### **OFFICE OF ADJUDICATIONS**

IN THE MATTER OF

# :SUSPENSION OF SAFE BOATING CERTIFICATE DEP # 06-003

### THEODORE W. LINGER

AUGUST 4, 2006

# FINAL DECISION

:

A hearing was held on August 1, 2006 at the DEP Marine Headquarters in Old Lyme regarding the suspension of the Safe Boating Certificate of Theodore W. Linger. General Statutes §15-140q. Present were: Mr. Linger; DEP ENCON Officers James Kane and Ryan Healy and Eleanor Mariani and Kathryn Keenan of the DEP Boating Division. Observing was James Malcolm of the DEP Office of Adjudications.

During a July 15, 2006 boating safety check, Officer Kane and Sergeant Healy stopped a vessel with no navigation lights displayed. Mr. Linger, who was operating the vessel, was subsequently arrested for boating while intoxicated. §15-133(d). A Notice of Suspension was mailed to Linger on July 18, 2006, advising him of the effective date of the suspension of his Safe Boating Certificate and his right to a hearing prior to that date to determine probable cause for said suspension. §15-140q(g).

# FINDINGS OF FACT

After a hearing limited to a determination of the following issues, I find as follows. \$\$15-133(d); 15-140q(g).

- (1) There was probable cause to arrest Mr. Linger for operating a vessel while under the influence of intoxicating liquor.
- (2) Mr. Linger was placed under arrest.
- (3) The results of two timely breath tests indicated that at the time of operation, Mr. Linger had an elevated blood alcohol content.
- (4) Mr. Linger was operating the vessel.

### CONCLUSION AND ORDER

There is probable cause to suspend the Connecticut Safe Boating Certificate of Theodore W. Linger and it is hereby ORDERED suspended for a period of not more than *ninety* (90) days, effective August 19, 2006 through November 17, 2006.

#### Entered as a final order of the Commissioner of Environmental Protection by:

/s/ J Deshais Janice B. Deshais, Hearing Officer

# PARTY LIST

Final Decision in the matter of Theodore W. Linger, Ref. #06-003 (Suspension of Safe Boating Certificate)

#### PARTY

#### REPRESENTED BY

Theodore W. Linger 208 Churchill Drive Newington, CT 06111 Self (at hearing) <u>Counsel</u> Thomas Cartelli, Esq. 134 Washington Street Middletown, CT 06457

Department of Environmental Protection Division of ENCON Police 333 Ferry Road Old Lyme, CT 06371

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DEP Boating Division 333 Ferry Road Old Lyme, CT 06371 (*Via facsimile*) Officer James Kane Officer Ryan Healy

Eleanor Mariani Kathryn Keenan