

UNITED STATES OF AMERICA  
DEPARTMENT OF HOMELAND SECURITY  
UNITED STATES COAST GUARD

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**UNITED STATES COAST GUARD,**

**Complainant,**

**vs.**

**MARQUIS DICKENS,**

**Respondent.**

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**Docket Number 2021-0237  
Enforcement Activity No. 7184679**

**DECISION AND ORDER**

**Issued: September 16, 2022**

**By Administrative Law Judge: Honorable Michael J. Devine**

**Appearances:**

**LCDR JUSTIN R. JOLLEY, ESQ.  
LCDR LARS T. OKMARK, ESQ.  
LT AARON M. LEE  
Mariner Credentialing Fraud Task Force**

**For the Coast Guard**

**SEAN PRIBYL, ESQ.  
Holland & Knight, LLP**

**For Respondent**

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## **I. PROCEDURAL HISTORY**

The United States Coast Guard (Coast Guard) initiated this administrative action seeking revocation of Marquis Dickens' (Respondent) Merchant Mariner Credential (MMC). This action is brought pursuant to the authority contained in 46 U.S.C. § 7703(1)(B) and its underlying regulations codified at 46 C.F.R. Part 5 and 33 C.F.R. Part 20.

The Coast Guard filed a Complaint on April 28, 2021, alleging three charges of misconduct for violating 18 U.S.C. § 1001 (false/fictitious/fraudulent statement), and three charges of misconduct for violating of 18 U.S.C. § 2197 (misuse of federal certificate/license/document). The charges stem from alleged use of fraudulent course completion certificates in applications for MMC endorsements.

Respondent requested, and was granted, an extension of time to file an Answer, and on June 19, 2021, Respondent filed his Answer. Respondent admitted the jurisdictional allegations of the Complaint, denied the factual allegations, and asserted the affirmative defenses of failure to state a claim and contributory negligence.

The Coast Guard filed an Amended Complaint on September 15, 2021, adding a seventh charge alleging Respondent committed misconduct by submitting a fraudulent course completion certificate in another application for MMC endorsements in violation of 18 U.S.C. § 1001. Respondent filed an Amended Answer on September 19, 2021, again admitting the jurisdictional allegations but denying the factual allegations of the Amended Complaint.

On September 24, 2021, the Coast Guard moved for telephonic testimony of four of its proposed witnesses, asserting in-person testimony would be unduly burdensome and citing COVID-19 concerns. Respondent did not object to telephone testimony for three of those witnesses, but filed a response opposing the motion as to witness Lamont Godfrey, who was

incarcerated at the time of the hearing. The Coast Guard argued in-person testimony was unduly burdensome because of the risks, logistics, and cost of transporting a prisoner. After several pre-hearing conferences with the parties to determine the feasibility of presenting Godfrey's testimony through Zoom for Government, the ALJ found that a Zoom for Government connection would not work with the Federal Bureau of Prisons facility but a telephone connection was available. Considering the purpose of these administrative proceedings and the need for a just, speedy, and inexpensive determination, the ALJ granted the Coast Guard's motion to present Mr. Godfrey's testimony by telephone. See 46 C.F.R. § 5.5; 33 C.F.R. §§ 20.103 and 20.707.

The hearing was held on October 27, 2021, in Baltimore, Maryland. At the commencement of the hearing, the parties filed a Joint Stipulation of Fact and Motion to Admit Exhibits, stipulating to 15 factual statements, and agreeing to the admissibility of their respective exhibits (Coast Guard Exhibits 1 – 23 and Respondent's Exhibits A – N).

Both parties filed their respective post-hearing briefs on January 10, 2022. The record is now closed and the case is ripe for a decision.

After careful review of the entire record, including witness testimony, documentary evidence, applicable statutes, regulations, and case law, I find the Coast Guard **PROVED** the violations alleged in Charges 1 through 4, 6, and 7, and **PARTIALLY PROVED** the violation alleged in Charge 5.

## **II. FINDINGS OF FACT**

The following findings of fact are based on a thorough and careful analysis of the documentary evidence, testimony of witnesses, and entire record.

1. Respondent Marquis Percell Dickens is a credentialed merchant mariner holding both domestic officer and domestic rating endorsements. [Ex. ALJ-I at No. 1].

2. Respondent has held a Merchant Mariner Credential (MMC) continuously since June 28, 2011. [Ex. ALJ-I at No. 2].
3. Between June 28, 2011, and June 28, 2016, Respondent held MMC No. 000112265. [Ex. ALJ-I at No. 3].
4. Between June 29, 2016, and October 1, 2018, Respondent held MMC No. [REDACTED]. [Ex. ALJ-I at No. 4].
5. On October 18, 2016, Respondent submitted an application to the National Maritime Center (NMC) seeking endorsements for Vessel Personnel with Designated Security Duties (VPDSD) and Security Awareness. [Ex. ALJ-I at No. 5].
6. At the time of the submission of the October 18, 2016 application, Edison Chouest Offshore (Edison Chouest) employed Respondent as an Able Seaman (AB). [Tr. at 197].
7. In order to maintain his employment with Edison Chouest as an AB, Respondent needed to demonstrate completion of the VPDSD course by January 1, 2017, per the Coast Guard's requirement to comply with the Manila Amendment of the qualification standards of the International Convention on Standards of Training, Certification and Watchkeeping (STCW). [Tr. at 57-58, 197].
8. Respondent's October 18, 2016 MMC application contained a course completion certificate from Military Sealift Command that was no longer accepted by the Coast Guard as proof of qualification for VPDSD. As a result, NMC sent Respondent a deficiency letter dated November 16, 2016, informing Respondent he needed to submit other documentation. [Tr. at 58-61; Ex. CG-009 at 9; Exs. CG-010, CG-011].
9. After receiving the letter from NMC, Respondent arranged for a course completion certificate to be submitted from Mid-Atlantic Maritime Academy (MAMA) for a VPDSD course, with a course completion date of June 1, 2016. [Tr. at 62-66; Ex. CG-009 at 8].
10. Respondent obtained the VPDSD course completion certificate from Lamont Godfrey, then the Chief Administrator at MAMA, without taking the VPDSD course. [Tr. at 128, 224-225].
11. Respondent did not enroll in or pay for the VPDSD course at MAMA in June of 2016. [Tr. at 170-173; Ex. CG-016; Ex. CG-017; Ex. CG-022].
12. Respondent paid Mr. Godfrey in cash for the VPDSD course completion certificate, in an amount less than the cost to enroll in the MAMA VPDSD course. [Tr. at 133-134, 228].

13. MAMA uses a certificate numbering process for course completion certificates that produces a unique certificate number for each student and course, and the certificate numbers are never duplicated or reused. [Tr. at 173-176].
14. The certificate number on Respondent's VPDSO certificate was supposed to be issued to an individual, not Respondent, who signed up to take the course on June 15, 2016. [Tr. at 174; Ex. CG-017 at 2].
15. On December 2, 2016, Respondent received endorsements to MMC No. [REDACTED] for VPDSO and Security Awareness. [Ex. CG-002 at 7-8; Ex. ALJ-I at No. 4].
16. After obtaining the VPDSO endorsement, Respondent continued to work for Edison Chouest in the position of AB until February 21, 2019. [Tr. at 197-199; Ex. CG-023].
17. In accordance with Coast Guard requirements, Edison Chouest required all of its mariners to renew their STCW qualifications, which included completion of a Basic Safety Training Refresher course, every five years. [Tr. at 197-198].
18. Edison Chouest required Mates to demonstrate completion of Basic Safety Training Refresher, Leadership and Managerial Skills, and Automatic Radar Plotting Aid (ARPA) courses. [Tr. at 199].
19. On August 17, 2018, Respondent submitted an application to NMC seeking STCW renewal and endorsements for Officer in Charge of a Navigational Watch without Electronic Chart Display and Information System (ECDIS) and ARPA limitations. [Ex. ALJ-I at No. 7; Ex. CG-013; Tr. at 75].
20. In support of his August 17, 2018 application, Respondent submitted course completion certificates from MAMA for Basic Safety Training Refresher dated August 16, 2018, Leadership and Managerial Skills dated May 25, 2018, and ARPA dated April 12, 2018. [Ex. CG-013 at 22-24].
21. Respondent did not enroll in or pay for courses at MAMA for Basic Safety Training Refresher, Leadership and Managerial Skills, or ARPA for the course dates indicated on the certificates. [Tr. at 170-176; Exs. CG-016, CG-018, CG-019, CG-020].
22. Respondent obtained the Basic Safety Training Refresher, Leadership and Managerial Skills, and ARPA course completion certificates from Mr. Godfrey without attending the courses. [Tr. at 230-232].
23. Respondent paid Mr. Godfrey in cash for the Basic Safety Training Refresher, Leadership and Managerial Skills, and ARPA course completion certificates, in an amount less than the cost to enroll in the courses at MAMA. [Tr. at 133-134, 248-249].

24. The certificate numbers on the Basic Safety Training Refresher and ARPA course completion certificates were issued to other mariners, not Respondent. [Tr. at 170-176; Exs. CG-016, CG-018, CG-020].
25. The certificate number on the Leadership and Managerial Skills course completion certificate was not a legitimate certificate number for Respondent. [Tr. at 170-176; Exs. CG-016, CG-019].
26. On October 1, 2018, Respondent received MMC No. [REDACTED] containing endorsements for Officer in Charge of a Navigational Watch with ECDIS and ARPA limitations removed, VPDS, Security Awareness, Rating Forming Part of a Navigational Watch, Able Seafarer – Deck, Proficiency in Survival Craft, Advanced Firefighting, Medical First Aid Provider, and Basic Training. [Ex. CG-003; Ex. ALJ-I at No. 9].
27. On November 20, 2018, the Coast Guard issued Respondent MMC No. [REDACTED] which listed all of the MMC ratings and endorsements from MMC No. [REDACTED]. [Tr. at 83; Ex. CG-004; Ex. ALJ-I at No. 10].
28. Respondent advanced to the position of Mate at Edison Chouest in February of 2019. [Tr. at 199].
29. On July 30, 2019, Respondent submitted an application to NMC seeking endorsements for Advanced Oil Tanker Cargo Operation, Advanced Chemical Tanker Cargo Operation, and Tankerman – Person In Charge (PIC). [Tr. at 80-83; Ex. ALJ-I at No. 11; Ex. CG-014].
30. In support of Respondent’s July 30, 2019 application, Respondent submitted a course completion certificate from MAMA for Tankship – Dangerous Liquids dated July 26, 2019. [Ex. CG-014 at 35].
31. Respondent did not enroll in or pay for the Tankship – Dangerous Liquids course at MAMA in July of 2019. [Tr. at 170-176; Exs. CG-016, CG-021].
32. Respondent obtained the Tankship – Dangerous Liquids course completion certificate from Mr. Godfrey without having attended the course. [Tr. at 233].
33. Respondent paid Mr. Godfrey in cash for the Tankship – Dangerous Liquids course completion certificate, in an amount less than the cost to enroll in the course at MAMA. [Tr. at 133-134, 249].
34. The certificate number on the Tankship – Dangerous Liquids course completion certificate was issued to another mariner, not Respondent. [Tr. at 170-176; Exs. CG-016, CG-021].

35. On October 8, 2019, Respondent received endorsements to MMC No. [REDACTED] for Advanced Oil Tanker Cargo Operation, Advanced Chemical Tanker Cargo Operation, and Tankerman—PIC (Barge). [Ex. CG-004 at 3-5; Ex. ALJ-I at No. 10].
36. On May 26, 2020, Respondent submitted an application to NMC seeking a raise in grade endorsement from Tankerman—PIC (Barge) to Tankerman—PIC. [Ex. CG-015 at 18-19; Ex. ALJ-I at No. 13].
37. In support of his May 26, 2020 application, Respondent submitted the same course completion certificate from MAMA for Tankship – Dangerous Liquids dated July 26, 2019, that he submitted with his July 30, 2019 application. [Ex. CG-015 at 49].
38. Between approximately July 2016 and December 2019, Mr. Godfrey, along with a number of co-conspirators, participated in a scheme at MAMA to create and sell counterfeit and fraudulent MMC course completion certificates. [Ex. R-C at Paras. 1, 8; Tr. at 144-146].
39. MAMA is located in Norfolk, Virginia, and is a private maritime training center offering mariners over 100 U.S. Coast Guard-approved deck and engineering courses. Mr. Godfrey was employed by MAMA as the school’s Chief Administrator. As Chief Administrator, Lamont Godfrey created and printed MAMA training certificates and had access to the school’s certifying stamp and official seals. [Ex. R-C at Para. 7].
40. Mr. Godfrey and his co-conspirators recruited merchant mariners who desired to obtain various Coast Guard-approved MMCs. Godfrey and his co-conspirators offered to provide authentic-looking, but counterfeit and fraudulent, MAMA course certificates to mariners without the mariners actually attending the class as required to obtain an endorsement or credential. In exchange, the mariners paid Mr. Godfrey and his co-conspirators a discounted amount from the actual cost of attending the MAMA course. [Ex. R-C at Para. 8].
41. Mr. Godfrey and his co-conspirators created at least 1,000 counterfeit and fraudulent certificates for at least 250 mariners and were paid at least \$200,000 for creating these counterfeit and fraudulent certificates. [Ex. R-C at Para. 12].
42. Mr. Godfrey pled guilty in a federal criminal case to mail fraud, wire fraud, and identity theft in connection with the MAMA fraud scheme. [Tr. at 127-156; Exs. R-A, R-B, R-C, R-D].
43. As part of his plea agreement, Mr. Godfrey agreed to cooperate fully and truthfully with the United States, including testifying truthfully and completely before any grand juries and at any trials or other proceedings. [Ex. R-B at Para. 8].
44. Also as part of the plea agreement, the United States and Mr. Godfrey agreed that the United States reserved the right to seek a downward departure from the sentencing



guidelines or a reduction of sentence if the United States determined that such a downward departure or sentence reduction was appropriate. [Ex. R-B at Para. 12].

45. Respondent currently holds MMC No. [REDACTED], which was issued by NMC on December 14, 2020, and expires on December 14, 2025. Respondent has held this MMC since its date of issue and has held it at all times relevant to this administrative proceeding. [Ex. ALJ-I at No. 15].

### **III. DISCUSSION**

The purpose of Coast Guard suspension and revocation (S&R) proceedings is to promote safety at sea. 46 U.S.C. § 7701(a). The Commandant of the Coast Guard “delegated to Administrative Law Judges the authority to admonish, suspend with or without probation, or revoke a license, certificate or document issued to a person by the Coast Guard under any navigation or shipping law.”<sup>1</sup> 46 C.F.R. § 5.19. Administrative actions against a mariner’s credentials “are remedial and not penal in nature” and are intended to help maintain standards for competence and conduct essential for safety at sea. 46 C.F.R. § 5.5.

The Coast Guard may seek revocation of an MMC if the holder, while acting under the authority of the credential, has committed an act of misconduct. 46 U.S.C. § 7703(l)(B). The Coast Guard defines misconduct as behavior that violates some formal, duly established rule, which may be found in, among other places, statutes, regulations, the common law, general maritime law, a ship’s regulation or order, or shipping articles. 46 C.F.R. § 5.27.

Here, the Coast Guard seeks revocation of Respondent’s MMC based on allegations that Respondent committed misconduct by violating 18 U.S.C. § 1001<sup>2</sup> and 18 U.S.C. § 2197<sup>3</sup> in

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<sup>1</sup> The Coast Guard now refers to licenses, certificates of registry, and documents as credentials. 74 Fed. Reg. 11216, 11196 (March 16, 2009).

<sup>2</sup> 18 U.S.C. § 1001:

- (a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—
- (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
  - (2) makes any materially false, fictitious, or fraudulent statement or representation; or

connection with Respondent's submission of four applications for MMC ratings or endorsements. As set forth below, I find the Coast Guard **PROVED** the violations alleged in Charges 1 through 4, 6, and 7 of the Amended Complaint, and **PARTIALLY PROVED** the violation alleged in Charge 5. Before turning to the specific charges, I first address jurisdiction in this case.

**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). For actions based on charges of misconduct, the Coast Guard must establish the mariner was acting under the authority of his or her credential when the misconduct occurred. 46 U.S.C. § 7703(1)(B). A mariner acts under the authority of his or her credential when 1) employed in the service of a vessel and the holding of the credential is required by law, regulation, or the employer's conditions; or 2) engaging in official matters regarding the credential, such as applying for renewal, taking examinations for endorsements, or requesting duplicate or replacement credentials. 46 C.F.R. § 5.57.

In this case, Respondent admitted in his Answer and Amended Answer to the jurisdictional allegations, and additionally, the parties stipulated to facts establishing that Respondent acted under the authority of his MMC when he submitted certain certificates of

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(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

<sup>3</sup> 18 U.S.C. § 2197:

Whoever, not being lawfully entitled thereto, uses, exhibits, or attempts to use or exhibit, or, with intent unlawfully to use the same, receives or possesses any certificate, license, or document issued to vessels, or officers or seamen by any officer or employee of the United States authorized by law to issue the same;

...

Shall be fined under this title or imprisoned not more than five years, or both.

course completion with applications for MMC endorsements. [Ex. ALJ-I at Nos. 1-15].

Therefore, I find I have jurisdiction to adjudicate this matter.

**B. Burden and Standard of Proof**

The Administrative Procedure Act (APA), 5 U.S.C. §§ 551-559, applies to Coast Guard S&R hearings before United States ALJs. 46 U.S.C. § 7702(a). The APA authorizes sanctions if, upon consideration of the entire record as a whole, the charges are supported by reliable, probative, and substantial evidence. 5 U.S.C. § 556(d). “The term ‘substantial evidence’ is synonymous with preponderance of the evidence as defined by the U.S. Supreme Court.” Appeal Decision 2477 (TOMBARI) (1988) at \*3; see also Steadman v. Securities and Exchange Commission, 450 U.S. 91, 107 (1981). Under Coast Guard procedural rules and regulations, the burden of proof is on the Coast Guard to prove the charges are supported by a preponderance of the evidence. 33 C.F.R. §§ 20.701, 20.702(a).

The burden of proving a fact by a preponderance of the evidence “simply requires the trier of fact ‘to believe that the existence of a fact is more probable than its nonexistence before [he] may find in favor of the party who has the burden to persuade the [judge] of the fact’s existence.’” Concrete Pipe and Products of California, Inc. v. Construction Laborers Pension Trust for Southern California, 508 U.S. 602, 622 (1993) (citing In re Winship, 397 U.S. 358, 371-72 (1970) (Harlan, J., concurring) (brackets in original)). Therefore, the Coast Guard must prove by credible, reliable, probative, and substantial evidence that Respondent more likely than not committed the charged violation.

Misconduct is human behavior that violates some formal, duly established rule. 46 C.F.R. § 5.27. Such rules are found in, among other places, statutes, regulations, the common law, the general maritime law, a ship's regulation or order, shipping articles, and similar sources.

Id. Furthermore, misconduct is an act which is forbidden or a failure to do that which is required. Id. A charge of misconduct may be based on an allegation of violation of a criminal statute. While the charges may be based on criminal activity, that does not raise the evidentiary standard. The specifications must be proved, but not to the evidentiary standard necessary for a criminal conviction. Appeal Decision 2570 (HARRIS) (1995); Appeal Decision 2346 (WILLIAMS) (1984). The less stringent “substantial evidence” standard, as discussed above, applies. 46 U.S.C. § 7702(a); 46 C.F.R. § 5.5; 33 C.F.R. § 20.701; Appeal Decision 2254 (YOUNG) (1981); Appeal Decision 2430 (BARNHART) (1986).

**C. The Coast Guard Proved Respondent Committed Misconduct Pursuant to 46 C.F.R. 5.27**

The Coast Guard’s charges (Charges 1 through 7 of the Amended Complaint) are based on four applications for MMC ratings or endorsements, dated October 18, 2016, August 17, 2018, July 30, 2019, and May 26, 2020. The Coast Guard alleges Respondent knowingly included fraudulent course completion certificates in his applications, thereby obtaining MMC endorsements or ratings to which he was not entitled.

Columns 1 and 2 of the table, below, list the allegedly fraudulent course completion certificates included with the MMC applications at issue in Charges 1 through 3 and 7. Column 3 lists the endorsements/ratings mentioned by the Coast Guard in Charges 4 through 6.

| <b>(1) Application Date</b>           | <b>(2) Course Completion Certificate</b>  | <b>(3) Endorsement/Rating</b>   |
|---------------------------------------|---|---|
| October 18, 2016<br>[Ex. CG-009 at 7] | Vessel Personnel with Designated Security Duties<br>[Ex. CG-009 at 8; Ex. CG-017] | Vessel Personnel with Designated Security Duties<br><br>Security Awareness<br><br>[Ex. CG-002 at 7-8] |

|   |   |  |
|---|---|--|
| <p>August 17, 2018<br/>[Ex. CG-013 at 13]</p> | <p>Basic Safety Training Refresher<br/>[Ex. CG-013 at 22; Ex. CG-020]</p> <p>Leadership and Managerial Skills<br/>[Ex. CG-013 at 23; Ex. CG-019]</p> <p>Automatic Radar Plotting Aids (ARPA)<br/>[Ex. CG-013 at 24; Ex. CG-018]</p> | <p>Officer in Charge of a Navigational Watch</p> <p>Vessel Personnel with Designated Security Duties</p> <p>Security Awareness</p> <p>Rating Forming Part of a Navigational Watch</p> <p>Able Seafarer – Deck</p> <p>Proficiency in Survival Craft</p> <p>Advanced Firefighting</p> <p>Medical First Aid Provider</p> <p>Basic Training</p> <p>[Ex. CG-003 at 1-2]</p> |
| <p>July 30, 2019<br/>[Ex. CG-014 at 11]</p>   | <p>Tankship Dangerous Liquids<br/>[Ex. CG-014 at 35; Ex. CG-021]</p>  | <p>Advanced Oil Tanker Cargo Operation</p> <p>Advanced Chemical Tanker Cargo Operation</p> <p>[Ex. CG-004 at 4]</p> <p>Tankerman-PIC (Barge)<br/>[Ex. CG-004 at 5]</p>   |
| <p>May 26, 2020<br/>[Ex. CG-015 at 19]</p>    | <p>Tankship Dangerous Liquids<br/>[Ex. CG-015 at 49; Ex. CG-021]</p>  | <p>N/A</p>   |

After careful review of the record, including witness testimony and exhibits admitted into evidence, and after consideration of the law governing this matter found in the regulations, statutes, and caselaw, I find the Coast Guard **PROVED** the charges of misconduct in Charges 1 through 4, 6, and 7, and **PARTIALLY PROVED** the charge of misconduct in Charge 5.

**1. Charges 1, 2, 3, and 7 - Violation of 18 U.S.C. § 1001**

In Charges 1, 2, 3, and 7 of the Amended Complaint, the Coast Guard alleges Respondent committed misconduct by submitting fraudulent course completion certificates in applications for MMC endorsements or ratings, in violation of 18 U.S.C. § 1001, which prohibits a person from knowingly and willfully using “any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.” 18 U.S.C. § 1001(a)(3).

The Coast Guard has used violation of 18 U.S.C. § 1001 as an appropriate source of a “formal, duly established rule.” See 46 C.F.R. § 5.27; Appeal Decision 2610 (BENNETT) (1999). Charges that allege a respondent submitted MMC applications for endorsements, ratings, renewal, etc., with knowingly false statements are valid bases for misconduct charges in S&R proceedings. See Appeal Decision 2569 (TAYLOR) (1995); Appeal Decision 2570 (HARRIS) (1995); Appeal Decision 2724 (EDENSTROM) (2020).<sup>4</sup>

To prove a mariner submitted an application fraudulently, the Coast Guard must show the mariner had actual or constructive knowledge of the falsity of the statement(s) within the application. Appeal Decision 2724 (EDENSTROM) at fn 6. A person has constructive knowledge if he or she had reason to know the representation was false. Appeal Decision 809

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<sup>4</sup> In Appeal Decision 2569 (TAYLOR) (1995), the mariner applied for a duplicate license and answered “no” to a question asking if the mariner had been convicted of any crimes including DWIs, despite the mariner having been convicted of DWI 15 times prior to submitting the application. Appeal Decision 2569 at \*1. The ALJ determined, and the Commandant affirmed, the mariner’s knowingly false statement constituted a violation of 18 U.S.C. § 1001, and thus, amounted to misconduct. *Id.* In Appeal Decision 2570 (HARRIS) (1995), the Commandant affirmed the ALJ’s finding that the mariner knowingly lied when he stated on his license application that he had never used or been addicted to narcotics, and that this fraudulent representation constituted a violation of 18 U.S.C. § 1001. Appeal Decision 2570 at \*2. In Appeal Decision 2724 (EDENSTROM) (2020), the Commandant affirmed the ALJ’s finding that the mariner knowingly submitted an MMC application containing false statements in violation of 18 U.S.C. § 1001, by answering “no” to a question on the Merchant Mariner Medical Evaluation Report despite having been diagnosed and treated for several of the listed medical conditions.

(MARQUES) (1955) at \*2. A person has the equivalent of actual knowledge if he or she makes a representation without belief in its truth or in reckless disregard of its truth or falsity. Id.

As discussed in detail below, I find Respondent did have actual or constructive knowledge that the course completion certificates submitted with his applications for merchant mariner endorsements were illegitimate.

**a. The Coast Guard Presented Substantial Evidence of Falsity of Course Completion Certificates and Respondent's Actual or Constructive Knowledge of Falsity**

The Coast Guard presented the testimony of [REDACTED] a legal instruments examiner with the National Maritime Center (NMC). [Tr. at 28-123]. The NMC is the office within the Coast Guard that reviews applications submitted by merchant mariners and issues MMC credentials, endorsements, and ratings to qualified mariners. [Tr. at 29]. Ms. [REDACTED] testified regarding the applications signed and submitted by Respondent to the NMC on or about October 18, 2016, August 17, 2018, July 30, 2019, and May 26, 2020.

To show the course completion certificates mentioned in Charges 1, 2, 3, and 7 were false, or illegitimate, the Coast Guard presented the testimony of [REDACTED], Executive Assistant to the President of MAMA; and Lamont Godfrey, who formerly worked for MAMA and is now incarcerated after being convicted of mail fraud, wire fraud, and identity theft in connection with a fraud scheme involving the sale of course completion certificates at MAMA. [Tr. at 159-186 ([REDACTED]); Tr. at 127-156 (Lamont Godfrey); Exs. R-A, R-B, R-C, R-D].

The Coast Guard also presented the testimony of [REDACTED] of Edison Chouest. [Tr. at 189-215]. Mr. [REDACTED] holds an MMC grade of Chief Engineer and is the Training and Licensing Manager at Edison Chouest. [Tr. at 190]. Edison Chouest employed Respondent from 2014 through 2021. [Tr. at 194; Ex. CG-023]. Mr. [REDACTED] testified as to the ratings and

endorsements Respondent needed to maintain his employment, and as to the training that Edison Chouest provided to its employees, including Respondent. [Tr. at 189-215].

**1) Charge 1 – October 18, 2016 Application**

Ms. ██████ testified that Respondent submitted an application on or about October 18, 2016, seeking endorsements for Vessel Personnel with Designated Security Duties (VPDSD) and Security Awareness. [Ex. CG-009 at 3, 5-7 (Form CG-719B)]. NMC initially rejected Respondent’s application because it contained only a certificate from Military Sealift Command (MSC) for “Security Watch Member Basic,” and NMC no longer accepted that MSC certificate as proof of qualification for VPDSD. [Tr. at 58-61; Ex. CG-009 at 9]. NMC notified Respondent by letter dated November 16, 2016, that he would need to submit a certificate or letter signed by a company official or a certificate of completion from a U.S. Coast Guard accepted or approved course, within 90 days, or his application would be denied. [Tr. at 58; Exs. CG-010, CG-011].

After receiving the letter from NMC, Respondent submitted a course completion certificate from MAMA for VPDSD, with a course completion date of June 1, 2016. [Tr. at 62-66; Ex. CG-009 at 8].<sup>5</sup> Respondent admitted he obtained the VPDSD course completion certificate from Lamont Godfrey after receiving the letter from NMC, without taking the VPDSD course. [Tr. at 224-225].

██████████ testified regarding MAMA’s records of courses, student enrollment, and issuance of certificates of course completion. [Tr. at 159-186]. Prior to June of 2016,

Respondent had taken two courses at MAMA and received certificates of completion for them—

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<sup>5</sup> During Ms. ██████ testimony, Respondent’s counsel raised the argument that the Coast Guard had not established Respondent was the individual who personally transmitted the VPDSD certificate to NMC. [Tr. at 65-66]. Ms. ██████ testified that the certificate was faxed to NMC by someone at MAMA. [Tr. at 66]. Whether it was Respondent or a MAMA employee who faxed the VPDSD certificate, there is no dispute here that Respondent caused each of the applications to be transmitted to NMC for evaluation. Respondent’s own testimony shows that he voluntarily completed the applications, including procuring the allegedly fraudulent course completion certificates, and submitted them, or gave permission for someone to submit them, to NMC. [Tr. at 224-234].



Visual Communications (Flashing Lights) and Terrestrial & Coastal Navigation (Operational). [Tr. at 164; Ex. CG-016 at 3; Ex. CG-022]. Ms. [REDACTED] located records of Respondent's enrollment, payment, and examination results for these courses. [Ex. CG-016].

Respondent's transcript showed he did not enroll in the VPDS course at MAMA in June of 2016, there is no record Respondent paid for enrollment in that course in June of 2016, and records show only one individual was enrolled in VPDS on June 1, 2016—an individual who was not Respondent. [Tr. at 170-173; Ex. CG-016; Ex. CG-017; Ex. CG-022]. Further, the certificate number on Respondent's VPDS certificate was supposed to have been issued to an individual, not Respondent, who signed up to take the course on June 15, 2016, but never attended the course. [Tr. at 174; Ex. CG-017 at 2].

Lamont Godfrey testified he was the Chief Administrator at MAMA from 2013 to 2020. [Tr. at 128]. Mr. Godfrey acknowledged he was currently in federal prison as a result of convictions for crimes related to a fraud scheme he and others perpetrated at MAMA involving the sale of fraudulent course completion certificates. [Tr. at 137-140; Exs. R-A, R-B, R-C, R-D]. Mr. Godfrey estimated he sold fraudulent certificates to between 75 and 100 mariners over the course of several years. [Tr. at 136].

Mr. Godfrey stated he knew Respondent as a student at MAMA around 2016 or 2017, and he generally recalled selling illegitimate course completion certificates to Respondent, but he could not recall the specific course completion certificates he provided to Respondent or the specific endorsements/ratings Respondent was seeking. [Tr. at 131-133, 146-148]. He testified to his memory that Respondent "needed help...to finish out his package because I believe that he was missing one class...for his endorsement for unlimited oceans, and I think that's what it was about, I don't know for sure, but I think that's what it was..." [Tr. at 132-133].

Mr. Godfrey testified generally to the process he followed for providing fraudulent MAMA course completion certificates to mariners. He explained he required the mariners to provide their full names and dates of sea service, so that the certificate would not have an issue-date during a time period when the mariner was at sea, so as not to make it obvious that the certificate was not legitimate. [Tr. at 133-135]. Additionally, Mr. Godfrey testified he only accepted payment in cash, at a location away from the school, for less money than the course would cost. Id.

On cross-examination, Mr. Godfrey admitted he did not recall explicitly telling Respondent he was selling fraudulent course completion certificates. [Tr. at 152]. When asked by the Coast Guard if he believed Respondent understood the course completion certificates were not legitimate, Mr. Godfrey answered in the affirmative, stating Respondent had to know the course completion certificates were not legitimate because Respondent was obtaining the certificates without attending the course, and Respondent had previously attended courses at MAMA and knew the legitimate process for obtaining certificates. [Tr. at 135].

██████████ Training and Licensing Manager for Edison Chouest, testified Respondent began his employment as an Ordinary Seaman, but advanced to Able Seaman in January of 2015. [Tr. at 197; Ex. CG-007]. Mr. ██████████ explained that in order for Respondent to maintain his employment as an Able Seaman, he needed to demonstrate completion of the VPDS course by January 1, 2017, per the Coast Guard's requirement to meet the Manila Amendment for qualification standards of the International Convention on Standards of Training, Certification and Watchkeeping (STCW).<sup>6</sup> [Tr. at 197].

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<sup>6</sup> Coast Guard regulations incorporate the STCW by reference for various mariner training requirements. See 46 C.F.R. §§ 10.103, 10.107, 11.102.

Charge 1 of the Amended Complaint includes an allegation of an aggravating circumstance. Specifically, it alleges Respondent's actions in regard to his October 18, 2016 application for MMC endorsements caused interference with government officials in the performance of their official duties. See 46 C.F.R. § 5.61(a)(10). The regulations provide for time limitations for bringing an action against a mariner's credential for various types of violations. For dangerous drug charges the period is 10 years. 46 C.F.R. § 5.55(a)(1). For an act or offense not otherwise provided for the limitation period is 3 years. 46 C.F.R. § 5.55(a)(3), and for a misconduct offense specified in 46 C.F.R. § 5.59(a) or 46 C.F.R. § 5.61(a), the limitation period is 5 years. 46 C.F.R. § 5.55(a)(2). The Coast Guard filed this action on April 28, 2021, more than three years, but less than five years, from the date of Respondent's submission of the October 18, 2016 MMC application. Although there was no motion practice regarding this issue, I find the evidence demonstrates that Respondent's submission of fraudulent course completion certificates in applications for merchant mariner credentials to deceive reviewing officials is an act sufficient to constitute interference with government officials in the performance of their duties within the meaning of 46 C.F.R. § 5.61(a)(10). Although a Commandant Decision on Appeal from 1999 found that just submitting an application containing a false statement was not considered sufficient to be interference with government officials, the decision also left open the issue of whether affirmative actions connected to "express written falsification" could constitute interference with government officials. Appeal Decision 2608 (SHEPHERD) (1999) at \*1. I find the affirmative and deceptive nature of Respondent's actions in this matter by submitting fraudulent or counterfeit certificates to prevent discovery of the fact that he had not taken required maritime training courses appropriately fits within the purpose of 46 C.F.R. 5.61(a)(10). Additionally, because the truth of the information provided by a mariner

to the Coast Guard to make a determination on whether to issue a credential is critical, the Coast Guard may seek revocation of credentials under 46 C.F.R. § 5.61. Appeal Decision 2670 (WAIN) (2007).

## **2) Charge 2 – August 17, 2018 Application**

Ms. [REDACTED] testified as to Respondent's submission to NMC of an application dated August 17, 2018. [Tr. at 73-80; Ex. CG-013 at 13]. The application included course completion certificates from MAMA for Basic Safety Training Refresher dated August 16, 2018, Leadership and Managerial Skills dated May 25, 2018, and Automated Radar Plotting Aids (ARPA) dated April 12, 2018. [Ex. CG-013 at 22-24].

Ms. [REDACTED] testified that Respondent's transcript showed he did not attend the Basic Training Refresher course in August 2018, he did not attend a Leadership and Managerial Skills course in May 2018, and he did not attend an ARPA course in April 2018. She also testified there was no record Respondent had paid MAMA for enrollment in any of these courses. Finally, she testified that the certificate numbers on the certificates were not issued to Respondent. [Tr. at 170-176; Exs. CG-016, CG-018, CG-019, CG-020].

Respondent admitted he obtained the course completion certificates from Mr. Godfrey without having attended the courses. [Tr. at 230-232].

As discussed in more detail in the section above regarding Charge 1, Mr. Godfrey testified he provided Respondent these course completion certificates in exchange for cash payments that were less than the cost of enrollment in the courses. [Tr. 131-135].

Mr. [REDACTED] testified Respondent advanced to the position of Mate at Edison Chouest in February of 2019. [Tr. at 199]. As a Mate, Respondent was required to demonstrate completion of Basic Safety Training, Leadership and Managerial Skills, and ARPA courses. [Tr. at 199].

I find the affirmative and deceptive nature of Respondent's actions in this matter by submitting fraudulent or counterfeit certificates to prevent discovery of the fact that he had not taken required maritime training courses is misconduct under 46 C.F.R. 5.27.

**3) Charges 3 and 7 – July 30, 2019 and May 26, 2020 Applications**

Ms. [REDACTED] testified as to Respondent's submission to NMC of applications dated July 30, 2019 and May 26, 2020. [Tr. at 81-90; Ex. CG-014 at 11, CG-015 at 19]. Both applications included a course completion certificate from MAMA for Tankship Dangerous Liquids dated July 26, 2019. [Ex. CG-014 at 35; Ex. CG-015 at 49].

Ms. [REDACTED] testified that Respondent's transcript showed he did not attend the Tankship Dangerous Liquids course in July 2019, there was no record Respondent had paid for enrollment in that course, and the certificate number on the certificate was not legitimate. [Tr. at 170-176; Exs. CG-016, CG-021].

Respondent admitted he obtained the course completion certificate from Mr. Godfrey without attending the course. [Tr. at 233].

As discussed in more detail in the section above regarding Charge 1, Mr. Godfrey testified he provided Respondent the course completion certificate in exchange for a cash payment that was less than the cost of enrollment in the course. [Tr. 131-135].

Mr. [REDACTED] testified that with the completion of a certain amount of sea service involving the handling of dangerous liquids and a Tankship Dangerous Liquids course, Respondent would have been qualified to server as a Tankerman with Edison Chouest. [Tr. at 200-202; Ex. CG-014 at 16-34].

I find the affirmative and deceptive nature of Respondent's actions in this matter by submitting fraudulent or counterfeit certificates to prevent discovery of the fact that he had not taken required maritime training courses is misconduct under 46 C.F.R. 5.27

**b. Respondent's Claim of Lack of Knowledge of Falsity of Course Completion Certificates Is Not Credible**

Respondent took the stand and testified in response to the Coast Guard's evidence. [Tr. at 217-257]. Generally, Respondent claimed that Lamont Godfrey led him to believe there was nothing fraudulent about the manner in which he obtained the course completion certificates without actually having attended the courses at MAMA.

Respondent testified he took other courses at MAMA prior to obtaining the course completion certificates that are mentioned in Charges 1 through 7. [Tr. at 219-223, 226]. For at least one of the courses (Terrestrial Navigation), Respondent attended classes for three weeks before taking an exam to obtain the course completion certificate. [Tr. at 221-223]. Respondent paid for enrollment in the course by credit card. [Tr. at 228]. For another class (Flashing Lights), Respondent stated he did not attend a class at MAMA, but only sat for an exam and passed it, in order to obtain the certificate. [Tr. at 226].

Respondent testified he viewed Mr. Godfrey as a high level administrator at MAMA and trusted the information provided by Mr. Godfrey regarding MMC applications. [Tr. at 220-224].

Respondent first addressed the allegation in Charge 1 regarding the course completion certificate for VPDS. [Tr. at 224]. Respondent admitted initially submitting the October 18, 2016 application with the "Security Watch Member Basic" certificate from MSC, and then receiving a letter from NMC notifying him the MSC certificate was not sufficient to obtain the VPDS endorsement. [Tr. at 224]. After receiving the November 16, 2016 letter from NMC rejecting the MSC certificate, Respondent testified that he approached Mr. Godfrey to ask about

enrolling in MAMA's VPDS D course. [Tr. at 224]. Respondent testified that Mr. Godfrey told him that instead of attending the VPDS D class, he could take a test in order to obtain the course completion certificate. [Tr. at 224-225]. Respondent admitted the certificate he received had a course completion date of June 1, 2016, and claimed that Mr. Godfrey informed him the certificate was only to document the hours he was supposed to be in the course. [Tr. at 251-252]. The certificate for VPDS D was submitted to the Coast Guard in November 2016. [Tr. at 65].

Regarding Charge 2, which relates to the August 17, 2018 application, Respondent testified he spoke to Mr. Godfrey about course completion certificates for Basic Safety Training Refresher, Leadership and Managerial Skills, and ARPA. [Tr. at 230-232]. Respondent stated that Mr. Godfrey asked him questions about the position he held in the chain of command, whether he was using radar on ships, and how much sea time he had accrued. [Tr. at 230-232]. Respondent claimed Mr. Godfrey then told him he could obtain all of these certificates without attending the classes, as long as he could pass the exams for the courses, or, in the case of Basic Safety Training Refresher, his sea time alone qualified him for the certificate. [Tr. at 230-232, 253].

Regarding Charges 3 and 7, which relate to applications dated July 30, 2019, and May 26, 2020, which both included the same course completion certificate for Tankship Dangerous Liquids, Respondent stated he approached Mr. Godfrey about obtaining the tankerman endorsement and claimed Mr. Godfrey told Respondent he could obtain the course completion certificate without attending the class if he passed a test. [Tr. at 234]. Respondent testified he believed what Mr. Godfrey told him regarding obtaining the course completion certificates was correct and true, and asserted that he did not know the course completion certificates he obtained and submitted with his applications were fraudulent. [Tr. at 236-237].

Regarding all of the course completion certificates mentioned in Charges 1, 2, 3, and 7, Respondent testified that Mr. Godfrey told him he could pay by credit card or cash, but that Mr. Godfrey encouraged him to pay in cash to avoid a three percent additional fee. [Tr. at 228]. Respondent stated he paid Mr. Godfrey in cash for all of the course completion certificates. [Tr. at 228]. On cross-examination, Respondent stated he received paper receipts from Mr. Godfrey for those payments, but when asked about the receipts at the hearing, he stated he did not have them. [Tr. at 247-249]. Respondent also testified that Mr. Godfrey had administered all of the tests. [Tr. at 254]. On cross-examination, Respondent conceded he had no records of any of the alleged test results. [Tr. at 253-254].

**1) Respondent's Contentions Regarding Actual or Constructive Knowledge Are Not Credible**

In his post-hearing brief, Respondent cites to Appeal Decision 2724 (EDENSTROM) (2020) in support of his argument that Respondent did not “knowingly” submit fraudulent course completion certificates with his applications for endorsements and upgrade of his credentials. [Resp. Brief at 12-15]. As discussed above, the Commandant in EDENSTROM held that a mariner must have actual or constructive knowledge of the falsity of the statement in order to have violated 18 U.S.C. § 1001. Appeal Decision 2724 (EDENSTROM) at fn 6. A person has constructive knowledge if he or she had reason to know the representation was false. Appeal Decision 809 (MARQUES) (1955) at \*2. A person has the equivalent of actual knowledge if he or she makes a representation without belief in its truth or in reckless disregard of its truth or falsity. Id. Therefore, the proper focus for addressing Respondent’s argument is to examine whether he had reason to know the course completion certificates were illegitimate, or whether he exercised a reckless disregard for the truth or falsity of the certificates when he included them in his applications.



For Respondent's argument to be successful, I would have to find his alleged belief in Lamont Godfrey's authority to provide course completion certificates for classes Mr. Godfrey did not teach and that Respondent had not attended to be credible. There is no dispute that Mr. Godfrey and others engaged in a conspiracy to sell fraudulent course completion certificates to mariners and that Mr. Godfrey has been convicted of federal offenses for that scheme and is incarcerated. Respondent's defense essentially argues that Respondent was duped by Mr. Godfrey and actually believed obtaining course completion certificates for courses he did not attend was somehow not fraudulent.

Respondent's contention that he did not "know" the operation was fraudulent is simply not credible. Respondent highlights in his closing argument brief that during cross-examination Mr. Godfrey conceded he did not explicitly tell Respondent he was selling fraudulent course completion certifications. [Tr. at 152]. However, it is hardly surprising that a person engaged in criminal conduct would not make specific statements that what he was doing was fraudulent or that he would not have records of all of his criminal sales of fraudulent certificates. Respondent's argument that he did not know the certificates were fraudulent is not supported by the facts.

First, the evidence shows that prior to his submission of the October 18, 2016 MMC application, Respondent had completed training and had submitted other applications to obtain and hold an MMC since 2011. [Tr. at 38-54; Exs. CG-001, CG-006, CG-007, CG-008]. Respondent was an experienced mariner. Respondent testified that he previously took other courses at MAMA and obtained legitimate certificates. [Tr. at 219-223, 226]. For at least one of the courses (Terrestrial Navigation), Respondent testified he paid for enrollment by credit card, attended classes for three weeks, and took an exam to obtain the course completion certificate.

[Tr. at 221-223, 228]. For another class (Flashing Lights), Respondent stated he did not attend a class at MAMA, but sat for an exam and passed it, in order to obtain the certificate. [Tr. at 226].

While the scheme for providing certificates to mariners who had not attended the classes was created by Mr. Godfrey and his co-conspirators, and Respondent has never been accused of being a co-conspirator, Respondent was not a novice. He has been a credentialed mariner since 2011 and knew the Coast Guard was the approval authority. [Tr. at 245, 255]. Respondent obtained the course completion certificates from Mr. Godfrey knowing he had not attended the courses. [Tr. at 224-225, 230-233]. This is at odds with the manner in which Respondent obtained course completion certificates in the past. To obtain his Able Seaman and Proficiency in Survival Craft course completion certificates, Respondent had to attend classes at Edison Chouest and then pass an exam. [Tr. at 194-196; Ex. CG-007 at 22-23]. To obtain his course completion certificate for Terrestrial Navigation, Respondent attended classes at MAMA and then took and passed an exam. [Tr. at 164; Ex. CG-016 at 3; Ex. CG-022].

With regard to the course completion certificate for VPDS in particular, Respondent knew he needed additional proof of completing proper training after receiving the November 16, 2016 letter from NMC notifying him that his MSC certificate was insufficient. [Tr. at 58; Exs. CG-010, CG-011]. His employer would not have allowed him to continue serving as an Able Seaman unless he produced proof of completion of the VPDS course by January 1, 2017. [Tr. at 197]. Therefore, there was an impending deadline for Respondent to obtain the VPDS course completion certificate.

Further, the certificate for VPDS showed a course completion date of June 1, 2016. [Ex. CG-009 at 8; Ex. CG-017]. Even if Respondent had completed an exam administered by Mr. Godfrey in lieu of taking the course, as he claimed, Respondent would have done that in

November 2016 at the earliest, because he did not approach Mr. Godfrey regarding VPDS until after receiving the November 16, 2016 letter from NMC. [Tr. at 224]. Respondent conceded it was incongruous that his VPDS certificate contained the June 1, 2016 completion date, but he testified that Mr. Godfrey assured him it was fine. [Tr. at 251-252]. [REDACTED] testified that only MAMA instructors were allowed to issue certificates after an individual attended a course and successfully completed an exam. [Tr. at 162-163; CG Ex. 16]. In view of Respondent's experience, including having taken legitimate courses previously at MAMA, Respondent's claim of taking examinations on site at MAMA proctored by Mr. Godfrey and merely being duped by this elaborate scheme is not credible.

Mr. Godfrey's version of the way he interacted with Respondent was markedly different than Respondent's. He testified that for the transactions with Respondent, the only information he needed from Respondent was his full name and the dates he was out at sea to make sure the certificate he created did not have a date that coincided with Respondent's sea time. [Tr. at 132-134]. Mr. Godfrey also testified that to avoid getting caught, the transactions were off-site from the school and he only accepted cash. [Tr. at 134-136].

For all of the course completion certificates, Mr. Godfrey charged less than the amount charged by MAMA for attending the courses at the school. [Tr. at 134-135; Ex. R-C at 3]. Mariners who paid Mr. Godfrey and his conspirators for the certificates saved money and time by obtaining course completion certificates without attending the courses. [Ex. R-C at 3]. Respondent paid cash for the certificates at issue here, even though he paid by credit card for a prior MAMA course. [Tr. at 228]. Respondent also claimed he received receipts from Mr. Godfrey for his cash payments, to support his contention that he somehow believed Mr. Godfrey's sale of course completion certificates were legitimate transactions, but he did not

produce any of these receipts at the hearing. [Tr. 247-248]. Respondent's claim that Godfrey provided him receipts for his criminal enterprise is not credible.<sup>7</sup>

As noted above, Mr. Godfrey's practice in the scheme to provide fraudulent course completion certificates was to meet offsite and accept only cash. Additionally, Respondent knew Mr. Godfrey was an administrator and not an instructor. [Tr. at 220]. It is not credible that Respondent believed Mr. Godfrey was in a position to proctor exams, given Respondent's admission on cross-examination that for every other course at MAMA, the exam was proctored by an instructor. [Tr. at 254]. I have fully considered the fact of Mr. Godfrey's conviction in weighing his testimony and I observed Respondent directly during his testimony at the hearing. I find he knew he had not attended the courses and accepted course certificates which had specific dates of attendance for the courses he did not attend. I do not find this claim of taking examinations at the school and receiving receipts from Godfrey credible.

Respondent's claim of reliance on Mr. Godfrey is inconsistent with Respondent's experience (he had been a credentialed mariner since 2011) and he could have contacted the Coast Guard to check on any actions that were out of step with the normal MMC application process. Even if, *arguendo*, Respondent's claim that Mr. Godfrey made statements that he could obtain completion certificates for courses he did not take were accepted, it is no better than a reckless disregard for the truth. Respondent's claim of ignorance of the falsity of the course completion certificates he received from Mr. Godfrey, when he knew Mr. Godfrey was providing certificates for dates he did not attend classes, is equivalent to actual knowledge. Appeal

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<sup>7</sup> The record shows the initial complaint in this matter was served on Respondent on May 7, 2021, and an initial answer submitted through counsel on June 19, 2021. There was adequate time for exchange of discovery and preparation of matters in defense prior to the hearing that was eventually held on October 27, 2021. The Coast Guard provided Ms. [REDACTED] Declaration (Ex. CG-016) in discovery well before the hearing, so Respondent was on notice that MAMA had no record of payment for the courses noted in the charges. The Coast Guard retains the burden of proof in S&R proceedings, and Respondent was under no obligation to produce receipts if they existed. See 33 C.F.R. § 20.702.

Decision 2724 (EDENSTROM) at fn 6; Appeal Decision 809 (MARQUES) (1955) at \*2; see also Appeal Decision 2670 (WAIN) (2004). Respondent could also be viewed, due to his experience, as having reason to know Mr. Godfrey's actions and statements were not in keeping with legitimate MMC practices, which constitutes constructive knowledge. Id.

Respondent's argument that Mr. Godfrey abused his position of authority to trick and deceive Respondent ignores the fact that the Coast Guard provides resources to mariners for submitting MMC applications. The applicant for an MMC or endorsements must establish that he or she satisfies the requirements for the MMC or endorsements. See 46 C.F.R. § 10.209(a) and 46 C.F.R. Part 10, generally. It is the responsibility of the individual mariner to learn what is necessary for MMC credentials and endorsements. [Tr. at 119]. The Coast Guard NMC has resources for the public to obtain information on the credentialing process, including checklists on its website, a live chat feature on the website, and a call-in hotline. [Tr. at 100-101, 117-119]. Moreover, Respondent obtained his original MMC in 2011 on his own without reliance on Mr. Godfrey. [Tr. at 255].

**2) Respondent's Argument that Charges Should Be Dismissed Because the Coast Guard Did Not Discover the MAMA Fraud Scheme Sooner Is Not Supported by Facts or Law**

Respondent asserted in his post-hearing brief that the last audit of MAMA was in June 2015 and the Coast Guard still has not audited MAMA since the fraud scheme was discovered. [Resp. Brief at 32]. Respondent's argument ignores the fact that the Coast Guard has oversight and regulatory authority for maritime matters including MMCs, but it remains the responsibility of mariners and the private maritime industry to comply with the law and regulations. MAMA is a private company subject to regulation. Ship owners are primarily responsible for vessel safety and compliance with regulations even though they are subject to Coast Guard inspections. See

e.g., Cassens v. St. Louis River Cruise Lines, Inc., 44 F.3d 508 (7<sup>th</sup> Cir. 1995). Mariners are responsible for complying with the regulations when applying for credentials and endorsements. See 46 C.F.R. § 10.209(a) and 46 C.F.R. Part 10, generally. Ignorance of the law is not an excuse and individuals do not need to be warned that failure to comply with the law has consequences.

Having discussed Charges 1, 2, 3, and 7 of the Amended Complaint, I now turn to the remaining charges.

**2. Charges 4, 5, and 6 – Violation of 18 U.S.C. § 2197**

For Charges 4, 5, and 6, the Coast Guard alleged Respondent committed misconduct by using Coast Guard-issued ratings or endorsements to which he was not lawfully entitled, in violation of 18 U.S.C. § 2197.

In Charge 4 (based on the allegedly fraudulent course completion certificate mentioned in Charge 1), the Coast Guard alleged Respondent received the following endorsements to MMC No. 000355835 on December 2, 2016, to which he was not lawfully entitled: VPDS and Security Awareness.<sup>8</sup>

In Charge 5 (based on allegedly fraudulent course completion certificates mentioned in Charges 1 and 2), the Coast Guard alleged Respondent received the following endorsements/ratings to MMC No. [REDACTED] on October 1, 2018, to which he was not lawfully entitled: VPDS, Security Awareness, Rating Forming Part of a Navigational Watch, Able

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<sup>8</sup> Though the Coast Guard issued the endorsements to Respondent on December 2, 2016, more than three years prior to the Coast Guard's filing of the Complaint, Respondent held the MMC (MMC No. [REDACTED] through October 1, 2018, and used the endorsements during that time to work on vessels at Edison Chouest, causing his actions to be a continuous violation of 18 U.S.C. § 2197 through October 1, 2018. As the Coast Guard filed the Complaint on April 28, 2021, Charge 4 was brought within three years of the commission of the offense. Moreover, as discussed in Sec. III.C.1.a(1), I find that Respondent's actions could constitute interference with a government official in the performance of his or her official duties, under 46 C.F.R. § 5.61(a)(10), for which a five-year statute of limitations applies.

Seafarer – Deck, Officer in Charge of a Navigational Watch, Proficiency in Survival Craft, Advanced Firefighting, Medical First-Aid Provider, and Basic Training.

In Charge 6 (based on the allegedly fraudulent course completion certificate mentioned in Charge 3), the Coast Guard alleged Respondent received the following endorsements to MMC No. [REDACTED] on October 9, 2019, to which he was not lawfully entitled: Tankerman – Advanced Chemical Tanker Cargo Operation, Tankerman – Advanced Oil Tanker Operation, and Tankerman – PIC (Barge).

There is no dispute that Respondent received the endorsements/ratings mentioned in Charges 4, 5, and 6, as the parties stipulated to those facts. [Ex. ALJ-I (“Joint Stipulation of Fact and Motion to Admit Exhibits”) at Nos. 4, 9, 10; Exs. CG-002, CG-003, CG-004].

It is axiomatic that a mariner is not lawfully entitled to endorsements/ratings that he or she obtained through fraud. Moreover, this self-evident concept is established in the regulations at 46 C.F.R. § 10.209(a) (“The applicant for an MMC...must establish that he or she satisfies all the requirements for the MMC and endorsement(s) sought before the Coast Guard will issue the MMC.”). As discussed in Sec. III.C.1, above, I found Respondent submitted applications for endorsements/ratings with actual or constructive knowledge of the falsity of course completion certificates contained in those applications, and thus Respondent engaged in the submission of fraudulent applications. See Appeal Decision 2569 (TAYLOR) (1995); Appeal Decision 2570 (HARRIS) (1995); Appeal Decision 2724 (EDENSTROM) (2020); Appeal Decision 2670 (WAIN).

For Charges 4 and 6, the Coast Guard proved by preponderant evidence, through the testimony of [REDACTED] and [REDACTED] and through the applications and copies of the MMC endorsement sheets themselves, that the course completion certificates for VPDS and

Tankship Dangerous Liquids were necessary for Respondent to obtain the endorsements/ratings of VPDS, Security Awareness, Advanced Oil Tanker Cargo Operation, Advanced Chemical Tanker Cargo Operation, and Tankerman-PIC (Barge). [Tr. 57-58, 63-67, 81-83, 197-201; Exs. CG-002, CG-004, CG-009, CG-014]. I found the Coast Guard proved Respondent knowingly included fraudulent course completion certificates from MAMA in his applications to obtain those endorsements/ratings. Therefore, the Coast Guard proved that Respondent was not lawfully entitled to these endorsements/ratings and violated Title 18 U.S.C. § 2197.

However, the Coast Guard only partially proved Charge 5 by preponderant evidence. For Charge 5, the Coast Guard's evidence—through the testimony of Ms. [REDACTED] the August 17, 2018 MMC application, and the corresponding October 1, 2018 MMC No. [REDACTED]—was sufficient to prove Respondent was not lawfully entitled to the ratings/endorsements of Officer in Charge of a Navigational Watch with the “ARPA” limitation removed, VPDS, Security Awareness, and Basic Training. [Tr. at 73-80; Exs. CG-003, CG-013]. Ms. [REDACTED] testimony and the application package demonstrated that the course completion certificates for VPDS, Basic Safety Training Refresher, and ARPA were necessary to obtain those endorsements/ratings. However, the Coast Guard's evidence did not clearly show how those certificates were necessary for Respondent to receive Rating Forming Part of a Navigational Watch, Able Seafarer – Deck, Proficiency in Survival Craft, Advanced Firefighting, and Medical First-Aid Provider, because the evidence showed Respondent had already received those endorsements/ratings before submitting the fraudulent course completion certificates. [See Ex. CG-002 at 1]. Accordingly, the Coast Guard only partially proved Charge 5 by preponderant evidence.



Finally, the Coast Guard proved Respondent used the endorsements/ratings discussed above, despite not being lawfully entitled to them. Through the testimony of Mr. [REDACTED] and evidence of Respondent's sea time, the Coast Guard demonstrated by a preponderance of the evidence that Respondent used the unlawfully obtained endorsements/ratings to serve aboard vessels at Edison Chouest in violation of 18 U.S.C. § 2197 and constituting misconduct under 46 C.F.R. § 5.27.<sup>9</sup> [Tr, at 193-203; Ex. CG-023].

#### IV. SANCTION

S&R proceedings are remedial in nature and their purpose is to help maintain standards for competence and conduct essential to the promotion of safety at sea. 46 U.S.C. § 7701(a); 46 C.F.R. § 5.5. The ALJ has the exclusive authority to impose sanctions at the conclusion of a case. Appeal Decision 2362 (ARNOLD) (1984).

The Coast Guard argues in its post-hearing brief that revocation of Respondent's current credential—MMC No. 000580540 issued on December 14, 2020—is the appropriate sanction in this matter. Relying on Appeal Decision 2569 (TAYLOR) (1995), Appeal Decision 2613 (SLACK) (1999), Appeal Decision 2670 (WAIN) (2007), and Appeal Decision 2346 (WILLIAMS) (1984), the Coast Guard asserts Respondent's actions of fraudulently obtaining and serving under endorsements to which he was not entitled constituted serious misconduct that undermined the laws designed to promote maritime safety, and so revocation of the current credential is justified. Id.

Respondent's primary argument at both the hearing and in his post-hearing brief is that he did not commit misconduct because he did not knowingly submit fraudulent course completion

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<sup>9</sup> Where a charge of misconduct is based on allegations of violation of a criminal statute such as 18 U.S.C. § 2197, the standard of proof for these administrative proceedings remains a preponderance of the evidence. See Appeal Decision 2346 (WILLIAMS) (1984).

certificates. Respondent further argues in his post-hearing brief that if any sanction is issued, it should be limited to an admonishment or to one to three months' suspension, considering the guidance contained in 46 C.F.R. § 5.569. [Resp. Brief at 34]. Respondent also argued the Coast Guard failed to prove any aggravating matter. Id. However, as noted above in Section III.C.1.a(1), in discussing Charge 1, I found that procuring fraudulent course completion certificates for MMC applications to deceive reviewing officials is a sufficient act to constitute interference with government officials in the performance of their duties within the meaning of 46 C.F.R. § 5.61(a)(10). The system relies on accurate submissions by mariners and the application requires the mariner to certify what he or she is submitting is truthful, honest, and in good faith. [Tr. at 40-41, 97, 116]. Appeal Decision 2670 (WAIN) (2007). I have found Respondent was a knowing and willing participant in the submission of fraudulent documents for his MMC endorsements and the deceptive nature of these acts with counterfeit certificates made the fraud hard to detect. [Tr. 63-67].

Except for acts or offenses for which revocation is mandatory, the ALJ may consider various factors, including remedial actions taken by a respondent, the prior record of the respondent, and evidence of mitigation or aggravation. See 46 C.F.R. § 5.569(b). The regulations contain a section indicating that the ALJ is required to enter a sanction of revocation for drug use violations. 46 C.F.R. § 5.59. Otherwise, the selection of an appropriate order is the responsibility of the ALJ. 46 C.F.R. § 5.569; Appeal Decision 2362 (ARNOLD), supra.

In WILLIAMS, the mariner was found to have committed misconduct by altering his license by typing the term "DEMAC" onto the document, then presenting it to the Coast Guard and requesting that a duplicate license be issued to correct his birthdate. Appeal Decision 2346 at \*1. The mariner attempted to obtain an endorsement for Deck Engine Mechanic or Machinist

by fraud, and was caught before the credential was issued. The ALJ issued an order revoking the mariner's document. On appeal, the Commandant upheld the ALJ's decision to revoke the mariner's document, but did not do so on grounds that revocation of the mariner's existing document that he attempted to alter was the only appropriate sanction for submitting a fraudulent application for an additional endorsement. The Commandant instead found the ALJ's determination to revoke the mariner's document was appropriate given the seriousness of the violation, which could have resulted in the mariner being "placed in a critical position aboard ship, although he is, in reality, unqualified." Appeal Decision 2346 at \*4.

In HARRIS, the ALJ revoked the mariner's credential after it was proved that the same credential had been obtained by fraud (the mariner had knowingly lied in his application regarding prior drug use). Appeal Decision 2570 at \*2. In TAYLOR, and SLACK, the ALJ issued Orders of revocation after it was proved that the mariners made knowingly false statements regarding convictions for offenses including DWI in their applications for duplicate and renewal credentials, respectively. Appeal Decision 2569 at \*1; Appeal Decision 2613 at \*1. Fraud in the procurement of the duplicate or renewed credential is akin to fraud in the procurement of the original credential, because the mariner is seeking to operate under the same scope of authority as the original credential.

These cases are instructive but the distinct facts of each case must be considered in determining an appropriate sanction. Here, Respondent obtained endorsements and upgrades to his MMC to which he was not entitled by knowingly including fraudulent course completion certificates in his applications. The fact that he has no prior violations is considered in mitigation.

The primary focus of these proceedings is to help maintain standards for competence and conduct essential to the promotion of safety at sea. 46 C.F.R. § 5.5; 46 U.S.C. § 7701. Respondent's use of fraudulent course completion certificates to obtain endorsements and upgrades for which he is not entitled creates a clear threat to safety at sea. Mariners that are unqualified for positions aboard vessels create risks to the lives of others aboard those vessels and to the lives of others at sea. I find that although the law does not mandate revocation, Respondent committed serious misconduct. The use of fraudulent course completion certificates to obtain endorsements to which he was not entitled creates a clear risk to safety at sea. Therefore, revocation is the appropriate sanction in this matter, in keeping with 46 C.F.R. § 5.569 and Appeal Decision 2362 (ARNOLD), *supra*.

#### **ORDER**

**IT IS HEREBY ORDERED**, Merchant Mariner Credential No. [REDACTED], and all other valid licenses, documents, and endorsements issued by the Coast Guard to Respondent Marquis Dickens, are **REVOKED**.

**IT IS FURTHER ORDERED**, Respondent shall immediately deposit all Coast Guard-issued credentials to LCDR Justin Jolley of the USCG Mariner Credentialing Fraud Task Force, 100 Forbes Drive, Martinsburg, West Virginia, 25404.

**PLEASE TAKE NOTICE**, within three (3) years or less, Respondent may file a motion to reopen this matter and seek modification of the order of revocation upon a showing that the order of revocation is no longer valid and the issuance of a new license, certificate, or document is compatible with the requirement of good discipline and safety at sea. See generally 33 C.F.R. § 20.904.

**PLEASE TAKE FURTHER NOTICE**, service of this decision and order on the parties and/or parties' representative(s) serves as notice of the appeal rights set forth in 33 C.F.R. 20.1001 – 20.1004. (See Attachment B).



Michael J. Devine  
US Coast Guard Administrative Law Judge

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**Michael J. Devine**  
**Administrative Law Judge**  
**United States Coast Guard**

Done and dated September 16, 2022  
Baltimore, MD

**ATTACHMENT A**

**Coast Guard's Witnesses**

1. [REDACTED]
2. Lamont Godfrey
3. [REDACTED]
4. Capt. [REDACTED]

**Coast Guard's Exhibits\***

- Ex. CG-001: MMC No. [REDACTED] issued to Respondent
- Ex. CG-002: MMC No. [REDACTED] issued to Respondent
- Ex. CG-003: MMC No. [REDACTED] issued to Respondent
- Ex. CG-004: MMC No. [REDACTED] issued to Respondent
- Ex. CG-005: MMC No. [REDACTED] issued to Respondent
- Ex. CG-006: MMC Application dated June 23, 2011
- Ex. CG-007: MMC Application dated October 30, 2014
- Ex. CG-008: MMC Application dated April 20, 2016
- Ex. CG-009: MMC Application dated October 18, 2016
- Ex. CG-0010: NMC Letter dated November 16, 2016
- Ex. CG-0011: Screenshot from MMDL Database
- Ex. CG-0012: MMC Application dated February 26, 2018
- Ex. CG-0013: MMC Application dated August 17, 2018
- Ex. CG-0014: MMC Application dated July 30, 2019
- Ex. CG-0015: MMC Application dated May 26, 2020
- Ex. CG-0016: Declaration of [REDACTED]
- Ex. CG-0017: VPDS Certificate dated June 1, 2016

- Ex. CG-0018: ARPA Certificate dated April 12, 2018
- Ex. CG-0019: L&M Certificate dated May 25, 2018
- Ex. CG-0020: BSTR Certificate dated August 16, 2018
- Ex. CG-0021: TDL Certificate dated July 26, 2019
- Ex. CG-0022: MAMA Student Transcript for Respondent
- Ex. CG-0023: Sea Time Report

**Respondent's Witnesses**

1. Marquis Dickens (Respondent)
2. [REDACTED]

**Respondent's Exhibits\***

- Ex. R-A: Lamont Godfrey Indictment
- Ex. R-B: Lamont Godfrey Plea Agreement
- Ex. R-C: Lamont Godfrey Statement of Facts
- Ex. R-D: Government filing re: sentencing factors
- Ex. R-E: DOJ press release dated August 16, 2021
- Ex. R-F: 46 C.F.R. Part 10, Subpart D
- Ex. R-G: Site Approval Submittal Checklist
- Ex. R-H: CG-MMC Policy Letter dated August 24, 2020
- Ex. R-I: OIG Audit Report on Merchant Mariner Licensing and Documentation Program dated September 30, 1997
- Ex. R-J: OIG Audit Report, Findings, Recommendations dated July 20, 1989
- Ex. R-K: Navigation and Vessel Inspection Circular No. 03-14, CH-1
- Ex. R-L: OIG Audit Recommendations to Improve System for Adjudicating S&R Matters dated August 2010
- Ex. R-M: Appeal Decision 2724 (EDENSTROM) (2020)

Ex. R-N: NMC Audit Report of MAMA dated July 8, 2015

**Court's Exhibits**

Ex. ALJ-I: Joint Stipulation of Fact and Motion to Admit Exhibits

Ex. ALJ-II: Subpoena issued by Coast Guard to [REDACTED]

Ex. ALJ-III: Subpoena issued by Coast Guard to [REDACTED]

\*All admitted pursuant to Joint Stipulation of Fact and Motion to Admit Exhibits



## ATTACHMENT B

### Notice of 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.