From: Chief, Merchant Vessel Inspection Division
To: Commandant
Via: Chief, Office of Merchant Marine Safety

SUBJ: Marine Board of Investigation; collision: 18' 36 F 1500 (FORTY HANDS) and 14' outboard motorboat, Detroit River, 15 July 1951, with loss of life.

1. Pursuant to the provisions of Title 46 CFR Part 136, the record of the Marine Board convened to investigate subject casualty, together with its Findings of Fact, Conclusions and Recommendations, has been reviewed and is forwarded herewith.

2. On the evening of 15 July 1951, a fourteen foot outboard motorboat departed from a small inlet near Blount, Detroit, for Grosse Pointe with the owner in control of the boat, traveling at a speed of approximately 10 m.p.h. The 18' 36 F 1500 (FORTY HANDS), in charge of an unlicensed operator, was downbound at a speed of approximately 13 to 14 m.p.h. with the vessel's steering controlled by an automatic pilot. Shortly before 2330 the outboard motorboat sighted the green light of the 18' 36 F 1500 and took evasive action to avoid a collision. No one on board the 18' 36 F 1500, however, had any knowledge of the presence of the outboard motorboat until the 18' 36 F 1500 collided with and apparently overrode the smaller craft at approximately 2350 in a position approximately 400 yards downstream from Windmill Point Light, Detroit River. The weather conditions were good. Two passengers on board the outboard motorboat lost their lives as a result of this casualty.

3. The Board made the following Findings of Fact:

1. That an unregistered, unregistered 14-foot Wolverine outboard motorboat, owned by [redacted], was being operated under power of a 10 hp outboard motor on the Detroit River the evening of 15 July 1951 by [redacted] with two other persons aboard as passengers, Thomas Leftus, age 2, of [redacted], and [redacted], and Hector Gurnet, age 3, of [redacted].

2. That, at approximately 11:50 p.m. EST, at a position near the center of the downbound channel, about 400 yards downstream from Windmill Point Light, Detroit River, this 14-foot IB was struck by another power boat, the collision resulting in the death by drowning and/or internal injuries of Thomas Leftus and Hector Gurnet, and the almost total destruction of the 14-foot IB.

3. That the 14-foot IB was operated by [redacted] the same, from the time it left its berth in a small inlet near Blount, Detroit,
at about 11:15 p.m., until the time of the collision and that it followed an erratic course treading upstream near the American shore, following at first close to the bank near the Riverside Trailer Camp just below Windmill Point and then angling more out into the ship channel as it ascended the river.

4. That the operator had the 14-foot IB approximately on an upstream course parallel to the ship channel courses in the reach just below Windmill Point, and approximately in the middle of the downstream channel when he sighted on his port bow the starboard side light of a power boat, coming downstream and bearing rapidly upon him at a fairly short distance, just before 11:50 p.m.

5. That changed course to his right to avoid collision, but the power boat struck his 14-foot IB approximately abeam, throwing three occupants into the water, and rendering temporarily insensitive to the circumstances due to immersion and shock. Leftus and Gamet were struck by the boat or course of the power boat either during the collision or as a consequence of the power boat's backing and maneuvering after the collision, suffering severe injuries. Several minutes after the collision was pulled aboard the MB FOURTH MARIE, tended for, and later placed ashore at the Belle Isle Coast Guard Station, apparently unhurt. Leftus was pulled from the water by a small IB which hastened to the scene of the collision from the Detroit River Yacht Association, and was taken back to the Yacht Association's dock. Although badly injured, Leftus was alive for a few minutes on that dock while being given artificial respiration, then died. The body of Hector Ganet, bearing signs of severe injuries, was recovered from the Detroit River by the Detroit Police Department on 20 July 1951 (this information concerning Ganet was imparted verbally to the Board by the Detroit Police Department on 20 July 1951).

6. That the 14-foot IB operated by was making approximately 10 mph (statute) and it was displaying an all-around white light aft and a combination red-green running light in the bow, both lights in compliance with applicable provisions of the Motorboat Regulations, just prior to the collision.

7. That the 45-foot twin gas screw motorboat FOURTH MARIE, registered Number 36 F 1300 (name according to Coast Guard Undocumented Vessel Files: MARINE II, length: 44.7 ft., beam: 12.9 ft., H.P.: 300) owned by the N & H Motor Service, Inc., of Detroit, Michigan, of which is the
was proceeding downstream in the channel of the Detroit River just below Windmill Point Light at approximately 11:45 p.m. EST, 13 July 1951. Burgess was operating the FOURTH MARIE alone, with no assistance, from a pontoon skiff which was on the Detroit River at that time. The vessel was proceeding downstream at approximately 14 knots, and the windmill point light was illuminated. All engines were in operation.

None of the occupants of the FOURTH MARIE were equipped with life-saving equipment. No life rings were aboard the vessel.

In the light of the incident, it is recommended that all vessels operating on the Detroit River be equipped with life-saving equipment and that the use of life rings be required by the Coast Guard.

3. That visibility on the river at that time and place was about normal, a clear moonlit night with slight haze, although visibility was somewhat affected by the flashing of windmill point light. Surface conditions were calm.

4. That a little after 11:45 p.m., occupants of the FOURTH MARIE other than the operator noticed a sensation of running over solid material, a scraping sound on the bottom and sides and the propeller striking something, and wrothings of the 14-foot Wolverine outboard motor. A reported sound in the report is noticed alongside. Following a shouted warning to the operator, the FOURTH MARIE was put into neutral, and a man aboard the vessel was asked by the operator if he had noticed any unusual sounds. The man replied negatively.

The FOURTH MARIE then returned to the scene of the wreckage to search for survivors. After seeing, with the aid of a spotlight, a man taken from the water by a lifeboat, occupants of the FOURTH MARIE pulled aboard. After continuing to search for about a half hour with no further success, the FOURTH MARIE proceeded to the Belle Isle Coast Guard Station, landed, and reported to the officer in charge of that station (See copy of report appended, Belle Isle LB Station to CGM, Detroit, Mich., via 90, 60 Group, Detroit, Mich.).

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[DEPARTMENT - 11:15 a.m. EST, 15 July 1931]

"20. That only survivor from the 14-foot LD could furnish the Board with no positive identification of the boat which struck his boat.

"21. That James G. Johnson, operator of the FOURTH MARIS, was the only person aboard keeping a lookout forward at the time just before the wreckage was noticed, that he was keeping this lookout from a point about 22 feet from the bow, and that a distance of 100 to 150 feet forward of bow of the FOURTH MARIS is obscured from the vision of the operator when he is standing in that position about the wheel, with the FOURTH MARIS making 13 to 14 mph in calm water.

"22. That was the boat operator or "Captain" usually employed by James G. Johnson on Enno's boat, and that the trip on 15 July 1931 was the first trip operating the FOURTH MARIS. holds no license, certificate, or marine document of any form issued by the Coast Guard.

"23. That the presence of any other boat than the 14-foot Wolverine outboard motorboat and the FOURTH MARIS in the immediate vicinity of the collision at the time of or just prior to or just following the collision cannot be established by the Board.

"24. That satisfactory running lights as required by the Motorboat Regulations were being displayed by the FOURTH MARIS.

"25. Examination of the hull of the FOURTH MARIS by the Board disclosed recent damage as follows: A distinct notch cut into the sharp brass stem plate about 1 foot below the apparent water line; from this notch a line of scratches and blisters in the paint and wood leading downward on each side and curving back astern along the planking; a distinct scratch or gouge on the starboard side easily traceable all the way from the notch in the stem to the keel; damage to the leading edge of all three blades of each propeller, were pronounced on the port propeller.

"26. A representative from the U. S. District Attorney's office was present throughout the investigation in Detroit and, at his request, is being furnished a copy of this testimony."

4. The Board expressed the following Conclusions:

"1. That the 14-foot Wolverine outboard motorboat operated by was destroyed by being struck by the LD FOURTH MARIS shortly before 11:15 p.m. EST, 15 July 1931.

"2. That no failure of material caused or contributed to the cause of the casualty."
"1. That the proximate cause of the deaths of Thomas Loftus and Lester Garnet was the collision between the 14-foot silverine outboard motorboat and the UB FOURTH MARIE.

"2. That no Coast Guard personnel nor any representative of any other government agency caused or contributed to the cause of the casualty.

"3. That the primary cause of the casualty was the failure of the UB FOURTH MARIE to keep a proper lookout as required by the Pilot Rules, as apparently no one did see the 14-foot NB until after crossing the wreckage. That ______________________ was negligent in failing to keep a proper lookout, but to a much lesser degree than ______________________ as apparently sighted the approaching vessel when it was still some distance away and tried to take evasive action.

"4. That the H & H Wheel Service, Inc., Detroit, Michigan, as owner of the UB FOURTH MARIE is liable for any penalty imposed for violation of the Pilot Rule 19.

"5. That any determination of whether the FOURTH MARIE was negligent in failing to alter her course or speed or give way upon meeting another vessel, in accordance with Rule 17 or Rule 18 of the Pilot Rules, seems to be pointless, since apparently nobody on the FOURTH MARIE sighted the 14-foot silverine outboard motorboat before the collision, and it is not clear just what course or courses the 14-foot motorboat maintained before the collision.

5. The Board made the following Recommendations:

"1. That the H & H Wheel Service, Inc., owner of the UB FOURTH MARIE, be proceeded against under the provisions of Section 2 Laws Relating to the Navigation of Vessels of the Great Lakes, (26 Stat. 645-650, as amended; 33 USC 241-292) for violation of Pilot Rule 25, in that the UB FOURTH MARIE, on the evening of 15 July 1951 neglected to keep a proper lookout. Copy of Report of Violation is attached.

"2. That this case be referred to the U. S. District Attorney, Detroit, Michigan, for a determination of whether James Ralph Burgess should be prosecuted for negligence under the provisions of the Motorboat Act of April 25, 1930, Sec. 13; 54 Stat. 166; 46 USC 526; and Sec. 14; 54 Stat. 166; 46 USC 526a, for operating a motorboat in a reckless or negligent manner so as to endanger the life, limb, or property of any person.
6. **Recommendation 1** of the Board with respect to the assessment of a civil penalty against the owner of the MB 36 F 1500 for failure of the operator of the vessel to maintain a proper lookout is disapproved. There is no apparent reason for assessing the civil penalty provided by 33 USC 244 against the owner of the MB 36 F 1500. In fact, there is genuine doubt that failure to maintain a lookout is a violation of the statutory rule 33 USC 293 which would bring into effect the penalty of 33 USC 244.

7. **Recommendation 2** of the Board that the record of subject casualty be transmitted to the Attorney General of the United States is concurred with. A review of the subject casualty indicates that the record contains evidence of criminal liability on the part of James Ralph Durgan, operator in control of the MB 36 F 1500 at the time the subject casualty occurred, arising out of the violations of the following regulations and statutes:

   a. 46 CFR 90.4 - Failure to give passing signals
   b. 46 CFR 90.5 - Failure to effect proper passing
   c. 33 USC 282 - Failure to effect proper passing
   d. 46 USC 526 1 and 2 - Reckless and negligent operation of vessel
   e. 18 USC 1115 - Negligent destruction of life

8. **Recommendation 3** of the Board to the effect that wide publicity be given in the Detroit area in the interest of safe small craft operation is concurred with. This recommendation should be put into effect to the
Fuller possible extent by appropriate personnel under the jurisdiction of the Commander, 9th Coast Guard District.

9. Subject to the foregoing remark, it is recommended that the findings of Fact, Conclusions and Recommendations of the Marine Board of Investigation be approved.

[Signature]
Acting

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H 24 August 1951

From: Chief, Office of Merchant Marine Safety
To: Commandant

Forwarded, recommending approval.

[Signature]

APPROVED: August 24, 1951

[Signature]
MERLIN O'NEILL
Vice Admiral, U. S. Coast Guard
Commandant