

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

UNITED STATES COAST GUARD,
Complainant

vs.

QUENAYSIA HUNTER,
Respondent.

Docket Number 2024-0192
Enforcement Activity No. 7883830

DEFAULT ORDER MEMORIALIZING PREHEARING CONFERENCE

Issued: October 15, 2024

By Administrative Law Judge: Honorable Timothy G. Stueve

Appearances:

Meghan Palomba
John Crow
USCG Sector Virginia

Erin O'Brien Anderson, Esq.
USCG S&R NCOE

For the Coast Guard

Quenaysia Hunter, Pro Se

For Respondent

Background

On May 2, 2024, the Coast Guard filed a Complaint against Quenaysia Hunter (Respondent) alleging Respondent committed misconduct while acting under the authority of his Merchant Mariner Credential (MMC) while employed by Edison Chouest Offshore, as required by law or regulation. Specifically, in its Complaint the Coast Guard alleges, on December 7, 2023, Respondent violated Edison Chouest Offshore's Drug and Alcohol Free Work Environment Policy by refusing to provide a sample for urinalysis. The Return of Service for Complaint filed by the Coast Guard indicates the Complaint was delivered to Respondent's residence by Federal Express and signed for by a person of suitable age and discretion residing at that residence, on May 4, 2024 (Attachment A)¹.

On August 7, 2024, the Coast Guard filed a Motion for Default Order (Motion), explaining Respondent failed to file an Answer, and the response time has passed. See 33 C.F.R. § 20.308. The Return of Service for Motion indicates the Motion was delivered to Respondent's residence by Federal Express and signed for by a person of suitable age and discretion on August 9, 2024 (Attachment B)². The Chief Administrative Law Judge assigned the matter to the undersigned on September 3, 2024. Upon review of the Motion, I noted a discrepancy between the sanction sought in the Complaint, and the sanction indicated in the motion for default. Due to this discrepancy, I asked my staff to schedule a prehearing conference with the parties.

Prehearing Conference

Turning to the prehearing conference held on September 11, 2024, John Crow, Investigating Officer and Erin O'Brien Anderson, Esq. appeared for the Coast Guard. Quenaysia Hunter (Respondent) appeared on her own behalf.

¹ The Coast Guard's Return of Service for the Complaint does not indicate the person that signed for receipt of the document. However, the Fedex proof of service attached to the Return of Service for the Complaint shows that "W. Windley" signed for the document.

As stated above, the purpose of the prehearing conference is to clarify the sanction in this matter. Specifically, the sanction set forth in the sixth sentence of the Motion indicated *revocation*, which is inconsistent with the language written on page 2 of the Complaint where the Coast Guard proposes *24 months outright suspension*. Because the Coast Guard confirmed its intention was to *suspend outright* Respondent's MMC for twenty-four months, it is incorrect to state in the sixth sentence of the Motion that the Coast Guard is seeking revocation. Given that the Coast Guard made their intention clear at the prehearing conference, I note that sentence 6 of the Motion should read as follows:

“Therefore, the Coast Guard requests the Administrative Law Judge issue a Default Order imposing a sanction of 24-months outright suspension against the Respondent's Merchant Mariner Credential (MMC).”

After clarification about the sanction, the parties requested a two week continuance to discuss amongst themselves. I agreed to defer ruling on the Motion for Default pending any updates from the parties regarding their discussions. To date, I have not received any update from either party. Therefore, the Motion to Default is ripe for ruling.

Discussion

Now turning to the Motion before me, the applicable regulations require a respondent to “file a written answer to the complaint 20 days or less after service of the complaint.” 33 C.F.R. § 20.308(a). An administrative law judge (ALJ) may find a respondent in default “upon failure to file a timely answer to the complaint or, after motion, upon failure to appear at a conference or hearing without good cause shown.” 33 C.F.R. § 20.310(a). Default constitutes an admission of all facts alleged in a complaint and a waiver of respondent's right to a hearing on those facts. 33 C.F.R. § 20.310(c).

² The Fedex Proof of Service attached to the Return of Service for the Motion for Default Order indicates that “A. Hunter” signed for the document.

The Complaint filed by the Coast Guard and properly served on Respondent contained instructions that clearly stated “YOU MUST RESPOND TO THIS COMPLAINT WITHIN 20 DAYS” and provided the applicable regulatory provision, 33 C.F.R. § 20.308. The instructions also informed Respondent an extension of time could be requested “within 20 days” of receipt. Respondent failed to respond to the Complaint or the Motion until well after the 20-day timeline. Respondent’s answer was filed on September 11, 2024. I find no good cause excusing the late answer.

Accordingly, the undersigned finds Respondent in default pursuant to 33 C.F.R. § 20.310(a). Default constitutes an admission of all facts alleged in the Complaint and a waiver of the right to a hearing. 33 C.F.R. § 20.310(c). See Appeal Decision 2682 (REEVES) (2008).

As to the charge of failing to provide a sample for urinalysis to satisfy client requirement as an employee of Edison Chouest Offshore, the Complaint alleges on December 7, 2023, Respondent violated the Edison Chouest Offshore’s Drug and Alcohol Free Work Environment Policy. See 46 U.S.C. § 7703(1)(B) and 46 CFR § 5.27.

The factual allegations in the pleadings are legally sufficient to find the charge of misconduct in refusing to provide a sample for urinalysis as an employee of Edison Chouest Offshore **PROVED**. Id.

The undersigned finds the facts alleged in the Complaint sufficient to warrant the suggested sanction of **TWENTY-FOUR MONTHS OUTRIGHT SUSPENSION**. See 46 C.F.R. § 5.569.

WHEREFORE,

ORDER

Upon consideration of the record, the undersigned finds Respondent in **DEFAULT**, and the Motion as revised above is **APPROVED** in full and incorporated herein by reference.

IT IS HEREBY ORDERED, in accordance with 33 C.F.R. § 20.310, the undersigned finds 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 twenty-four 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: U.S. Coast Guard Sector Virginia, 200 Granby St., Suite 700, Norfolk, VA 23510. In accordance with 18 U.S.C. § 2197, if **Respondent knowingly continues to use the Coast Guard issued MMC prior to the completion of the suspension, 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 21201-4022.

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 C). This Default Order shall constitute full, final, and complete adjudication of this proceeding.

SO ORDERED.

Done and dated October 15, 2024, at
Alameda, California



Hon. Timothy G. Stueve
Administrative Law Judge
U.S. Coast Guard