

mmcsally

From: Charles R. Juliand [Charles.R.Juliand@noaa.gov]
Sent: Monday, June 12, 2006 5:22 PM
To: mmcsally
Subject: Re: Duckworth

Mark:

Thanks for getting back to me. I'm not interested in doing "Days (At Sea) for Dollars." I'd prefer to have your client pay in a lump sum and would credit the \$2,434.40 in seized proceeds toward the \$50,000 to sweeten the pot.

I'd be willing to take another look at his financial data (I'm afraid I tossed it after the other cases settled) but I'd need to get it in a hurry and I'd need to know how much equity he has in his 3 vessels, home, etc.... I suspect that he could borrow the cash (\$47,565.60) if pressed or sell one or more his vessels to raise the cash. Getting into a protracted payment plan situation with your client isn't in the government's best interest.

Please get back to me asap to advise me of your client's position. If I don't hear from you by June 22nd, I'll send you a collections letter/ Notice of Permit Sanction. Thanks in advance for your assistance.

Chuck

mmcsally wrote:

>Chuck; I just met with my client relative coming up with a proposal for him
>to pay off the \$50,000 fine that was upheld by the District Court. As I told
>you before, and as I believe that you were aware from the financial
>information submitted in the other cases, he does not have the ability to
>pay off in a lump sum the amount due. He would be happy to once again send
>to you his financial information for review if you want it. Based upon his
>circumstances he would propose two alternative plans. The first would be to
>pay to NMFS 10% of the boats gross stock from each trip until the amount is
>paid. This would include 10% from all fishing activities including those in
>state waters. We can set up whatever type of reporting/auditing procedure
>you require in order to verify the amount due.

>The second alternative would be to offer to give up some of his DAS on the
>monkfish permit. He would offer 57 monkfish DAS. 27 of these would come from
>the F/V Reaper immediately and the balance would come from the F/V True
>American when she comes off of tie up next April. Based upon average catch
>figures this offer should exceed \$50,000 in terms of value.

>He will also sign the paperwork for the forfeiture if the catch from the
>other matter that is still ongoing.

>Please review and advise as to your position.

>Thanks,

>Mark

>
>
>
>
>



JAMES H. REILLY
TERRENCE G. SIMPSON
MARK A. McSALLY
DONALD J. MARONEY
ROBERT J. DONNELLY
LAWRENCE J. SIGNORE
EDMUND J. KELLY
(1926-1993)
FRANCIS A. KELLEHER
(1944-1983)

NARRAGANSETT OFFICE
PIER PROFESSIONAL TOWERS
28 CASWELL STREET
NARRAGANSETT, RHODE ISLAND 02882
(401) 789-7800 FAX (401) 789-6990
E-mail: info@kkr.com

PROVIDENCE OFFICE
THE FRANCIS BUILDING
146 WESTMINSTER STREET
SUITE 500
PROVIDENCE, RI 02903
TEL (401) 272-1312
FAX (401) 331-9397

KELLY, KELLEHER, REILLY & SIMPSON

Attorneys at Law

June 22, 2006

Charles R. Juliand, Esquire
Senior Enforcement Attorney, NOAA
U. S. Department of Commerce
One Blackburn Drive
Gloucester, MA 01930-2298

Re: NE052036FM/V
F/V True American

Dear Chuck:

In accordance with the e-mail I sent to you, I am sending back the Statement of Financial Condition that was previously submitted to you in the case that was settled. I am also enclosing the executed Addendum with respect to the seized catch. It is my understanding that you will apply this against the \$50,000 due from my client.

My client also will be providing me with an additional \$7,500 to be sent to you next week. In the meantime, he is applying for a loan (which I doubt will be granted), and I will advise as to the outcome of the loan application.

If you have any questions, please feel free to contact me.

Very truly yours,

Mark A. McSally

MAM:jm
Enclosures



mmcsally

From: Charles R. Juliand [Charles.R.Juliand@noaa.gov]
Sent: Friday, June 23, 2006 9:37 AM
To: mmcsally
Subject: Re: Duckworth

That's not an acceptable solution. I'm not agreeing to any kind of a payment plan until after I look at his financials and make an independent determination as to whether he ought to be able to borrow the money or sell a boat or two. I'm only willing to credit the forfeited catch toward his debt if he pays in a lump sum. In the meantime, I'll be issuing a Notice of Permit Sanction in order to be in a position to pull his permits if he drags his feet.

mmcsally wrote:

> Chuck: I sent in the mail today copies of the financials from the prior
> hearing as well as the form to forfeit the proceeds of the catch to be used
> against the \$50K my client owes. He will also be sending you another \$7500
> by the end of next week. I have also advised him to apply for a loan which I
> do not think will be approved. In the meantime he is going to give me money
> periodically to send to you.

>
> Mark
>
>
>



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric
Administration
Office of General Counsel/Northeast
Region
One Blackburn Drive
Gloucester, MA 01930-2298
Phone: 978-281-9240 Fax: 978-281-9389

June 27, 2006

To: F/V Reaper, Inc.
552 Saugatucket Road
Wakefield, RI 02879

&

Mr. Gregory Duckworth ✓
70 Ledge Road
Wakefield, RI 02879

CERTIFIED MAIL NO.:
7001 0360 0000 5655 4110

CERTIFIED MAIL NO.:
7001 0360 0000 5655 4127

RE: NE020224FM/V
F/V True American
Vessel Permit No. 242178
Operator Permit No. 10004737

Dear Sir:

All appeals have been exhausted in the above-referenced matter and you now owe the Department of Commerce/NOAA a \$50,000 civil penalty. Since no satisfactory arrangement for payment of that debt has been reached, your federal vessel permits and your federal vessel operator permit will be sanctioned in accordance with the attached Notice of Permit Sanction.

Sincerely,

Charles R. Juliand
Senior Enforcement Attorney, NOAA

Attachment: Notice of Permit Sanction



**U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric
Administration**

Office of General Counsel/Northeast
Region
One Blackburn Drive
Gloucester, MA 01930-2298
Phone: 978-281-9240 Fax: 978-281-9389

NOTICE OF PERMIT SANCTION (NOPS)

MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT

ISSUED TO:

F/V Reaper, Inc. & F/V Twister, Inc. & Mr. Gregory Duckworth
552 Saugatucket Road 70 Ledge Road
Wakefield, RI 02879 Wakefield, RI 02879

RE: F/V True American
Vessel Permit No. 242178

F/V Reaper
Vessel Permit No. 240801

F/V Twister
Vessel Permit No. 242517

Gregory Duckworth
Operator Permit No. 10004737

Dear Sir:

NOTICE IS HEREBY GIVEN that, effective thirty (30) calendar days from your receipt of this notice, all the fishing permits identified above are sanctioned indefinitely, until the \$50,000 civil penalty due and owing to the Department of Commerce/NOAA is paid in full.

Fishing in the Exclusive Economic Zone (EEZ) after the effective date of suspension, for any regulated species for which any federal vessel or operator's permit was or should have been issued, will subject the vessel, its owner, and its operator to severe penalties under the Magnuson-Stevens Fishery Conservation and Management Act (the Act), such as forfeiture of the vessel to the United States and permanent loss of federal fisheries permits.

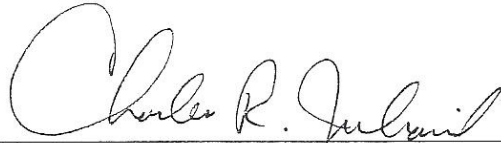
Ⓢ

These permits are sanctioned because you owe the Department of Commerce/NOAA a \$50,000 civil penalty which remains unpaid.

Any questions you have should be directed to Charles R. Juliand, Office of the General Counsel, Northeast region, National Oceanic and Atmospheric Administration, One Blackburn Drive, Gloucester, Massachusetts 01930, telephone 978-281-9240.

DATED: 6-27-06

BY:



Charles R. Juliand, Sr. Enforcement Atty, NOAA



mmcsally

From: Charles R. Juliand [Charles.R.Juliand@noaa.gov]
Sent: Wednesday, June 28, 2006 5:56 PM
To: Mark McSally
Subject: [Fwd: Re: Duckworth]

Second try...

----- Original Message -----

Subject: Re: Duckworth
Date: Wed, 28 Jun 2006 15:33:17 -0400
From: Charles R. Juliand <Charles.R.Juliand@noaa.gov>
Organization: NOAA NMFS
To: mmcsally <mmcsally@kkrs.com>
References: <DLENLHOLLCFOGOAMHENKAEHACFAA.mmcsally@kkrs.com>

Mark:

I've reviewed Mr. Duckworth's financials and had some legwork done re: his assets. It appears to me that he has more than enough equity in his residence and (probably) in his vessels to secure a loan for \$47,565.60 to pay his debt to NOAA. I'll expect him to do so by August 1, 2006, or face suspension of his federal fishing permits until the debt is paid in full.

Chuck

mmcsally wrote:

I am not trying to suggest that by accepting the payment you have accepted a partial payment plan. Rather it is a showing of good faith. If you know who will lend him the money please advise as I am fairly sure that no bank will. As far as selling the boat if you want to wait 6-12 months (the average sale time in Point Judith) I would suggest that it would be the same as a payment plan.
 After you review the financials let me know how you want to proceed.

Mark

-----Original Message-----

From: Charles R. Juliand [mailto:Charles.R.Juliand@noaa.gov]
Sent: Friday, June 23, 2006 9:37 AM
To: mmcsally
Subject: Re: Duckworth

That's not an acceptable solution. I'm not agreeing to any kind of a payment plan until after I look at his financials and make an independent determination as to whether he ought to be able to borrow the money or sell a boat or two. I'm only willing to credit the forfeited catch toward his debt if he pays in a lump sum. In the meantime, I'll be issuing a Notice of Permit Sanction in order to be in a position to pull his permits if he drags his feet.

mmcsally wrote:

6/29/2006

JAMES H. REILLY
TERRENCE G. SIMPSON
MARK A. MCSALLY
DONALD J. MARONEY
ROBERT J. DONNELLY
LAWRENCE J. SIGNORE

EDMUND J. KELLY
(1926-1993)
FRANCIS A. KELLEHER
(1944-1983)

NARRAGANSETT OFFICE
PIER PROFESSIONAL TOWERS
28 CASWELL STREET
NARRAGANSETT, RHODE ISLAND 02882
(401) 789-7800 FAX (401) 789-6990
E-mail: info@kkrs.com

PROVIDENCE OFFICE
THE FRANCIS BUILDING
146 WESTMINSTER STREET
SUITE 500
PROVIDENCE, RI 02903
TEL (401) 272-1312
FAX (401) 331-9397

KELLY, KELLEHER, REILLY & SIMPSON

Attorneys at Law

July 21, 2006

Charles R. Juliand, Senior Enforcement Attorney
NOAA
U. S. Department of Commerce
One Blackburn Drive
Gloucester, MA 01930-2298

Re: Gregory N. Duckworth

Dear Chuck:

My client has been applying for loans in order to pay off the amount due to the Government. However, as I indicated to you in prior correspondence, he has not had much success due to his credit problems and the state of the fishing industry overall.

I am enclosing for your file a copy one letter from The Washington Company, indicating that he does not qualify for a loan which would have paid off the amount due. I am anticipating having other such letters in the very near future.

At this point in time I am also enclosing a check in the amount of \$10,000 to be applied against the amount due. I would hope that you acknowledge that this is a significant payment and shows my client's good faith efforts to pay off his obligation. At this point he is making his best efforts to come up with the money, but it appears unlikely that he will have a lump sum by the deadline. Therefore, once again, based upon his financial circumstances, I am requesting that you consider a partial payment plan that would allow him to continue to earn a living while at the same time come up with the money to pay off the obligation to the Government.

Please review and advise at your earliest convenience.

Very truly yours,

Mark A. McSally

MAM:jm
Enclosures

cc: Mr. Gregory N. Duckworth



July 19, 2006

Re: Gary G Duckworth
552 Saugatucket Rd.
South Kingstown RI 02879

To whom it may concern:

Mr. Duckworth has applied for a loan of \$ 38,000.00 with the Washington Trust Co.

At this time Mr. Duckworth does not qualify for a loan.

Sincerely,

Jeannine Phetteplace

Jeannine C. Phetteplace
Customer Service Representative
Sweet Meadows Branch
20 Point Judith Rd.
Narragansett, RI 02882



Mark McSally

From: Charles R. Juliand [Charles.R.Juliand@noaa.gov]
Sent: Wednesday, July 26, 2006 6:05 PM
To: Mark McSally
Subject: Re: Duckworth

I just hung up the phone after speaking with you. Just so we're clear. I said I'd give him a 30 day extension on pulling his permits if he "can come up with half" by August 1st. By "half" I mean half of what he still owes (i.e. another \$18,782.80.)
Thanks.

Mark McSally wrote:

Chuck: Hopefully by now you received my letter from last week with the check and copy of one letter denying my client a loan. He has received another verbal denial this week and is waiting for an answer from one other lending institution. He has also placed the F/V Twister (the only vessel not subject to a sanction or tie up order) on the market and hired a broker to assist. At this point it should be obvious that he does not have the ability to pay the fine in a lump sum or obtain a loan. While he may have equity in his home and vessels he cannot access it because of his credit and the general state of the fishing industry, I would once again request that you consider a payment plan for this debt. The debt can also be secured with a mortgage on one or all of the vessels he owns and we can agree that if he sells the F/V Twister before completing the payment plan all of the net proceeds will be paid to the government.
This is the only way I can see of getting payment. If his permits are suspended he has no ability to earn any money to pay the debt and the marketability of the vessels is diminished.
Please review and advise as soon as possible as the August 1, 2006 deadline you imposed is fast approaching.

Mark A. McSally
28 Caswell Street
Narragansett, RI 02882
(401) 789-7800