

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

UNITED STATES COAST GUARD,
Complainant,

v.

TAWANDA DELISE LATIMER,
Respondent.

ALJ Docket No. 2024-0399

HONORABLE GEORGE J. JORDAN
ADMINISTRATIVE LAW JUDGE

DEFAULT ORDER

This matter comes before me on the United States Coast Guard's (Coast Guard) Motion for Default Order (Motion for Default). As of the date of this order, Tawanda Delise Latimer (Respondent) has not responded to the Complaint or the Motion for Default. Upon review of the record and pertinent authority, the Coast Guard's Motion for Default is **GRANTED**.

Background

On December 18, 2024, the Coast Guard filed a Complaint against Respondent alleging misconduct, as established by 46 U.S.C. § 7703(1)(B). The jurisdictional allegations in the Complaint provide Respondent is the holder of Merchant Mariner Credential (MMC) Z00029312. The receipt filed by the Coast Guard with the Return of Service for the Complaint, provides the Complaint was delivered to Respondent's residence by express courier service and signed for by Respondent on December 19, 2024.

On February 3, 2025, the Coast Guard filed a Motion for Default Order, because Respondent failed to file an Answer within the time allowed. The Return of Service for Motion for Default Order provides the motion was delivered to Respondent's residence by Express Courier Service and signed for by the Respondent on February 7, 2025.

Discussion

The 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...” 33 C.F.R. § 20.310(a). Default constitutes an admission of all facts alleged in a complaint and a waiver of a respondent’s right to a hearing on those facts. 33 C.F.R. § 20.310(c). See Appeal Decision 2682 (REEVES) (2008). Title 33 C.F.R. § 20.310 also provides “the respondent alleged to be in default shall file a reply to the motion 20 days or less after service of the motion.”

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 he could request an extension of time “within 20 days” of receipt. Respondent failed to file an answer to the Complaint or request an extension of time. Additionally, Respondent failed to respond to the properly served Motion for Default.

Accordingly, I find Respondent is 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. Therefore, I find the following allegations **ADMITTED**.

1. On August 11, 2024, Respondent was employed by Norwegian Cruise Lines, Ltd. (NCL), and subject to NCL (Bahamas) Ltd.’s policies.
2. On August 11, 2024, NCL had a policy prohibiting employees from having a Blood Alcohol Concentration (BAC) level greater than .04% while onboard the PRIDE OF AMERICA.
3. On August 11, 2024, Respondent had a BAC greater than .04% while onboard the vessel, in violation of NCL's drug and alcohol policy.
4. Respondent's violation of NCL's drug and alcohol policy is misconduct, as described by 46 U.S.C. § 7703(1)(B), and defined by 46 C.F.R. § 5.27.

Upon review of the record, I find that the deemed admitted facts are sufficient to establish Respondent committed misconduct as described by 46 U.S.C. § 7703(1)(B). Accordingly, I find the allegations set forth in the Complaint **PROVED**.

Sanction

An ALJ has exclusive discretion and authority to select a sanction. Appeal Decision 2362 (ARNOLD) (1984). Even so, the Suggested Range of an Appropriate Order Table (Table) can guide an ALJ and encourages uniformity of orders. 46 C.F.R. § 5.569(d). Selection of a sanction range enumerated in the Table prevents finding a sanction excessive. 46 C.F.R. § 5.569(d). If a sanction departs from the Table a clearly articulated explanation of aggravating or mitigating factors is required. Appeal Decision 2455 (WARDELL) (1987), *aff'd*, NTSB Order No. EM-149 (1988); Appeal Decision 2702 (CARROLL) (2013) (quoting Moore, NTSB Order No. EM-201).

The Table does not specify a sanction for the violation of a company policy like the NCL policy in this case. 46 C.F.R. § 5.569 tbl. 5.569. However, violations of company policy have been analogized to a lawful order of a master in some cases. Appeal Decision 2723 (BOUDREAUX) (2019); Appeal Decision 1567 (CASTRO) (1966). Therefore, the most applicable sanction range in the Table for violation of a company policy, such as 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.

Based on finding the lone misconduct violation proved, Respondent’s failure to participate in these proceedings, and the lack of both aggravating and mitigating factors, I find the facts deemed admitted in the Complaint sufficient to warrant the sanction of **THREE (3) MONTHS OUTRIGHT SUSPENSION**.

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 (3) MONTHS**.

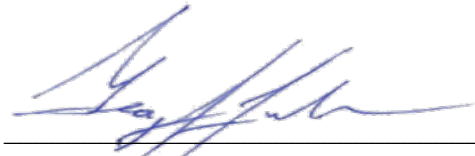
IT IS FURTHER ORDERED, Respondent shall immediately deliver all Coast Guard issued credentials, licenses, certificates, or documents, including the MMC, by mail, courier service, or in person to: LT Hunter Morris, United States Coast Guard, Sector Los Angeles-Long Beach, 1001 So. Seaside Ave., Bldg. 20, San Pedro, CA 90731. 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, March 19, 2025,
Seattle, Washington



GEORGE J. JORDAN
UNITED STATES COAST GUARD
ADMINISTRATIVE LAW JUDGE