

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

UNITED STATES COAST GUARD
Complainant

vs.

MARVIN JEROME FLUITT, JR.
Respondent

Docket Number 2023-0044
Enforcement Activity No. 7542642

DEFAULT ORDER

This matter comes before me on the United States Coast Guard's (Coast Guard) Motion for Default Order. As of the date of this order, Marvin Jerome Flutt, Jr. (Respondent) has not filed a reply to the motion. 33 C.F.R. § 20.310. As set forth below, I find Respondent is in **DEFAULT** and his credentials are **REVOKED**.

Background

On February 10, 2023, the United States Coast Guard (Coast Guard) served a Complaint against Marvin J. Flutt, Jr. (Respondent) alleging Respondent is a security risk that poses a threat to the safety or security of a vessel or structure located within or adjacent to the marine environment and conviction of a dangerous drug law violation. See 46 U.S.C. § 7703(5) and 46 U.S.C. § 7704(a). To date, Respondent has not filed an Answer to the Complaint as required by 33 C.F.R. § 20.308.

On February 23, 2023, the Coast Guard filed a Notice of Partial Withdrawal in accordance with 33 C.F.R. § 20.311(a)(2), withdrawing the Security Risk basis for seeking revocation of Respondent's Merchant Mariner Credential (MMC). TSA confirmed Respondent

applied for a new TWIC and TSA reevaluated Respondent pursuant to 49 C.F.R. § 1572 and determined Respondent is no longer a security threat and was issued a new TWIC.

On March 13, 2023, the Coast Guard served Respondent with a Motion for Default Order pursuant to 33 C.F.R. § 20.310. As of the date of this order, Respondent has not filed a response to the Coast Guard's motion.

Discussion

Pursuant to 33 C.F.R. § 20.308, a Respondent must file an Answer to a Complaint 20 days or less after service of the Complaint. If the Respondent fails to file an Answer without good cause shown, “[t]he ALJ may find a respondent in default. . .” 33 C.F.R. § 20.310. Default constitutes an admission of all facts alleged in the Complaint and a waiver of the right to a hearing. See 33 C.F.R. § 20.310(c); Appeal Decision 2682 (REEVES) (2008).

After careful consideration of the facts and circumstances of this case, I find more than twenty days have passed since the Coast Guard served Respondent with the Complaint in this matter. Furthermore, given that Respondent has not responded to the Coast Guard's Motion, I find Respondent has not shown good cause for his failure to file an Answer timely. Accordingly, I find Respondent in **DEFAULT** pursuant to 33 C.F.R. § 20.310(a) .

Having found Respondent in **DEFAULT**, Respondent admits the facts in the Complaint by operation of 33 C.F.R. § 20.310(c). Based on these admitted facts, the undersigned finds I have jurisdiction over the subject matter of the Complaint and the charge alleging Respondent was convicted for a dangerous drug law violation as described 46 U.S.C. 7704(a). I further find these admitted facts prove Respondent violated 46 U.S.C. 7704(a). Furthermore, the undersigned finds the facts alleged in the Complaint sufficient to warrant the suggested sanction of **REVOCAATION**. Id.

WHEREFORE,

ORDER

Upon consideration of the record, the undersigned finds Respondent in **DEFAULT**.

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 his Merchant Mariner Credential, are **REVOKED**. Respondent shall immediately cease using all Coast Guard issued credentials.

IT IS FURTHER ORDERED, Respondent must immediately deliver by mail, courier service, or in person, his Merchant Mariner Credential and any other Coast Guard issued credentials, licenses, certificates, or documents to: Mr. Eric Bauer, Suspension & Revocation National Center of Expertise 100 Forbes Dr., Martinsburg, WV 25404.

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 U.S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21201-4022.