



Gulf Coast Mariners Association

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P. O. Box 3589
Houma, LA 70361-3589
Phone: (985) 851-2134
Fax: (985) 879-3911
www.gulfcoastmariners.org

ASSIGNING RESPONSIBILITY FOR SENDING AN UNSEAWORTHY VESSEL TO SEA

[Based upon on an article that appeared in GCMA Newsletter #22, April 2004]

It is very troubling when a company is willing to send the crew of a vessel as well as other offshore workers to sea in an old and unseaworthy vessel by purposely ignoring unsafe conditions, failing to perform necessary and timely repairs and maintenance and then covering up the deed by attempting to use paint and plastic putty.

GCMA's primary concern is to protect our mariners from the preventable dangers that this seagoing occupation presents including greed and stupidity. However, investigation of complaints and enforcement of existing statutes and regulations clearly lies in the province of the Coast Guard and not GCMA. In this case, our Association found that local Coast Guard enforcement was less than satisfactory. The net result is to discourage rather than encourage mariners to report unsafe conditions and violation of regulations and statutes to the proper authorities.

However, the consequences of complacency and ignoring safety procedures are played out in family tragedies such as many of our Association members witnessed after the sinking of the M/V CHERAMIE BOTRUC 26⁽¹⁾ and in one of the victim's family's presentation before the National Offshore Safety Advisory Committee (NOSAC) and its sponsor, Admiral Pluta, at Coast Guard Headquarters in Washington. Our mariners and their families don't need additional examples of sending unseaworthy offshore supply vessels to sea!!! We want to make it clear that GCMA will never be a party to sending our mariners to sea in unsafe ships! [⁽¹⁾Refer to GCMA Report # R-311, Rev.2, The Loss of the OSV CHERAMIE BOTRUC 26 With Two Fatalities.]

IT'S A CRIME

46 U.S. Code §10908, **Penalty for Sending Unseaworthy Vessel to Sea**, states: "A person that knowingly sends or attempts to send, or that is a party to sending or attempting to send, a vessel of the United States to sea, in an unseaworthy state that is likely to endanger the life of an individual, shall be fined not more than \$1,000, imprisoned for not more than 5 years, or both."

While \$1,000 is just a "drop in the bucket" and can be rationalized by some company officials as "the cost of doing business" we believe the criminal penalty of 5 years in jail more closely fits irresponsible actions that are clearly a crime. We believe that Congress should consider raising the monetary penalty to an amount that would deter any business enterprise, especially a publicly held corporation that is the case we describe below, from ever again considering sending an unseaworthy vessel to sea.

THE M/V STINGRAY CASE

On February 6, 2004 the Captain of the M/V STINGRAY, a Coast Guard-inspected self-elevating liftboat reportedly entered the rudder room of the vessel to determine the source of a persistent leak. He found a small hole and then pulled off a piece of rust that formed an even larger hole in the bottom of the rudder room.

The Captain's supervisor reportedly was aboard the liftboat at Port O'Connor, Texas, when he made the discovery. Although the boat did not have a job at the time, he failed to report the incident to the Coast Guard as he should have done under 46 CFR §4.05-1(a)(4) as this clearly was "an occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route" as stated in the regulation. Since the M/V STINGRAY is a self-elevating liftboat, it does not need a shipyard haulout to make repairs involving welding. However, any such repairs always must be made with the knowledge and consent of the Coast Guard.

Since neither the Captain (nor the Company) contacted the Coast Guard to seek a "Permit to Proceed" he continued to use poor judgment by taking the boat offshore to from Port O'Connor to Freeport, Texas. The Captain planned to continue on to Cameron, LA even after he knew of the hull's deteriorated condition. En route, throughout an offshore trip that lasted for approximately 13 hours, he ordered his crew to pump the rudder room once every hour.

The M/V STINGRAY set out from Freeport en route to Cameron (approximately 120 miles) on Tuesday February 10th but was forced to return to Freeport because of bad weather.

Leaks in steel-hull vessels have a tendency to get worse rather than better. The situation was a source of worry to the vessel's crewmembers even if it did not appear to bother the Captain who had been assigned to the same boat for a number of years. Nor did it appear to concern the vessel's operations manager. Between them they decided to patch the underwater portion of the hull with "Red Hand" **and to continue to carry offshore contract workers on the boat until its scheduled drydocking and Coast Guard inspection several months later.** In the meantime, the company reportedly lined up another offshore charter job for the boat that involved carrying and accommodating about a dozen offshore workers at an offshore job site.

When our mariners, Able Seaman Mark A. Blackman, reported the incident and the proposed patch job to GCMA, we immediately reported the incident to our Eighth District Coast Guard Liaison Officer, LCDR Danny LeBlanc, at Coast Guard District Headquarters. Commander LeBlanc made the necessary contacts and Coast Guard inspectors were promptly dispatched from Galveston to Freeport. The Coast Guard inspected the vessel, verified our report, and ordered that a substantial and immediate permanent welding repair be performed on the liftboat before it left port. The repair included cutting out and replacing an area of approximately 18' x 18' of rotten steel plating. Through his observations, Blackman observed substantial evidence of complicity between the Captain of the vessel and the company operations manager to make unauthorized repairs to an inspected offshore supply vessel prohibited by 46 CFR §126.150(a).

When the twenty-five year old M/V STINGRAY left port three days later, it carried 10 construction workers, one (1) production worker, and its crew of three (3) to the job site at High Island Block 154. These people were carried on board the vessel and were not flown to the job site. Consequently, if left to their own devices, the owners would have placed the lives of fourteen (14) persons at risk if the vessel had left port in an unseaworthy condition and before necessary steel replacement repairs could have been made.

The Captain made crew change in Freeport leaving the problem in the hands of his relief Captain who, by the time the Coast Guard inspectors arrived, he was spared from making a hard choice between being part of the conspiracy to break the law and keeping his job and thereby endanger the safety of his passengers and crew.

The leak in the M/V STINGRAY was quite serious as Mark Blackman indicated. The starboard side of the vessel had the leak that took 17 minutes to pump out each hour while the port side took 5 minutes to pump each hour. It was possible to keep the water in check **as long as the pumps remained operable.** Nevertheless, the water from both the port and starboard sides of the rudder room can run together and create substantial free-surface-effect stability problems in open waters of the Gulf. However, only the starboard side had a high water level alarm. The audible alarm reportedly stopped working although the visual water level alarm still came on.

Although a vessel of this type **may** have the flexibility to drop its legs to the sea floor and jack up to drain its flooded space, this depends upon a number of factors that are not always predictable including sea conditions, the depth of the water, and the composition of the sea bottom. The record of liftboat losses in the Gulf of Mexico became so alarming in the mid-1980s that the Coast Guard brought the entire class of vessels under inspection by the end of the decade. This record of these "liftboat" disasters, especially on older liftboats is quite alarming as discussed and reported upon by a series of industry experts.⁽¹⁾ [⁽¹⁾Refer to **GCMA Report #R-363, Report From the Subcommittee on Liftboat Operations to the National Offshore Safety Advisory Committee of the U.S. Coast Guard in April 2003.** This report appears on our website, www.gulfcoastmariners.org under "Research Reports."]

The Coast Guard's determination to inspect liftboats appears to have had a positive effect on the safety of our mariners but problems remain especially with older vessels like the STINGRAY built before the new regulations came into effect. The Coast Guard and the offshore oil industry's committee thoroughly re-examined the causes of major liftboat accidents in a series of high-level meetings and submitted its report to the National Offshore Safety Advisory Committee (NOSAC). GCMA representatives attended the working group sessions. The report from their Subcommittee on Liftboat Operations cited above is readily available to our mariners and we highly recommend it. Nevertheless, the report deals with technical matters and, while "human factors" were discussed, the report steers clear of recognizing significant human shortcomings of greed, arrogance, and stupidity that, when exposed, should be subject to appropriate sanctions.

Following the detention of the M/V STINGRAY to complete emergency repairs, the company terminated one of the vessel's two deckhands and reassigned another to work under close supervision in the shipyard. Both actions appear to be retaliatory in nature but hit the wrong target.

LICENSED OFFICERS ARE REQUIRED TO REPORT DEFECTS TO INSPECTORS

This incident brought out other examples of the company using cosmetic "red-hand" to avoid making expensive repairs on their vessels in the past. In Spring 2002 when a Coast Guard inspector was on another company boat and was finishing his inspection he reportedly asked another Captain to tell him whether there was anything that he knew of that was wrong with the vessel. At that point, in the presence of the Operations Manager's brother who was supervising the job at the shipyard, the Captain reportedly stated that "Red Hand" had been used to patch the hull of the vessel. The inspector then asked the Captain to show him the area and then ordered the necessary repairs. The Company Operations Manager reportedly expressed his unhappiness the following morning at the safety meeting after the Captain was sent offshore on another boat. He said he had contacted his office **and that they didn't need anyone reporting things to the Coast Guard, and that such action could possibly lead to termination of their employment.**

This brings up the requirement in Title 46, U.S. Code §3315(a) of each licensed individual to assist in the inspection or examination of the vessel on which the individual is serving, and shall point out defects and imperfections known to the individual in matters subject to regulation and inspection. The individual also shall make known to officials designated to enforce this part, at the earliest opportunity, any marine casualty producing serious injury to the vessel, its equipment, or individuals on the vessel. A licensed officer has two masters, his employer and the Coast Guard that issues his license. When they work at cross purposes, safety of our mariners suffers.

The Captain of the M/V STINGRAY clearly did not live up to this responsibility and endangered all on board by showing his ignorance of established regulations, disregarding his responsibilities, and then shifting the burden of making repairs to his relief Captain who had just arrived on board.

Mark Blackman's observations of this company's past actions indicate that they are not trustworthy and are willing to cut corners without regard to the welfare of their employees or their customers. We asked the Coast Guard whether it is wise to entrust them with the safety of others to such people when the vessel operates in a hostile offshore environment.

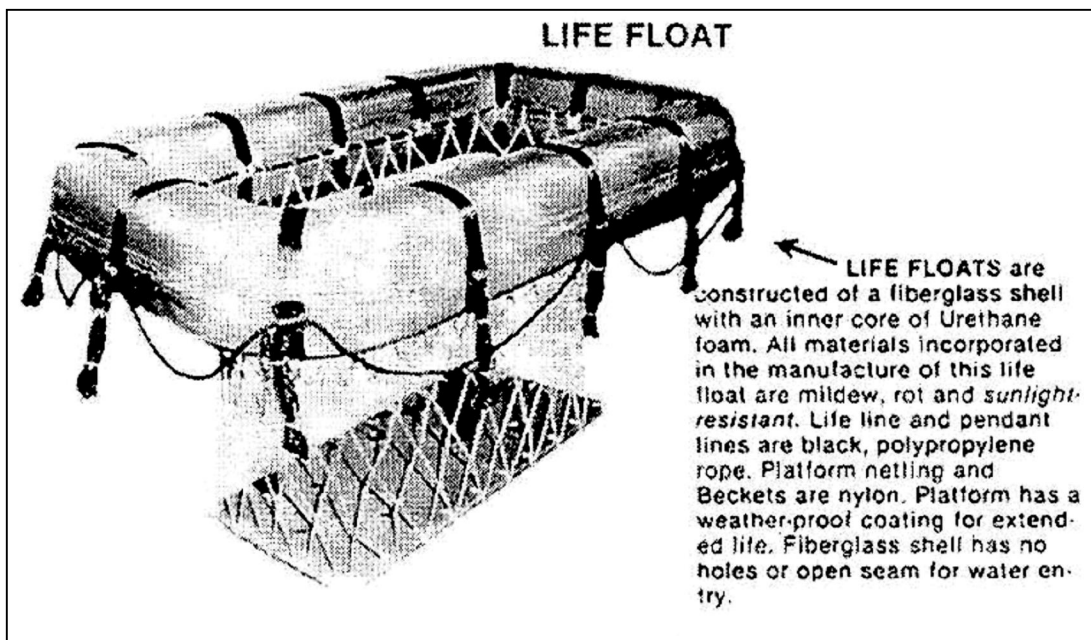
**THE COAST GUARD MUST RE-THINK LIFESAVING EQUIPMENT
ON SMALL VESSELS**

If the unthinkable had happened and this liftboat suddenly sank with 14 persons on board, they would have been left in the waters of the Gulf of Mexico that in mid-February are reported to be only about 59°F.

Survival time in these waters without an immersion suit (that are not required to be carried in the Gulf of Mexico) averages less than three (3) hours. Cold shock upon hitting the water often is an immediate killer. Unfortunately, the Coast Guard still allows small passenger vessels and offshore supply vessels (as well as tugboats) to go to sea carrying life floats rather than inflatable liferafts. Life floats require each survivor to remain in the water and hang on to either the lifeline around the periphery of the life float (if there are not too many other people trying to reach the lifeline) or on to one of the life-float's 1/4-inch polypropylene pendants until you are rescued. In fact, the capacity of a life float is really based upon the number of pendants it has. This, restated, means that your life is worth only the cost of a 6-foot piece of quarter-inch poly-propylene line⁽¹⁾ and depends on your ability to hang on to that pendant until you are rescued. Twenty-cents isn't much of an investment; and it isn't a pretty picture to watch survivors struggle for their lives in cold water! These pendants don't even have a loop to hang onto!

Our Association asserts that our mariners as well as passengers and other persons in addition to the crew deserve a higher standard of care! We cannot blame the company for equipping their liftboats with life floats as long as they meet legal requirements. However, the National Transportation Safety Board recommends out-of-water survival craft such as inflatable liferafts but the Coast Guard fails to heed these recommendations dating from 1985. ^[1]Illustrated at 46 CFR Figure 160.010-3(i), *Acceptable method of rigging a pendant.*]

A person immersed in cold water loses body heat 25 times faster if a person remains in the water rather than out of the water and in air of the same temperature. We believe that the Coast Guard should move to replace all existing life floats with either inflatable life rafts or, in protected waters, with inflatable buoyant apparatus that will keep survivors out of the cold water. We believe that companies that charter vessels also deserve to provide their customers with the highest standard of care. The U.S. Department of Transportation, as stated in many regulatory projects, established the public's interest in saving a human life as measured in dollars amounts to \$2,700,000 per life saved.



Life floats have a notoriously poor record going back to their use in World War II on merchant ships. The errors of the past are being perpetrated today in little more than a regulatory conspiracy of boat owners who are unwilling to pay for the safety of their crews and passengers.

To their great credit, the National Transportation Safety Board in their report on the M/V PILGRIM BELLE accident on July 28, 1985 concluded in part that "Sufficient lifesaving equipment should be provided on all passenger vessels to keep all passengers and crew out of the water to reduce the effects of hypothermia and to make it easier to locate persons abandoning a vessel." They have consistently supported this view for the past 20 years⁽¹⁾ as the Coast Guard has taken the public in a different direction. We see no difference between the mariners who serve as the crew on a small passenger vessel or on any other type of small vessel and a passenger as far as the standard of care owed to them. GCMA went on the record in our written testimony before the House Subcommittee on Coast Guard and Maritime Transportation on August 2, 2007 by reminding them of the following research report previously sent to the full committee and to the Senate Commerce, Science and Transportation Committee: GCMA Report #R-354, Rev.1. Nov. 19, 2006. [A Direct Appeal to Congress on Lifesaving Issues Affecting Lower-Level Mariners.](#)

Although the life float is a primitive and outmoded device, it is even harder to believe that the Coast Guard doesn't even require a primitive life float as a survival craft on uninspected towing vessels operating offshore. **Shame!** [⁽¹⁾NTSB/MAR-86/08, Conclusions. #20.]

COAST GUARD BRINGS CHARGES AGAINST CAPTAIN PAUL MILLER

[Misle Activity #2139650; Misle Case #18831]

The Coast Guard Marine Safety Office in Morgan City investigated the allegations reported to them through the Gulf Coast Mariners Association in early July 2004, five months after we reported the incident. The investigator assigned to the case, Mr. Jason Boyer, contacted both deckhands who stated they were uncomfortable on the vessel due to the amount of water that the vessel was taking on.

On July 19, 2004 the Coast Guard investigator contacted the Captain and the manager for Global Industries to discuss details of the incident. The Captain affirmed that he knowingly got the vessel underway and, using his judgment, determined the vessel was safe for the intended voyage. **The Captain stated that he reported the hole in the bottom to the company, but was unaware of the requirement to notify the Coast Guard.** The Captain stated that the reason the Red Hand was never applied was due to foul weather conditions. Temporary repairs were never made to the hole and, consequently the vessel continued to take on water throughout the 70 mile offshore voyage in the Gulf. The investigator further stated that "Red Hand is not authorized by the Coast Guard to make repairs. The Captain (incorrectly) assumed that he could transit to Louisiana to get repairs completed.

On July 21, 2004 the Investigator prepared a formal "Letter of Warning" for violating 46 CFR §5.29, Negligence, and mailed it by Certified Mail to Captain Paul Miller. We later were told by Seaman Blackman that Miller subsequently called him and threatened to get even with him. We subsequently reported the incident to the Coast Guard Marine Inspection Office, but no action was taken. We would find that the Coast Guard apparently was not interested in following up reports that our Association reported to them in a pattern that repeated itself throughout the following year.

On August 23, 2005, a year later, in response to FOIA #05-2142 to Coast Guard Headquarters, was advised that they could find no copy of a Letter of Warning issued to Captain Paul Miller in their Marine Information for Safety and Law Enforcement (Misle) data base. On September 20, 2005 Mr. Jim Wilson e-mailed Headquarters that he located the missing documents and scanned them into the Misle file. However, no copy of that document was ever released to Mr. Blackman. Consequently, GCMA has serious doubt as to whether Captain Miller ever received any sanction but were unable to push the matter further. To the best of our knowledge, no action was ever taken against the company. The protection afforded by 46 U.S. Code §10908 cited above never was mentioned.