

UNITED STATES OF AMERICA U.S. DEPARTMENT OF HOMELAND SECURITY UNITED STATES COAST GUARD	
ADDRESS OF COAST GUARD UNIT: Sector Honolulu 433 Ala Moana Blvd Honolulu, HI 96813 INVESTIGATING OFFICER: LT Brian Talerico TELEPHONE: 808-522-8256	FOR DOCKETING CENTER USE ONLY:
COMPLAINANT: UNITED STATES COAST GUARD	
RESPONDENT: Kenard Kilby	DOCKET NUMBER: 2024-0018
COMPLAINT	COAST GUARD ENFORCEMENT NUMBER: 7846817

The Coast Guard has initiated an administrative proceeding against your credential(s) and/or endorsement(s).

Statutory Authority:	46 USC § 7703(1)(B)
Regulatory Authority:	46 CFR § 5.27

Coast Guard records indicate the Respondent's address is as follows:

Street 17-937 Volcano Rd.		
City Mountain View	State HI	Zip 96771
Phone Number (443) 618-9177	Email kenard_kilby@yahoo.com	

JURISDICTIONAL ALLEGATIONS

- Respondent is the holder of the following U.S. Coast Guard-issued Merchant Mariner Credential(s): 000726110.
- On 12/29/2023, Respondent acted under the authority of MMC(s) 000726110 by serving as Steward aboard the PRIDE OF AMERICA as required by an employer as a condition of employment.

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FACTUAL ALLEGATIONS - Misconduct

1. On December 29, 2023, Respondent was employed by Norwegian Cruise Lines and subject to Norwegian Cruise Line's policies.
2. On December 29, 2023, Norwegian Cruise Lines had a policy prohibiting employees from being onboard the PRIDE OF AMERICA with a blood alcohol level (BAC) above 0.04%.
3. The subject of investigation was administered breath alcohol tests with an Intoximeter Alco-Sensor V XL #10356. The first test was administered with a read result of 0.334% BAC. The second test was administered with a read result of 0.318% BAC.
4. Respondent's violation of Norwegian Cruise Line's Drug and Alcohol Policy is Misconduct as described by 46 U.S.C. § 7703(1)(B) and defined by 46 CFR § 5.27.
5. In Aggravation: Respondent was on duty when found with a BAC over 0.04%.

PROPOSED ORDER

The Coast Guard proposes:

05 Months Outright Suspension

PROPOSED HEARING LOCATION

City, State: Honolulu, HI

Received	For the U.S. Coast Guard
	<i>LT Brian Talerico</i>
Respondent: Kenard Kilby	Investigating Officer: LT Brian Talerico
Refused: _____ IO's Initials: _____	Date: January 18, 2024

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RESPONDENT INSTRUCTIONS

YOU MUST RESPOND TO THIS COMPLAINT WITHIN 20 DAYS

1. You must answer these allegations or request an extension within 20 days of receipt. The rules for Answers are at 33 CFR 20.308 and read as follows:

§20.308 Answers.

- (a) The respondent shall file a written answer to the complaint 20 days or less after service of the complaint. The answer must conform to the requirements of this subpart for filing and service.
- (b) The person filing the answer shall, in the answer, either agree to the place of hearing proposed in the complaint or propose an alternative.
- (c) Each answer must state whether the respondent intends to contest any of the allegations set forth in the complaint. It must include any affirmative defenses that the respondent intends to assert at the hearing. The answer must admit or deny each numbered paragraph of the complaint. If it states that the respondent lacks sufficient knowledge or information to admit or deny a particular paragraph, it denies that paragraph. If it does not specifically deny a particular numbered paragraph, it admits that paragraph.
- (d) A respondent's failure without good cause to file an answer admits each allegation made in the complaint.

2. If you admit the allegations, an Administrative Law Judge (ALJ) will issue an order entering the proposed sanction.
3. If you deny any allegations, an ALJ will schedule a hearing on the matter.
4. You may request an extension of time to file your answer within 20 days. Each request must explain why more time is needed and will be ruled on by an ALJ.
5. If you do not file an answer, request extension, or attend any scheduled hearing, you may be found in default. Default constitutes an admission of all facts alleged in the Complaint and a waiver of your right to a hearing. If the ALJ finds you in default, a decision could be issued against you without any hearing.
6. You may request a settlement agreement with the Coast Guard. If you wish to discuss a settlement, call the Coast Guard Investigating Officer shown on the first page of this Complaint.
7. If you and the Coast Guard reach agreement, a proposed settlement agreement will be submitted to the ALJ for review and approval. If the ALJ approves the settlement, an order implementing the agreement will be issued.

YOU HAVE THE RIGHT TO:.

1. have representation by counsel at the hearing and that counsel may be, but need not be, a lawyer (NOTE: free legal aid may be available through the state bar or legal aid services);
2. have witnesses, records, or other evidence subpoenaed;
3. examine witnesses;
4. cross-examine witnesses;
5. introduce relevant evidence into the record; and
6. testify to facts or relevant information on your own behalf

FILE YOUR ANSWER TO THIS COMPLAINT OR MOTION FOR AN EXTENSION WITH:

Administrative Law Judge Docketing Center
U.S. Coast Guard
40 South Gay Street, Room 412
Baltimore, MD 21202-4022

Phone: (410) 962-5100
Toll Free: (866) 612-7524 [61A-SKCG]
Fax: (410) 962-1746
Toll Free Fax: (877) 243-3453 [CGE FILE]

**FILE A COPY OF YOUR ANSWER TO THIS COMPLAINT WITH THE COAST GUARD
AT THE ADDRESS SHOWN ON PAGE ONE OF THIS COMPLAINT.**

**YOU MUST NOTIFY THE ALJ DOCKETING CENTER AND THE COAST GUARD UNIT
ON PAGE ONE OF THIS COMPLAINT ANYTIME THERE ARE CHANGES TO YOUR
MAILING ADDRESS AND/OR PHONE NUMBER.**

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the following parties (or their designated representatives) to this proceeding at the address indicated:

Kenard Kilby
17-937 Volcano Rd.
Mountain View, HI 96771

I hereby certify that I have filed the foregoing document with the ALJ Docketing Center by e-mail. Done at Honolulu, HI, this 18th day of January, 2024.



Investigating Officer: LT Brian Talerico

For the U.S. Coast Guard