

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	
Bouchard Transportation Co., Inc., <i>et al.</i>,	§	Case No. 20-34682
	§	
Debtors.	§	
<hr style="border: 0.5px solid black;"/>		
Bouchard Transportation Co., Inc.,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Adv. No. 20-3501
	§	
American Bureau of Shipping and United States Coast Guard,	§	
	§	
Defendants.	§	

**Response by the United States of America to Plaintiff's
Request for Temporary Restraining Order
(Related to Doc. No. 1)**

The United States responds to the request by Bouchard Transportation Co. for a temporary restraining order.

Summary

Bouchard Transportation has given two classification societies the impression that it lacks adequate commitment to safety, and they have chosen not to work with Bouchard Transportation as a result.

The United States looks forward to the presentation of evidence so that the Court can hear both sides of the story. In the meantime, this response sets forth the relevant legal authorities why Bouchard Transportation is not entitled to a temporary restraining order.

Jurisdiction, Venue, and Constitutional Authority

The United States does not dispute that venue is proper in this District pursuant to 28 U.S.C. § 1409.

The United States disputes that the Court has subject matter jurisdiction over Bouchard Transportation's claims against the United States. Their claims under Title 11 are not viable, and Bouchard Transportation has not exhausted administrative remedies concerning the others.

The United States does not consent to the entry of a final order or judgment by this Court in this adversary proceeding. The claims under 11 U.S.C. §§ 362 and 525 fail, and the remaining claims do not fit within the "public rights" exception. *See Stern v. Marshall*, 564 U.S. 462, 484 & 488-89 (2011) ("That is why we have long recognized that, in general, Congress may not 'withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty.'") (quoting *Murray's Lessee v. Hoboken Land & Improvement Co.*, 59 U.S. 272 (1856)).

Background

I. Legal Framework for Recognized Organizations

Applicable statutes and regulations provide for the operation of certain vessels under safety management systems. 46 U.S.C. §§ 3201-3205; 33 C.F.R. Part 96.

33 C.F.R. Part 96 Subpart D provides for the Coast Guard to approve certain organizations—typically classification societies—to act as "Recognized

Organizations” or “ROs.”¹ If an organization asks the Coast Guard to become an RO, 33 C.F.R. § 96.430, and if the Coast Guard determines that the organization meets certain standards, 33 C.F.R. § 96.440, then the Coast Guard may so recognize the organization. The Coast Guard may authorize ROs to, among other things, issue document of compliance certificates. 33 C.F.R. § 96.420.

The regulations contain specific standards for ROs, including but not limited to auditing, record keeping, handling appeals, and ethics. 33 C.F.R. § 96.440. If the Coast Guard determines that an RO has “fail[ed] to maintain acceptable standards,” then it may, among other things, remove the organization’s designation as an RO. 33 C.F.R. § 96.470.

Importantly, nothing in Subpart D authorizes the Coast Guard to compel an RO to take a client or perform specific work.

Bouchard Transportation argues that 46 U.S.C. § 3204(b) creates a requirement for the Coast Guard and ABS to review a safety management plan. [Doc. Nos. 1 and 4]. However, 46 U.S.C. § 3203 also requires the Secretary of Homeland Security to implement regulations governing safety management systems. 46 U.S.C. § 3203(a). The regulations require both that (a) a safety management audit be conducted before issuance of a document of compliance, and (b) a request for a safety management audit be directed to a RO. 33 C.F.R. § 96.320(a) and (e). The regulations

¹ See <https://igconference.org/wp-content/uploads/2017/10/Session-3-Pres-2-Robert-Ashdown-The-Work-of-IACS.pdf> (publicly-available presentation discussing classification societies and recognized organizations).

do not allow the Coast Guard to receive a request for a safety management audit.²
See also 62 Fed. Reg. 23705, 23708 (May 1, 1997) (quotation in footnote).³

II. Relationship between Bouchard Transportation and ABS

The United States does not know every detail about the history between Bouchard Transportation and ROs. However, the United States is informed that both American Bureau of Shipping (ABS) and De Norske Veritas (DNV) have terminated their relationships with Bouchard Transportation in the past.⁴ *E.g.*, Exhibits A and B. Although the United States does not know why DNV terminated the relationship, the United States is further informed that ABS perceived Morton Bouchard, III, to be impeding ABS's work.

While the United States does not know everything about the relationships, it is aware of other relevant facts. For one, the Coast Guard has revoked Bouchard

² Although 33 C.F.R. § 96.320(c)(3) and 96.330(f) appear to permit the Coast Guard to *perform* a safety audit, the regulations do not permit the Coast Guard to receive a request that it perform one.

³

Because the Coast Guard proposes to authorize recognized organizations to issue safety management system certificates, certification will not be completed directly by the Coast Guard. Coast Guard personnel would require extensive training and resources which already exists in the commercial industry. Commercial organizations recognized under 46 CFR part 8, and authorized under these proposed rules, already have the training and resources available to carry out the auditing requirements consistent with the international guidelines of the ISM Code. By permitting organizations to carry out this function, the Coast Guard will be able to effectively oversee the proper execution of regulatory implementation and certification. The implementation of these proposed regulations will better utilize Coast Guard resources to oversee these and other marine functions carried out by others on behalf of the U.S.

<https://www.govinfo.gov/content/pkg/FR-1997-05-01/pdf/97-11189.pdf>

⁴ These are not the only two classification societies recognized by the United States Coast Guard. Information about other classification societies can be found here: <https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Inspections-Compliance-CG-5PC-/Commercial-Vessel-Compliance/Flag-State-Control-Division/ClassSocAuth/>.

Transportation's document of compliance at least three times, most recently on August 31, 2020. Exhibit C. The United States is also aware of four mariner fatalities due to explosions on Bouchard Transportation vessels, inclusive of the two fatalities in the 2017 explosion.

The United States conferred with counsel for Bouchard Transportation prior to the filing of this adversary proceeding. During those conferences, the United States declined to instruct/order/compel ABS to work with Bouchard Transportation.⁵

Response

The Court should deny Bouchard Transportation's request for a temporary restraining order.

I. Standard for Temporary Restraining Order

Temporary restraining orders are drastic remedies, and a movant must carry their burden on all elements to obtain one. *Bay Matrix, Ltd. v. Big Guns Petroleum, Inc.*, 2017 WL 7052221, Case No. 4:17-cv-1544 (S.D. Tex. Nov. 29, 2017); *Munaf v. Green*, 553 U.S. 674, 689-90 (2008) (calling preliminary injunction a "drastic remedy" that is "never awarded as of right"). A party seeking a temporary restraining order must "demonstrate (1) a substantial likelihood of success on the merits, (2) a substantial threat of irreparable injury if the injunction were not granted, (3) that [its] substantial injury outweighed the threatened harm to the party whom [it] sought to enjoin, and (4) that granting the preliminary injunction would not disserve the

⁵ Although perhaps not material to this dispute, the United States notes that ABS is not the only RO with offices in the United States. DNV and Nippon Kaiji Kyoka, another RO, have the ability to issue safety management system certificates.

public interest.” *Planned Parenthood Ass’n of Hidalgo County Texas, Inc. v. Suehs*, 692 F.3d 343, 348 (5th Cir. 2012) (discussing burden of proof to obtain preliminary injunction). The four prongs of this inquiry “are conjunctive.” *Lake Charles Diesel, Inc. v. General Motors Corp.*, 328 F.3d 192, 203 (5th Cir. 2003).

II. No Substantial Likelihood of Success

Bouchard Transportation is not likely to succeed on its claims.

A. No Violation of Automatic Stay

The claim for violation of the automatic stay has no chance of success. “Not every infringement on a debtor violates § 362(a).” *In re Cano*, 410 B.R. 506, 525-26 (Bankr. S.D. Tex. 2009) (Isgur, J.).

Among other things, 11 U.S.C. § 362 “operates as a stay . . . of . . . any act . . . to exercise control over property of the estate.” 11 U.S.C. § 362(a)(3);⁶ [Doc. No. 1, p. 13]. The Bankruptcy Code does not define “control,” and courts have varied in their interpretations. *In re Trevino*, 535 B.R. 110, 146 (Bankr. S.D. Tex. 2015). However, many courts hold that a violation typically requires a post-petition act. *In re Welded Construction, L.P.*, 609 B.R. 101, 127 (Bankr. D. Del. 2019); *In re Richardson*, 135 B.R. 256, 258-59 (Bankr. E.D. Tex. 1992); *but see In re Fulton*, 926 F.3d 916, 923 (7th Cir. 2019), *cert. granted*, 140 S.Ct. 680 (2019) (retaining possession of car repossessed pre-petition violated stay).

⁶ Although damages are not at issue yet, the United States notes that Bouchard Transportation may not recover monetary damages, costs, attorneys’ fees, or punitive damages under 11 U.S.C. § 362(k)(1) as requested in the complaint. Relief under § 362(k)(1) is only available to “individuals.” *In re Chateaugay Corp.*, 920 F.3d 183, 186-87 (2d Cir. 1990); *Jove Engineering, Inc. v. I.R.S.*, 92 F.3d 1539, 1550 (11th Cir. 1996); *In re San Angelo Pro Hockey Club, Inc.*, 292 B.R. 118, 125 (Bankr. N.D. Tex. 2003) (collecting cases); *In re Equator Corp.*, 362 B.R. 326, 336 (Bankr. S.D. Tex. 2007).

However, 11 U.S.C. § 362(a)(3) does not apply to the enforcement of a governmental unit of its “police and regulatory power” 11 U.S.C. § 362(b)(4). This exception “embodies a fundamental judgment of Congress: that protecting the public welfare and safety trumps the concerns that underlie the automatic stay” *In re Halo Wireless, Inc.*, 684 F.3d 581, 597 (5th Cir. 2012) (quoting *In re Spookyworld, Inc.*, 346 F.3d 1, 10 (1st Cir. 2003)); *Commodity Futures Trading Com’n v. Co Petro Marketing Group, Inc.*, 700 F.2d 1279, 1283 (9th Cir. 1983) (policy behind § 362(b)(4) “is to prevent the bankruptcy court from becoming a haven for wrongdoers.”) (citing 2 Collier on Bankruptcy § 362.05, at 362-40 (15th ed. 1982)).

Initially, the United States disputes that Bouchard Transportation has pled any post-petition act by the Coast Guard that would even remotely fall within the scope of 11 U.S.C. § 362(a)(3). Refusing to review a safety management plan is not the type of “control”—such as possessing property of the estate—that ordinarily rises to the level of a stay violation. However, even if the Coast Guard has done something that would, issues concerning safety on vessels are squarely within the Coast Guard’s police and regulatory power. *See* 14 U.S.C. § 102(3) & (4) (identifying safety of life and property on high seas as within the primary duties of the Coast Guard).⁷

B. No Discrimination

The claim for discrimination under 11 U.S.C. § 525 also has no chance of success.

⁷ “The mission of the United States Coast Guard is to ensure our Nation’s maritime safety, security and stewardship.” <https://www.mycg.uscg.mil/Missions/> (last accessed December 18, 2020).

The Fifth Circuit interprets 11 U.S.C. § 525 narrowly. *In re Exquisito Services, Inc.*, 823 F.2d 151, 153 (5th Cir. 1987). Under the Fifth Circuit’s reading of the statute, relief is only appropriate if a court determines both that (a) the action or inaction by a governmental unit is covered by the statute, and (b) the governmental unit was motivated primarily by the status or former status as a debtor in bankruptcy. *Id.* (noting narrow application to “situations analogous to those enumerated in the statute” and requirement of “proof that the discrimination was caused solely by the debtor’s status”).⁸

Even if Bouchard Transportation is correct that review of a safety management plan is covered under 11 U.S.C. § 525, they have zero evidence that the United States is motivated by its bankruptcy filing. In fact, the United States is informed and believes that ROs have refused to work with Bouchard Transportation due to its pattern of failing to commit to the safety of its employees, its vessels, and the public. Nothing in § 525 prohibits a party from acting or refusing to act based on a belief that a debtor is and will continue to be unsafe. Without evidence that bankruptcy is the motivating factor, Bouchard Transportation’s claim under 11 U.S.C. § 525 will fail.

C. Lack of Requisite Showing under APA

Bouchard Transportation’s claim under the Administrative Procedure Act will also fail.

A court only has subject matter jurisdiction over an APA claim when both (a) there is a “final agency action,” and (b) the plaintiff has “no other adequate remedy”

⁸ See also *F.C.C. v. NextWave Personal Communications Inc.*, 537 U.S. 293, 302 (2003) (applying “proximate cause” standard to evaluate governmental unit’s motivation).

in court. *Qureshi v. Holder*, 663 F.3d 778, 781 (5th Cir. 2011). A “final agency action” is one that “mark[s] the consummation of the agency’s decisionmaking process,” and “by which rights or obligations have been determined, or from which legal consequences will flow.” *Sierra Club v. Peterson*, 228 F.3d 559, 565 (5th Cir. 2000) (quoting *Bennett v. Spear*, 520 U.S. 154, 178 (1997)); *Louisiana State v. United States Army Corps of Engineers*, 834 F.3d 574, 580-81 (5th Cir. 2016) (quoting *Bennett*). A court has no subject matter jurisdiction over a claim under the APA where there has been no “final agency action.” *American Airlines v. Herman*, 176 F.3d 283, 287 (5th Cir. 1999) (citing *Veldhoen v. United States Coast Guard*, 35 F.3d 222, 225 (5th Cir. 1994)).

The applicable regulation is 33 C.F.R. § 96.495, which permits the appeal of a decision made by a “recognized organization” like ABS. It contemplates a two-step process: (a) first asking the organization in writing to reconsider, then (b) if still dissatisfied, appealing directly to the Commandant of the Coast Guard:

- (a) A responsible person may appeal a decision made by an authorized organization by mailing or delivering to the organization a written request for reconsideration. Within 30 days of receiving your request, the authorized organization must rule on it and send you a written response. They must also send a copy of their response to the Commandant (CG-CVC), Attn: Office of Commercial Vessel Compliance, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593-7501.
- (b) If you are not satisfied with the organization’s decision, you may appeal directly to the Commandant (CG-CVC). You must make your appeal in writing, including any documentation and evidence you wish to be considered. You may ask Commandant (CG-CVC) to stay the effect of the appealed decision while it is under review.

- (c) The Commandant (CG-CVC) will make a decision on your appeal and send you a response in writing. That decision will be the final Coast Guard action on your request.

33 C.F.R. § 96.495(a)-(c).

Bouchard Transportation did not appeal to the Coast Guard until December 8, 2020, and the Coast Guard has not yet responded to this appeal.⁹ Without a response from the Coast Guard, Bouchard Transportation cannot point to a final agency action which would give this Court subject matter jurisdiction under the Administrative Procedures Act. Bouchard Transportation is not likely to succeed. *See also Bouchard Transportation Co., Inc. v. Dep't. of Homeland Security*, 384 F.Supp.3d 775, 778 (S.D. Tex. 2019) (dismissing APA claim for lack of subject matter jurisdiction where no final agency action).

D. No Grounds for Mandamus

Finally, Bouchard Transportation's claim for mandamus relief under 28 U.S.C. § 1361 fails.

"The common-law writ of mandamus, as codified in 28 U.S.C. § 1361, is intended to provide a remedy for a plaintiff only if he has exhausted all other avenues of relief and only if the defendant owes him a clear nondiscretionary duty." *Heckler v. Ringer*, 466 U.S. 602, 616-17 (1984).

⁹ Bouchard's appeal to the Coast Guard did not include the written response from ABS as required by 33 C.F.R. § 96.495(a).

Again, because the Coast Guard has not yet responded to the appeal by Bouchard Transportation, it has not exhausted its other avenues of relief. This prevents mandamus relief.

II. Other TRO Factors

Bouchard Transportation bears the burden on all elements of a temporary restraining order. *Planned Parenthood Ass’n of Hidalgo County Texas, Inc.*, 692 F.3d at 348 (quoting *Texas Medical Providers Performing Abortion Services v. Lakey*, 667 F.3d 570, 574 (5th Cir. 2012)). The United States disputes that Bouchard Transportation can show that the threat of injury to it outweighs the threat of injury to the public. Furthermore, the public’s interest in public safety is not served by this Court granting the temporary restraining order that Bouchard Transportation seeks.

Accordingly, the United States requests that the Court (a) deny the request by Bouchard Transportation for a temporary restraining order and (b) grant the United States such other and further relief to which it is entitled at law or in equity.

Dated: December 21, 2020.

Respectfully submitted,

RYAN K. PATRICK,
United States Attorney

By: s/ Richard A. Kincheloe
Richard A. Kincheloe
Assistant United States Attorney
Attorney-in-Charge
United States Attorney’s Office
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Attorney for the United States

Certificate of Service

The undersigned certifies that he served a true and correct copy of the foregoing Response on the parties receiving ECF notification in this adversary proceeding on December 21, 2020, by ECF notice.

s/ Richard A. Kincheloe
Richard A. Kincheloe
Assistant United States Attorney



November 13, 2019

Bouchard Transportation Co., Inc.
58 South Service Road, Suite 150
Melville, New York 11747

Mr. Morton S. Bouchard
President & CEO
Bouchard Transportation Co., Inc.

MSBIII@bouchardtransport.com

You have made known your dissatisfaction with ABS's services for some time, and while we have done our very best to assist Bouchard Transportation Co., Inc. and its related companies, consistent with our obligations as an independent and impartial classification society and delegate of the United States Coast Guard, we have found it increasingly difficult to work with your increasing demands, constantly changing staff, inconsistent maintenance practices, and failure to pay almost \$200,000 in outstanding, owed and unpaid fees.

Accordingly, ABS hereby gives Bouchard Transportation Co., Inc. thirty days' notice of the termination of all contracts or agreements between ABS and Bouchard Transportation Co., Inc., and its subsidiaries and affiliated companies. The affected agreements include all Agreements for Maritime Labor Convention, 2006 Certification, all Applications for Marine Management System Certification, all Agreements for Classification of new or existing vessels, all Applications for Load Line made to ABS or serviced by ABS, and all other agreements, contracts, or understandings of any kind pertaining to Bouchard's fleet. Please be advised ABS will withdraw all representations as to the classification of Bouchard's vessels upon termination of the class agreements, thirty days from the date of this letter.

We note that your company is scheduled for a full scope ISM audit on 22 November 2019. We recommend that you select a replacement Recognized Organization (RO) in time for that audit as a change of ROs requires a full scope audit.

Please be assured that ABS will do its part to effectuate an orderly transition of Class and other services to the new Class/RO organization.

Very truly yours,

A handwritten signature in cursive script, reading "Richard Pride". The signature is written in dark ink and is positioned above a horizontal line.

Richard Pride
ABS
Senior Vice President
Western Hemisphere Operations



Bouchard Transportation Co. Inc.
Att: Morton S. Bouchard III
58 S. Service Rd Ste 150
MELVILLE, NY 11747-2342

DNV GL USA, Inc.
Region Americas
1400 Ravello Dr
KATY TX 77449
USA

Sent by email to:
MSBIII@bouchardtransport.com

Date:	Our reference:	Your reference:
2020-07-02	1241454-J-48	

BOUCHARD TRANSPORTATION CO. INC., ID 1241454

OFFICIAL NOTIFICATION TO CHANGE CLASS

Dear Mr. Bouchard,

Reference is made to previous correspondence issued to Bouchard Transportation Co. Inc. (BTC) from DNV GL on April 30th, 2020; May 5th, 2020; May 19th, 2020 and June 19th, 2020.

DNV GL considers quality and safety to have top priority across the range of services that we offer, as it is our main purpose to safeguard life, property and the environment. Classification is performed on the basic assumption that Owners fulfill their individual obligations including ensuring compliance with the DNV GL Rules and Regulations. Therefore, we remind you once again of the Customer's obligations and general conditions for retention of Class as specified in DNV GL Rules for Classification of Ships, Pt.1 Ch.1 Sec.3.

The USCG, as your Flag Administration have granted 60 days extension of your Document of Compliance per USCG letter Serial No. 578 dated April 17th, 2020, provided DNV GL agrees, supports and recommends the postponement. DNV GL has, as a Recognized Organization acting on behalf of USCG, reviewed the situation and based on available documentation provided by Bouchard Transportation and meetings with yourself and Bouchard Transportation Co. Inc. representatives, recommended an initial 30 days postponement until June 25th 2020, followed by an additional 30 days pre-conditioned on BTC providing the information requested, demonstrating progress on the critical items specified in aforementioned USCG and DNV GL correspondence and be subject to a limited scope audit with scope on the progress of corrective action plan as reported in the bi-weekly progress report and to interview the newly hired staff filling the many open positions.

In parallel, many Classed units continue to have conditions becoming overdue and leading to Class suspension of those units violating DNV GL Rules for Classification of Ships Pt.1 Ch.1 Sec.3.

It is also worth mentioning that according to the most recent bi-weekly progress report BTC stated that its wait for DNV GL advisory services caused progress delays. DNV GL finds this claim to be completely unwarranted and inappropriate, as there is no contract signed between DNV GL and Bouchard Transportation Co. Inc. for provision of advisory services. Bouchard was generously given an opportunity to verbally discuss with DNV GL on a noncommittal basis, and discuss its many challenges with experts in DNV GL's maritime advisory services.

Page 2 of 2

In no way does DNV GL accept responsibility for any further operational delays by Bouchard in any of its open findings or non-conformities. DNV GL advisory services will as such not provide any further consulting.

Several attempts have been made by DNV GL in good faith, to support and work with Bouchard Transportation. However, Bouchard Transportation's constant change of staff, insufficient manning, lack of and/or professional communication, increasing demands, inability to adequately manage Class and Statutory surveys and certificates, operate vessels within the parameters of applicable Rules and Regulations, have led to several units being overdue, suspended and failing to close the non-conformities raised during January 24th, 2020 annual company audit. Additionally, root causes have not been effectively addressed and corrective actions have not been implemented.

Based on the foregoing, and on DNV GL's experience with Bouchard Transportation as well as DNV GL's observations from the latest USCG Captain of the Port Orders and vessel arrested/seized through the US Federal Court, DNV GL has very serious concerns about Bouchard's ability to fulfill their customer obligations and meet the conditions for retention of Class required by the DNV GL Rules for Classification of Ships. DNV GL at this time strongly encourages Bouchard Transportation Co. Inc. to immediately commence the process of finding a new Classification Society, to take effect on or before August 25, 2020.

[DNV GL will withdraw class on all vessels and terminate all contracts and agreements between DNV GL and Bouchard Transportation Co. Inc. on August 25, 2020.

Kindly also be advised that we consider all Class and/or Statutory Certificates, including your company Document of Compliance, issued by DNV GL to be invalid from August 25, 2020 onwards.

Finally, for the sake of order, please note that the Flag Administration has been informed about this notification by a copy of this Letter.

Mendes, Ricardo

Digitally signed by Mendes,
Ricardo
Date: 2020.07.02 15:30:07 -05'00'

Ricardo Cogliatti Mendes
Regional QHSE and Production Manager

Ricardo.Mendes@dnvgl.com

Allan Krogsgaard

for Captain Jan Solum
Area Manager East

+1-713-321-0405
Jan.Solum@dnvgl.com

-THIS DOCUMENT WAS CREATED ELECTRONICALLY AND IS THEREFORE VALID WITHOUT A SIGNATURE

Copy: United States Coast Guard

DNV GL - M-ST-GC – Class Systematics Data and Operation Centre

U.S. Department of
Homeland Security

United States
Coast Guard



Commandant (CG-CVC)
United States Coast Guard

2703 Martin Luther King Jr Ave SE
Stop 7501
Washington, DC 20593-7501
Staff Symbol: CG-CVC
Email: FlagStateControl@uscg.mil
Phone: (202) 834-4025

16711 / Serial No. 748
Bouchard Transportation Co.
Inc.
August 31, 2020

Bouchard Transportation Co. Inc.
Attn: Mr. Morton Bouchard III
58 South Service Road Suite 150
Melville, NY 11747

Dear Mr. Bouchard:

On August 21, 2020, Det Norske Veritas Germanischer Lloyd (DNV GL), acting as your Recognized Organization (RO), conducted a verification of immediate corrective actions which had been agreed to between DNV GL and Bouchard Transportation Co., Inc. (BTC). This additional verification was directed by the Coast Guard as a condition of downgrading the major non-conformity (MNC) issued during the July 24, 2020 additional Document of Compliance (DOC) audit. DNV GL has informed the Coast Guard that immediate corrective actions with an agreed implementation date of either August 18, 2020 or August 21, 2020 could not be verified as implemented and recommended the DOC be revoked.

Your DOC and all Safety Management Certificates (SMC), connected to your DOC, are hereby revoked and the vessels required to hold these documents are restricted to domestic voyages.

Additionally, any towing vessel using a SMC and BTC's DOC as evidence of compliance with the Towing Safety Management System compliance option, for issuance of a Certificate of Inspection, must transition to the Coast Guard compliance option within 30 days. This may require that the vessel undergoes a re-inspection by the local Officer in Charge, Marine Inspection.

Questions concerning this letter may be directed to Mr. David McCusker of my staff at David.G.McCusker@uscg.mil or by phone at (202) 834-4025.

Sincerely,

M. EDWARDS
Captain, U.S. Coast Guard
Chief, Office of Commercial Vessel Compliance
By direction

Copy: DNV GL Flag Liaison
Chief, Traveling Inspectors (CG-5P-TI)
Commander, Atlantic Area (LANT-54)
Commander, Coast Guard District One (dpi)
Commander, Coast Guard District Five (dpi)
Commander, Coast Guard District Seven (dpi)
Commander, Coast Guard District Eight (dpi)

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
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Debtors.	§	
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Bouchard Transportation Co., Inc.,	§	
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Plaintiff,	§	
	§	
v.	§	Adv. No. 20-3501
	§	
American Bureau of Shipping and United States Coast Guard,	§	
	§	
Defendants.	§	

ORDER

The Court has considered the request by Bouchard Transportation Co., Inc., for a temporary restraining order. The Court is of the opinion and finds that Bouchard Transportation has failed to satisfy the necessary elements to obtain a temporary restraining order. It is therefore

ORDERED THAT the request by Bouchard Transportation for a temporary restraining order is in all things denied.

ZZZZ