

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

UNITED STATES COAST GUARD
Complainant

vs.

ERIN MCNAMARA CHUSTZ,
Respondent

Docket Number 2023-0186
Enforcement Activity No. 7661835

DEFAULT ORDER
Issued: September 1, 2023

By the Honorable George J. Jordan, Administrative Law Judge

Appearances:

LT. Samuel Crenshaw
Investigating Officer
Marine Safety Unit Baton Rouge
For the Coast Guard

Erin McNamara Chustz, *Pro se*
For the Respondent

ORDER GRANTING COAST GUARD'S MOTION FOR DEFAULT ORDER

On May 22, 2023, the Coast Guard filed a Complaint against Ra'naud Chaunsy Adams (Respondent), seeking Revocation of Respondent's Merchant Mariner Credential (MMC) 000681680. On June 22, 2023, the Investigating Officer at United States Coast Guard Marine Safety Unit (MSU), Baton Rouge filed a Motion for Default Order (the Motion) due to Respondent's failure to file an Answer to the Complaint. The Chief Administrative Law Judge assigned this MSU Baton Rouge case to me on August 11, 2023, for adjudication of the Motion. I took the matter under advisement and conducted a complete review of the record in this case.

When the Coast Guard filed the Complaint with the Docketing Center on May 22, 2023, it served Respondent's copy at [REDACTED] using FedEx Ground shipping. The record establishes that a person of suitable age and discretion residing at that residence accepted service of the complaint on May 24, 2023, but did not subsequently file an Answer. Respondent also failed to file a response to the Motion. The Notice of Return of Service for the Motion dated July 18, 2023, shows Express Courier Service delivered to the Respondent's residence and signed for by a person of suitable age and discretion residing at that residence on July 13, 2023.

Under Coast Guard procedural rules, service of complaints and default motions are treated differently than most other filings. See 33 C.F.R. § 20.304. The purpose of these requirements is to make sure a mariner is notified of any charges brought against his or her MMC, including suspension or revocation. Specifically, Table 20.304(g) describes when service of various types of documents is considered complete. For complaints and default motions served by certified mail or express courier, service is complete only when delivered to the person's residence and signed for by either the respondent or another person of suitable age and

discretion residing there. The rules also state, “If a person refuses to accept delivery of any document or fails to claim a properly addressed document other than a complaint sent under this subpart, the Coast Guard considers the document served anyway. Service is valid at the date and the time of mailing, of deposit with a contract service or express-courier service, or of refusal to accept delivery.” 33 C.F.R. § 20.304(h). Additionally, “[e]ach party ... shall notify the Hearing Docket Clerk, the ALJ, and every other party or interested person, or her or his representative, of any change of address.” 33 C.F.R. § 20.305(c).

Here, the Coast Guard properly served Respondent with the Complaint and Motion. As Respondent has neither filed an Answer nor availed Respondent of the opportunity to respond to the Motion, I find Respondent is in **DEFAULT**. A default constitutes an admission of all facts alleged in the Complaint and a waiver of Respondent's right to a hearing. See 33 C.F.R. § 20.310. Here the following facts have been deemed admitted:

I. FACTUAL ALLEGATIONS-Misconduct

1. On February 23, 2023, Respondent was employed by Norwegian Cruise Line and subject to Norwegian Cruise Lines policies while working as a crewmember on the cruise ship PRIDE OFAMERICA (O.N. 1146542).

2. On February 23, 2023, Norwegian Cruise Line had a policy requiring a crewmember to submit to an alcohol test if requested while aboard.

3. On February 23, 2023, Respondent was observed by the Director of Outlets as being away from her assigned duty station, asleep next to a bottle of wine. Respondent was observed stumbling, with red, glossy eyes, and had an odor of alcohol about her person.

4. On February 23, 2023, the Staff Captain directed Respondent to take a chemical test in accordance with Norwegian Cruise Lines' Drug and Alcohol Policy.

5. On February 23, 2023, Respondent refused to submit to an alcohol test, directed by the Staff Captain in violation of Norwegian Cruise Lines Drug and Alcohol Policy.

6. Respondent's violation of Norwegian Cruise Lines Drug and Alcohol Policy is Misconduct as described by 46 U.S.C. § 7703 (1)(B) and defined by 46 CFR § 5.27.

Upon review of the record, I find that the deemed admitted facts are sufficient to establish that Respondent's misconduct is, as described by 46 U.S.C. § 7703(1)(B). Accordingly, I find the allegations set forth in the Complaint **PROVED**. Based on this finding, I also find the facts alleged in the Complaint as to violation of Misconduct sufficient to warrant the sanction of **SUSPENSION**. See 46 C.F.R. § 5.569.

WHEREFORE,

ORDER

Upon consideration of the record, I find Respondent in **DEFAULT**.

IT IS HEREBY ORDERED, in accordance with 33 C.F.R. § 20.310, I find the allegations set forth in the Complaint **PROVED**.

IT IS FURTHER ORDERED, all of Respondent's Coast Guard issued credentials, including Respondent's Merchant Mariner Credential (MMC), are **SUSPENDED OUTRIGHT FOR THREE MONTHS**.


IT IS FURTHER ORDERED, Respondent shall immediately deliver all Coast Guard issued credentials, licenses, certificates, or documents, including the MMC, by mail, courier service, or in person to: Samuel Crenshaw, Investigating Officer, Marine Safety Unit (MSU), 6041 Crestmount Drive, Baton Rouge, Louisiana, 70809. In accordance with 18 U.S.C. § 2197, **if Respondent knowingly continues to use the Coast Guard issued MMC, Respondent may be subject to criminal prosecution.**

IT IS FURTHER ORDERED, pursuant to 33 C.F.R. § 20.310(e), for good cause shown, an ALJ may set aside a finding of default. A motion to set aside a finding of default may be filed with the ALJ Docketing Center in Baltimore. The motion may be sent to the U.S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21202-4022.

PLEASE TAKE NOTICE, service of this Default Order on the parties serves as notice of appeal rights set forth in 33 C.F.R. § 20.1001-20.1004 (Attachment A).

SO ORDERED.

Done and dated this September 1, 2023, at
Seattle, Washington.


George J. Jordan Administrative Law Judge United States Coast Guard