

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

UNITED STATES COAST GUARD

Complainant

vs.

STEPHEN A. SHIVER

Respondent

Docket No: 08-0543
CG Enforcement Activity No: 3381251

DECISION AND ORDER

Issued: January 29, 2009

Issued by: HON. BRUCE T. SMITH,
Administrative Law Judge

Investigating Officers:

LT Charlotte Keogh
USCG MSU Paducah

CWO3 Tim Smith
USCG Sector Ohio Valley

Respondent:

Stephen A. Shiver, *pro se*

PRELIMINARY STATEMENT

This is an action arising under 46 U.S.C. § 7702(d) resulting from the Coast Guard's temporary suspension of Stephen A. Shiver's (Respondent) certificate and merchant mariner's document. (See CG Ex. Pre-1, 1128289, Issue No. 2). Coast Guard regulations, 33 C.F.R. § 20.1201(a), et seq., dictate that whenever the Coast Guard suspends a merchant mariner's license or documents without a hearing, expedited hearing procedures are triggered.

On December 17, 2008, the Coast Guard seized Respondent's merchant mariner's credentials and served him with a copy of the Complaint on the same date. On January 7, 2009, the Coast Guard filed an Amended Complaint which was substantially similar to the original. The undersigned granted leave to Amend, there being no apparent prejudice to the Respondent.

On December 23, 2008, at 10:00 a.m. (CST) the undersigned conducted the first of two expedited pre-hearing telephone conferences with the parties pursuant to 33 C.F.R. §20.1207. LT Charlotte Keogh and CWO3 Tim Smith appeared for the Coast Guard. Despite service of notice of the telephone pre-hearing conference, the Respondent did not attend or participate. Following that pre-hearing conference, the undersigned issued a Memorandum and Order reflecting the substance of the pre-hearing conference and containing a discussion of Respondent's rights and responsibilities in an expedited temporary suspension hearing. That Memorandum and Order was served on Respondent.

On January 8, 2009, at 10:00 a.m. (CST) the undersigned conducted a second expedited pre-hearing telephone conference with the parties pursuant to 33 C.F.R. §20.1207. LT Charlotte Keogh and CWO3 Tim Smith appeared for the Coast Guard.

Again, Respondent was absent, despite the repeated efforts of my paralegal and LT Keogh to contact Respondent to notify him of the second pre-hearing telephonic conference. Several efforts were undertaken to notify Respondent both via telephone and in writing using the methods of service prescribed in the rules. See generally, 33 C.F.R. § 20.304.

On January 7, 2009, LT Keogh orally informed Respondent of the second telephone. At that time, Respondent apparently expressed his intention to participate and provided LT Keogh with a telephone number where he could be reached. That number was communicated to my paralegal and, in turn, to the telephone-conference operator. However, when telephoned by the conference operator on January 8, 2009 at 10:00 a.m. (CST), the number provided by Respondent proved to be a non-working number.

Because Respondent was absent from both pre-hearing conferences, he filed no Answer to the Coast Guard's Amended Complaint. Thus, to ensure Respondent's due process rights were protected, the undersigned entered a general denial of the allegations in the Amended Complaint on Respondent's behalf.

During both pre-hearing conferences, the undersigned reiterated the expedited nature of a temporary suspension hearing—and explained that the hearing must commence not later than thirty (30) days after the seizure of Respondent's license or merchant mariner's documents. 33 C.F.R. § 20.1207(c)(1)(iii). Because the Coast Guard

took possession of Respondent's license on December 17, 2008, the hearing in this matter commenced on January 16, 2009 as described more fully, below.

During both telephone pre-hearing conferences, the undersigned reminded the parties to become familiar with the procedural rules set forth in 33 C.F.R. Part 20 and 46 C.F.R. Part 5.

Additionally, by various written Orders properly and timely served on the Respondent, the undersigned advised Respondent of all of his procedural rights, including: the right to counsel (at Respondent's expense); the right to have witnesses and documents subpoenaed and the right to offer relevant evidence into the record; the right to see all documents and evidence the USCG would use in the hearing; the right to know the names of adverse witnesses in advance of the hearing and to cross-examine those witnesses at the hearing; the right to call witnesses on Respondent's behalf; and the right to testify on his own behalf.

Respondent was further advised, in writing, that an expedited hearing is a procedure designed to benefit and protect his rights. Respondent, however, had an obligation to communicate with the court and the Coast Guard and to participate meaningfully if his rights were to be given a full measure of protection.

At 10:00 a.m., (CST), on January 16, 2009, the undersigned convened the expedited hearing in the County Courthouse, Paducah, Kentucky, in accord with the provisions of 33 C.F.R. § 20.1201. LT Charlotte Keogh, USCG MSU Paducah and CWO3 Tim Smith, USCG Sector Ohio Valley represented the Coast Guard. Respondent did not appear, despite having received timely notice to do so.

While suspension and revocation hearings are not typically held *in absentia*, the unique procedural requirements of a temporary suspension case dictate that these proceedings go forward—even without Respondent present. The expedited hearing process is a protection which insures to the benefit of Respondent, because a respondent's license (and thus, his livelihood) is in the possession of the Coast Guard and a respondent is entitled to a prompt hearing to determine the validity of the Coast Guard's charges levied against him.

The expedited procedure was put in place to ensure that an Administrative Law Judge makes a determination whether the facts alleged in a complaint are true, so as to justify the seizure and retention of the Respondent's license.

The Coast Guard called three witnesses to testify. Likewise, the Coast Guard offered six (6) documentary items into evidence, albeit not in *seriatim* numerical order. All six (6) items were admitted. The Coast Guard also asked the undersigned to take official notice of several provisions from the United States Code, Code of Federal Regulations, the Federal Register and Commandant's Decisions on Appeal. (Tr. 61 - 64). That request was granted and the referenced materials were officially noticed.

FINDINGS OF FACT

The Findings of Fact are based on a thorough and careful analysis of the testimonial and documentary evidence and the entire record taken as a whole.

1. At all relevant times mentioned herein and specifically on December 14 - 17, 2008, Respondent, Steven A. Shiver, was the holder of Coast Guard issued

merchant mariner's license and merchant mariner's document, 112829, Issue No. 2. (CG Ex. Pre-1).

2. On December 14, 2008, Steven A. Shiver served aboard the M/V Dewey R. as a trip pilot, in the employment of WMS, Inc., Greenville, MS and under the command of the ship's Master, Captain Larry Worbington. (Tr. 19 - 21).
3. On December 14, 2008, Steven A. Shiver, as pilot, served in a safety sensitive function aboard the M/V Dewey R.
4. During the morning hours of between 0400 and 1100 on December 14, 2008, Steven A. Shiver, as pilot, was intoxicated by alcohol and his blood alcohol level exceeded .134. (Tr. 54, CG Ex. 4).
5. At or near 0400 on December 14, 2008, Steven A. Shiver, as pilot, was in control of the M/V Dewey R. when barge(s) in his tow collided with barge(s) under tow of the M/V Lydia Cenak, resulting in damages exceeding \$200,000. (Tr. 9 – 10, CG Ex 1,5).

DISCUSSION

The purpose of Coast Guard suspension and revocation proceedings is to promote safety at sea. See 46 U.S.C. § 7701. Title 46 CFR § 5.19 gives Administrative Law Judges authority to suspend or revoke a license or certificate in a hearing for violations arising under 46 U.S.C. § 7703. Under section 7703(1), a Coast Guard issued credential may be suspended or revoked if the holder of that credential violated any law or regulation intended to promote marine safety.

Title 46 U.S.C. § 7702(d) provides that the Secretary of Transportation, or his delegee, may, temporarily, for not more than 45 days, suspend and take possession of a

mariner's license or document. However, in the case of a temporary suspension, an expedited hearing under subsection (a) shall be held within 30 days after the temporary suspension.

Burden of Proof

The Administrative Procedure Act (APA), 5 U.S.C. §§ 551-559, applies to Coast Guard Suspension and Revocation hearings before United States Administrative Law Judges. 46 U.S.C. § 7702(a). The APA authorizes imposition of a sanction if, upon consideration of the entire record as a whole, the charges are supported by reliable, probative, and substantial evidence. 5 U.S.C. § 556(d). Under Coast Guard procedural rules and regulations, the burden of proof is on the Investigating Officer to prove the charges are supported by a preponderance of the evidence. Title 33 CFR §§ 20.701, 20.702(a). “[T]he term ‘substantial evidence’ is synonymous with ‘preponderance-of-the-evidence’ as defined by the Supreme Court.” Appeal Decision 2477 (TOMBARI) (1988). The burden of proving a fact by a preponderance of the evidence “simply requires the trier of fact ‘to believe that the existence of a fact is more probable than its nonexistence before [he] may find in favor of the party who has the burden to persuade the [judge] of the fact’s existence.’” Concrete Pipe and Products of California, Inc. v. Construction Laborers Pension Trust for Southern California, 508 U.S. 602, 622 (1993) (citing In re Winship, 397 U.S. 358, 371-72 (1970) (Harlan, J., concurring)). Therefore, the Coast Guard must prove by credible, reliable, probative, and substantial evidence that Respondent more-likely-than-not committed the violation charged.

Temporary suspension cases are unique among Coast Guard Suspension and Revocation procedures. Title 46 U.S.C. §7702(d) permits the Secretary (through his

delegee, the Coast Guard) to seize and temporarily suspend a mariner's license upon proof of very narrowly defined circumstances. Namely, that:

1. That individual performs a safety sensitive function on a vessel, as determined by the Secretary,

and

2. There is probable cause to believe that the individual has either:

(a) performed the safety sensitive function in violation of law or Federal regulation regarding use of alcohol or a dangerous drug; or

(b) been convicted of an offense that would prevent the issuance or renewal of the license, certificate, or document; or

(c) within the 3-year period preceding the initiation of a suspension proceeding, has been convicted of an offense described in section 30304(a)(3)(A) of title 49; or

(d) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the maritime environment.

Moreover, a temporary suspension case must proceed under expedited time standards. Congress' intent is plain: if the government is allowed to seize a mariner's license, it may do so under expedited circumstances and the mariner must be allowed quick access to a due process hearing for resolution of the allegations against him/her.

All other allegations of misconduct or negligence, which form the basis of ordinary Suspension and Revocation cases, are adjudicated under the purview of 46 C.F.R. Part 5 and 33 C.F.R. Part 20 – with more expansive time standards.

In the instant case, 46 U.S.C. §7702(d) requires the Coast Guard to prove by substantial evidence that Respondent performed a safety sensitive function aboard the M/V Dewey R. and that there is/was probable cause to believe that Respondent had,

while acting under the authority of his license, certificate, or document, performed that safety sensitive function in violation of law or Federal regulation regarding the use of alcohol or a dangerous drug. In the Amended Complaint, the Coast Guard curiously alleged both Misconduct and a Violation of Law or Regulation: only the latter of which is a required element of proof in a temporary suspension case.¹

Otherwise, the established facts of this case are straightforward and were, by virtue of his absence, uncontested by Respondent.

a. Respondent performed a “safety sensitive function” aboard the M/V Dewey R.

In its post-hearing brief, the Coast Guard noted its Marine Safety Manual, Vol. V: “Investigations and Enforcement, Part C, Chapter 6, Section A.4.b,” which provides, in part: “Crewmembers in a safety sensitive position include those who...Are required by law or regulation to hold a Coast Guard license to perform their duties; [or who] Perform duties and functions directly related to the safe operation of the vessel.”

The Coast Guard further defines a “safety sensitive” position aboard a vessel to include: control, navigation or management of a vessel; operation of propulsion, pump,

¹ The Coast Guard alleged that on December 14, 2008, Respondent committed Misconduct by violating his employer’s alcohol policy in that he failed a post-casualty chemical test. (CG Ex. 6). This allegation of Misconduct is problematic in light of the unique circumstances contemplated by the temporary suspension provisions of 46 U.S.C. §7702(d). First, “misconduct” or “violation of an employer’s alcohol policy” are not a required elements of proof under 46 U.S.C. §7702(d). Second, the Amended Complaint alleges a violation of §7702(d)(B)(i), i.e., that Respondent, while acting under the authority of his license, certificate, or document, performed the safety sensitive function in violation of law or Federal regulation regarding the use of alcohol or a dangerous drug. But, the Amended Complaint also alleges that Respondent violated his employer’s alcohol policy, “as required by 46 C.F.R. §4.06-3.” A violation of an employer’s “alcohol policy” does not constitute a “violation of law or Federal regulation” as described in the temporary suspension statute. Moreover, it is inappropriate to allege that Respondent violated 46 C.F.R. §4.06-3, because that regulation imposes obligations upon a marine employer—NOT an individual mariner. Thus, the factual allegation of Misconduct brought against this Respondent is inapplicable to the requirements of proof set forth in 46 U.S.C. §7702(d)(B)(i).

electrical and related mechanical systems; lifesaving, firefighting, and communication equipment; mooring, anchoring, and towing cargo; and fuel handling, vessel stability or watertight integrity. See generally,

<http://www.uscg.mil/d5/dapi/programs.asp>. (Emphasis added.)

I take official notice of these publications and accept for purposes of the instant proceedings that the Respondent, as a licensed pilot, was performing a safety sensitive function aboard the M/V Dewey R. at the times alleged.

b. Respondent, while acting under the authority of his license, certificate, or document, performed the safety sensitive function in violation of law or Federal regulation regarding the use of alcohol.

In the Amended Complaint, the Coast Guard alleged that on December 14, 2008, Respondent committed a Violation of Law or Regulation when he: a) failed to report a marine casualty: to wit, the grounding of his vessel; and, b) found to be intoxicated at the time he was piloting the MV Dewey R.

Failure to Report a Marine Casualty

The Coast Guard's Amended Complaint is inarticulate in light of the requirements of the temporary suspension statute, 46 U.S.C. §7702(d)(B)(i). Whether Respondent failed to report a marine casualty is immaterial to the charge that Respondent's conduct violated the proscriptions of the temporary suspension statute. Moreover, in the instant case, the Coast Guard's proof of whether a marine casualty or grounding ever occurred is questionable. Indeed, the Coast Guard's chief witness, Captain Larry Worthington, Master of the M/V Dewey R., testified that the vessel never grounded; that it only "bumped" the river bottom, and that it was never grounded or rendered immobile. (Tr. 26

– 27, CG Ex. 1).² Even if the “bump” constituted a “grounding” and even if it were established that Respondent failed to report the “bump” as a marine casualty: the result is the same. Such allegations are immaterial to the legal basis for a temporary suspension. That is, failing to report a marine casualty is not the basis for a temporary suspension under 46 U.S.C. §7702(d)(B)(i).

Intoxication in Violation of Law or Regulation

The Coast Guard alleged that Respondent violated 33 C.F.R. §95.020 and 33 C.F.R. §95.045.

Title 33 of the Code of Federal Regulations § 95.020 provides in pertinent part:

An individual is under the influence of alcohol or a dangerous drug when:... (b) The individual is operating a vessel other than a recreational vessel and has an alcohol concentration of .04 percent by weight or more in their blood; ...

(Emphasis added)

Likewise, 33 C.F.R. §95.045 provides:

While on board a vessel inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code, a crewmember (including a licensed individual), pilot, ... (b) Shall not be intoxicated at any time; ...

(Emphasis added)

Proof, here, Respondent violated both, or either, of these regulatory provisions would constitute proof of a violation of 46 U.S.C. §7702(d)(B)(i).

Toward that end, the Coast Guard presented Captain Worbington, who testified that after a collision between the M/V Dewey R and the M/V Lydia

² In its post hearing brief, the Coast Guard cited numerous cases, treatises and policy letters for the proposition that even a “bumping” constitutes a reportable marine casualty.

Cenac, Respondent was subjected to a post-casualty, on-board alcohol test.³

Captain Worbington testified that he personally administered two “Alco-Screen Test 02” alcohol tests to the Respondent, at approximately 0700 hours on December 14, 2008 -- three hours after the collision with the M/V Lydia Cenak. (Tr. 27 – 28, CG. Ex 2). An Alco-Screen 02 screening test is among those approved for alcohol testing by the United States Department of Transportation (DOT). See Vol. 72, Fed. Register, No. 20, Wed., Jan 31, 2007 at 4559. (CG Ex.6).

Captain Worbington testified that he administered an initial “strip saliva” test to Respondent, then waited 15 minutes before administering a confirmatory “strip saliva” test. Both tests resulted in a “positive” indication of alcohol in Respondent’s bloodstream. (Tr. 29 – 30, CG Ex. 2).

The Coast Guard also presented the testimony of Mr. John Crivello, an employee of Western Kentucky Drug Screen, Paducah, KY. (Tr. 50 -51). Mr. Crivello testified that he has been an employee of Western Kentucky Drug Screen for approximately six years and in that time has performed over one-thousand breathalyzer tests for the presence of alcohol in the human body in the past year. (Tr. 51 – 52).

Mr. Crivello testified that on December 14, 2008, he was called to perform a breathalyzer test on the Respondent aboard the M/V Dewey R. (Tr. 53). Mr. Crivello testified that he used a breath-testing apparatus called an “Alco-Sensor

³ Although not mentioned in the Amended Complaint, a collision between barges towed by the M/V Dewey R. and the M/V/ Lydia Cenak resulted in a significant marine casualty. The collision, which occurred at approximately 0400 on December 14, 2008, caused a 175-foot-by-6-foot fracture to the hull plate of the

IV4” which is connected to a companion testing instrument, called an “RBT 4,” manufactured by Intoximeters, Inc., of St. Louis. (Tr. 52). An Alco-Sensor IV and RBT 4 are among the list of DOT-approved devices for “evidential breath measuring devices.” See Vol. 72 Fed. Register, No. 241, Mon., December 17, 2007 at 71481. (CG Ex. 6). The apparatus is commonly referred to as a gas-chromatography testing device. (Tr. 58).

Mr. Crivello further testified that he administered two tests to Respondent at approximately 1100 on the morning of December 14, 2008. (Tr. 54, CG Ex. 4). He testified that the initial test on the Respondent’s breath revealed a blood alcohol concentration .137 and a second, confirmatory test resulted in a blood alcohol concentration of .134. (Tr. 54, CG Ex. 4).

Mr. Crivello further testified that Respondent signed Coast Guard Exhibit 4, the document which bears the written results of Mr. Crivello’s chemical testing.

It is noteworthy that Respondent’s confirmatory blood alcohol testing occurred at 1100 on the morning of December 14, 2008 – nearly seven hours after the collision between the barge(s) in the tow of the M/V Dewey R. and the barge(s) towed by the M/V Lydia Cenak.

Blood alcohol levels of .137 and .134 exceed the legal levels prescribed by law. Title 33 C.F.R. §95.020 prohibits operating a commercial vessel with an alcohol concentration of .04 percent by weight or more in a person’s blood. Likewise, 33 C.F.R. §95.045 proscribes intoxication by a crewmember aboard an inspected vessel. (The undersigned takes official notice that a barge is an

tank barge, Apex 3509; the last barge in the M/V Dewey R.'s tow. The repair cost was estimated to exceed \$200,000. The Coast Guard was then notified of the collision. (Tr. 9 – 10, CG Ex. 5).

inspected vessel.) Here, Respondent's reported levels clearly exceeded the limits set forth in both 33 C.F.R. § 95.020 and .045.

Therefore, the Coast Guard's allegation Respondent did, while acting under the authority of his license, certificate, or document, perform the safety sensitive function in violation of law or Federal regulation regarding the use of alcohol, is **PROVED**.

ULTIMATE FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent and the subject matter of this hearing are properly within the jurisdiction of the United States Coast Guard and the Administrative Law Judge in accordance with 46 U.S.C. §§ 7702 - 7703, 46 C.F.R. Part 5, and 33 C.F.R. Part 20, particularly § 20.1201(a).
2. At all relevant times mentioned herein and specifically on December 14-17, 2008 Respondent, Steven A. Shiver, was the holder of merchant mariner's license and merchant mariner's document, 1128289, Issue No. 2.
3. At all relevant times mentioned herein, and specifically on December 14, 2008, Respondent performed a safety sensitive function (pilot) aboard the M/V Dewey R.
4. At all relevant times mentioned herein, and specifically on December 14, 2008, Respondent did, while acting under the authority of his license, certificate, or document, perform the safety sensitive function (pilot) while in violation of law or Federal regulations regarding the use of alcohol.
5. At all relevant times mentioned herein, and specifically during the morning hours between 0400 and 1100 on December 14, 2008, Respondent did, while acting

under the authority of his license, certificate, or document, perform the safety sensitive function (pilot) while his blood alcohol levels exceeded .134.

6. Both the initial screening and the confirmatory testing performed on Respondent's breath were conducted using devices approved by the United States Department of Transportation.

SANCTION

The Coast Guard proposes Revocation as a sanction for Respondent's violation. I am mindful that 46 C.F.R. § 5.569 (Table of Suggested Range of an Appropriate Order) might be read to suggest a suspension of 1 to 3 months for failure to comply with U.S. laws or regulations pertaining to intoxication on the waterways. However, I am also mindful that 46 C.F.R. §5.61(b) provides:

An investigating officer may seek revocation of a respondent's license, certificate or document when the circumstances of an act or offense found proved or consideration of the respondent's prior record indicates that permitting such person to serve under the license, certificate or document would be clearly a threat to the safety of life or property, or detrimental to good discipline.

(Emphasis added.)

Here, the evidence reveals that at approximately 0400 on December 14, 2008, and while in control of the M/V Dewey R., Respondent's blood alcohol levels exceeded .134. The evidence further reveals that while under Respondent's control, one of the M/V Dewey R.'s barges collided with a barge(s) tied to the M/V Lydia Cenak, resulting in over \$200,000.00 in damage to one of the M/V Dewey R.'s barges. (Tr.9 – 10, CG Ex 1,5). Most egregious is the fact that Respondent's blood alcohol levels were not tested until seven hours after the

collision; raising the strong inference that at the time of the collision, Respondent's blood alcohol level far-exceeded the reported .134 level. A further inference is raised that Respondent had been drinking heavily for some time before the collision and while standing at the wheel of the Dewey R., with barges in tow, as she proceeded in the dark December waters of the Mississippi. One can only speculate how many drinks Respondent would have consumed as he piloted the vessel in order to achieve a blood alcohol level of .134, four hours after the collision with the M/V Lydia Cenak.

Revocation is appropriate when it is shown that a Respondent poses a clear threat to safety or life or property on the waterways. Such is plainly the case, here. Revocation is the appropriate sanction.

CONCLUSION

After careful consideration of the testimony and documentary evidence offered at the hearing, and of the entire record, I find that the Coast Guard's allegation that Respondent did, while acting under the authority of his license, certificate, or document, perform a safety sensitive function in violation of law or Federal regulation regarding the use of alcohol or a dangerous drug, is **PROVED**.

WHEREFORE,

ORDER

IT IS HEREBY ORDERED that the Merchant Mariner's Documents, Merchant Mariner's Licenses, and all other credentials issued by the U.S. Coast Guard to Steven A.

Shiver are REVOKED, per the requirements of 46 U.S.C. § 7703(1)(A), commencing on the date they were in the possession of the Coast Guard.

IT IS FURTHER ORDERED THAT Steven A. Shiver is to tender any other valid Merchant Mariner's Documents, Merchant Mariner's Licenses, and all other credential issued by the Coast Guard in his possession immediately to the nearest Coast Guard Marine Safety Office or mail those credentials to the following offices: USCG Sector Ohio Valley, 2732 River Green Circle, Louisville, KY 40206 or the United States Coast Guard Marine Safety Unit, 225 Tully Street, Paducah, KY 42003-0170.

IT IS FURTHER ORDERED THAT Steven A. Shiver is hereby prohibited from serving aboard any vessel requiring a Merchant Mariner's Document or Merchant Mariner's License issued by the U.S. Coast Guard.

PLEASE TAKE NOTE that issuance of this Decision and Order serves as the parties' right to appeal under 33 C.F.R. Part 20, Subpart J. A copy of Subpart J is provided as Attachment B.

Done and Dated on this 29th day of January, 2009
New Orleans, LA

Honorable Bruce Tucker Smith
Administrative Law Judge
United States Coast Guard

ATTACHMENT A

EXHIBIT LIST

Coast Guard Witnesses

1. Larry Worbington, Master of MV Dewey R.
2. John (NMI) Rigney, Personnel Manager, WMS, Inc.
3. John Crivello, Western Kentucky Drug Screen, Inc.

Coast Guard Exhibits (There was no CG Ex. 3)

Pre-1. Respondent's USCG-issued license, 1128289

1. M/V Dewey R. log
2. Alcohol Testing Form
4. Alcohol Testing Form
5. Report of Marine Casualty, Injury or Death
6. WMS Marine Drug and Alcohol Policies and various Fed. Register and C.F.R. exerpts.

Respondent Witnesses

None

Respondent Exhibits

None