

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

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Complainant

vs.

MICHAEL P. MURPHY

Respondent.

Docket Number CG S&R 06-0155
CG Case No. 2608223

ORDER DISAPPROVING SETTLEMENT AGREEMENT

Issued by: Walter J. Brudzinski, Administrative Law Judge

Issued: April 13, 2006

On April 7, 2006, the Coast Guard at Marine Safety Office Puget Sound issued a Complaint against Respondent alleging “Conviction of a Dangerous Drug Law Violation” in that the Respondent was convicted in Louisiana of one count each of Possession of Marijuana and Possession of Dihydrocodeine on January 28, 2002.

Also on April 7, 2006, the Coast Guard and the Respondent submitted a Motion for Approval of a Settlement Agreement and Entry of Consent Order as a settlement of the case under 33 CFR § 20.502.

The Settlement Agreement provides, in pertinent part, that Respondent’s license and document are suspended for 12 months. That suspension is remitted on a 12 month probationary period during which time Respondent is to complete a substance abuse evaluation followed by 12 months of random, unannounced drug testing. At the end of

the drug testing program, Respondent is to obtain a letter from the Medical Review Officer indicating that he is drug free and that the risk of dangerous drug use is sufficiently low to justify his continuing to work in the marine industry. Basically, Respondent is permitted to work under the authority of his license and document prior to completing this modified cure settlement agreement.

I have reviewed the terms of the Settlement Agreement and find that it does not comply with the latest Coast Guard policy as expressed in the Draft Marine Safety Manual and Commandant Decisions on Appeal. Specifically, a mariner may not be permitted to work under the authority of his credentials prior to completion of cure. Therefore, I cannot find that the settlement agreement is reasonable and in substantial compliance with the requirements of 33 CFR § 20.502.

WHEREFORE,

ORDER

Upon consideration of the record, it is hereby **ORDERED** that the Settlement Agreement is **DISAPPROVED**.

Done and dated April 13, 2006
New York, New York

WALTER J. BRUDZINSKI
Administrative Law Judge
United States Coast Guard

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **Order Disapproving Settlement Agreement** by the means indicated upon the following parties and limited participants (or designated representatives) in this proceeding at the addresses indicated as follows:

LT Ronald Murphree
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Done and dated April 13, 2006
New York, New York

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Administrative Law Judge
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