approximately at 0230 a.m. the morning of May 18, 2000, the SELVICK, with the LOUISE and WOLVERINE in tow, entered the St. Marys River system enroute to Sault Ste Marie. Respondent left the pilot house for some sleep and Hansford took over the piloting of the SELVICK. Prior to retiring, Respondent instructed Hansford on the proper route up bound in the river in order to avoid the down bound large 1000' ore freighters. Hansford was told to turn at the mid channel buoy and to go up the Round Island Course and "keep to the red side." following the red buoys [Transcript p. 590]. Hansford was to go up the starboard side of the channel, which comes on to the Winter Point Ranges. He was told when he gets to that buoy he was to report to the Coast Guard. Instead, Hansford went up the down bound or port side of the channel. Alvin Menard awakened Respondent alerting him to a problem in the transit. Respondent immediately recognized the error, assumed control and turned the vessel and tow around to exit the down bound channel. He then brought the vessel and tow up the correct channel [Transcript p. 592]. The Coast Guard Vessel Traffic Service was never informed of this error in transit or the tow's location [Transcript pp. 592-593].

Later at 0411 hrs, the Coast Guard VTS heard a faint call on the VHS radio purporting to be a tug and barge in tow. The tug switched to a different radio and contact was lost. The VTS Watchstander made a call on Channel 12 for the tug to no avail. Shortly thereafter contact was made with the tug by cellular telephone and it was the SELVICK reporting that her radio was not properly operating. Coast Guard VTS was advised they anticipated arrival at the Sault Ste Marie Carbide Dock around 1200 hrs. The SELVICK arrived at the Carbide Dock at 1219 hrs. [Plaintiff's Exhibit 2, VTS Daily Traffic Summary; Plaintiff's Exhibit 1 VTS Audio Tape].

After arrival at the dock the Coast Guard commenced an inspection of the vessel. Respondent departed the SELVICK with some assistance from crewmembers. Upon departing, Respondent fell and was helped to his feet.

The Coast Guard inspection revealed that the SELVICK did not have up to date navigation charts on board. Nor was it in possession of navigation publications [*e.g.*, Coast Pilot], life preservers for each crewmember, personal flotation devices, lights, and sound signal devices.

Respondent has not disputed the fact that Charles Hansford is not licensed by the Coast Guard as an operator, master, or mate qualified to operate, operate or pilot the tug BONNIE G SELVICK.

Violation of Law or Regulation

Respondent is charged with one count or specification of violation of law or regulation as defined in 46 CFR § 5.33 and made punishable by 46 USC § 7703(1)(A). The regulation which Respondent is alleged to have violated is 33 CFR § 161.19 relevant to the VTS area for the St Marys River [33 CFR § 161.45] which provides as follows:

- Unless otherwise stated, at least 15 minutes before navigating a VTS area, a vessel must report the:
- (a) Vessel name and type;
 - (b) Position
 - (c) Destination and ETA
 - (d) Intended Route
 - (e) Time and point of entry, and
 - (f) Dangerous cargo on board or in its tow, as defined in § 160.203 of this chapter, and other required information as set out in § 160.211 and § 160.213 of this chapter, (if applicable).

Respondent contends this charge should be considered in light of the mechanical deficiencies of the SELVICK's radiotelephone equipment. Respondent relies upon 33 USC § 1205 incorporated into 33 CFR § 26.06 which provides *inter alia* that whenever a radiotelephone ceases to operate properly, the master of the vessel shall exercise due diligence to restore it to its proper operating condition.

Respondent says that the evidence clearly shows that the SELVICK's radiotelephone was inoperable and was repaired as soon as possible once arriving at the Carbide Dock in Sault Ste Marie.

While all of that is true, it ignores the dictates of the regulation and the facts relevant to the SELVICK's entry into the VTS area of the St Marys River.

At the outset of this analysis, I must reiterate that I have found that Respondent was operating the SELVICK under the authority of his license and thus I must conclude here that he was for the purposes of this charge the Master of the BONNIE G SELVICK at all relevant times. As the Master he was charged with the duty of compliance with 33 CFR § 161.19.

Just after entering the VTS area of the St Marys River at 0230 hrs on May 18, 2000 Respondent left the bridge of the SELVICK to sleep. He left in charge, Charles Hansford; a man who Respondent knew had no knowledge of the St Marys River system. Respondent knew Hansford had never navigated the area before. He knew Hansford lacked sufficient skills plotting a course. Respondent even left instructions with Hansford when to call in to the VTS. Which was not done.

A completely unqualified person was piloting the SELVICK. And, Respondent's decision proved potentially fatal by Hansford's navigating the down bound channel where the SELVICK could have collided with a 1000' ore freighter in the dark hours of the early morning.

Moreover, Respondent knew or should have known (given his many years of experience) the regulation required that within 15 minutes after entering the VTS area a sailing plan was to be called into the VTS. No call was even attempted until about 0411 hrs, more than an hour and half after entering the VTS area.

I must conclude that Respondent violated 33 CFR § 161.19 and thus 46 USC §7703(1)(A).

Misconduct

Respondent is charged with two counts or specifications of misconduct as defined in 46 CFR § 5.27 and made punishable by 46 USC § 7703(1)(B).

The first specification alleges that the respondent failed to insure the vessel BONNIE G SELVICK was properly manned as required by 46 CFR § 15.610 which provides in relevant part as follows:

Every towing vessel . . . must be under the direction and control of a person licensed as master or mate (pilot) of towing vessels or as maser or mate of vessels of appropriate gross tonnage holding an endorsement on his or her license for towing vessels

The Coast Guard's Investigating Officer (IO) alleges that the violation of this regulation involved the continuous navigation of the vessel from the port of Chicago, Illinois, departing at approximately 12:45 p.m. on May 15 2000, to the port of Sault Ste Marie, Michigan, arriving at approximately 11:45 am on May 18, 2000. The IO further

alleges during this voyage the Respondent was the only properly licensed operator on the vessel.

Respondent has not seriously contested this specification. Or, at least no closing argument has been filed addressing the charge.

The IO argues that the Respondent had relinquished control of the BONNIE G SELVICK, the relevant vessel, to Charles Hansford an unlicensed person. Since Respondent was the only licensed person on board the vessel during its entire voyage his permitting Hansford to assume actual direction and control of the vessel is the essence of this violation.

I must agree with the IO. Respondent's most serious relinquishment of direction and control of the vessel occurred when it entered the VTS area of the St Marys River system. Respondent knowing that Hansford had no knowledge of the area, was not particularly skilled in plotting a course, turned the helm over to Hansford and retired to sleep. This proved seriously mistaken. Again, Hansford went up the wrong channel (up the down bound channel). Upon discovery and awakening, Respondent had to resume control, reverse the vessel's course, exit the area, and return to the proper channel.

I find this specification proven.

The second specification appears to be a duplication of the first specification but with greater specificity regarding the voyage to Sault Ste Marie. Given the duplicity of this specification it is hereby joined together with the first specification. The second specification is struck as duplicitous.

Negligence

Respondent is charged with a single count or specification of negligence as defined in 46 CFR § 5.29 and made punishable by 46 USC § 7703(1)(B).

It was alleged that Respondent as the master or operator of the BONNIE G SELVICK was responsible for the material condition of the vessel, and allowed the vessel to be operated without required equipment (EPIRB, navigation charts, navigation publications, lifesaving equipment, anchor ready for letting go, navigation lights, VHF FM radio, bell). The allegation asserts the vessel was operated underway without the required equipment from the port of Chicago, Illinois, departing at approximately 12:45 p.m. on May 15, 2000 to the port of Sault Ste Marie, Michigan arriving at approximately 11:45 a.m. on May 18, 2000. It also alleges that allowing the vessel to operate in this condition without the required equipment are actions, which a reasonable and prudent person of the same station, under the same circumstances, would not fail to perform.

Again Respondent has not seriously contested this charge, or least has not filed any closing argument addressing these allegations. In short, Respondent's failure to address or defend these allegations tacitly admit them.

The record evidence is quite plain that the BONNIE G SELVICK did not have the proper navigation charts and publications. It did not have various life saving equipment, such as personal flotation devices, or sufficient life preservers on board. The EPIRB device was on board but still in the original container and thus not mounted and ready for deployment in the event of a capsizing of the vessel.

I have found that Respondent was in reality the master of the BONNIE G. SELVICK. He was placed on that vessel because the owner of the vessel had confidence in him to see that its voyage and tow to its destination would run smoothly. As the master he is the individual primarily charged with the care and safety of the vessel and crew. *Commandant Decision on Appeal (CDOA) 2098 (Cordish)*. In order to ensure the proper management and safety of his vessel, and crew, the master must keep himself well informed of any defects in the vessel, which could pose a significant hazard to life or property. *CDOA 2307 (Gaboury)*. Absence of proper personal flotation devices, mounted EPIRB when more than four miles off shore as this vessel was at time, poses significant hazards which cannot be overlooked.

I find this specification proven.

Incompetence

The Respondent is charged with being physically incompetent to serve as a master or operator of a towing vessel. Incompetence is defined in 46 CFR § 5.31 and is subject to sanction by reason of 46 USC § 7703(1)(B).

The Coast Guard alleges that on or about May 18, 2000, while serving as operator on the uninspected towing vessel BONNIE G SELVICK (D227498), as required by law, the Respondent was observed to be physically impaired due to a lack of physical dexterity, strength and stamina, that the Respondent was observed to experience limitations in physically moving about the vessel, was observed to be unable to depart the vessel to the dock without falling and that after falling was observed to be unable to get up, and that the Respondent is still susceptible to this condition.

I am not persuaded that Respondent is physically incompetent to serve as a master or operator of an uninspected towing vessel on the Great Lakes. I base this conclusion on my personal observations of the Respondent and after consideration of the testimony of each of the physicians presented in this case. I also considered results of Respondent's physical examination and his various medical records.

I considered the testimony and findings of Captain Edwin L Jones III M.D. Captain Jones is assigned as the Senior Medical Officer, Coast Guard Personnel Command, Washington, D.C. Captain Jones reviews requests for medical waivers for merchant mariners who do not meet the standards under the Navigation and Vessel Inspection Circular No. 2-98 (NVIC). Captain Jones had not actually conducted any physical examination of Respondent. He relied completely upon his years of experience

of reviewing medical records of mariners who seek medical waivers in connection with their licensure. Moreover, I am not bound by medical findings and opinions. The ultimate finding as to fitness are mine alone. *CDOA 2191 (Boykin)*; *CDOA 1720 (Howell)* affirmed *National Transportation Safety Board No. 2165*, and *CDOA 1466 (Smith)*.

I rejected the testimony and written statement of PO William S. Barton as incredible. His observations are gross exaggerations of the physical condition of Respondent. For example, his representations that Respondent's arms shook while reaching are not credible. My personal observations of Respondent clearly contradict the representations contained in that testimony and written statement.

Nevertheless, the Respondent's own physician, Robert Graham D.O. could not conclude Respondent lacked sufficient physical dexterity or was otherwise incapable of performing any of the physical tests prescribed by the IO.

However, simply identifying a condition and its potential debilitating effects does not prove physical incompetence. Furthermore, the physical evaluation guidelines of Navigation and Inspection Circular 2-98 do not establish absolute standards of physical incompetence. See *CDOA 2547 (Picciolo)*[NVIC 6-89]. There must be evidence on the record that tends to prove that the Appellant is unable to perform the required duties expected of a holder of a license or document.

The evidence on this record is insufficient for me to conclude Respondent is physically incompetent.

This charge and specification is not proven and is therefore dismissed.

Conclusion and Sanction

I have concluded that all of the charges in the complaint except for the allegation of physical incompetence have been proven. Given the nature and severity of the charges, I conclude Respondent's License is to be suspended for a minimum of six (6) months.

Respondent's License will be forwarded to the Marine Safety Office, Sault Ste Marie for safe keeping during the period of suspension.

Service of this Decision upon Respondent serves to notify you of your right to appeal as set forth in 33 CFR Subpart J, §20.1001. (Attachment I)

Dated: July 11, 2001.



EDWIN M. BLADEN
Administrative Law Judge

Fed. R. Civ. P. 60[b] is inapplicable. Under *Rufo*, in order to grant a Rule 60(b)(5) motion to modify a court order, a district court must find "a significant change either in factual conditions or in law." 502 U.S. at 384. Modification "may be warranted when changed factual conditions make compliance with the decree substantially more onerous."

Modification is also appropriate when a decree proves to be unworkable because of unforeseen obstacles, or when enforcement of the decree without modification would be detrimental to the public interest. *Rufo* (citations omitted). In addition, an order must be modified if compliance becomes legally impermissible. *Rufo*. at 388. Relief from a court order should not be granted, however, simply because a party finds it inconvenient to live with. Even if this rule were applicable, which I find it is not, I must also say I am not persuaded by the claimed equities given the Respondent's refusal to comply with a previous Court request to undergo a medical evaluation. That refusal not only complicated the hearing but delayed it as well. I thus turn to my authority under the Coast Guard administrative and procedural rules.

At first, I was unsure of my authority and had requested the parties suggest to me appropriate citations of my powers to do what was requested. After closer examination of the rules I found that an Administrative Law Judge [ALJ] was granted broad powers pursuant to 33 CFR §20.904 with respect to reopening the record. A fair reading of that rule compels me to conclude I may address Respondent's request as one to reopen the record for the purposes of taking information regarding the appropriate sanction to be imposed. Since Respondent's request was made within 30 days or less following issuance of the Decision and Order, I believe I retain power and jurisdiction to modify, revise, or rescind the Decision and Order once the record is reopened.

Consequently, the record is reopened for that limited purpose.

Because 46 CFR §5.567(a) authorizes an ALJ to issue an order of suspension upon finding the Coast Guard's allegations proved, the time of the period of outright suspension is normally to commence upon surrender of the license, certificate or document to the Coast Guard. See 46 CFR § 5.567(e). In this case, the license was deposited 11 months ago, so the question before me is whether Respondent should have received credit for the time period in which he did not have use of his license based on the voluntary deposit. In short, the suspension under a fair reading of the rule suggests that the suspension commenced on August 15, 2000, the date of the deposit.

Additionally, this deposit appears to have been compelled by the previously assigned ALJ pursuant to his order of August 2, 2000. The Coast Guard admits as much in its submission of August 6, 2001 when reference is made to the direction to Respondent to undergo a medical evaluation. Thus, the deposit was not entirely voluntary.

The Coast Guard's argument that Respondent was found responsible for violations of the disciplinary rules should serve the appropriate sanction is understandable, but fails to take into account for the time this particular mariner has been without a license.

Even though much of the delay to a final decision was brought about by Respondent's recalcitrance to agree to a settlement, it was his right to do so. In effect he suspended himself. He took himself away from commanding a towing vessel on the Great Lakes. I am sure it did not go unnoticed among his fellow mariners that he could not serve as a master and presumably was not employed as such during that time. But he had no special right to decline the ALJ's suggested medical evaluation.

In sum, Respondent has served only some of the time of the suspension. Credit cannot be given for the delay occasioned by the refusal to undergo a medical examination requested by the previous ALJ. To do so would countenance disrespect of an ALJ, which only encourages other mariners to think they "can get away with it."²

I am therefore amending the Decision and Order in this cause to provide that Respondent's six-month suspension shall commence 0001, April 15, 2001 and continue to and through 2400, October 14, 2001. I am also imposing a two month probationary period to commence at 0001 hours October 15, 2001 conditioned on Respondent providing to this judge no later than 1700, December 14, 2001 a certification from a duly licensed and competent physician knowledgeable in maritime medical matters that Respondent is physically capable of performing the duties of a master of uninspected towing vessels on the Great Lakes. Provision of such a certification shall terminate the probationary period. Failure to provide such a certification shall result in Respondent's license being suspended for three months commencing on April 1, 2002 through June 30, 2002.

Respondent's license is currently in the possession of the MSO Sault Ste Marie. The MSO is directed to return the license to Respondent upon completion of the suspension periods and satisfactory compliance with the probation conditions set forth in this order.

IT IS SO ORDERED.

Dated: August 7, 2001.



Edwin M Bladen
Administrative Law Judge

² The fact that the Respondent followed the advise of counsel only makes more poignant the measure of the disrespect