

UNITED STATES OF AMERICA U.S. DEPARTMENT OF HOMELAND SECURITY UNITED STATES COAST GUARD	
ADDRESS OF COAST GUARD UNIT: Detachment Chief Suspension & Revocation NCOE 100 Forbes Drive Martinsburg, WV 25404 INVESTIGATING OFFICER: LCDR Orlando Hernandez TELEPHONE: (304) 433-3751	FOR DOCKETING CENTER USE ONLY DOCKET NUMBER 2023-0106 COAST GUARD ENFORCEMENT ACTIVITY NUMBER 7642885
COMPLAINANT: UNITED STATES COAST GUARD	
RESPONDENT: JOSEPH ROBERT MC CANN	
COMPLAINT	

The Coast Guard has initiated an administrative proceeding against your credential(s) and/or endorsement(s).

Statutory Authority:	46 U.S.C. § 7704a(a)
Statutory Authority:	46 U.S.C. § 7703(1)(B)
Regulatory Authority:	46 C.F.R. § 5.27 Misconduct

Coast Guard records indicate the Respondent's address is as follows:

Street		
City	State	Zip
Phone	E-mail	

JURISDICTIONAL ALLEGATIONS

1. Respondent is the holder of the following U.S. Coast Guard-issued Merchant Mariner Credential(s): [REDACTED]

2. Between July 22, 2017, and August 12, 2017, Respondent acted under the authority of Merchant Mariner Credential # [REDACTED], by serving as Chief Mate aboard the vessel AMERICAN FREEDOM (O.N. 1266796) as required by law or regulation.

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1.

FACTUAL ALLEGATIONS-Misconduct

The Coast Guard alleges that:

1. From on or about September 22, 2017, until April 29, 2022, Respondent was embarked on oceangoing deep-draft vessels in operation outside of the United States for at least 656 days.
2. Between July 22, 2017, and August 12, 2017, Respondent was employed by Crowley, and assigned to AMERICAN FREEDOM as Chief Mate.
3. Between July 22, 2017, and August 12, 2017, while onboard AMERICAN FREEDOM, Respondent sent inappropriate messages to the Deck Cadet via social media expressing an unwelcome desire for an intimate relationship.
4. Respondent's actions were an intentional or repeated unwelcome verbal comment or gesture of a sexual nature towards Deck Cadet when Respondent was the Deck Cadet's supervisor or a supervisor in another area.
5. Respondent's behavior had the purpose or effect of unreasonably interfering with the Deck Cadet's work performance or created an intimidating, hostile, or offensive work environment.
6. Respondent's unwelcome advances towards the Chief Cook is an act of sexual harassment in violation of 46 U.S.C. § 7704a(a), as defined by 46 U.S.C. § 2101(46)(C)

2.

FACTUAL ALLEGATIONS-Misconduct

The Coast Guard alleges that:

1. From on or about September 22, 2017, until April 29, 2022, Respondent was embarked on oceangoing deep-draft vessels in operation outside of the United States for at least 656 days.
2. Between July 22, 2017, and August 12, 2017, AMERICAN FREEDOM (O.N. 1266796), was a U.S.-flagged vessel owned by American Petroleum Tankers IX LLC, and operated by Intrepid Shipmanagement, Inc, which are both subsidiaries of Crowley.
3. Between July 22, 2017, and August 12, 2017, Respondent was employed by Crowley, and assigned to AMERICAN FREEDOM as Chief Mate.

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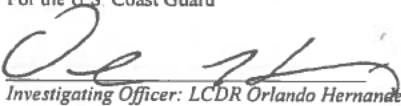
4. Between July 22, 2017, and August 12, 2017, while onboard AMERICAN FREEDOM, Respondent sent inappropriate messages to the Deck Cadet via social media expressing an unwelcome desire for an intimate relationship.
5. Between July 22, 2017, and August 12, 2017, while onboard AMERICAN FREEDOM, Respondent made unwelcome sexual advances or verbal conduct of a sexual nature towards the Deck Cadet by sending inappropriate messages via social media expressing a desire for an intimate relationship, which created an intimidating and hostile work environment for the Deck Cadet.
6. Between July 22, 2017, and August 12, 2017, Crowley had a company policy that prohibited employees from committing acts of sexual harassment.
7. Respondent's violation of Crowley's Sexual Harassment Policy (HR IV.15) is Misconduct as described by 46 U.S.C. § 7703(1)(B) and defined by 46 CFR § 5.27.

PROPOSED ORDER

The Coast Guard proposes Revocation.

PROPOSED HEARING LOCATION

City, State: New York City, NY

Received _____ Respondent: Joseph Robert Mc Cann Refused _____ IO's Initials	For the U.S. Coast Guard  Investigating Officer: LCDR Orlando Hernandez Date: March 15, 2023
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RESPONDENT'S INSTRUCTIONS

YOU MUST RESPOND TO THIS COMPLAINT WITHIN 20 DAYS

1. You must answer these allegations or request an extension within 20 days of receipt. The rules for Answers are at 33 CFR 20.308 and read as follows:

§20.308 Answers.

- (a) The respondent shall file a written answer to the complaint 20 days or less after service of the complaint. The answer must conform to the requirements of this subpart for filing and service.
- (b) The person filing the answer shall, in the answer, either agree to the place of hearing proposed in the complaint or propose an alternative.
- (c) Each answer must state whether the respondent intends to contest any of the allegations set forth in the complaint. It must include any affirmative defenses that the respondent intends to assert at the hearing. The answer must admit or deny each numbered paragraph of the complaint. If it states that the respondent lacks sufficient knowledge or information to admit or deny a particular paragraph, it denies that paragraph. If it does not specifically deny a particular numbered paragraph, it admits that paragraph.
- (d) A respondent's failure without good cause to file an answer admits each allegation made in the complaint.

2. If you admit the allegations, an Administrative Law Judge (ALJ) will issue an order entering the proposed sanction.
3. If you deny any allegations, an ALJ will schedule a hearing on the matter.
4. You may request an extension of time to file your answer within 20 days. Each request must explain why more time is needed and will be ruled on by an ALJ.
5. If you do not file an answer, request for extension, or attend any scheduled hearing, you may be found in default. Default constitutes an admission of all facts alleged in the Complaint and a waiver of your right to a hearing. If the ALJ finds you in default, a decision could be issued against you without any hearing.
6. You may request a settlement agreement with the Coast Guard. If you wish to discuss a settlement, call the Coast Guard Investigating Officer shown on the first page of this Complaint.
7. If you and the Coast Guard reach agreement, a proposed settlement agreement will be submitted to the ALJ for review and approval. If the ALJ approves the settlement, an order implementing the agreement will be issued.

YOU HAVE THE RIGHT TO:

1. have representation by counsel at the hearing, and that counsel may be, but need not be, a lawyer (NOTE: free legal aid may be available through the state bar or legal aid services);
2. have witnesses, records or other evidence subpoenaed;
3. examine witnesses;
4. cross-examine witnesses;
5. introduce relevant evidence into the record; and
6. testify to facts or relevant information on your own behalf.

FILE YOUR ANSWER TO THIS COMPLAINT OR MOTION FOR AN EXTENSION WITH:

Administrative Law Judge Docketing Center
U.S. Coast Guard
40 South Gay Street, Room 412
Baltimore, MD 21202-4022
Phone: (410) 962-5100
Toll Free: (866) 612-7524 [61A-SKCG]
Fax: (410) 962-1746
Toll Free Fax: (877) 243-3453 [CGE-FILE]

FILE A COPY OF YOUR ANSWER TO THIS COMPLAINT WITH THE COAST GUARD AT THE ADDRESS SHOWN ON PAGE ONE OF THIS COMPLAINT.

YOU MUST NOTIFY THE ALJ DOCKETING CENTER AND THE COAST GUARD UNIT ON PAGE ONE OF THIS COMPLAINT ANYTIME THERE ARE CHANGES TO YOUR MAILING ADDRESS AND/OR PHONE NUMBER.