

U.S. Department
of Transportation

United States
Coast Guard



COMMANDANT
U. S. Coast Guard

2100 Second Street, SW
Washington, DC 20593-0001
Staff Symbol: G-LMI
Phone: (202) 267-1527
FAX: (202) 267-4496

16731

May 3, 2001

[REDACTED]

[REDACTED]

[REDACTED]

RE: MV00000335
[REDACTED]
[REDACTED]
\$850.00

Dear [REDACTED]:

The Commanding Officer, Coast Guard Hearing Office, Arlington, Virginia, has forwarded the file in Civil Penalty Case MV00000335, which includes your appeal as owner/operator of the M/V [REDACTED]. The appeal is from the action of the Hearing Officer in assessing a \$850.00 penalty for the following violations:

| <u>LAW/REGULATION</u> | <u>NATURE OF VIOLATION</u> | <u>ASSESSED PENALTY</u> |
|-----------------------|--|-------------------------|
| 46 CFR 28.110 | Failure to meet the requirements for life preservers or other personal flotation devices | \$ 50.00 |
| 46 CFR 28.150 | Failure to have the required EPIRB on board | \$300.00 |
| 46 CFR 28.115 | Failure to comply with the requirements for ring life buoys | \$100.00 |
| 46 CFR 28.145 | Failure to equip vessel with proper types and amounts of required distress signals | \$100.00 |
| 46 CFR 28.160 | Failure to provide the proper type and amount of required fire extinguishers | \$300.00 |

The violations were observed on September 6, 1999, when Coast Guard boarding officers boarded the [REDACTED] vessel while it was operating in the Gulf of Mexico, near Galveston, Texas.

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On appeal, you acknowledge that you were in violation at the time of inspection, I therefore find the violation proved. However, you contend that the violations were corrected within the thirty day period after the inspection. You also assert that you are not able to pay the penalty due to financial hardship. Your appeal is denied for the reasons described below.

The record shows that you do not dispute the deficiencies above, I therefore find the violations proved. The fact that you are now in compliance with the regulations is commendable. However, that does not negate the fact that, at the time of Coast Guard boarding of the [REDACTED], the vessel clearly was not in compliance with all the applicable regulations. Although you contend that you corrected the deficiencies within thirty days, there is no evidence in the record to show that you were in compliance. A letter dated March 17, 2000 was sent to you that gave you the right to request a hearing or submit written evidence in lieu of the hearing. In light of the fact that you did not respond, the Hearing Officer issued his final decision on June 19, 2000 based on the evidence contained in the record.

You also assert that due to engine problems your company did not make enough profit to allow you to pay this civil penalty. If you believe you cannot pay these penalties, you may request establishment of a payment plan. Requests for relief should be directed to the Chief, Claims Branch, Maintenance and Logistics Command Pacific, Coast Guard Island, Alameda, California 94501-5100.

Accordingly, I find that there is substantial evidence in the record to support the Hearing Officer's determination that the violations occurred and that [REDACTED] is the responsible party. The Hearing Officer's decision was neither arbitrary nor capricious and is hereby affirmed. I find the penalty of \$850.00 appropriate in light of the nature of the violations.

In accordance with the regulations governing civil penalty proceedings, 33 CFR 1.07, this decision constitutes final agency action. Payment of **\$850.00** by check or money order payable to the U.S. Coast Guard is due and should be remitted promptly, accompanied by a copy of this letter. Send your payment to:

U.S. Coast Guard - Civil Penalties
P.O. Box 100160
Atlanta, GA 30384

Payments received within 30 days will not accrue interest. However, interest at the annual rate of 5 % accrues from the date of this letter if payment is not received within 30 days. Payments received after 30 days will be assessed an administrative charge of \$12.00 per month for the cost

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of collecting the debt. If the debt remains unpaid for over 90 days, a 6% per annum late payment penalty will be assessed on the balance of the debt, the accrued interest, and administrative costs.

Sincerely,

//S//

DAVID J. KANTOR
Deputy Chief,
Office of Maritime and International Law
By direction of the Commandant

Copy: Commanding Officer, U.S. Coast Guard Hearing Office
Commander, Finance Center