

Attachment B

U.S. Department of
Homeland Security

United States
Coast Guard



Commander
United States Coast Guard
Sector Miami

100 MacArthur Causeway
Miami Beach, FL 33139
Phone: (786) 777-0775
Fax: (786) 777-0791

16710/20-0982
9 April 2020

Dustin S. McCabe.
633 SE Monet Drive
Port Saint Lucie, FL 34984

USCG CAPTAIN OF THE PORT ORDER 6937370: M/V PERSISTANCE/ O.N. 930158

On March 29, 2020 the Coast Guard conducted a casualty investigation involving your vessel, the M/V PERSISTANCE/ O.N. 930158, in the vicinity of Riviera Beach, FL. Subsequently, after the investigation, the M/V PERSISTANCE/ O.N. 930158 was deemed to be operating with passengers for hire.

The Coast Guard currently has no record of your vessel being an uninspected small passenger vessel as prescribed in Title 46, United States Code (U.S.C.), Section 2101(51). 46 Code of Federal Regulations (CFR) Part 67, requires that vessels of at least five net tons operating in coastwise trade, must have a Certificate of Documentation for the appropriate activity in which engaged. Furthermore, 46 CFR Part 16 requires that marine employers comply with chemical testing requirements for employees, under prescribed regulations.

In my capacity as Captain of the Port (COTP) Miami, I have determined that operation of your vessel with passengers for hire represents a significant unsafe condition and environmental threat to the port and navigable waterways of the United States. Therefore, I hereby order you to immediately cease operations, whether as an Inspected or Uninspected Passenger Vessel, until such time as it can be shown to the satisfaction of the Coast Guard that your vessel is being operated in compliance with all applicable federal laws and regulations.

This order is issued pursuant to my authority as COTP Miami, as contained in Title 46, Chapter 700 – Ports and Waterways Safety (46 U.S.C. § 70001 -70054) and the regulations in effect thereunder (33 CFR §160). In accordance with 46 U.S.C. § 70036, failure to comply with this Captain of the Port Order is punishable by a civil penalty of up to \$94,219 for each day the vessel is in violation. Willful and knowing violation of this order is a class D felony, punishable by up to six years in prison (18 USC § 3581) or fines of up to \$250,000 for an individual or \$500,000 for an organization (18 USC § 3571). This Captain of the Port Order is issued without prejudice as to the initiation of civil penalty proceedings for any violations that may have previously occurred.

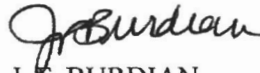
Should you be aggrieved by this order, you may request reconsideration of this order to me directly. If I do not rescind this order based on your request, you may appeal my decision to the Commander, Seventh Coast Guard District. While any request or appeal is pending, all provisions of this order remain in effect. All reconsideration requests or appeals must follow the procedures prescribed in 33 CFR 160.7.

Subj: USCG CAPTAIN OF THE PORT ORDER 6937370:
M/V PERSISTANCE/ O.N. 930158

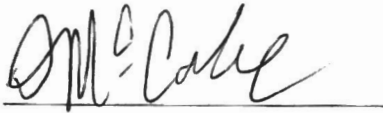
09 April 2020

If you have any questions or comments, you can contact the Sector Miami Command Center at
(305) 535-4313.

Sincerely,



J. F. BURDIAN
Captain, U. S. Coast Guard
Captain of the Port, Miami



(Signature) Owner/Master

Dustin McCabe
(Printed Name)

10 April 2020
(Date)



(Signature)
Coast Guard Rep

CHRISTOPHER A. MOSQUERA
(Printed Name)