

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

No. 18-3218-mj-white

UNITED STATES OF AMERICA

v.

SETH ALAN GISSEN,

Defendant.

CRIMINAL COVER SHEET

1. Did this matter originate from a matter pending in the Northern Region of the United States Attorney's Office prior to October 14, 2003? ____ Yes X No

Respectfully submitted,

BENJAMIN G. GREENBERG
UNITED STATES ATTORNEY

By: 

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AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America

v.

Seth Alan Gissen,

Defendant(s)

Case No.

18-3218-MJ-White

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 4, 2018 in the county of Miami-Dade in the Southern District of Florida, the defendant(s) violated:

Code Section

Offense Description

Title 33, United States Code, Section 1232(b)(1)

Knowingly and willfully violate a Captain of the Port Order.

This criminal complaint is based on these facts:

See attached Affidavit.

Continued on the attached sheet.

Complainant's signature

Jeremy Baldwin, Special Agent, CGIS

Printed name and title

Sworn to before me and signed in my presence.

Date: 08/13/2018

Judge's signature

City and state: Miami, Florida

Hon. Patrick A. White, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, Jeremy Baldwin, Special Agent of the United States Coast Guard Investigative Service, (hereinafter, "CGIS"), being duly sworn, hereby depose and state the following:

1. I am a Special Agent with the United States Coast Guard Investigative Service (CGIS), Department of Homeland Security, and have been so employed for the past twelve (12) years. I am currently assigned to the CGIS Resident Agent Office Miami, Florida as a Special Agent. As such, I am an investigative or law enforcement officer of the United States within the meaning of Title 18 of the United States Code that is empowered by law to conduct investigations of and to make arrests for offenses enumerated in the United States Code.

2. The statements contained in this Affidavit are based on my personal knowledge, as well as information provided by other individuals, including law enforcement officials, and my review of records, documents and other physical items obtained during the course of this investigation. I have not included each and every fact known to me or law enforcement in this investigation. I have set forth only the facts that I believe are necessary to establish probable cause that Seth Alan Gissen (GISSEN), a non-licensed Captain and owner of the Motor Yacht (M/Y) NO RULES II, committed a violation of a United States Coast Guard (hereinafter, "USCG") Captain of the Port Order, in violation of Title 33 United States Code, Sections 1232(b)(1) and 33 C.F.R. § 160.105.

PROBABLE CAUSE

3. Motor Yacht (M/Y) NO RULES II ("NO RULES II") is registered to GISSEN in the British Virgin Islands.

4. On October 26, 2017, during a routine boarding, USCG boarding team members discovered the M/Y NO RULES II operating illegally as a charter vessel with passengers for hire.

Your Affiant is aware that similar illegal charters, in the past, have caused accidents resulting in property damage, injuries, and death.

5. As a result, on October 30, 2017, Lieutenant J.S., Coast Guard Sector Miami, Florida, hand-delivered Captain of the Port Order 6295845, signed by M.M.D., Captain of the Port of Miami, to GISSEN. The Captain of the Port Order ordered GISSEN to immediately cease operations as an Inspected and/or Un-inspected Passenger Vessel until such time as it could be shown to the satisfaction of the USCG that the vessel is being operated by an individual holding the appropriate license and in compliance with all applicable federal laws and regulations. The Captain of the Port Order warned GISSEN that his failure to comply with Title 33, United States Code, Section 1232, may subject him to penalties including a civil penalty, imprisonment for up to six years, and a \$500,000.00 fine.

6. On or about August 4, 2018, a USCG law enforcement boarding team from Station Miami Beach, Florida, conducted a boarding of NO RULES II while it was underway in Biscayne Bay, Miami-Dade County, Florida. NO RULES II was stopped due to the fact that the vessel contained approximately fifty passengers and appeared overloaded. Furthermore, the boarding team could not locate the Registration numbers or the vessel's name on the hull of the vessel.

7. Due to the number of occupants aboard NO RULES II, it appeared the vessel was being used to conduct an illegal commercial charter. During the initial USCG boarding of NO RULES II, GISSEN reported NO RULES II was not being chartered as a commercial vessel. NO RULES II was escorted by the USCG Boarding Team to the shore side area alongside the American Airlines Arena, Miami, Florida for further investigation.

8. A CGIS special agent approaching the docked vessel witnessed and heard GISSEN instructing his passengers to tell the Coast Guard that the passengers and GISSEN were friends and were not engaged in a vessel charter.

9. CGIS agents interviewed passengers C.G. and N.R., who indicated that they were celebrating C.G.'s bachelor party aboard NO RULES II. Both C.G. and N.R. reported they paid \$500.00 each to charter NO RULES II. In total, eleven male passengers paid \$500.00 each, totaling \$5500.00 for the charter.

10. In a post-*Miranda* interview, GISSEN reported that he was the operator of NO RULES II. GISSEN admitted that he received \$2,000.00 in cash for the charter of NO RULES II. GISSEN explained that his friend, H.L., who works for a promotion company in Miami, Florida received money from NO RULES II passengers to charter the vessel. GISSEN received \$2,000.00 to charter and captain the vessel on that date. GISSEN stated he asked his friend J.D., who was on NO RULES II, to hold the \$2,000.00 that GISSEN received from H.L. because GISSEN did not want to hold it. GISSEN admitted that he was not a holder of a Coast Guard license to captain inspected or uninspected passenger vessels, as required by 46 U.S.C §§ 8902 and 8903.


11. On August 4, 2018, CGIS agents interviewed J.D. at his residence in Coral Gables, Florida. J.D. initially reported he was not given any money by GISSEN, but later stated that, during the August 4, 2018 boarding, GISSEN asked J.D. to reach into GISSEN's pocket and take money from it. J.D. then provided agents with \$2,500 that he received from GISSEN.

12. On August 11, 2018, M/Y NO RULES II was again observed underway by a Coast Guard law enforcement team on Biscayne Bay, Miami-Dade County, Florida. The vessel was stopped because it appeared heavily loaded with people. It was later established there were twenty one (21) persons on board. During the course of the boarding, M/Y NO RULES II began

discharging sewage waste, which sprayed onto the Coast Guard officers and vessel. The boarding team terminated the vessel's voyage due to equipment and document violations and escorted it to the pier. GISSEN was standing near the vessels controls at the time of the discharge.

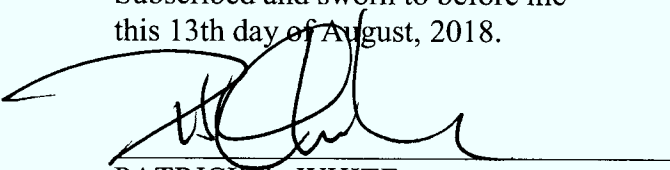
13. Based on the foregoing facts, I submit that probable cause exists that on or about August 4, 2018, in Miami-Dade County, in the Southern District of Florida, Seth Alan GISSEN, an unlicensed captain, improperly chartered his vessel, the M/Y NO RULES II in direct violation of the Captain of the Port Order issued to him on October 30, 2017, in violation of Title 33 United States Code, Sections 1232(b)(1).

FURTHER AFFIANT SAYETH NAUGHT.



Jeremy Baldwin, Special Agent
U.S. Coast Guard Investigative Service

Subscribed and sworn to before me
this 13th day of August, 2018.



PATRICK A. WHITE
UNITED STATES MAGISTRATE JUDGE