

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

UNITED STATES COAST GUARD,

Complainant,

vs.

COLLIN ROBERT COLE,

Respondent,

Docket Number: 2024-0256
Enforcement Activity Number: 7892717

DEFAULT DECISION

Issued: September 17, 2024

By: George J. Jordan, Administrative Law Judge

Appearances:

LT Claude Nadal
For the Coast Guard

Collin Robert Cole, *Pro se*
For the Respondent

This matter comes before me based on the United States Coast Guard's (Coast Guard) Motion for Default Order (Motion for Default). As of the date of this order, Collin Robert Cole (Respondent) has not replied to the Complaint nor the Motion for Default. Upon review of the record and pertinent authority, the allegations in the Complaint are **PROVED**.

On June 26, 2024, the Coast Guard issued a Complaint against Respondent seeking to revoke his Merchant Mariner Credential (MMC) for misconduct in violation of 46 U.S.C. § 7703(1)(B) as described in 46 C.F.R. § 5.27 due to violating his employer's policy on intoxication. Specifically, the Coast Guard alleges Respondent was intoxicated while performing ship's business.

The Coast Guard served the Complaint on Respondent via express courier service delivered to his place of residence and signed for by a person of suitable age and discretion residing at the residence on July 2, 2024. Respondent did not file an answer. On August 14, 2024, the Coast Guard then filed a Motion for Default completing service of the motion on August 21, 2024 again via express courier. To date, more than twenty days have passed from service of the Motion for Default and Respondent has neither filed an answer nor requested an extension of time to file an answer. 33 C.F.R. § 20.308(a).

As Respondent has not filed an answer nor asserted good cause for failing to do so, I find Respondent in **DEFAULT**. 33 C.F.R. § 20.310(a); Appeal Decision 2700 (THOMAS) (2012). A default constitutes an admission of all facts alleged in the Complaint and waiver of the right to hearing on those facts. 33 C.F.R. § 20.310(c). I find the following factual allegations in the Complaint **ADMITTED**:

1. On January 8, 2024, Respondent was employed by and subject to Norwegian Cruise Lines (Bahamas), Ltd.'s (NCL) policies.

2. On January 8, 2024, NCL had a policy prohibiting employees from being under the influence of alcohol while performing company business.
3. When questioned by the PRIDE OF AMERICA's Security Officer, Respondent admitted to drinking while off the ship during the day and when he returned, before he went to work.
4. When Respondent was asked by the PRIDE OF AMERICA's Human Resources Director, if he would pass a breathalyzer test, Respondent stated he would not pass.
5. On January 8, 2024, Respondent was under the influence of alcohol while performing ship's business, in violation of NCL's Drug and Alcohol Policy.
6. Respondent's violation of NCL's Drug and Alcohol Policy is misconduct, as described by 46 U.S.C. § 7703(1)(B) and defined in 46 C.F.R. § 5.27.

Upon finding Respondent in default, I must now issue a decision against him. 33 C.F.R. § 20.310(d). In reviewing the record, I find that the facts deemed admitted are sufficient to establish that Respondent's misconduct is a violation of company policy designed to achieve safety at sea, as described by 46 C.F.R. § 5.27. Appeal Decision 1567 (CASTRO) (1966). Accordingly, I find Respondent committed misconduct. 46 U.S.C. § 7703(1)(B).

SANCTION

Having found Respondent in default and all allegations in the Complaint proved, I now must determine the appropriate sanction. 33 C.F.R. § 20.902(a)(2). The Administrative Law Judge (ALJ) has the sole discretion to determine the appropriate sanction at the conclusion of a case. Appeal Decision 2362 (ARNOLD) (1984).

Even so, Table 5.569 Suggested Range of an Appropriate Order (Table) provides a sanction guide intended to promote uniformity in orders rendered. 46 C.F.R. § 5.569(d) tbl. 5.569; Appeal Decision 2694 (LANGLEY) (2011). Sanctions consistent with the Table are not excessive. Id. However, an ALJ has wide discretion to choose an appropriate sanction based on the specific facts of a case while not bound by the Table or recommendation of the

Coast Guard. Appeal Decision 2695 (AILSWORTH) (2011).

The Table does not specify a sanction for the violation of a company policy. 46 C.F.R. § 5.569(d) tbl. 5.569. Yet, violations of company policy are analogized to a lawful order of a master in some cases. Appeal Decision 2723 (BOUDREAUX) (2019); Appeal Decision 1567 (CASTRO). Therefore, the most applicable sanction range in the Table for violation of the NCL policy in this case, is “Failure to obey [the] master’s/ship officer’s order.” 46 C.F.R. § 5.569 tbl. 5.569. This specifies a sanction range of one to three months outright suspension. Id.

When a sanction departs from the Table a clearly articulated explanation of the aggravating and, or mitigating factors must support it. Appeal Decision 2702 (CARROLL) (2013) (quoting Commandant v. Moore, NTSB Order No. EM-201 (2005)); Appeal Decision 2455 (WARDELL) (1987), aff’d, NTSB Order No. EM-149 (1988).

In this case the Coast Guard requests a sanction of six months outright suspension, exceeding the sanction range in the Table. However, the factual allegations deemed admitted illustrate Respondent being recognizably intoxicated by sight. Therefore, I find Respondent’s proved violation merits an increased sanction in this case. As a result, I am ordering a six-month outright suspension of his MMC.

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 SIX MONTHS**.

IT IS FURTHER ORDERED, Respondent shall immediately deliver all Coast Guard issued credentials, licenses, certificates, or documents, including the MMC 000710287, by mail, courier service, or in person to: LT Claude Nadal, United States Coast Guard, Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101. 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.

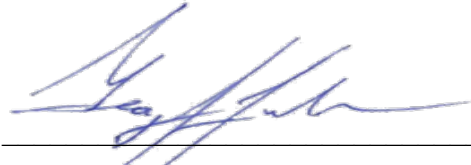
IT IS FURTHER ORDERED, pursuant to 33 C.F.R. § 20.310(e), for good cause shown, an ALJ may set aside a finding of default. A motion to set aside a finding of default may be filed with the ALJ Docketing Center in Baltimore. The motion may be sent to the U.S. Coast Guard Administrative Law Judge Docketing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

PLEASE TAKE NOTICE, 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 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, September 17, 2024,
Seattle, Washington



GEORGE J. JORDAN
UNITED STATES COAST GUARD
ADMINISTRATIVE LAW JUDGE