

BEFORE THE MARYLAND BOARD OF PILOTS

MARYLAND BOARD OF PILOTS

v.

STEVEN L. GERMAC
Respondent

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OAH Nos.: LABOR-BPS-57-22-27006
LABOR-BPS-57A-22-27887
Agency No.: 02-BP-22

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SETTLEMENT AGREEMENT AND CONSENT ORDER

These matters come before the Maryland State Board of Pilots (“Board”) as the result of the Board summarily suspending Steven L. Germac’s (“Respondent”) license to provide pilotage in what is identified as Office of Administrative Hearings (“OAH”) Case LABOR-BPS-57A-22-27887 (“Summary Suspension Case”), and the Board bringing a separate, but related, disciplinary action against the Respondent in Case 02-BP-22, under OAH case number LABOR-BPS-57-22-27006, (“Case 02-BP-22”) based upon the Respondent’s role in the M/V EVER FORWARD’s grounding in the Chesapeake Bay in March of 2022. Both matters are pending hearings. However, the Board and the Respondent (collectively “Parties”) have agreed to enter into this Settlement Agreement and Consent Order (“Consent Order”) to resolve these matters without formal hearings on fair and reasonable terms that are in the best interests of the citizens of Maryland. Accordingly, the Parties agree and stipulate that:

1. At all relevant times, the Board has had, and continues to have, jurisdiction over the Respondent, who holds a license issued by the Board to provide pilotage (“license”) under number 01-220, and the subject matter related hereto.

2. On or about March 13, 2022, the M/V EVER FORWARD departed Baltimore’s Seagirt Terminal Berth 3 at approximately 18:12 local time with the Respondent aboard as the

assigned Maryland Pilot. The vessel proceeded outbound until failing to negotiate the turn from the Craighill Angle into the Lower Craighill Channel. The Respondent failed to use all available means to monitor the M/V EVER FORWARD's position and therefore failed to recognize the incorrect vessel position display in time to avoid a grounding. The vessel grounded to the east of the Lower Craighill Channel between buoys 14 and 16 at approximately 20:19 local time and was not freed until on or about April 17, 2022.

Summary Suspension Case

3. The Board initiated an investigation into the incident and based upon the results thereof, summarily suspended the Respondent's license to provide pilotage in accordance with Maryland Annotated Code, State Government Article ("State Gov't") § 10-226(c)(2). By letter dated October 21, 2022, the Board notified the Respondent that it had summarily suspended his license and that the summary suspension would remain in effect until the Respondent satisfied the Board that his provision of pilotage would not present a risk to the public health, safety, and/or welfare. Although the summary suspension remains in full force and effect pending any hearing, it is subject to the Respondent's opportunity to be heard. The Respondent has requested a hearing, and the Summary Suspension Case's hearing is scheduled to occur before the OAH under case number LABOR-BPS-57A-22-27887.

Case 02-BP-22

4. In addition, on November 1, 2022, and based upon the results of its investigation, the Board initiated a separate disciplinary enforcement action against the Respondent in Case 02-BP-22, OAH Case No. LABOR-BPS-57-22-27006, which is also awaiting a hearing at the OAH. Therein, the Board alleged that the Respondent violated the Maryland Pilots Act, codified at Maryland Annotated Code, Business Occupations and Professions Article ("Bus. Occ. & Prof.")

§§ 11-101 to 802, by piloting a vessel in a negligent or reckless manner in violation of Bus. Occ. & Prof. § 11-409(a)(5). In accordance with Bus. Occ. & Prof. § 11-409, and subject to any hearing rights, the Board could reprimand the Respondent, or suspend or revoke his license, and the Board could also impose up to a \$2,000 civil monetary penalty instead of, or in addition to, reprimanding him or suspending or revoking his license for any such found violation.

Case 02-BP-22's Resolution

5. The Respondent agrees, admits, and consents to the Board entering an Order finding that the Respondent violated Bus. Occ. & Prof. § 11-409(a)(5) by failing to use all available means to monitor the position of the M/V EVER FORWARD while piloting it on or about March 13, 2022, and by failing to recognize the incorrect vessel position display in time to avoid a grounding.

6. The Respondent has offered to surrender his license with further agreement that he will never reapply to the Board for licensure, in exchange for the Board agreeing to not impose a penalty in accordance with Bus. Occ. & Prof. § 11-409. As provided in this Consent Order, the Board has agreed to accept the Respondent's offer to surrender his license and to not reapply, in lieu of imposing a penalty.

7. The Respondent agrees and acknowledges that his license shall be immediately and automatically surrendered upon him executing this Consent Order, that he shall no longer have a license to provide pilotage in Maryland, that he shall refrain from engaging in any activity in this State for which a license issued by the Board is required, and that he shall refrain from making any future application or otherwise engaging in any future activity to obtain a license from the Board.

Summary Suspension Case's Resolution

8. The Board's summary suspension letter, dated October 21, 2022, indicated that the summary suspension would remain in effect until the Respondent satisfied the Board that his

provision of pilotage would not present a risk to the public health, safety, and/or welfare. Accordingly, the summary suspension shall immediately and automatically terminate upon the Respondent surrendering his license to the Board pursuant to this Consent Order, as moot.

Additional Acknowledgements and Agreements

9. Upon executing this Consent Order, the Respondent agrees that the Summary Suspension Case and Case 02-BP-22 may be withdrawn from OAH's docket pursuant to Code of Maryland Regulations 09.01.03.07 for settlement purposes.

10. The Parties agree that a waiver of any of the rights or duties provided herein must be mutual and in writing, and that any such waiver shall constitute a one-time waiver on a case-by-case basis and shall not constitute a waiver of this entire Consent Order or the subject provision(s) unless expressly so stated in writing.

11. The Parties intend this Consent Order to represent the final expression of the Parties' intent and agreement between them relating to the subject matter of this Consent Order. The Parties further intend that this Consent Order contains all the terms the Parties agreed to on the subject matter of this Consent Order and intend for this Consent Order to replace all the Parties' previous discussions, understandings, and agreements relating to the subject matter.

12. The Parties agree that entry into this Consent Order shall constitute a full and final resolution of these matters, that the Respondent shall not initiate any additional actions in relation to these matters against the Board or its members, and that the Board shall not initiate any additional actions in relation to these matters against the Respondent.

13. The Parties agree to cooperate fully and to execute all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Consent Order.

14. By entering this Consent Order, the Respondent, in relation to these matters, expressly waives the right to have charges reduced to writing, to an administrative hearing before the Board or its designee on any charges or any other matter related hereto, to the making of Findings of Fact and Conclusions of Law, to all other proceedings before the Board or its designee on these matters, and to any rights to appeal from this Consent Order to any court of competent jurisdiction.

15. The Respondent agrees that this Consent Order shall constitute a Final Order of the Board and shall be enforceable as such.

16. The Respondent agrees that he is knowingly, freely, voluntarily, and intelligently entering this Consent Order after having consulted with his attorneys.

17. The Respondent agrees and acknowledges that this Consent Order shall serve as the Final Order in Case 02-BP-22 and the Summary Suspension Case, that it shall be a part of the Respondent's licensing record maintained by the Board, and the Board's records and publications shall reflect this Consent Order's terms.

BASED ON THESE STIPULATIONS AND AGREEMENTS, IT IS THIS 4TH DAY OF JANUARY, 2023, BY THE STATE BOARD OF PILOTS HEREBY:

I. **ORDERED**, that in Case 02-BP-22, the Respondent is found to have violated Bus. Occ. & Prof. § 11-409(a)(5); and it is further

II. **ORDERED**, that in lieu of being subject to a penalty in Case 02-BP-22 as provided by Bus. Occ. & Prof. § 11-409, and with his affirmative consent, the Respondent's license shall be immediately and automatically surrendered upon his execution of this Consent Order, that the Respondent shall no longer have a license to provide pilotage in Maryland, that the Respondent shall refrain from engaging in any activity in this State for which a license issued by the Board is

required, and that the Respondent shall refrain from making any future application or otherwise engaging in any future activity to obtain a license from the Board; and it is further

III. **ORDERED**, that the Summary Suspension Case shall immediately and automatically terminate upon the Respondent surrendering his license to the Board pursuant to this Consent Order, as moot; and it is further

IV. **ORDERED**, that unless otherwise specified in this Consent Order, each provision herein shall remain in effect and enforceable as herein agreed unless the Board in writing stays, modifies, terminates, or suspends it; and it is further

V. **ORDERED**, that this document shall constitute a Final Order of the Board, and the Board may consider this Settlement Agreement and Consent Order and the facts set forth herein in connection with, and in deciding, any subsequent action or proceeding before the Board, and that this Settlement Agreement and Consent Order may, if relevant, be admitted into evidence in any matter before the Board, its designee, and/or any court; and it is further

VI. **ORDERED**, that the Board's records and publications shall reflect that the Parties resolved this matter through this Settlement Agreement and Consent Order.

MARYLAND BOARD OF PILOTS

- Signature on File -

Alexander "Sandy" Steeves, Esq., Chair

AGREED:

01/4/23

Date



Steven L. Germac, Respondent