

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

UNITED STATES COAST GUARD,

Complainant,

vs.

ASHLEY MICHELLE ANDERSON,

Respondent.

Docket Number 2023-0102
Enforcement Activity No. 7640257

DEFAULT ORDER

Issued By: Honorable George J. Jordan, Administrative Law Judge

Issued: November 17, 2023

Appearances:

**LT Claude Nadal
Sector San Diego
For the Coast Guard**

**Ashley Michelle Anderson, *Pro se*
For Respondent**

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, Ashley Michelle Anderson (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 June 27, 2023, 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 indicate Respondent is the holder of Merchant Mariner Credentials (MMC) 000683102. The Express Courier Service receipt, filed by the Coast Guard with Complaint, indicates the Complaint was delivered to Respondent's residence by Express Courier Service and signed for by a person of suitable age and discretion residing at the individual's residence on July 5, 2023.

On September 26, 2023, the Coast Guard filed a Motion for Default Order, explaining Respondent failed to file an Answer and the response time had passed. See 33 C.F.R. § 20.308. The Return of Service for Motion for Default Order indicates the Motion was delivered to Respondent's residence by Express Courier Service and signed for by a person of suitable age and discretion residing at the individual's residence on October 6, 2023. The Chief Administrative Law Judge assigned the matter to the undersigned Administrative Law Judge (ALJ) on November 13, 2023.

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 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 a respondent's right

to a hearing on those facts. 33 C.F.R. § 20.310(c). See Appeal Decision 2682 (REEVES) (2008).

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 respond to the Complaint or request an extension of time. Similarly, Respondent failed to respond to the properly served Motion for Default Order.

Here, the record shows Respondent did not file an Answer and has made no attempt to provide good cause for not doing so. Furthermore, nothing in the record indicates Respondent asked for an extension of time.

Title 33 C.F.R. § 20.310 provides “the respondent alleged to be in default shall file a reply to the motion 20 days or less after service of the motion.” Respondent’s reply was due no later than October 26, 2023. To date, Respondent has not filed a reply.

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. 33 C.F.R. § 20.310(c). See Appeal Decision 2682 (REEVES) (2008).

As to the charge of Misconduct, the Complaint alleges on February 2, 2023, Respondent was employed by NCL, PRIDE OF AMERICA and subject to NCL (Bahamas) LTD’s policies, including prohibiting employees from being onboard the PRIDE OF AMERICA with a blood alcohol level (BAC) above 0.04. Further, Respondent failed an alcohol breath test with a reading of 0.227 BAC, in violation of NCL, PRIDE OF AMERICA’s drug and alcohol policy. Respondent’s violation of NCL, PRIDE OF AMERICA’s drug and alcohol policy is Misconduct, as described by 46 U.S.C. § 7703(1)(B) and 46 C.F.R. § 5.27.

Upon review of the record, I find that the deemed admitted facts are sufficient to establish that Respondent's misconduct is, as described by 46 U.S.C. § 7703(1)(B). Accordingly, I find the allegations set forth in the Complaint **PROVED**. Based on this finding, I also find the facts alleged in the Complaint as to violation of Misconduct sufficient to warrant the sanction of **SUSPENSION**. See 46 C.F.R. § 5.569.

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 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 Claude Nadal, U.S. Coast Guard, Sector San Diego, 2710 N. Harbor Drive, San Diego, CA 92101. 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