

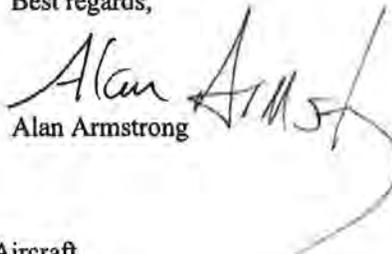
Robert Tice, Esq.
August 20, 2013
Page 6

recorded telephone lines among FedEx management referencing or in discussion about Captain Mark Estabrook during this calendar year.

Notwithstanding the foregoing, Captain Estabrook will comply with the Company's request for a medical examination, but he is doing so under protest and reserving all of his legal rights and rights under the Collective Bargaining Agreement.

Please respond to this letter at your earliest convenience.

Best regards,


Alan Armstrong

AA/kjw
Enclosure

Cc: Rob Fisher, Fleet Captain – Airbus Aircraft
Todd Ondra, Director of Corporate Security
Captain William McDonald, System Chief Pilot
Terrence McTigue, Esq., ALPA
Lee Seham, Esq.

“CX 29”

SEHAM, SEHAM, MELTZ & PETERSEN, LLP

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August 27, 2013

Via Email
rwtice@fedex.com

Robert Tice, Esq.
Lead Counsel - Labor Relations Law
Federal Express Corporation
3620 Hacks Cross Road
Memphis, TN 38125

Re: Captain Mark Estabrook

Dear Mr. Tice:

We are in receipt of your letter dated August 23, 2013. Our firm is working as counsel with Mr. Alan Armstrong in representing Captain Estabrook with respect to this matter.

It strikes us more than a little disingenuous that the Company would correspond with Captain Estabrook's legal counsel concerning his purported need for a mental health evaluation, but not accept a grievance submitted by the same counsel on Captain Estabrook's behalf. In our view, such legal obfuscation is inconsistent with the carrier's obligation to make "every reasonable effort" to resolve contract disputes with its employees in a "prompt and orderly" manner. 45 U.S.C. §§ 151a; 152, First. Although we do not believe that any impartial arbitrator would lend credence to the technical objection you have raised, Captain Estabrook will submit to the Company a letter with his signature confirming that the grievance dated August 20, 2013, was submitted by Mr. Armstrong pursuant to Captain Estabrook's directive.

We again demand that the Company disclose the "reasonable basis" upon which it relied for the purpose of compelling Captain Estabrook to submit to a referral to the aeromedical advisor under § 15.D of the CBA.

We also reiterate Captain Estabrook's demand that the Company provide him "as soon as practicable" with the names of all witnesses and copies of all documentary information (including all electronic documents, audiotapes, and correspondence) that have been, or may be, used to establish a reasonable basis for suspecting that Captain Estabrook is currently suffering from an impairment that would prevent him from performing his duties as a pilot – including, but

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August 27, 2013
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not limited to, the highlighted postings of "Mayday Mark" that the Company brought to the meeting of August 9, 2013.

We further demand that the Company provide to us all communications sent to medical professionals concerning Captain Estabrook's purported condition, including all communications used to initiate or direct the mental health evaluation of Captain Estabrook.

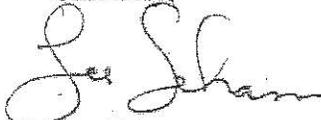
It is abundantly clear to us that the Company has trampled on Captain Estabrook's contractual and federal legal rights. All electronic data relating to this matter must be preserved.

In an attempt to defuse this situation, please consider the attached letters from two highly qualified aeromedical examiners who both affirm that Captain Estabrook is medically qualified for flight.

Finally, Captain Estabrook respectfully requests a response to the security issues that he has raised.

Please respond to this letter at your earliest convenience.

Sincerely,



Lee Seham

cc: Captain Rob Fisher, Fleet Captain - Airbus Aircraft
Todd Ondra, Director of Corporate Security
Captain William McDonald, System Chief Pilot
Captain Jim Bowman, Vice President, Flight Operations
Terrence McTigue, Esq., ALPA
Alan Armstrong, Esq.

“CX 30”

Ex F

UNITED STATES DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
OFFICE OF ADMINISTRATIVE LAW JUDGES

MARK ESTABROOK,)	
)	
Complainant,)	
)	Case No.: 2014-AIR-00022
v.)	Hearing Date: TBA
)	
FEDERAL EXPRESS CORPORATION,)	
)	
Respondent.)	

RESPONDENT FEDERAL EXPRESS CORPORATION'S RESPONSES TO
COMPLAINANT'S FIRST REQUESTS FOR ADMISSIONS

Respondent Federal Express Corporation (FedEx), by and through counsel and pursuant to 29 C.F.R. § 18.20, hereby responds to Complainant's First Requests for Admissions to Respondent FedEx as follows:

PRELIMINARY STATEMENT

Respondent has not completed its investigation, discovery, or analysis of all the facts of this case and has not completed preparation for trial. Accordingly, all of the following responses are provided without prejudice to Respondent's right to supplement or amend discovery responses as permitted by the applicable rules, or introduce at trial any evidence that is subsequently discovered relating to proof of presently known facts and to produce and introduce all evidence whenever discovered relating to the proof of subsequently discovered material facts. Moreover, facts, documents and things now known may be imperfectly understood and accordingly such facts, documents, and things may not be included in the following responses. Respondent reserves the right to reference, discover or offer into evidence at the time of trial any



and all facts, documents, and things which it does not presently recall but may recall at some time in the future.

RESPONSES TO REQUESTS FOR ADMISSIONS

REQUEST NO. 1: That Complainant has been employed by you since 1989.

RESPONSE TO REQUEST NO. 1: Admitted.

REQUEST NO. 2: That you have never terminated Complainant.

RESPONSE TO REQUEST NO. 2: Admitted.

REQUEST NO. 3: That you have never suspended Complainant without pay.

RESPONSE TO REQUEST NO. 3: Admitted.

REQUEST NO. 4: That prior to 2013, you have not imposed any discipline on Complainant.

RESPONSE TO REQUEST NO. 4: Admitted.

REQUEST NO. 5: That Complainant's immediate supervisor in 2013 was Captain Rob Fisher.

RESPONSE TO REQUEST NO. 5: Admitted.

REQUEST NO. 6: That on August 9, 2013, in response to Complainant's question as to why he was being required to submit to a psychiatric examination, Captain Rob Fisher stated to the Complainant: "all they said was that you know too much."

RESPONSE TO REQUEST NO. 6: Denied. Captain Fisher has no recollection of making any such statement to Complainant.

REQUEST NO. 7: That the reason for placing Captain Estabrook on NOQ status on or about August 5, 2013, was that you suspected him of being the individual identified as Mayday Mark.

RESPONSE TO REQUEST NO. 7: Denied.

REQUEST NO. 8: That at your meeting with the Complainant on August 9, 2013, the Complainant referenced the fact that his military service included the tracking of Soviet aircraft.

RESPONSE TO REQUEST NO. 8: Denied as written. See Ondra's notes and summary of conversation, which summarizes the information discussed.

REQUEST NO. 9: That at your meeting with the Complainant on August 9, 2013, the Complainant stated his belief that the Respondent's practice of providing up-to-date package tracking information facilitated and maximized the criminal destruction of cargo, aircraft and human lives by granting terrorists the ability to carefully select the time of detonation.

RESPONSE TO REQUEST NO. 9: Denied as written. See Ondra's notes and summary of conversation, which summarizes the information discussed.

REQUEST NO. 10: That at your meeting with the Complainant on August 9, 2013, the Complainant stated his belief that Respondent's practice of providing up-to-date package tracking information had the result of encouraging terrorists to view the Respondent as a

particularly effective means of utilizing explosive, incendiary and other destructive devices by placing in the terrorists' hands the ability to select the most optimum timing for detonation.

RESPONSE TO REQUEST NO. 10: Denied as written. See Ondra's notes and summary of conversation, which summarizes the information discussed.

REQUEST NO. 11: That at your meeting with the Complainant on August 9, 2013, the Complainant expressed an interest in improving the Respondent's security.

RESPONSE TO REQUEST NO. 11: Denied as written. See Ondra's notes and summary of conversation, which summarizes the information discussed.

REQUEST NO. 12: That Mr. Fred Smith, Chairman and Executive Officer of FedEx Corporation, is commonly referred to by your pilots by the single name "Fred."

RESPONSE TO REQUEST NO. 12: Respondent is without knowledge or information sufficient to form a belief about the truth of the contention in Request No. 12 and therefore can neither admit nor deny same.

REQUEST NO. 13: That the Complainant served as the Security Chairman of the FedEx Pilots Association (FPA), which was the certified labor representative of the FedEx pilots from 1996 to 2002.

RESPONSE TO REQUEST NO. 13: Respondent is without knowledge or information sufficient to form a belief about the truth of the contention in Request No. 13 and therefore can neither admit nor deny same.

REQUEST NO. 14: That, in his capacity as Security Chairman of the FPA, the Complainant requested that Respondent cease publishing package tracking information on the grounds that such publication would give potential terrorists assistance that would facilitate timing the detonation of bombs or incendiary devices.

RESPONSE TO REQUEST NO. 14: Respondent is without knowledge or information sufficient to form a belief about the truth of the contention in Request No. 14 and therefore can neither admit nor deny same.

REQUEST NO. 15: That, in his capacity as Security Chairman of the FPA, the Complainant met with FedEx Express COO Bill Logue in 2002 and expressed the Complainant's concern that the publication of real-time tracking information in the aftermath of the 9-11 terrorist attacks was the equivalent of providing valuable intelligence to the enemy.

RESPONSE TO REQUEST NO. 15: Respondent is without knowledge or information sufficient to form a belief about the truth of the contention in Request No. 15 and therefore can neither admit nor deny same.

REQUEST NO. 16: That, prior to December 4, 2013, you declined to respond to the repeated requests of the Complainant and his legal counsel to provide the "reasonable basis" for the Respondent's directive that Complainant submit to psychiatric evaluation.

RESPONSE TO REQUEST NO. 16: Denied. Respondent provided written responses to Complainant's counsel explaining the basis for its decision. Upon information and belief, Complainant and his counsel are already in possession of these written responses. Additionally,

see documents produced in response to Complainant's Request for Production of Documents, specifically correspondence between Respondent and attorney Alan Armstrong.

REQUEST NO. 17: That your placement of the Complainant on NOQ status on August 5, 2013, resulted in the Complainant's loss of flight privileges and overtime opportunities.

RESPONSE TO REQUEST NO. 17: Respondent can neither admit nor deny Request No. 17. Respondent admits Complainant was restricted from flying FedEx aircraft in any capacity while on NOQ status. However, whether NOQ status resulted in the loss of overtime opportunities is purely speculative.

Respectfully submitted,

s/ David P. Knox
David P. Knox (TN Bar No. 020162)

Federal Express Corporation
3620 Hacks Cross Road, Bldg. B - 3d Fl.
Memphis, Tennessee 38125
Telephone: (901) 434-6286
Facsimile: (901) 434-9279
david.knox@fedex.com

CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2014, a copy of the foregoing **Respondent Federal Express Corporation's Responses to Complainant's First Requests for Admissions** was served upon the following via email and Federal Express overnight letter, postage prepaid:

Lee Seham, Esq.
Seham, Seham, Meltz & Petersen, LLP
445 Hamilton Avenue, suite 1204
White Plains, NY 10601
Telephone: (914) 997-1346
Facsimile: (914) 997-7125
Email: lseham@ssmplaw.com

s/ David P. Knox
David P. Knox
Federal Express Corporation

1084971

“CX 31”

EE

Legal Department
5820 Hirsch Cross Road
Building E, 3rd Floor
Memphis, TN 38126 US



Express
Tel. No. (901) 434-6286
Fax No. (901) 434-9271

January 15, 2015

Via Email and FedEx Delivery

Lee Seham
Seham, Seham, Meltz & Petersen, LLP
445 Hamilton Avenue, Suite 1204
White Plains, NY 10601

**Re: Mark Estabrook v. Federal Express Corporation
Case No. 2014-AIR-00022
FedEx No. 60-14499**

Dear Counsel:

This letter is in response to your earlier correspondence regard Federal Express Corporations' responses to your discovery requests. I apologize for the lengthy delay in getting this response to you. For the reasons set forth herein, FedEx believes its responses were adequate.

Requests for Admissions

RFA 6: The Request has been fully and adequately answered. FedEx is unaware of the existence of any tape recording of the telephone call in question, or of any "policy of taping and retaining teleconferences with its pilots." FedEx has no recording of the conversation in question to review. If you have a recording of the telephone call in question, please produce a copy (as requested in FedEx's discovery requests) and FedEx will review the recording with Captain Fisher, as appropriate.

RFA 8 - 11: FedEx reiterates that it denies the requests as written. FedEx admits Complainant raised safety-related issues associated with the industry's package tracking systems. FedEx also admits Complainant express concern that terrorist groups could use tracking information in carrying out terrorist attacks. FedEx also admits Complainant suggested FedEx ask the Federal Department of Homeland Security to order airlines to cease making tracking information available on-line.



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FedEx denies, however, that Complainant used the precise language and terminology set forth in the requests for admission, which is what FedEx was asked to admit. For instance, FedEx does not admit that Complainant said FedEx's "practice of providing up-to-date package tracking information facilitated and maximized the criminal destruction of cargo, aircraft and human lives by granting terrorists the ability to carefully select the time of detonation," as set forth in Request No. 9. Likewise, FedEx does not admit that Complainant said FedEx's "practice of providing up-to-date package tracking information had the result of encouraging terrorists to view the Respondent as a particularly effective means of utilizing explosive, incendiary and other destructive devices by placing in the terrorists' hands the ability to select the most optimum timing for detonation," as set forth in Request No. 10. Consequently, FedEx's denials of the requests "as written" is entirely appropriate. Further, FedEx has specifically referred Complainant to the notes of Todd Ondra (located at FDX 4 – 000060 – 64) for a summary of the conversation.

RFA13: FedEx has properly responded to this request, as it is without knowledge or information regarding the truth of the request. As an initial matter, whether or not Complainant held a position with the FedEx Pilots Association (FPA) at some undefined time between 1996 and 2002 is totally irrelevant to this cause, and there has never been any allegation or suggestion that Complainant's involvement or noninvolvement with the FPA had any bearing on this case whatsoever. Additionally, the FPA was an organization that was separate and distinct from FedEx, and FedEx has no obligation to determine what position, if any, Complainant held with that organization.

Interrogatories

INT3 and INT4: FedEx has properly responded to these requests as, at this point, it has not decided whom it will call as witnesses. As noted, FedEx will supplement these responses as required. Further, FedEx reserves the right to call any witness identified by either party.

INT7: Complainant was placed on NOQ status on or about August 5, 2013 to facilitate scheduling the meeting he had requested as soon as practical, and Complainant expressed his understanding of this. As is clear from his notes (FDX 4 – 000060 – 64), Todd Ondra questioned whether Complainant was fit to fly based upon his observations during the meeting. Based upon Ondra's concerns, FedEx exercised its rights under Section 15.D. of the collective bargaining agreement and referred Complainant to the aeromedical advisor for evaluation. Pending the results of the aeromedical advisor's evaluation, Complainant was placed on NOQ status.

Requests for Documents

Req1: FedEx will not produce any documents withheld on the basis of attorney-client privilege or the work product doctrine. Your contention that the production of Todd Ondra's notes,

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marked as personal and confidential (documents Bates labeled FDX 4 – 000060 – 64) constitutes waiver of any and all privilege related to the entire process is misplaced. First, Mr. Ondra is not an attorney for FedEx. As noted in response to Interrogatory No. 1, Mr. Ondra is a Managing Director of Aviation and Regional Security. He was not working in any capacity as an attorney during Complainant's interview. Further, the documents you have identified are not attorney-client communications or attorney work product. They are simply Mr. Ondra's handwritten notes and his typewritten summary of the meeting. Although Mr. Ondra marked them as personal and confidential, this does not impute attorney-client privilege and/or work product protection to the documents. Thus, they were produced. Their production is wholly insufficient to waive applicable privileges to communications and other documents prepared by company attorneys in relation to this matter.

Additionally, your characterization of Mr. Tice's role in this matter is incorrect and unsupported by the record. Mr. Tice, a company attorney, attended the meeting Complainant requested and, in the course of that meeting, asked Complainant whether he was "Mayday Mark." Documentation related to that involvement has been produced. While he was involved in the process, he was not "actively involved in the investigation of the Complainant's physical and mental health status" nor did he "play[] a leading role in the interrogation of the Complainant." The record simply contains no evidence of this. His mere participation in the meeting is wholly insufficient to waive any and all privileges and protections to any and all legal advice Mr. Tice may have provided the company.

Req6: FedEx reiterates and incorporates by reference its objections set forth in its original response to Request No. 6. Based upon the additional information provided in your letter, FedEx has located three additional telephone calls related to the Laredo incidents. Copies of these calls are included on the attached CD.

Req7: FedEx reiterates and restates the objections raised in its original response. As an initial matter, the existence or non-existence of documents related to knowledge of terrorist organizations targeting the operations of cargo aircraft operators is irrelevant to whether Complainant raised security-related concerns in the August 9, 2013 meeting. Complainant's concerns are either objectively related to security issues or they are not. They do not become security-related based upon the existence of documents sought in Request No. 7. Further, to the extent any such information exists, it is highly confidential and/or proprietary and would not be produced absent a showing of relevance and entry of an appropriate protective order.

Req8: FedEx's objections are proper. In response to your request that FedEx identify specific documents responsive to Request No. 8, copies of responsive documents include those Bates labeled FDX 4 – 000020 – 23 and FED 4 – 000049 – 59.

Lee Seham
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Req10: FedEx's objections are proper. In response to your request that FedEx identify specific documents responsive to Request No. 10, copies of responsive documents include those Bates labeled FDX 4 - 000024 - 48.

Req11: FedEx's objections are proper. In response to your request that FedEx identify specific documents responsive to Request No. 11, copies of responsive documents include those identified as responsive to Request No. 10, Bates labeled FDX 4 - 000024 - 48.

Req12: FedEx's objections are proper. In response to your request that FedEx identify specific documents responsive to Request No. 12, copies of responsive documents include those identified as responsive to Request No. 10, Bates labeled FDX 4 - 000024 - 48.

Req13: In response to your request that FedEx identify specific documents responsive to Request No. 13, copies of responsive documents include those identified as responsive to Request No. 10, Bates labeled FDX 4 - 000024 - 48.

Req14: FedEx's objections are proper. Responsive non-privileged documents have been produced.

Req15: FedEx's objections are proper. In response to your request that FedEx identify specific documents responsive to Request No. 15, copies of responsive documents include those Bates labeled FDX 3 - 000022, 35 and 37; and FDX 4 - 000126, 128-129, 149-150, 171-181 and 222.

Req16: FedEx's objections are proper. In response to your request that FedEx identify specific documents responsive to Request No. 16, copies of responsive documents include those Bates labeled FDX 4 - 000352 - 353.

Req17: FedEx's objections to Request No. 17 are proper and are reiterated herein. As an initial matter, the Request is ridiculously overbroad and unduly burdensome in that it seeks "any correspondence or communication" from January 2008 to the present that references Auburn Calloway in any manner. The Request places no appropriate restrictions or limitations that would suggest the information sought is somehow related to this case. Moreover, the mere fact that Complainant said he had heard rumors that Auburn Calloway had converted to Islam and might be sharing information with al-Qaida is wholly insufficient to put all communications that reference Auburn Calloway over the past six years at issue in this case. Your letter fails to indicate how any such correspondence may be relevant to your client's claim of retaliation, or how failure to produce such information somehow constitutes waiver of FedEx's position with respect to Complainant. FedEx will not produce the requested information, nor does FedEx waive any of its arguments or positions with respect to Complainant.

Lee Seham
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Req18: FedEx's objections are proper. In response to your request that FedEx identify specific documents responsive to Request No. 18, copies of responsive documents include those Bates labeled FDX 4 – 000060, 63, 233, 281, 329, 336-351, and 356-358.

Req19: FedEx's objections are proper. In response to your request that FedEx identify specific documents responsive to Request No. 19, copies of responsive documents include those Bates labeled FDX 4 – 000021, 23, 49, 72 and 90-91.

Req20: FedEx's objections are proper. In response to your request that FedEx identify specific documents responsive to Request No. 20, copies of responsive documents include those Bates labeled FDX 4 – 000060 – 64, 71-72 and 95.

Req22: With respect to Request for Admission No. 6, FedEx did not rely on any documents in denying the request. With respect to Request No. 7, FedEx did not rely on any documents in denying the request. With respect to Request Nos. 8 – 11, see documents Bates labeled FDX 4 – 000060 – 64. With respect to Request No. 16, see documents Bates labeled FDX 4 – 000065 – 70, 74 – 79 and 83.

Req23: FedEx's objections are proper, as these documents are not relevant to the claims at issue and are not likely to lead to the discovery of admissible evidence. FedEx has produced the responsive documents that appear in Complainant's personnel file. FedEx will search for other responsive documents and will produce any additional responsive documents it discovers.

Req25: FedEx's objections are proper. After reasonable inquiry, FedEx has been unable to confirm that Complainant held a position of Security Chairman with the FedEx Pilots Association from 2001 to 2002, Complainant's contention that he did notwithstanding. Complainant is, of course, free to produce documentation establishing his position and his alleged correspondence on the issues identified in Request No. 25. FedEx, however, contends that any such information and/or documentation is irrelevant.

Req27: FedEx has supplemented its response with respect to recorded conversations in April 2013 (See Req6 above). FedEx reiterates that it is unaware of any documents, recordings or EIS related to any call between Complainant and Capt. Fisher on August 9, 2013.

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Req29: FedEx's objections are proper. Any documents related to any meeting Complainant may have had with someone in 2002 have absolutely no bearing on or relevance to the claims involved in this matter. Absent a more precise description of the documents sought and an explanation of their supposed relevance, FedEx will not conduct any further investigation related to these documents, if any.

Sincerely,

FEDERAL EXPRESS CORPORATION



David P. Knox
Senior Counsel Legal Litigation

DPK/lhb1090316
Encls.

“CX 32”

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December 4, 2013

VIA ELECTRONIC MAIL: brush.jason@dol.gov
AND FEDEX DELIVERY

Mr. Jason Brush
Regional Investigator
U.S. Department of Labor - OSHA
Nashville Area Office
51 Century Blvd., Suite 340
Nashville, Tennessee 37214

RE: Mark Estabrook v. FedEx Express
OSHA Case Number 4-1760-14-002
FedEx Matter No. 60-14499

Dear Mr. Brush:

This letter serves as Respondent Federal Express Corporation's (FedEx) statement of position in response to Mark Estabrook's complaint, alleging violations of the whistleblower provisions of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21), 49 U.S.C. § 42121, as amended.

Estabrook is a pilot for FedEx and currently holds the position Captain of Airbus A300. In his complaint, Estabrook alleges that FedEx retaliated against him for filing a complaint against the company in April 2013 concerning a weather-related incident. Estabrook also claims FedEx retaliated against him for attempting to bring certain alleged safety issues to the company's attention. As explained below, Estabrook's claims of retaliation are baseless and should be dismissed.

Estabrook claims he requested merely a meeting on August 4, 2013 "for the purpose of discussing security issues" that he claims he previously raised in or around 2002. The "request" to which Estabrook refers was, in fact, an email he sent to his System Chief Pilot Bill McDonald. Contrary to what is suggested in the complaint, the request was rather strange. Estabrook's email said he wanted to "talk to Fred," meaning Mr. Fred Smith, Chairman and Chief Executive Officer of FedEx Corporation. Estabrook cryptically said he wanted to discuss "something related to 9-11" and instructed McDonald to "ask Fred to call me on my cell but realize I turn it off when I sleep. I am about to close my eyes and call it a day." (A copy of the email is included in Attachment A). As should be patently obvious, this is not an appropriate way to arrange a meeting with the CEO of a global enterprise.



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Estabrook's request that Mr. Smith call him at Estabrook's convenience to discuss "something related to 9-11" is far too vague and obscure to show that he was raising security issues in the communication. Further, it is truly bizarre if Estabrook realistically thought, by simply sending an email, he could have his System Chief Pilot arrange for Mr. Smith to call him at his convenience on such scant information.

McDonald nevertheless responded to Estabrook and arranged a meeting on August 9, 2013 with Estabrook's Fleet Captain Rob Fisher and Todd Ondra, Managing Director, Aviation and Regulatory Security, to discuss Estabrook's concerns. Prior to the meeting, Estabrook was removed from the flight schedule with pay, and Estabrook expressed his understanding of the reason for removing him. (See Attachment A).

Estabrook met with Fisher, Ondra and a representative from FedEx's legal department on August 9, 2013. During the meeting Estabrook described several of his concerns, including specifically FedEx's practice of providing shipment tracking information on-line. Estabrook expressed concern that terrorist groups like Al Qaeda could use this information in carrying out terrorist attacks. Estabrook suggested FedEx ask the Federal Department of Homeland Security to order other airline to cease making tracking information available on-line. Additionally, and perhaps of greatest concern, Estabrook voiced his extremely peculiar concerns about Auburn Calloway. (Calloway is a former pilot who attempted to hijack a FedEx aircraft in 1994. He attacked the crew members with a hammer, seriously injuring them. Calloway is currently serving two consecutive life sentences in federal prison related to his attempted hijacking. (See Attachment B)). Estabrook reported hearing rumors that Calloway had converted to Islam, and he was concerned that Calloway might be secretly communicating with Al Qaeda terrorists and providing them with operational data. Estabrook suggested, among other things, that FedEx request eavesdropping and surveillance on Calloway's prison cell in an attempt to intercept his communications with Al Qaeda representatives. Apparently in an effort to enhance his credentials on this topic, Estabrook said he was well-versed in intelligence sharing and gathering methods. He explained that his skills dated back to his childhood, when his father helped people escape from Cuba. He also stated that had been chased "all over Russia" as a young man. On the whole, FedEx, and particularly Ondra, found his comments curious and quite disconcerting.

During the meeting FedEx also asked Estabrook whether he ever posted comments on a public on-line airline pilot forum under the name "Mayday Mark." FedEx was aware that an individual using the on-line name "Mayday Mark" and identifying himself as a Captain for FedEx had recently posted "One of my doctors thinks I may have had a seizure to do being chronically tired." Estabrook denied that he was "Mayday Mark" and FedEx accepted his denial.

After the meeting concluded, FedEx was concerned that Estabrook may not be entirely stable. His initial email, in which he expected management to arrange a phone call with Mr. Smith, was curious in and of itself. When coupled with his observed behavior during the August 9 meeting and his truly bizarre theories and requests about Calloway, FedEx questioned whether Estabrook had an impairment that might affect his ability to perform his duties as a pilot. Pursuant to the provisions of the collective bargaining agreement (CBA) between FedEx and the

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Airline Pilots Association (ALPA), which represents the pilots, FedEx instructed Estabrook on August 16 to report to its aeromedical advisor for evaluation. Estabrook was removed from the flight schedule, with pay, until the evaluation could be completed. (Attachment C).

On August 22, 2013 Estabrook's counsel sent a separate letter to the aeromedical advisor, attaching several correspondence between himself and FedEx. (See Attachment D). These correspondences summarized the meeting, as described above.

Estabrook initially spoke with Dr. Thomas Bettes of Harvey Watt & Company, FedEx's aeromedical advisor. After the conversation, Dr. Bettes believed there was sufficient cause for Estabrook to undergo a full psychiatric evaluation, and he referred Estabrook to Dr. George Glass. (Attachment E). Estabrook's psychiatric evaluation was scheduled for September 11, 2013. After this evaluation was completed, the aeromedical advisor initially determined that Estabrook did not meet the FAA medical standards and was unfit for flying duties. (Attachment F). Following the CBA, Estabrook then submitted an evaluation previously performed by Dr. Mark Nugent as a "secondary evaluation" indicating he was fit to fly. (Attachment G). Because the medical evaluations were inconsistent, pursuant to the CBA a Medical Review Panel was convened and it was ultimately determined that Estabrook was fit to return to duty. Estabrook was returned to active status. FedEx has since made Estabrook whole with respect to his compensation and sick-time allowance, as required by the CBA. FedEx will also reimburse Estabrook for the expenses involved with his medical examinations once receipts for these expenses are provided.

Estabrook cannot establish his claim against FedEx.

AIR 21 prohibits an air carrier, or contractor or subcontractor of an air carrier from discharging or otherwise discriminating against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee provided an employer or the federal government information relating to any violation or alleged violation of any Federal Aviation Agency order, regulation, or standard or any other provision of federal law related to air carrier safety. To prevail in his AIR 21 case, Estabrook must show, by a preponderance of the evidence, that (1) he engaged in protected activity; (2) his covered employer knew that he engaged in the protected activity; (3) he suffered an adverse personnel action; and (4) the protected activity was a contributing factor in the adverse action. Estabrook's failure to demonstrate any one of these essential elements must result in the dismissal of his complaint. See *Jeter v. Avior Tech. Ops., Inc.*, ARB No. 06-035, ALJ No. 2004-AIR-030, slip op. at 11 (ARB Feb. 29, 2008).

Estabrook did not engage in protected activity.

As an initial matter, Estabrook has not engaged in protected activity under AIR21. Protected activity under AIR 21 includes providing the employer information relating to a purported violation of a regulation, order, or standard relating to air carrier safety, though the complainant need not prove an actual violation. Estabrook must have provided specific

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information in relation to a given practice, condition, directive or event that affects aircraft safety. Estabrook must also reasonably believe in the existence of a violation. *See Malmanger v. Air EVAC EMS, Inc.*, ARB No. 08-071, ALJ No. 2007-AIR-008 (ARB July 2, 2009), slip op. at 7.

Estabrook fails to meet this standard. Estabrook's main concerns revolved around his personal belief that terrorist groups like Al Qaeda might use shipping companies like FedEx as a vehicle for carrying out their attacks. As documented in his complaint and in letters from his counsel, Estabrook's August 9 conversation with Fisher and Ondra centered on his belief that the industry-wide practice of providing up-to-date package tracking information, "albeit inadvertently, facilitate[s] and maximize[s] the criminal destruction of cargo, aircraft, and human lives, by granting terrorists the ability to carefully select the time of detonation." This has "the unfortunate result of encouraging terrorists to view FedEx as a particularly effective means of utilizing explosive, incendiary and other destructive devices by placing in the terrorists' hands the ability to select the most optimum timing for detonation." (Attachment D, letter dated Aug. 20, pp. 2-3). Critically, Estabrook never claimed or asserted that FedEx was violating any federal law. Rather, as noted in his attorney's letter, Estabrook merely sought "to express his ideas about improving security." (Attachment D, letter dated Aug. 13, p. 1). Thus, during his August 9 meeting Estabrook gave no indication that he thought or believed FedEx was violating federal law or regulations in any manner.

FedEx certainly takes its safety and security obligations extremely seriously. However, Estabrook's complaint was based on nothing more than speculation. He gave no evidence or first-hand knowledge of package tracking data being used by terrorist organizations; rather, the evidence upon which he relies is a 2010 newspaper article which only suggests the possibility that such tracing could have taken place in relation to a well-known and totally distinct incident in 2010. This is hardly conclusive, and is not the type of evidence or information required to establish a reasonable belief that an actual violation has occurred. The provision of such real-time tracking information simply is not, in and of itself, a violation of federal law, and complaining about its use cannot serve as the basis of protected activity under AIR21.

Likewise, Estabrook's contention that Calloway had converted to Islam and, as a result, could be passing operational information to Al Qaeda is fanciful and unsubstantiated, and is wholly insufficient to constitute protected activity under AIR21. Even if true, it is inconceivable how Estabrook could reasonable believe that Calloway's religious conversion and other activity could somehow equate to FedEx's violation of federal law, or that FedEx is violating federal law by refusing to seek electronic surveillance of Calloway's prison cell. There is simply no merit to Estabrook's contention that his comments and concerns about Calloway were sufficient to constitute protected activity under AIR21.

Estabrook failed to provide any information to FedEx that, objectively, could reasonably be interpreted as complaining about violations of federal law. Subjectively, he did not provide any indication that he personally believed FedEx was violating any regulation, order, or standard relating to air carrier safety. Additionally, there is no reasonable basis, derived from his meeting,

Jason Brush
December 3, 2013
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to believe that any such violation has occurred. He thus did not engage in protected activity. As Estabrook cannot establish this requisite element of his claim, it fails and should be dismissed.

Estabrook cannot establish causation.

Estabrook contends that his referral for medical evaluation constitutes an adverse employment action taken in retaliation for engaging in protected activity. However, Estabrook cannot prove that the referral for a medical evaluation was the result of his engaging in protected activity.

As noted above, Estabrook's complaint did not constitute protected activity. Even if his complaint were construed as protected activity, however, he cannot prove he was referred for evaluation due to the fact he raised these issues as opposed to the perplexing nature of his theories and concerns. It was the *content* of his concerns and theories that led FedEx to exercise its prerogative under the CBA and refer Estabrook for evaluation. FedEx takes security issues extremely seriously and must have the utmost confidence that its pilots are fully competent to operate its aircraft. To this end, the CBA gives FedEx the unilateral right to refer a pilot for a potential medical evaluation if it reasonably believes the pilot may not be mentally or physically fit to operate an aircraft. Consistent with this provision, FedEx exercised its contractual prerogative because of the bizarre nature of Estabrook's email and comments. First, he cryptically requested that the Chairman and CEO of FedEx give him a call to discuss "something related to 9-11." He next explained to the Managing Director of Security that he had been chased all over Russia in his youth. Against this strange background, he made his assertions regarding Calloway's conversion and relayed wholly unfounded suspicions that Calloway might be advising Al Qaeda. The odd nature of these statements led FedEx to form a reasonable belief that a referral for a medical evaluation was appropriate. (It is important to note that, after an initial consultation, the aeromedical advisor agreed that Estabrook needed a complete evaluation; further, after his evaluation, Estabrook was initially deemed unfit to fly. (Attachments E and F)). Estabrook can offer nothing to prove that FedEx referred him for medical evaluation simply because he internally raised his concerns, as distinct from the *content* of those concerns. Accordingly, he cannot establish this element of his claim.

Estabrook's complaint also refers to a previous AIR21 complaint he filed in April 2013 related to a weather incident. Presumably, Estabrook contends he was referred to a medical evaluation in retaliation for having filed an earlier complaint. This contention also fails. As an initial matter, Estabrook has no proof that the two incidents are in any way related. The timing between the two incidents – approximately four months – is too great to support a reasonable inference of retaliation. Even if such an inference were permitted, the inference would be rebutted by the intervening event of Estabrook's bizarre claims, raised during the August 9 meeting. See *Clark v. Pace Airlines, Inc.*, ARB No. 04-150, ALJ No. 2003-AIR-28 (ARB Nov. 30, 2006), slip op. at 12-13 ("An inference of discrimination, i.e., the protected activity contributed to the adverse action, is less likely to arise as the time between the adverse action and the protected activity increases. But if an intervening event that independently could have

Jason Brush
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caused the adverse action separates the protected activity and the adverse action, the inference of causation is compromised.”).

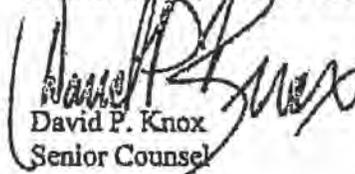
For these reasons, Estabrook cannot establish the requisite causation necessary to prove his AIR21 claim. Accordingly, the complaint should be dismissed.

Estabrook cannot establish his claim of retaliation in violation of AIR21 against FedEx. As shown herein, Estabrook was referred for a medical evaluation solely due to the bizarre nature of his concerns and FedEx’s consequent reasonable suspicion that he could have an impairment that might affect his ability to perform his duties as a pilot. He cannot prove that he engaged in protected activity. Neither can he prove that the fact he has made any complaint – whether in April or August – played any role in the decision to refer him for a medical evaluation. For these reasons, FedEx respectfully requests that complaint be dismissed.

If you have any questions or need any additional information, please feel free to contact me.

Sincerely,

FEDERAL EXPRESS CORPORATION



David P. Knox
Senior Counsel

cc: Lee Seham
Seham, Seham, Meltz & Petersen, LLP

DPK/ihb
Encls.
1028473

Attachment A

From: Mark Estabrook
Sent: Tuesday, August 06, 2013 06:58 PM
To: William McDonald
Subject: RE: Fred Smith

Thanks, Bill. I placed a call to Rob this afternoon and left a message. I really wanted to fly that trip to Panama so I wish we could have talked before I got removed. But having said that, I understand why you did what you did.

If I could arrange a conference phone call with the head of corporate security and Fred, I think this could take less than 15 minutes.

Mark

From: William McDonald
Sent: Monday, August 05, 2013 2:11 PM
To: Mark Estabrook
Cc: Rob Fisher; Todd Ondra; Robb Tice; Jim Bowman
Subject: FW: Fred Smith

Mark,

I have read your email and have some concerns about the issue you raised. I would like for you to meet with your Fleet Captain, Robb Fisher, as well as the Director of Corporate Security, Todd Ondra. I will have Rob contact you to arrange this meeting. Until that time I have directed that you be removed from flight status, with pay (NOQ).

I hope that in this way we will be able to resolve your concerns.

Thanks for your patience,

Bill

Captain William McDonald
System Chief Pilot
Managing Director/Flight Operations

Office: 901.224.5525
Mobile: 901.326.4175
wwmcdonald@fedex.com

From: Cargo Pilot [mailto:cargopilot@gmail.com]

Sent: Sunday, August 04, 2013 08:00 AM

To: William McDonald

Subject: Fred Smith

Bill,

I need to talk to Fred. It has nothing to do with Flight Ops or you. It deals with something related to 9-11. I did my best to protect the company and reported as much as I could through Bill Henrickson when I was the Security Chairman at ALPA. Ask Fred to call me on my cell but realize I turn it off when I sleep. I am about to close my eyes and call it a day.

Mark Estabrook
C 901-230-4933
H 512-772-1605

Attachment B

11/8/13,

Federal Express Flight 705 - Wikipedia, the free encyclopedia

Federal Express Flight 705

From Wikipedia, the free encyclopedia

On April 7, 1994, Federal Express Flight 705, a McDonnell Douglas DC-10-30 cargo jet carrying electronics across the United States from Memphis, Tennessee to San Jose, California, experienced an attempted hijacking for the purpose of a suicide attack.

Auburn Calloway, a Federal Express employee facing possible dismissal for lying about his previous flying experience, boarded the scheduled flight as a deadheading passenger with a guitar case carrying several hammers and a speargun. He intended to disable the aircraft's cockpit voice recorder before take-off and, once airborne, kill the crew using the blunt force of the hammers so their injuries would appear consistent with an accident rather than a hijacking. The speargun would be a last resort. He would then crash the aircraft while just appearing to be an employee killed in an accident. This would make his family eligible for a \$2.5 million life insurance policy paid by Federal Express.^[1]

Calloway's plan was unsuccessful. Despite severe injuries, the crew was able to fight back, subdue Calloway and land the aircraft safely. An attempt at a mental health defense was unsuccessful and Calloway was subsequently convicted of multiple charges including attempted murder, attempted air piracy and interference with flight crew operations. He received two consecutive life sentences. Calloway's appeal was successful in having his conviction for interference ruled as a lesser included offense of attempted air piracy.^[2] The crew members were left with permanent, disabling injuries and have not flown professionally since.

FedEx Express Flight 705



A FedEx Express DC-10-30F similar to N306FE.

Hijacking summary	
Date	April 7, 1994
Summary	Attempted suicide hijacking
Site	Memphis, Tennessee, United States
Passengers	1 (hijacker)
Crew	3
Injuries (non-fatal)	4
Fatalities	0
Survivors	4 (all)
Aircraft type	McDonnell Douglas DC-10-30F
Operator	FedEx
Registration	N306FE (http://aviation-safety.net/database/registration/regsearch.php?reg=N306FE)
Flight origin	Memphis International Airport Memphis, Tennessee
Destination	San Jose International Airport San Jose, California

Contents

- 1 Flight details

11/6/13

Federal Express Flight 705 - Wikipedia, the free encyclopedia

- 2 Hijacker
- 3 Hijacking
- 4 Aftermath
- 5 See also
- 6 References
- 7 Further reading
- 8 External links

Flight details

Initially, Calloway was the flight engineer on this flight, but he and his crew exceeded the maximum flying hours by one minute the previous day, so the new three-man flight crew consisted of 49-year-old Captain David Sanders, 42-year-old First Officer James Tucker, and 39-year-old Flight Engineer Andrew Peterson. At the time of the incident, First Officer James Tucker held the position of Captain at Federal Express on the DC-10 and was also a check airman on the type. Aboard Flight 705, Tucker assumed the role of first officer. FedEx Flight 705 was scheduled to fly to San Jose, California with electronic equipment destined for Silicon Valley.

Hijacker

The then 42-year-old Federal Express Flight Engineer Auburn Calloway, an alumnus of Stanford University and a former military pilot and martial arts expert, faced termination of employment over irregularities in the reporting of flight hours.^[2] In order to disguise the hijacking as an accident so his family would benefit from his \$2.5 million life insurance policy, Calloway intended to murder the flight crew using blunt force. To accomplish this, he brought aboard two claw hammers, two sledge hammers and a speargun concealed inside a guitar case.^[2] It is unclear how Calloway planned to crash the plane. Just before the flight, Calloway had transferred over \$54,000 in securities and cashiers checks to his ex-wife.^[2] He also carried a note aboard, written to her and "describing the author's apparent despair".^[2]

Hijacking

As part of his plan to disguise the intended attack as an accident, Calloway attempted to disable the cockpit voice recorder (CVR) by tripping its circuit breaker. During standard pre-flight checks, Peterson noticed the tripped breaker and reset it before take-off so the CVR was reactivated.^[3] About twenty minutes after takeoff, as the flight crew carried on a casual conversation, Calloway entered the flight deck and commenced his attack. Every member of the crew took multiple hammer blows which fractured both Peterson's and Tucker's skulls, severing the former's temporal artery.^[2] A lengthy struggle ensued with the flight engineer and captain as Tucker, also an ex-Navy pilot, performed extreme aerial maneuvers with the aircraft, at times flying upside down, with the intent to keep the hijacker off-balance.^[1]

The flight crew eventually succeeded in restraining Calloway, though only after moments of inverted and near-transonic flight beyond the designed capabilities of a DC-10. Sanders took control and Tucker, who had by then lost use of the right side of his body, went back to assist Peterson in restraining Calloway. Sanders communicated with air traffic control, prepared for an emergency landing back at Memphis International Airport. Meanwhile, after screaming that he could not breathe, Calloway started fighting with the crew again.

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Federal Express Flight 705 - Wikipedia, the free encyclopedia

Heavily loaded with fuel and cargo, the plane was approaching too fast and too high to land on the scheduled runway 9. Sanders requested by radio to land on the longer runway 36. Ignoring warning messages from the onboard computer and using a series of sharp turns that tested the DC-10's safety limits, Sanders landed the jet safely on the runway at well over its maximum designed landing weight. By that time, Calloway was once again restrained. Emergency personnel gained access to the plane via escape slide and ladder. Inside, they found the cockpit interior covered in blood.^[3]

Aftermath

The crew of Flight 705 sustained serious injuries.^[2] Tucker's skull was severely fractured, causing motor control problems in his right arm and right leg. Calloway had also dislocated Tucker's jaw, attempted to gouge out one of his eyes and stabbed his right arm. Sanders suffered several deep gashes in his head and doctors had to sew his right ear back in place. Flight engineer Peterson's skull was fractured and his temporal artery severed. The aircraft itself incurred damages in the amount of \$800,000 (\$1,259,991 when adjusted for inflation).^[2]

Calloway pleaded temporary insanity but was sentenced to two consecutive life sentences on August 15, 1995, for attempted murder and attempted air piracy.^[1] Calloway, Federal Bureau of Prisons Inmate #14601-076, is imprisoned in the United States Penitentiary, Atwater, near Atwater, California.^[4]

On May 26, 1994, the Air Line Pilots Association awarded Dave Sanders, James Tucker and Andrew Peterson the Gold Medal Award for heroism, the highest award a civilian pilot can receive. Due to the extent and severity of their injuries, none of the crew has, so far, been recertified as medically fit to fly commercially. The attempted hijacking was later featured on Discovery Channel Canada's television show *Mayday* (otherwise known as *Air Crash Investigation* or *Air Emergency*). The episode (season 3, episode 9) was titled "Fight for Your Life (Suicide Attack)".

Although deemed medically unfit to return to commercial aviation, James Tucker took advantage of the 2004 Light Sport Aircraft regulations and returned to recreational flying in a Luscombe 8A. Using this aircraft, Tucker has taught his son, Andy Tucker, to fly. Tucker has also become a lay minister and has served as a lay pastor at local churches in the Headland, Alabama, area.^[citation needed]

As of January 2013, the aircraft involved still flies for FedEx Express as a converted MD-10-30F and is still registered as N306FE.^[5]

See also

- List of accidents and incidents involving commercial aircraft
- September 11 attacks
- Pacific Air Lines Flight 773
- Southwest Airlines Flight 1763
- Air France Flight 8969
- Pacific Southwest Airlines Flight 1771

References

1. ^a ^b ^c *National Geographic, Mayday (Air Crash Investigation or Air Emergency)*. Episode (Season 3, Episode 4),

11/8/13

Federal Express Flight 705 - Wikipedia, the free encyclopedia

"Fight for Your Life (Suicide Attack)"

2. ^ *a b c d e f g h* Case No. 95-6206 (<http://bulk.resource.org/courts.gov/c/F3/116/116.F3d.1129.95-6206.html>)
United States v Calloway
3. ^ *a b* Cockpit Voice Recorder Database, 7 April 1994 - Fedex 705 (<http://www.tailstrike.com/070494.htm>),
tailstrike.com. Accessed 2012-4-7.
4. ^ "Auburn Calloway (<http://www.bop.gov/iloc2/InmateFinderServlet?Transaction=NameSearch&needingMoreList=false&FirstName=Auburn&Middle=&LastName=Calloway&Race=U&Sex=U&Age=&x=0&y=0>)."
Federal Bureau of Prisons. Retrieved May 29, 2010.
5. ^ FAA Registry, N306FE N-Number Inquiry (http://registry.faa.gov/aircraftinquiry/NNum_Results.aspx?NNumbertxt=N306FE),
Federal Aviation Administration. Accessed 2012-4-7.

Further reading

- Dave Hirschman and William Morrow (1997), *Hijacked: The True Story of the Heroes of Flight 705*, ISBN 978-0-688-15267-3.

External links

- Cockpit voice recorder transcript and incident summary (<http://www.tailstrike.com/070494.htm>)
- Clips from the air traffic control tape (<http://www.airdisaster.com/cvr/atcwav.shtml>)
- Hijacking description (<http://aviation-safety.net/database/record.php?id=19940407-0>) at the Aviation Safety Network

Retrieved from "http://en.wikipedia.org/w/index.php?title=Federal_Express_Flight_705&oldid=574967555"

Categories: 1994 in Tennessee | Accidents and incidents involving the McDonnell Douglas DC-10

| Airliner accidents and incidents in Tennessee | Aircraft hijackings in the United States

| Aviation accidents and incidents in 1994 | Disasters in Tennessee | FedEx Express accidents and incidents

| Failed terrorist attempts | Terrorist incidents in the United States

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Attachment C

Captain Rob Fisher

Flight Operations
Airbus Fleet Captain
Building C
Memphis, TN 38118

Telephone 901.224.5466
3131 Democrat Rd.
rfisher@fedex.com



VIA OVERNIGHT LETTER & EMAIL

August 16, 2013

Captain Mark Estabrook/88775
10026 Wild Dunes Drive
Austin, TX 78747

Email: mstabrook@fedex.com

RE: Company Mandated Medical Examination

Captain Estabrook:

The Company has a reasonable basis to question whether you have developed an impairment to your ability to perform duties as a pilot. Under the circumstances, I am directing you to contact Dr. Thomas Bettes, at Harvey Watt & Company, the Company's aeromedical advisor, for an evaluation pursuant to Section 15.D. of the Collective Bargaining Agreement. You are directed to contact Dr. Bettes's office and coordinate with Dana Bates by Wednesday, August 21, 2013, to schedule an evaluation. Their office telephone number is (800) 241-6103, Ext. 240.

You shall be removed from any conflicting scheduled activities with pay until the aeromedical advisor determines whether you are fit for flight duty.

Failure to comply with this directive may result in disciplinary action.

Please contact me if you have any questions.

Sincerely,

Rob Fisher
Airbus Fleet Captain
901-224-3435

- cc: Bill McDonald, System Chief Pilot
- Robb Tice, Lead Counsel
- Scott Williams, Sr. Attorney
- Cindy Sartain, Sr. Paralegal Specialist
- Coy Briant, ALPA Grievance Committee
- Maggi Comes
- Dana Bates
- Domicile Personnel File/PAC
- Shelia Voye
- 1010207

Attachment D

ALAN ARMSTRONG
ATTORNEY AT LAW

2900 GRAMBLE-TUCKER ROAD
BUILDING C, SUITE 350
ATLANTA, GEORGIA 30341

(770) 451-0818
FAX (770) 451-0817

alan@alansarmstronglaw.com
www.alansarmstronglaw.com

August 22, 2013

Via Email Transmission
pilot@harveywatt.com
404-761-8326

Thomas Bettes, M.D.
Harvey Watt & Company
P.O. Box 20787
Atlanta, GA 30320

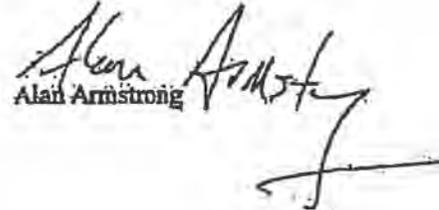
Re: Mark Estabrook/FedEx

Dear Dr. Bettes:

The undersigned represents Captain Mark Estabrook. Like you, Captain Estabrook has an enduring commitment to aviation safety. For that reason, I am sure we can rely upon your office to conduct a fair, impartial and scientifically based evaluation of Captain Estabrook's fitness for flight.

In order that you may appreciate the circumstances under which Captain Estabrook is being directed to undergo a series of medical evaluations in your office, the enclosed material for your review is appended as Attachments 1, 2, 3 and 4.¹

Sincerely,


Alan Armstrong

AA/kjw

Cc: Captain Mark Estabrook
Robert Tice, Esq.
James H. Ferguson, Esq.
Terry McTigue, Esq., ALPA
Lee Seham, Esq.

¹ Attachment 1 is the undersigned's letter of August 13, 2013 to Robert Tice, Esq. and James H. Ferguson, Esq., counsel for FedEx. Attachment 2 is a letter from Robert Tice, Esq. to the undersigned of August 16, 2013. Attachment 3 is the undersigned's letter to Messrs. Tice and Ferguson of August 20, 2013. Attachment 4 is Captain Rob Fisher's letter to Captain Estabrook of August 16, 2013.

ALAN ARMSTRONG
ATTORNEY AT LAW
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alan@alanarmstronglaw.com
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August 13, 2013

Via Email
rwice@fedex.com

Robert Tice, Esq.
Lead Counsel - Labor Relations Law
FedEx Corporation
3620 Hacks Cross Road
Memphis, TN 38125

James H. Ferguson, Esq.
General Counsel
FedEx Corporation
3620 Hacks Cross Road
Memphis, TN 38125

Re: Captain Mark Estabrook's Security Meeting

Gentlemen:

This letter follows a meeting between Captain Mark Estabrook, Mr. Ondra, Mr. Tice, and Captain Rob Fisher of Friday, August 9, 2013. According to my understanding, the following facts are operative:

1. In 2002, Captain Estabrook raised a security issue with Federal Express senior executives Bill Logue and Bill Henrikson, the FAA Administrator, and the Airline Pilots' Association (ALPA) about the wisdom of publishing real time package and aircraft flight tracking data because the terrorists can use this information to set timers on bombs to maximize damage to aircraft and improve collateral targeting. Captain Estabrook did so as the FedEx ALPA Security Committee Chairman during the months that followed September 11, 2001 and thereafter.
2. In 2002, Captain Estabrook predicted that a bomb maker would use flight-tracking data to set the timers on bombs loaded onto FedEx aircraft to maximize the damage to the aircraft and surrounding targets.
3. In 2010, Al Qaeda terrorist and bomb maker Ibrahim al-Asiri used live tracking data to set the timers on bombs loaded onto a Federal Express aircraft and a UPS aircraft.
4. On Sunday, August 4, 2013, Captain Mark Estabrook first learned that Ibrahim al-Asiri used several "dummy" shipments several days prior to the actual deployment of the live bombs, which initiated an email to Federal Express System Chief Pilot William McDonald. In that email, Captain Estabrook requested a phone call with Fred Smith, Chief Executive Officer to express his ideas about improving security at



Robert Tice, Esq.
August 13, 2013
Page 2

the airline. As a Federal Express pilot, Captain Estabrook is an "in-flight security coordinator" functioning within the purview of 49 CFR §1544.101, et seq.

5. At all times relevant to this letter, Federal Express has had in force and effect "if you see something, say something" security program consistent with the directives and promulgations of the Transportation Security Administration and the Department of Homeland Security. In fact, Federal Express is listed as a supporter of security initiatives on the website of the Department of Homeland Security concerning "if you see something, say something."
6. The request of Captain Estabrook for the meeting was not out of the ordinary, since Captain Estabrook, a former military pilot who flew AWACS aircraft flying top secret JCS directed missions in the Persian Gulf and in the North Atlantic, also served on Secretary of Transportation Mineta's ad hoc committee in the weeks following September 11, 2001, and proposed a number of security recommendations including (a) arming airline pilots which later became federal law under the Federal Flight Deck Officer (FFDO) Program, (b) requested an in-flight emergency recall procedure via electronic data link Aircraft Communications and Reporting System (ACRS), which was ultimately approved after Estabrook's meeting with FedEx executive Bill Logue and Bill Henrickson in 2002; and (c) restricting cockpit jumpseat access, among other security enhancements.
7. Notwithstanding Captain Estabrook's history with the company and with government officials toward maintaining aircraft security and safety, on Tuesday, August 6, 2013, Captain Estabrook was shocked to discover that he had been removed from flight status, this having been conveyed to Captain Estabrook by Captain William McDonald, System Chief Pilot, Manager/Director of Flight Operations.
8. Captain Estabrook is concerned that the action taken by Captain McDonald is a violation of federal law meant to invoke fear and intimidation in Captain Estabrook for reporting possible security threats and/or violations of federal law. See 49 USC §42121.
9. Captain Estabrook attended the meeting of Friday, August 9, 2013 with Messrs. Tice, Ondra and Fisher suggesting: (a) the removal of all flight and package tracking data from the internet and a request to Homeland Security that it order the remaining airlines to do so as well; (b) to start up an operations research group composed of mathematicians, statisticians, software engineers and game theorists to develop strategies to inhibit and prevent terrorist attacks directed towards aircraft; and (c) suggested finding out whether Auburn Calloway, a former Federal Express pilot who is in prison for hijacking a Federal Express aircraft and trying to kill three pilots

Robert Tice, Esq.
August 13, 2013
Page 3

during FedEx Flight 705 on April 7, 1994, had converted to Islam and whether he might be feeding operational data to terrorists.

10. At the conclusion of Captain Estabrook's presentation, Mr. Ondra left the meeting. Captain Fisher and Mr. Tice did not ask any security related questions, but Mr. Tice was eager to ask Captain Estabrook whether he was the "Mark" posting disturbing information on a pilot bulletin board, that "Mark" allegedly having had a transient ischemic attack not disclose to his FAA Aeromedical Examiner. Captain Estabrook confirmed that he is not that individual and asked Mr. Tice if he had bothered to check the IP address of that person, to which Mr. Tice gave a negative response.
11. Mr. Tice and Captain McDonald, apparently laboring under the delusion that my client is the "Mark" publishing disturbing messages on an internet pilot bulletin board, had removed by client from flight status prior to the security meeting. After being notified by Captain Fisher at the end of the meeting that he would return Captain Estabrook to flying status, my client was later notified in the same day by Captain Fisher that company Security insisted he remain off of flying status indefinitely, or at least until Captain Estabrook undergoes a psychiatric evaluation.
12. In view of the fact that my client is an in-flight safety coordinator for Federal Express and was acting under the policies of Federal Express consistent with regulations and protocols published by the Transportation and Security Administration (49 CFR §1544.101, et seq.), demand is hereby made for the following:
 - (a) That Mr. Tice and Captain McDonald retract any accusations directed toward my client that my client is the person posting disturbing comments on a pilot bulletin board;¹ and that he has ever suffered any TIA.
 - (b) That Federal Express withdraw any request made by and through Chief Pilot Rob Fisher that my client undergo a psychiatric evaluation; and
 - (c) That Federal Express comply with the representations it has made on the internet that it follows the "if you see something, say something" policy of DHS/TSA and withdraw and abandon any acts of reprisal, intimidation or punishment directed toward Captain Estabrook, an in-flight safety coordinator, for raising legitimate security concerns with his employer.

¹ It would be interesting to find out how many employees Federal Express has with the given name of "Mark."

Robert Tice, Esq.
August 13, 2013
Page 4

I look forward to hearing from you in the near future.

Best regards,


Alan Armstrong

AA/kjw

Cc: Rob Fisher, Fleet Captain – Airbus Aircraft
Todd Ondra, Director of Corporate Security
Captain William McDonald, System Chief Pilot

Robert W. Tice, Lead Counsel
Legal Department-Labor Relations
3820 Hockley Cross Rd., 3rd Floor
Memphis, TN 38125
901.434.8559



VIA E-MAIL

August 16, 2013

Alan Armstrong, Esq.
2900 Chamblee Tucker Road
Building 5, Suite 350
Atlanta, GA 30341
Email: alan@alanarmstronglaw.com

RE: Captain Mark Estabrook

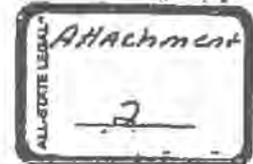
Dear Mr. Armstrong:

I write in response to your letter regarding the August 9, 2013 meeting Captain Mark Estabrook attended with Todd Ondra, Captain Rob Fisher, and me. The Company disagrees with some aspects of your account of that meeting and your contention that FedEx Express has taken any action with respect to Captain Estabrook that violates federal law. FedEx's highest concern is the safety of its air operations. As explained below, the Company's actions with respect to Captain Estabrook are consistent with that priority and compliant with all federal rules and regulations.

First, in your letter you request that Captain McDonald and I "retract any accusations" that Captain Estabrook is the individual named "Mark" who has posted on an electronic bulletin board. No such accusation was made at the August 9, 2013 meeting, which your letter seems to implicitly acknowledge. I merely asked if Captain Estabrook is "Mayday Mark" because that poster had written that he had sustained a stroke. Captain Estabrook denied that he was "Mayday Mark" and disavowed any knowledge of any postings by any such individual. I accepted the denial at face value. The Company is not accusing Captain Estabrook of being "Mayday Mark."

Next, you express "concern" that the Company's instruction that Captain Estabrook undergo an examination pursuant to Section 15.D of the FedEx/ALPA collective bargaining agreement may violate 49 U.S.C. §42121. We disagree. This statute makes it a violation of federal law to discharge or take any other adverse employment action against an employee who:

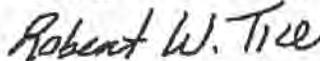
provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle [49 USCS §§ 40101 et seq.] or any other law of the United States;



49 U.S.C. §42121(a)(1) (emphasis added). By your own admission, Captain Estabrook has not engaged in any activity protected by 49 U.S.C. §42121. He did not identify any violation or alleged violation of any federal law, order, regulation, or standard by FedEx Express. Rather, as you state, he merely wanted to communicate with Mr. Smith to "express his ideas about improving security." He provided these ideas to Mr. Ondra, Captain Fisher, and me at our meeting. Accordingly, your retaliation claim is misplaced.

Finally, as an air carrier, FedEx Express owes the public the *highest* degree of care in its operations. See, e.g., *American Airlines, Inc. v. United States*, 418 F.2d 180 (5th Cir. 1969). FedEx takes its safety and security obligations extremely seriously, and that means the Company must exercise vigilance with regard to its flight operations, including its aircraft, security personnel, and crew members. Here, based on the information available to the Company, FedEx has a reasonable basis for concern as to whether Captain Estabrook has developed an impairment to his ability to perform his job duties as a pilot. Under such circumstances, the Company has a duty to request an appropriate medical examination. We appreciate that the Company's decision is upsetting to Captain Estabrook. Nonetheless, in order to ensure the safety of its operations, FedEx has an obligation to have a medical examination performed. FedEx therefore respectfully declines your request that it withdraw its instruction that Captain Estabrook undergo an examination pursuant to Section 15.D. of the Agreement.

Sincerely,



Robert W. Tice

cc: Rob Fisher, Fleet Captain -- Airbus Aircraft
Todd Ondra, Director of Corporate Security
Captain William McDonald, System Chief Pilot

ALAN ARMSTRONG
ATTORNEY AT LAW
2500 CHAMBERLAIN-TOCKER ROAD
BUILDING C, SUITE 080
ATLANTA, GEORGIA 30341

(770) 461-0318
FAX (770) 461-0017

alan@alanarmstronglaw.com
www.alanarmstronglaw.com

August 20, 2013

Via Email
rwtice@fedex.com

Robert Tice, Esq.
Lead Counsel - Labor Relations Law
FedEx Corporation
3620 Hackers Cross Road
Memphis, TN 38125

James H. Ferguson, Esq.
General Counsel
FedEx Corporation
3620 Hackers Cross Road
Memphis, TN 38125

Re: Captain Mark Estabrook

Dear Mr. Tice:

We are in receipt of your letter dated August 16, 2013.

This letter will serve to inform you of my client's intention to proceed with an AIR-21 action pursuant to 49 U.S.C. §42121. This letter shall also serve as a formal grievance pursuant to Section 20 of the Collective Bargaining Agreement (CBA) based on the Company's violation of Captain Estabrook's rights under Sections 15.D and 15.G of the CBA. Pursuant to Section 20.C of the CBA, Captain Estabrook hereby demands that the Company provide him "as soon as practicable" with the names of all witnesses and copies of all documentary information (including all electronic documents and correspondence) that have been, or may be, used to establish a reasonable basis for suspecting that Captain Estabrook is currently suffering from an impairment that would prevent him from performing his duties as a pilot -- including, but not limited to, the highlighted postings of "Mayday Mark" that the Company brought to the meeting of August 9, 2013.

Protected Activity

We will first briefly address the disingenuous argument contained in your letter of August 16, 2013, that Captain Estabrook has not engaged in protected activity.

Captain Estabrook is a professional pilot whose first objective has been the safe operation of Company aircraft. His service on the FedEx ALPA Security Committee, Secretary of Transportation Mineta's emergency ad hoc 9/11 Committee, his expressed concerns over the Company's handling of its flight and cargo operations are both well-known and documented. Due to the Company's countervailing interests in meeting its schedule and ensuring profitable

ALL-STATE LEGAL
Attachment
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Robert Tice, Esq.
August 20, 2013
Page 2

operation, Captain Estabrook's focus on safety has repeatedly placed him in conflict with FedEx management.

In terms of recent events, on April 10, 2013, Captain Estabrook refused to depart on a FedEx flight because of a severe and solid line of thunderstorms between his departure airport, Laredo (LRD), and scheduled arrival airport of Memphis (MEM). In retaliation for his safety-based determination as Pilot-in-Command, as defined by the Company's own Flight Operations Manual (FOM), and Federal Aviation Regulations (FARs), FedEx commenced disciplinary proceedings against Captain Estabrook. This retaliation caused Captain Estabrook to file AIR-21 Complaint No. 861872 with the United States Department of Labor on April 29, 2013. When the Company subsequently terminated its disciplinary proceedings, Captain Estabrook, being non-litigious in nature, withdrew his AIR-21 action.

Captain Estabrook's zealous advocacy of safety over schedule no doubt left a bitter taste in the mouth of the Company's legal department. This resentment appears to have substantially motivated the threats of psychiatric and medical evaluation, based on shifting pretextual rationales, discussed further below. Nevertheless, federal law strictly prohibits such retaliatory action where an employee:

...has filed, caused to be filed, or is about the file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Federal Aviation Administration or any other provision of Federal law relating to air carrier safety under this subtitle [49 USCS §40101, et seq.] or any other law of the United States.

49 U.S.C. §42121(a)(2). The temporal proximity of Captain Estabrook's protected activity under §42121(a)(2) to the recent threats of psychiatric/medical evaluations, standing alone, establish a *prima facie* case of discriminatory motive.

Still more recently, on August 9, 2013, Captain Estabrook sought to bring to the Company's attention that FedEx's policy of giving live tracking information relating to packages in transit would, albeit inadvertently, facilitate and maximize the criminal destruction of cargo, aircraft, and human lives, by granting terrorists the ability to carefully select the time of detonation. Your letter of August 16 seeks to preserve FedEx's ability to retaliate against employees' raising these issues by suggesting that FedEx has no affirmative legal obligation to minimize the potential for such terrorist activity. This disturbing piece of sophistry must be laid to rest.

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August 20, 2013
Page 3

Federal law establishes the duty of every air carrier to:

Provide for the safety of persons and property traveling on flights provided by the aircraft operator against acts of criminal violence and air piracy, and the introduction of explosives, incendiaries, or weapons aboard an aircraft.

49 CFR §1544.207(c)(1). This federal aviation safety standard, as it relates to cargo carriers, is reiterated in the following terms:

Each aircraft operator operating under a full program or a full all-cargo program must use the procedures in its security program to control cargo that it accepts for transport on an aircraft in a manner that:

- (1) Prevents the carriage of any unauthorized person, and any unauthorized explosive, incendiary, or other destructive substance or item in cargo onboard an aircraft.

49 CFR §1544.205(c). Under federal law, the carrier's objective is "to prevent or deter the carriage of any unauthorized persons, and any unauthorized explosives, incendiaries, and other destructive substances or items in cargo onboard an aircraft. 49 CFR §1544.205(a) (emphasis supplied). Under FedEx's federal mandated security program, Captain Estabrook, as an in-flight security coordinator, is directed: if you see something, say something. 49 CFR §§1544.101, et seq.

It cannot be disputed that the meeting of August 9, 2013 was scheduled in response to Captain Estabrook's stated position that the Company's live package and flight tracking practice had the unfortunate result of encouraging terrorists to view FedEx as a particularly effective means of utilizing explosive, incendiary and other destructive devices by placing in the terrorists' hands the ability to select the most optimum timing for detonation. The conclusion that a Company policy that encourages the use of FedEx as a terrorist vehicle violates the carrier's federal legal obligation to prevent and/or deter the carriage of destructive devices appears to be compelled by the plain language of the regulations. At minimum, this conclusion may arise from a good faith reading of the retaliatory language. In either case, the suggestion implicit in your August 6th letter that Fed Ex could retaliate with impunity against a person raising these safety issues is misplaced. 49 U.S.C. §42121(a).

We are also of the opinion that FedEx's retaliatory action in response to a good faith effort by an in-flight coordinator to identify objects in the carrier's security program may violate the Company's obligations under §1540.105 ["No person may: (1) Tamper or interfere with, compromise, modify, attempt to circumvent, or cause a person to tamper or interfere with,

Robert Tice, Esq.
August 20, 2013
Page 4

compromise, modify, or attempt to circumvent any security system, measure, or procedure implemented under this subchapter.

Retaliatory Action

As discussed at greater length in our letter to you dated August 13, 2013, Captain Estabrook presented his safety concerns at a meeting August 9, 2013, ostensibly scheduled for that purpose. The recitations in your letter of August 16, 2013, about the events of August 9, 2013 are inaccurate and incomplete. During the meeting of August 9, 2013, you asserted Captain William McDonald, FedEx Managing Director/System Chief Pilot, believed and reported to you that my client was "Mayday Mark." You then explained to my client that you were obligated to explore whether my client was "Mayday Mark." Management representatives made no response to Captain Estabrook's safety concern other than to pepper him with questions concerning his health.

The sole rationale proffered by the Company for these health injuries was the attribution to Captain Estabrook of internet communications by a purported FedEx pilot posting under the sobriquet "Mayday Mark." Management representatives had in their possession numerous pages of highlighted postings and asked pressing questions concerning their contents, including references to a transient ischemic attack. During the entire course of the August 9th meeting, the Company raised no other basis for questioning Captain Estabrook's medical status.

Captain Estabrook denied that he was "Mayday Mark" and the Company's August 16th letter confirms FedEx's abandonment of its efforts to ascribe these postings to Captain Estabrook. Not surprisingly, Captain Rob Fisher, Manager Fleet Operations – A300/310, advised Captain Estabrook at the end of the meeting that he would be returned to flying status.

Notwithstanding the utter implosion of the "Mayday Mark" postings as a rationale for subjecting Captain Estabrook to his removal from flying status and psychiatric/medical evaluation, Captain Estabrook was subsequently telephoned and informed by Captain Fisher that "FedEx Security insisted that his flying status remain suspended until he submitted to a psychiatric evaluation." When my client asked Captain Fisher why Security was asking for this evaluation, after it had been determined earlier in the day that he was being returned to flying status, Fisher responded "all they said was is you know too much." Your August 16th letter also demands that Captain Estabrook submit to a medical evaluation, but provides no explanation for this demand. And then again in a separate letter dated August 16, 2013, and delivered to my client on August 19, 2013, Captain Fisher directed Captain Estabrook to contact Dr. Thomas Bettes regarding a medical appointment no later than Wednesday, August 21, 2013, leaving little time to consult with his legal counsel. Captain Fisher claims in the same letter that FedEx has a "reasonable basis" to direct the medical exam, but does not provide the source or justification of that basis or identify the alleged impairment as required by the Collective Bargaining

Robert Tica, Esq.
August 20, 2013
Page 5

Agreement. Captain Estabrook is in possession of a current and valid FAA First Class Medical Certificate, which was submitted to the Company in a timely fashion as per the CBA.

On its face, the Company's actions and demands constitute discriminatory action in response to protected activity under AIR-21.

Contract Violations

Section 15.D provides that specified management representatives may direct a pilot to contact or see the Company's aeromedical advisor if the Company has a "reasonable basis" to question the pilot has an impairment to this ability to perform duties as a pilot. A medical evaluation may only be directed by the aeromedical advisor and only after a meeting with the pilot. Section 15.G provides Flight Management (or anyone other than the Company aeromedical advisor) may not require a pilot to submit to a psychological or psychiatric examination."

The Company sought to compel psychiatric/medical evaluation based on the "Mayday Mark" postings. Now that this justification has been exposed as pretextual, the Company seeks to demand said evaluation without any stated basis whatsoever – reasonable or unreasonable. Moreover, demands for the psychiatric/medical evaluation appear to be emanating from Labor Relations, Flight Management, and Security – anywhere but from the aeromedical advisor after a meeting with Captain Estabrook.

The CBA states clearly that management may only direct the pilot to see the Company aeromedical advisor and that this directive may issue if, and only if, it has a "reasonable basis" for believing that a pilot is suffering from an impairment. Thus, the Company's actions constitute a violation of the CBA, including, but not limited to, Sections 15.D and 15.G. We hereby grieve the Company's actions and request that the Company cease and desist from its actions in violation of the CBA and provide Captain Estabrook with make whole relief, i.e., immediate return to flight status and withdrawing the request for a medical evaluation of Captain Estabrook.

If the Company intends to press forward with its demands for a psychiatric/medical evaluation, we hereby request that it provide a written explanation of its "reasonable basis" for suspecting that Captain Estabrook is suffering from an impairment and identify the witnesses and the documentary information (including all electronic documents and correspondence on which it relies, including, but not limited to those emails from and between Captain William McDonald and Captain Robert Fisher, FedEx Security personnel, FedEx Legal Department and all FedEx management copied in the correspondence involving Captain Mark Estabrook's actions this calendar year). This documentation should include all audiotapes involving Captain Estabrook, the FedEx Duty Officer, the Global Operations Control Center and FedEx management relating to the above referenced incident of April 10, 2013, as well as all audio tape recordings made on

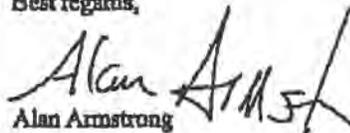
Robert Tice, Esq.
August 20, 2013
Page 6

recorded telephone lines among FedEx management referencing or in discussion about Captain Mark Estabrook during this calendar year.

Notwithstanding the foregoing, Captain Estabrook will comply with the Company's request for a medical examination, but he is doing so under protest and reserving all of his legal rights and rights under the Collective Bargaining Agreement.

Please respond to this letter at your earliest convenience.

Best regards,


Alan Armstrong

AA/kjw
Enclosure

Cc: Rob Fisher, Fleet Captain – Airbus Aircraft
Todd Ondra, Director of Corporate Security
Captain William McDonald, System Chief Pilot
Terrence McTigue, Esq., ALPA
Lee Seham, Esq.

Captain Rob Fisher

Flight Operations
Airbus Fleet Captain
Building C
Memphis, TN 38118

Telephone 901.224.5460
3131 Democrat Rd.
robfisher@fedex.com



VIA OVERNIGHT LETTER & EMAIL

August 16, 2013

Captain Mark Estabrook/88775
10026 Wild Dunes Drive
Austin, TX 78747

Email: msestabrook@fedex.com

RE: Company Mandated Medical Examination

Captain Estabrook:

The Company has a reasonable basis to question whether you have developed an impairment to your ability to perform duties as a pilot. Under the circumstances, I am directing you to contact Dr. Thomas Bettes, at Harvey Watt & Company, the Company's aeromedical advisor, for an evaluation pursuant to Section 15.D. of the Collective Bargaining Agreement. You are directed to contact Dr. Bettes's office and coordinate with Dana Bates by Wednesday, August 21, 2013, to schedule an evaluation. Their office telephone number is (800) 241-6103, Ext. 240.

You shall be removed from any conflicting scheduled activities with pay until the aeromedical advisor determines whether you are fit for flight duty.

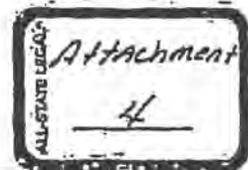
Failure to comply with this directive may result in disciplinary action.

Please contact me if you have any questions.

Sincerely,

Rob Fisher
Airbus Fleet Captain
901-224-3435

- cc: Bill McDonald, System Chief Pilot
- Robb Tice, Lead Counsel
- Scott Williams, Sr. Attorney
- Cindy Sartain, Sr. Paralegal Specialist
- Coy Briant, ALPA Grievance Committee
- Maggi Comes
- Dana Bates
- Domicile Personnel File/PAC
- Shella Voye
- 1010207



Attachment E



GEORGE GLASS, M.D., P.A.
4600 Post Oak Place Drive, Suite 307
Houston, Texas 77027
Tel (713) 666-9811 | Fax (713) 627-3488

475 N. CENTRAL AVE
ATLANTA, GA 30354
TELEPHONE (800) 241-6103: Ext 244
(404) 767-7501: Ext 244
FAX (404) 334-4600
<http://www.harveywatt.com>

Aug 30, 2013

RE: Federal Express Pilot Captain Mark S. Estrabrook (RE#: 88775)

Dr. Glass,

This letter will serve as a referral of the above-captioned Federal Express Pilot for evaluation of their current status and fitness for duty in relationship to FAA medical standards. Specifically, the company has a reasonable basis to question whether the pilot has developed an impairment to perform duties as a pilot. Comprehensive evaluation date will be September 11, 2013 at 3:15pm.

This is a Federal Express Corporation directed medical evaluation, and all charges for this consultation will be paid by the Company. Your billing should indicate that the Captain Estrabrook was referred by this office and should be addressed as follows:

FedEx Flight Group Management
3620 Hanks Road,
Building B, 3rd Floor
Memphis, TN 38125-0123

Once completed, your report must be sent only to required parties, Aviation Medical Examiner, Thomas N. Bettes, MD or Aerospace Consultant, Mr. Christopher A. Johnson at: Fax (404) 334-4600 or mailed to 475 N. Central Ave, Atlanta, GA 30354.

Also, please note that unless you have written permission from the Captain Estrabrook, this case should not be discussed with anyone other than this office.

Additionally, Captain Estrabrook's contact information: cell (901)230-4933, 10026 Wild Dunes Drive, Austin, TX, 78747. Email: cargopilot@gmail.com. DOB: 05/09/1956. Please let us know if you need additional medical documentation to assist with your evaluation.

Sincerely,

Thomas N. Bettes, MD, MPH

Attachment F



P. O. BOX 20787, ATLANTA,
GA 30320

TELEPHONE (800) 241-6103
(404) 767-7501
FAX (404) 761-8324

<http://www.harveywatt.com>

To: Captain Mark Estabrook (EE#: 88775)
Federal Express Corporation

From: Thomas N. Bettes, MD, MPH
Aeromedical Advisor

Date: September 24, 2013

Subj: Unfit for Flying Duties

Effective immediately, there is sufficient information on this pilot that Captain Estabrook does not meet the FAA medical standards, due to underlying medical condition.

I have carefully reviewed the medical information pertaining to Captain Estabrook.

The supporting medical documentation provided by Captain Estabrook's treating physician(s), Captain Estabrook is unfit for flying duties.

If you have any questions, please feel free to contact our office.

Attachment G

08/26/2013 17:11

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ARC SOUTH

PAGE 01/01



August 23, 2013

To Whom It May Concern:

I serve as the Aviation Medical Examiner for Captain Mark Estabrook, who has requested I describe my observations and examination findings during his July 19, 2013 flight physical. During final cockpit, I did not notice anything unusual or abnormal. Captain Estabrook was well-groomed, pleasant, conversant, oriented, logical, and appeared cognitively intact. The FAA does not require, and I did not perform, detailed testing designed to identify subtle cognitive deficits or psychological disorders. Nevertheless, my interaction with Captain Estabrook was entirely unremarkable, similar to pilot examinations, and I had no concerns regarding his fitness for pilot duty. His neurological examination was normal.

Sincerely,

Mark A. Nugent, MD

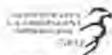
Mark A. Nugent, M.D.
FAA Senior Aviation Medical Examiner
Board Certified in Family Medicine

FB 2013
003

for attn Alan Armstrong
770-451-0317

3828 E. First St
Austin, Texas 78704
512-443-1311
www.AustinRegionalClinic.com

“CX 44”



51804

Federal Register / Vol. 78, No. 162 / Wednesday, August 21, 2013 / Notices

display of the exhibit objects at the National Gallery of Art, Washington, DC, from on or about September 29, 2013, until on or about January 5, 2014, the Metropolitan Museum of Art, New York, New York, from on or about January 27, 2014, until on or about May 4, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6469). The mailing address is U.S. Department of State, SA-5, L/PA, Fifth Floor (Suite 5H03), Washington, DC 20522-0505.

Dated: August 14, 2013.

Lee Satterfield,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013-20412 Filed 8-20-13; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2011-0183]

Access to Aircraft Situation Display to Industry (ASDI) and National Airspace System Status Information (NASSI) Data

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Notice of the Process for Limiting Aircraft Data Displayed Via ASDI.

SUMMARY: In a proposal published on May 9, 2012, the FAA tentatively identified a process through which aircraft owners and operators could ask the FAA to limit the agency's dissemination of their aircraft data via the FAA's ASDI program.¹ The FAA noted that its final decision on the policy will replace the interim policy to which the FAA has adhered since publishing it on December 16, 2011.² After considering each of the comments submitted to the public docket in response to the proposal, the FAA is issuing this final policy with respect to

the dissemination of aircraft data via ASDI.

If you wish to review the background documents or the comments received in this matter, you may go to <http://www.regulations.gov> at any time and follow the online instructions for accessing the electronic docket. You may also go to the U.S. Department of Transportation's Docket Operations in Room W12-140 on the ground floor of the West Building at 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

DATES: The procedures described in this document will take effect on September 20, 2013.

FOR FURTHER INFORMATION CONTACT: You may direct any questions about adding aircraft to and removing aircraft from the ASDI block list to Mr. Damon Thomas by telephone at (202) 267-5300 or by electronic mail at ASDIBlock@faa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 18, 2011, the President signed into law H.R. 2112, the "Consolidated and Further Continuing Appropriations Act, 2012," which provided the U.S. Department of Transportation's appropriation for the balance of fiscal year 2012. Section 119A of that statute provided that:

[n]otwithstanding any other provision of law, none of the funds made available under this Act or any prior Act may be used to implement or to continue to implement any limitation on the ability of any owner or operator of a private aircraft to obtain, upon a request to the Administrator of the [FAA], a blocking of that owner's or operator's aircraft registration number from any display of the [FAA's ASDI and NASSI] data that is made available to the public, except data made available to a Government agency, for the noncommercial flights of that owner or operator.³

In light of this appropriation language, the FAA withdrew a prior policy that it published on June 3, 2011, which required owners or operators to submit a Certified Security Concern in order to have their aircraft blocked from the public's view on displays of ASDI and NASSI information. In connection with its withdrawal of the June 3 policy, the FAA published interim procedures by which the owners and operators of aircraft could request that the FAA block information about the operations of their aircraft from release to the public via the FAA's ASDI data feed.⁴ At that time, the FAA noted that it

would propose more detailed procedures for the ASDI blocking program and solicit public comment on the proposal. The FAA published the FAA's proposed procedures on May 9, 2012.⁵ The FAA now summarizes and evaluates the written comments submitted to the public docket in this matter and sets forth the FAA's final decision on its policy related to the blocking of aircraft flight data from the ASDI data feed. In a separate action, the FAA will amend its memoranda of agreement with the subscribers who receive the information to clarify the subscriber responsibilities, consistent with the procedures described here.

II. Summary and Analysis of the Comments

The FAA received eight written comments on the FAA's proposed procedures. Out of the eight commenters, two are generically opposed to blocking aircraft information from the ASDI and NASSI data, and three are generically in favor of the ASDI aircraft blocking program. The three remaining commenters question certain aspects of the program and the FAA's proposal.

The FAA cannot accommodate the two commenters who oppose the blocking of aircraft information from the FAA's ASDI and NASSI data feed. The appropriations provision quoted above clearly precluded the use of appropriated funds to implement or to carry out any limitation on blocking from any display of the FAA's public data feed, on owner or operator request, the aircraft registration number of an aircraft conducting a noncommercial flight. In the absence of appropriated funds, the FAA cannot implement a policy or program that would limit owner or operator ability to block the specified aircraft from the FAA's data feed.

With respect to the commenters who raised questions with respect to the FAA program, an anonymous commenter questions the need and effectiveness of the option to request the blocking of aircraft data at the ASDI subscriber level. This commenter suggests that the convenience of allowing an intermediate level of blocking at the ASDI subscriber level could be counterbalanced by the potential harm from the inadvertent release of ASDI and NASSI data at that level.

In the FAA's notice inviting these comments, the FAA explained the rationale for the ASDI program's two

¹ 77 FR 27,269 (May 9, 2012).

² 76 FR 78,328 (Dec. 16, 2011).

³ Public Law 112-55, § 119A, 125 Stat. 552, 649.

⁴ 76 FR 78,328.

⁵ 77 FR 27,269-71.

levels of aircraft blocking.⁶ In summary, given the technology and the processes in place when the FAA established the ASDI program in 1997, some aircraft owners who desired to track their own blocked aircraft needed to contract with an ASDI subscriber to get that information, because there was no way for them to see the data if it were blocked at the FAA level. The option of requesting aircraft blocking at the ASDI subscriber level remains necessary for this purpose today, and the FAA will retain it. However, the commenter is correct to the extent that the FAA systems that convey aircraft data in the United States are changing rapidly. As a result, the FAA expects to update its data sharing policy as it continues to develop and deploy future systems that handle aircraft operational data.

The National Business Aviation Association (NBAA) inquires about the manner in which the FAA expects to protect blocked aircraft data from subscribers' intentional or inadvertent release. The FAA's agreement with subscribers requires each subscriber to demonstrate to the FAA's satisfaction the subscriber's ability to block selectively the display of any data related to any identified aircraft. In addition, the agreement has historically required ASDI data subscribers to honor the privacy and security interests of airspace system users under the legacy ASDI blocking program. In the notice announcing the FAA's interim policy, the FAA specified that it construes the current agreement to obligate ASDI subscribers to filter any aircraft data at the FAA's direction.⁷ The potential remedy for a subscriber's failure to honor the privacy and security interests of system users has been the FAA's immediate termination of the agreement with that subscriber. This remedy has proven adequate. If any member of the public identifies an aircraft that should be blocked, yet continues to appear in the information that an ASDI subscriber releases, he or she can report the matter to FAA's ASDI program staff by the means identified in the "For Further Information Contact" section of this document.

NBAA also asks the FAA to identify clearly a process for removing aircraft from the ASDI block list. The FAA's May 2012 proposal states that the FAA was proposing that it would use the same process for adding as well as removing aircraft from the ASDI block list.⁸ For example, in detailing the proposed substance of owner/operator

requests, the FAA noted that the completeness of the information submitted could influence the FAA's ability to "add or delete aircraft from the ASDI block list . . ." ⁹ In addition, the information that the FAA proposed for submission included "[t]he registration number(s) of the aircraft to be blocked or unblocked . . ." ¹⁰ The FAA does not perceive that using an identical process to block and to unblock aircraft will be confusing or problematic for requestors, and the FAA will adopt that approach.

NBAA additionally suggests that the FAA should permit associations to consolidate and forward aircraft blocking and unblocking requests to the FAA. In the FAA's May 2012 proposal, the FAA tentatively determined that requests to block aircraft must come to the FAA from aircraft owners, aircraft operators, or their legally authorized agent and not from associations acting on their behalf. The FAA will adhere to this requirement. In proposing a minimum legal relationship between an ASDI block requestor and the aircraft owner or operator, the FAA determined that the requestor, if he or she is not the actual owner or operator, should have a fiduciary duty to adhere to the owner's or operator's express wishes. This is intended to ensure that the requestor has a legal duty to carry out promptly the owner's or operator's request, and the FAA expects this to result in a very close correlation between owner/operator preference and the composition of the ASDI block list. The FAA continues to believe that the threshold identified in the proposal is appropriate and will promote the ASDI block list's ongoing accuracy.

NBAA further notes that the FAA's proposal does not specify a type of documentation that the FAA needs in order to process a request related to aircraft blocking. The FAA did not prescribe a specific form for blocking and unblocking aircraft principally because the FAA intends this process to be as simple as possible; the FAA does not want to suggest that a particular form is necessary to effect the requesting owner's or operator's wishes. The FAA proposed the minimum amount of information that the FAA expects the program will need to process the request.¹¹ Elaborating slightly on the FAA's proposal, the FAA will be best equipped to process the request promptly if the request includes:

- The name of the requestor;
- the registration number(s) of the aircraft to be blocked or unblocked;

- a certification that the requestor is the owner or operator of the specified aircraft or is a legally authorized representative of the aircraft owner or operator;

- a telephone number or electronic mail address to which the FAA can direct any questions about the request; and

- for a request to block one or more aircraft, a statement indicating the requestor's desired level of ASDI blocking—either at the FAA source or at the ASDI subscriber level.

The request must be in writing and delivered either to the designated electronic mail address or to the designated regular mailing address for the ASDI blocking program.

An anonymous commenter asks the FAA to clarify the uses that ASDI subscribers can make of the ASDI data feed. The commenter states that the FAA should permit ASDI subscribers to pass along to "aviation community" users ASDI and NASSI near real time data that is further filtered only to protect basic privacy considerations. The commenter does not consider the aviation community user to correspond to the general public, instead defining the aviation community to include, for example, corporate aircraft operators and fixed base operators and perhaps also including all businesses and commercial entities providing air transportation related services. The commenter also asks that the FAA place no restriction on subscribers' retransmission of historical flight data, including the past operations of aircraft on the ASDI block list.

The permissible uses of ASDI and NASSI data that are subject to subscriber-level blocking is technically a concern that is separate from the present discussion. The notice underlying this matter was limited to the procedures by which aircraft owners and operators can request that the FAA block their aircraft from the ASDI data feed.¹² By contrast, the responsibilities of ASDI subscribers with respect to handling ASDI and NASSI data that is designated as blocked at the subscriber level are contained in the FAA's contractual memorandum of agreement with ASDI subscribers. In an effort that parallels the current procedural policy discussion, the FAA is reviewing its memoranda of agreement to ensure that they comport with the FAA's current overall data sharing policy. The FAA will communicate separately with ASDI subscribers in connection with that effort.

⁶ *Id.*, at 27,270.

⁷ 76 FR 78,328.

⁸ 77 FR 27,269-70.

⁹ *Id.*, at 27,269.

¹⁰ *Id.*

¹¹ *Id.*, at 27,269-70.

¹² *Id.*

Nevertheless, the FAA notes potential pitfalls that could accompany the recommendations of the anonymous commenter. For example, the commenter's definition of an aviation community user could include the flight department of a company that is interested in the aircraft movements of a competitor's aircraft. This could presumably thwart a reason that the competing airspace user sought ASDI blocking in the first place. In addition, the FAA has not previously agreed that ASDI subscribers can display the historical movements of blocked aircraft. Aside from the absence of a clear line as to when such data becomes historical, the FAA did not propose to permit ASDI subscribers to retransmit the historical movements of blocked aircraft, and the commenter's suggestion therefore falls outside the scope of the proposal.

III. Conclusions

With respect to the procedures for aircraft owner and operator requests to block and unblock aircraft from inclusion in the FAA's ASDI data feed, the FAA concludes as follows:

1. *Requestors.* The FAA will honor each written request of an aircraft owner and operator, submitted in accordance with paragraphs 2 and 3 to block or unblock their aircraft's appearance in the FAA's public ASDI data feed. Aircraft owners and operators may submit their request on their own behalf, or they may do so through a legally authorized agent, including an attorney or an aircraft management company with a fiduciary duty to carry out the owner's or operator's express wishes with respect to the aircraft.

2. *Substance of Requests.* To assist the FAA in processing aircraft owner or operator requests promptly, all requests related to an aircraft's ASDI blocking or unblocking must include the following information:

- The name of the requestor;
- the registration number(s) of the aircraft to be blocked or unblocked;
- a certification that the requestor is the owner or operator of the specified aircraft or is a legally authorized representative of the aircraft owner or operator;
- a telephone number or electronic mail address to which the FAA can direct any questions about the request; and
- for a request to block one or more aircraft, a statement indicating the requestor's desired level of ASDI blocking—either at the FAA source or at the ASDI subscriber level.

3. *Addresses.* The FAA's primary electronic mailbox for all aircraft

blocking and unblocking requests and for related inquiries directed to the ASDI blocking program is ASDIBlock@faa.gov. The FAA also will accept aircraft block and unblock requests submitted by regular mail at: FAA ASDI Blocking Request; ATO System Operation Services, AJR-0; Wilbur Wright Building, Room 3E1500; 600 Independence Avenue SW; Washington, DC 20597.

4. *FAA Monthly Implementation.* The FAA implements the ASDI block list updates on the first Thursday of each month. As a result, requests that the FAA receives on or before the 15th of the preceding month are likely to be processed in time to take effect in the month after the FAA receives them. However, it is possible that the volume of requests in a given month, a requestor's timeliness, or issues with the completeness and accuracy of the information that the FAA receives could preclude the FAA from processing some requests in time for them to take effect in the month following their submission. In that event, the FAA will process all requests in the order in which the FAA receives them, to the extent that it is possible.

5. *FAA Treatment of Aircraft That Are Currently Blocked.* Any aircraft that is currently on the ASDI block list, either by virtue of a certified security concern submitted after June 3, 2011, or a request submitted under the FAA's interim ASDI block policy, will remain indefinitely on the ASDI block list when the policies in this document take effect. It is not necessary for the owners or operators of these aircraft to resubmit their requests, unless they wish to change the blocking status of their aircraft or amend the level at which their aircraft is blocked.

Issued in Washington, DC, on August 14, 2013.

J. David Grizzle,

Chief Operating Officer, ATO.

[FR Doc. 2013-20375 Filed 8-20-13; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Certification and Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. 14 CFR part 125 prescribes requirements for issuing operating certificates and for appropriate operating rules. In addition to the statutory basis, the collection of this information is necessary to issue, reissue, or amend applicant's operating certificates and operations specifications.

DATES: Written comments should be submitted by October 21, 2013.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepo at (405) 954-9362, or by email at: Kathy.DePaepo@faa.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120-0085.

Title: Certification and Operations.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: 14 CFR part 125 prescribes requirements for leased aircraft, aviation service firms, and air travel. A letter of application and related documents which set forth an applicant's ability to conduct operations in compliance with the provisions of 14 CFR part 125 are submitted to the appropriate Flight Standards District Office (FSDO). Inspectors in FAA FSDO's review the submitted information to determine certificate eligibility.

Respondents: Approximately 163 certificated operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 1.33 hours.

Estimated Total Annual Burden: 61,388 hours.

ADDRESSES: Send comments to the FAA at the following address: Ms. Kathy DePaepo, Room 126B, Federal Aviation Administration, AES-200, 6500 S MacArthur Blvd., Oklahoma City, OK 73169.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your

“RX 1”

AGREEMENT

between

FEDERAL EXPRESS CORPORATION

and

THE AIR LINE PILOTS

in the service of

FEDERAL EXPRESS CORPORATION

as represented by

THE AIR LINE PILOTS ASSOCIATION, INT'L

FEBRUARY 28, 2011

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February 28, 2011

SECTION 12

HOURS OF SERVICE

Definitions:

SERIES OF TRIPS

A combination of trips that are not separated by a legal rest period.

OPERATION IN THE CRITICAL PERIOD

Operation during any part of the critical period as an operating (i.e., required as part of the crew, not deadheading) crewmember.

STANDBY SEQUENCE

A standby sequence is defined when a pilot's trip is awarded/assigned. A standby sequence is the period of time starting at the beginning of a standby, and ending at the scheduled departure of the next scheduled flight activity (revenue flight or deadhead), in the trip, as awarded/assigned.

TIME ZONE DIFFERENTIAL (TZD)

The number of hours difference between the time zone in which a duty period begins and the time zone in which it ends.

A. General

1. Flying (Non-Company)

- a. This Agreement contemplates that pilots shall devote their entire professional flying service to the Company, except that nothing in this Agreement shall be construed to prevent a pilot from affiliating with the military service of the United States.
- b. Pilots shall not fly aircraft other than those operated by the Company for hire or remuneration unless authorized by the Vice President, Flight Operations, or his designee.
- c. Except for Company flight operations, a pilot shall not perform flying which would count toward his FAR regulated block hours or duty time limitations. This does not restrict a pilot who is a member of a military guard or reserve organization in the flying of military aircraft.

2. Except as provided in Section 12.B.3.a.iii. and B.3.c.iii. (Airport Standby), and Section 25.M.1.f. (Reserve), a pilot shall be subject to operational limitations during a duty period within a trip. At all other times, a pilot shall be subject to scheduled limitations.

3. Operational Emergency

If the Company's operations are disrupted due to extenuating circumstances not within the control of the Company, including, but not limited to, severe weather, natural disasters, abnormal ATC limitations or significant system disruptions, the Vice President, Flight Operations, or his designee, may declare an operational

Sec. 12.A.3. (continued)

emergency. When an operational emergency is declared, all flight, duty time and rest limitations may be extended/reduced to FAR limits, except as provided in Section 12.D.10. An operational emergency may be declared for a specific sort facility, a region of the system, nation wide or world wide. The Company shall publish an FCIF outlining the reasons for an operational emergency within 72 hours following the declaration thereof. In case of an operational emergency declared under this paragraph, the processes described in Section 12.C.5.b.ii. (domestic) and 12.D.6.c.ii. (international) shall apply.

4. A legal rest period shall not be considered interrupted when the Company:
 - a. provides a wake-up (alert) call to the pilot:
 - i. no earlier than 2 hours prior to showtime for an international duty period; or
 - ii. more than 2 hours prior to showtime as required by Section 12.D.1.g. in situations involving ground transit time exceeding 1 hour; or
 - b. leaves any form of non-verbal communication for a pilot staying at a hotel, e.g., note under the door, phone light; or
 - c. attempts to leave a message by telephone for a pilot at a location other than a hotel; or
 - d. attempts to notify a pilot of a personal emergency.
5. Maximum Landings
 - a. A pilot shall not be scheduled to exceed 3 landings, as part of an operating crew, in a duty period that begins in the critical period. If a pilot is scheduled for 3 landings as described above, his next duty period that begins in the critical period in that trip shall have 2 or fewer landings, unless the pilot had an intervening critical period free from duty.
 - b. A pilot shall not be scheduled to exceed 5 landings, as part of an operating crew, in any duty period.
 - c. A domestic multiple day pairing shall not be scheduled for a cumulative total of more than 12 landings in the critical period except when approved by the SIG.
 - d. The landing limits in this paragraph may be increased by 1 operationally.
6. Operational Trip Return to Base
 - a. Should an operational circumstance arise which requires a flight to return to base (or remain there) with no other intermediate destination (e.g., not block out, return to blocks prior to take-off while at base, air turn-back to base), the trip is not terminated, and CRS has the following options:
 - i. revise the trip to block out in that duty period;
 - ii. revise the trip to block out after a legal rest period at base; or

Sec. 12.A.6.a. (continued)

- iii. remove the pilot, in which case:
 - (a) the pilot shall be compensated the greater of 3 CH, ABH, or duty rig computed from his scheduled showtime until his actual release; and
 - (b) he shall be eligible for substitution, if applicable, for the balance of trip guarantee.
- b. Should an operational emergency be declared (as provided in Section 12.A.3.), due to severe weather, mechanical difficulties, or other extenuating circumstances in a designated sort facility, flight crews may be rescheduled or diverted to their base. Under these circumstances, the pilot's base will be treated as a normal alternate and not as a base. As such, the trip will not terminate, but will continue as if originally transiting the scheduled sort facility (i.e., hub turn outbound or layover in base as if the pilot was on a layover at the originally scheduled sort facility).
7. The Association shall be provided with a bid period report indicating the dates, flights and relevant circumstances in which the Vice President, Flight Operations, or his designee, exercised his authority to operationally extend a pilot beyond the Section 12.C.5. and 12.D.6. operational duty limitations or as provided in Section 12.B.3.b.ii.(c) and Section 12.B.3.d.ii.(c), except for extensions due to an operational emergency declared under Section 12.A.3.
8. If a pilot's trip is extended into time originally scheduled free from duty at base, such extension shall be limited to the following, unless the pilot consents to a longer extension:
 - a. the Company may extend a pilot:
 - i. on a domestic trip up to 48 hours into time previously scheduled free from duty at base; or
 - ii. on an international trip up to 96 hours into time previously scheduled free from duty at base.
 - b. maintenance or weather disruptions particular to the pilot's specific flight shall, but only to that limited extent, provide the Company with the ability to exceed the 48/96 hour limit without the pilot's consent.
9. Fatigue
 - a. A pilot who is excessively tired prior to check-in for a trip in domicile following a legal rest period shall notify CRS immediately and speak to an RCP/ACP or the Duty Officer about his situation. The pilot will be removed from his trip and to the extent he had trip guarantee, the hours shall be eligible for make-up.
 - b. A pilot who becomes excessively tired subsequent to trip check-in shall notify CRS immediately and talk to the Duty Officer about his situation. Depending on the pilot's situation and the Duty Officer's assessment, one of the following alternatives shall be enlisted to address the issue:

Sec. 12.A.9.b. (continued)

- i. the pilot may be given a legal rest period. The pilot's schedule thereafter may also be postponed until after the legal rest period is concluded.
- ii. The pilot's current trip may be revised to include some alternative duty assignment that more ably accommodates the pilot's situation.
- iii. The pilot may be removed from his trip and placed in sick leave status as provided in Section 14.B.5.; the pilot shall automatically be returned from sick leave at the conclusion of his trip.
- c. Deadheads that are necessary in any of the above situations shall be accomplished in accordance with the agreement.
- d. In the event there are any questions about the pilot's fatigue call, the flight manager may contact the pilot to discuss the issue(s) further.

B. Duty Period Limitations

1. Duty periods begin and terminate as follows:

- a. When the first activity in a duty period is flight deck duty, that duty period shall begin with a showtime 1 hour before the scheduled block-out or actual check-in time, whichever is later. Such duty period may begin with a showtime more than 1 hour prior to scheduled block-out if the time greater than 1 hour is designated as a standby period. Commencement of a duty period shall not be delayed if block-out is rescheduled after scheduled showtime or actual check-in, whichever is later. If a trip is designated for a potential early pull from a pilot's base, the showtime will be revised accordingly.
Example: The scheduled block-out of 0900 is moved up to 0830. Showtime automatically moves up from 0800 to 0730, and this is not standby time. On the other hand, if the scheduled block-out remains at 0900 and the Company wants the pilot to show early at 0730, then the period between 0730 and 0800 is a standby period.
- b. When the first activity in a duty period is an aircraft deadhead, that duty period shall begin with a showtime at least 1 hour before the scheduled departure. Pilots may check in via VIPS in lieu of checking in at the FedEx operations area. The showtime for an intercontinental commercial deadhead shall be at least 1:30 hours prior to scheduled block-out.
- c. When the first activity in a duty period is a surface deadhead, that duty period shall begin at the scheduled or rescheduled time of pick up.
- d. When a deadhead precedes flight deck duty in the same duty period, the following shall apply:
 - i. If the deadhead is on a scheduled passenger air carrier, at least 1:30 (domestic)/2:00 (international) shall be scheduled between deadhead arrival and FedEx revenue flight block-out.

SECTION 19

INVESTIGATION AND DISCIPLINE

- A. Preliminary Matters
 - 1. Discipline is defined as Letters of Warning, Suspensions, Terminations and any other action taken by flight management resulting in a loss of pay or benefits to which the pilot would otherwise be entitled.
 - 2. Counseling sessions and Advisory Letters do not constitute disciplinary action and may not be grieved. An Advisory letter is a non-disciplinary form letter issued to a pilot to communicate policy, procedures or work rules, which if violated in the future, could lead to discipline.
 - 3. Standard for Discipline
 - a. The discipline standard for non-probationary pilots shall be "just cause."
 - b. Probationary pilots shall be considered to be employed on an "at will" basis for purposes of administering and reviewing discipline.
- B. Documentation
 - 1. The Company shall provide a pilot with a copy of any written record of disciplinary action or advisory letter within 10 days after that record is placed in his personnel file.
 - 2. A pilot shall have 60 days from the date on which the written record is received or reasonably should have been received, to place a written response concerning that action in his personnel file.
 - 3. A pilot may examine his personnel file on any business day during normal business hours with adequate notice to his Chief Pilot.
 - 4. An irregularity report or documents referring to an irregularity report (except for Advisory or Disciplinary Letters) shall not be placed in a pilot's personnel file.
- C. Consideration of Prior Disciplinary Action

An Advisory Letter or a Disciplinary Letter (e.g., a letter of warning, suspension, or termination) may be used to establish that a pilot was given notice of a policy, procedure or work rule, and/or that discipline could result from future violations of such policy, procedure or work rule, no matter the date of issuance of such Letter.

An Advisory or Disciplinary Letter shall not serve as a basis for discipline after a period of 1 year during which the pilot receives no further Advisory or Disciplinary Letters. However, an Advisory or Disciplinary Letter may be considered in assessing future discipline involving similar misconduct for up to 2 years after the receipt of the most recent Advisory or Disciplinary Letter.
- D. Investigation
 - 1. The Company shall investigate and understand a pilot's performance and conduct before taking any disciplinary action against that pilot. Part of a proper investigation may include management talking or meeting

Sec. 19.D.1. (continued)

with a pilot or group of pilots to determine the facts and circumstances surrounding a situation. Depending on the circumstances of the particular case, some or all of the necessary fact gathering may occur prior to or without the need for a hearing of any type.

- 2. A pilot may request Association representation at a Company investigatory interview/meeting. When a pilot makes such a request, the Company shall either:
 - a. afford the pilot the opportunity to secure Association representation before initiating or continuing the interview/meeting;
 - b. refrain from or discontinue the interview/meeting immediately; or
 - c. offer the pilot the choice of either continuing the interview/meeting without Association representation or rescheduling the interview/meeting within a reasonable period of time, to allow the pilot the opportunity to arrange for Association representation.
- 3. Under no circumstances shall flight management require a pilot to submit to a psychological or psychiatric examination. However, a pilot may be required to undergo a psychological/psychiatric examination if directed by the Company's aeromedical advisors, in accordance with Section 15.

E. Discipline

A pilot shall not be disciplined without first being afforded the opportunity for a hearing.

1. Hearing

a. Notice of Hearing

- i. The Company shall send the pilot and the Association a Notice of Hearing setting forth the date, time and place of the hearing, together with a statement of facts and specific subject matter(s) to be addressed. The Notice of Hearing shall be sent to the pilot and Association a reasonable amount of time prior to the hearing considering the time needed to prepare as well as the interest in concluding the matter without undue delay.

Intent: The following example applies to Section 19.E.1.

Example:

The Company believes a pilot may have falsified his employment materials by significantly overstating his flight hours and by indicating that he had never received any discipline from a former employer. The following notice would satisfy this paragraph: "You are directed to attend a hearing on April 2 at 10:00 in my office. It has been alleged that you may have falsified your employment materials. If true, these allegations could warrant discipline."

- ii. Accompanying the Notice of Hearing, the Company shall attach the relevant document(s), excluding witness statements and notes, which prompted the flight manager to send the Notice of Hearing.

Sec. 19.E.1. (continued)

- b. The hearing shall be conducted by a Regional Chief Pilot or a Chief Pilot. A written decision shall be issued within 15 days following the close of the hearing. If the decision is to discipline the pilot, the decision shall state the discipline and specific grounds for that discipline.
 - c. After an initial discussion in which the Company may ask questions and receive answers from the pilot, if requested by the pilot or the Association, the Company shall produce documentary information (including written witness statements and information in electronic format), known and in its possession, but excluding notes except to the extent that the notes contain information from fact or expert witnesses, and names of witnesses excluding confidential witnesses.
 - i. Disputes whether a witness shall be considered confidential shall be resolved by referring the issue to the arbitrator hearing the underlying case, or an arbitrator selected from the panel of arbitrators by mutual agreement. The parties shall present the issue to the arbitrator so that the System Board hearing on the underlying dispute is not delayed.
 - ii. Information provided along with the Notice of Hearing, as provided in Section 19.E.1.a.ii., need not be reproduced under this paragraph.
 - d. The pilot shall be afforded the opportunity to respond to information described in Section 19.E.1.c. (above) before a decision is rendered. If necessary, the hearing shall be delayed or continued in order to provide the pilot with adequate time to prepare and/or respond. The Company may continue to investigate the circumstances of a particular case and to gather additional documentation after the close of the hearing.
 - e. If a pilot is unavailable due to his arrest and detainment by government officials, the Company shall notify the Association, and shall take reasonable steps to notify the pilot of the hearing and to accommodate his participation to the extent permitted under the circumstances. After those prerequisites have been met, the pilot's unavailability shall not prevent the Company from conducting a hearing regarding the pilot.
2. Internal Appeal
- a. If the decision is to terminate the pilot, the case shall automatically be appealed to the Vice President, Flight Operations. The appeal hearing shall be conducted by the Vice President, or his designee, within 15 days after the decision to terminate the pilot.
 - b. If the decision imposes discipline less than termination, the pilot or the Association may appeal the decision to the System Chief Pilot. Appeals shall be in writing and shall be filed within 15 days after the pilot receives notice of the decision. The appeal hearing shall be conducted by the System Chief Pilot, or his designee, within 15 days after his receipt of the appeal.

Sec. 19.E.2. (continued)

- c. The hearing officer for the appeal shall be different from the hearing officer for the initial hearing.
 - d. After an initial discussion in which the Company may ask questions and receive answers from the pilot, if requested by the pilot or the Association, the Company shall produce documentary information (including written witness statements and information in electronic format but excluding notes maintained by management personnel) gathered since the close of the initial hearing.
 - e. [Reserved]
 - f. The hearing officer shall issue a written decision within 15 days following the close of the hearing. If the decision is to discipline the pilot, the decision shall state the discipline and specific grounds for that discipline. If the hearing officer fails to issue a written decision in a timely manner, the pilot and/or Association shall not be deemed to have waived any arguments to the System Board regarding any claim for relief based on the untimely decision. Nothing in this paragraph diminishes the Company's obligation to issue a timely decision.
3. The Association has the right to have a representative present at any disciplinary hearing. The Association shall be given notice prior to any disciplinary hearing in accordance with Section 19.F.5.
4. Appeal To System Board of Adjustment
If the pilot disagrees with the decision at the internal appeal level, the pilot may appeal the decision, through the Association, to the System Board of Adjustment as described in Section 21. The appeal shall be in writing and shall be made within 15 days following the date on which the pilot received notice of the decision. Copies of the appeal shall be sent to the Association, the Vice President, Flight Operations and the designated official in the Company's Labor Relations Department.

F. General

- 1. If, as a result of any hearing or appeal, the original discipline imposed on a pilot is reduced or rescinded, the pilot's pay, benefits, seniority and longevity shall be restored consistent with the hearing officer's decision, and the pilot's file shall reflect such resolution.
- 2. Time limits and hearing/appeal dates may be modified, orally or in writing, by agreement of the parties. Oral agreements shall be confirmed in writing as soon as practicable. Requests for modifications shall not be unreasonably denied.
- 3. For the purpose of computing the time limits stated herein, an appeal shall be deemed "filed," and a decision shall be deemed "issued," on the day in which the appeal or decision is postmarked, or if Federal Express is used, on the day in which the appeal or decision is submitted to the Company for shipment, or if a facsimile machine or electronic mail is used to transmit the appeal or decision, on the day in which the appeal or decision is transmitted by such means.

Sec. 19.F. (continued)

4. For the purpose of Section 19, the term "day" means business day. However, if the last day of a time limit falls on a Corporate or ALPA Holiday (currently including New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Thanksgiving Day and the following Friday, Christmas, or the day on which such holiday is observed by the Company or ALPA), the time limit shall be extended through the first business day following the holiday. The parties shall advise each other expeditiously of any changes to ALPA or Corporate holidays.
5. Delivery of all notices, Advisory Letters, Disciplinary Letters, decisions and appeals pursuant to Section 19 shall be made in person, by Federal Express Overnight Letter, by certified mail, return receipt requested, Company electronic mail, or by other methods which provide verification of receipt. Such correspondence shall be made to the pilot's Company electronic mail address and to the pilot's permanent, primary address. Such correspondence shall also be sent to the MEC Representation Department and the MEC Grievance Committee Chairman. A pilot shall be deemed to have received notice upon the earlier of the pilot's actual receipt of notice or 20 days after transmission of the electronic mail message.
6. Every participant in disciplinary proceedings shall be free to discharge his duty without fear of retaliation by the Association or the Company. No participant shall be coerced or harassed by the Association or the Company.
7. Copies of recordings or other transcriptions made at any meeting or hearing conducted pursuant to this Section shall be provided to all parties, upon request, without undue delay, after it has been finalized. Failure to respond to a request without undue delay shall render that recording or transcript inadmissible until the requesting party has had sufficient time to review the recording or transcript.
8. Grievants and a reasonable number of witnesses and Association representatives involved in the resolution of disputes pursuant to Section 19 may be released from Company duty, if necessary, as provided in Section 18 of this Agreement. Expenses and flight pay loss, if any, for line pilot witnesses called by any party, shall be borne by the party who called the witness or otherwise incurred the expense.
9. Letter of Warning In Lieu of Hearing
 - a. Absent the Association's prior assent to the waiver of a preliminary hearing, the Company shall send the Disciplinary Letter, including the hearing waiver language, to the pilot and the Association without first obtaining the pilot's signature.
 - b. The letter will instruct the pilot to indicate his intentions within 7 business days, either by signing and returning the letter to his flight manager (measured from postmark/drop-off), or by communicating to flight management his desire not to waive the hearing.

Sec. 19.F.9. (continued)

- c. If the pilot signs the letter and there is no correspondence from the Association within the same 7 day period indicating the Association's disagreement, no further action is necessary, and the discipline will be fully precedential in accordance with Section 19.C. absent a specific agreement to the contrary.
 - d. If the pilot declines to sign the hearing waiver, then the Company may elect to conduct a Section 19.E hearing on the matter.
 - e. If the pilot signed the hearing waiver, but the Association timely indicates its disagreement in writing by overnight delivery, facsimile, or electronic mail, the Company has two choices:
 - i. The Company may accept the hearing waiver, in which case the discipline will have precedential effect only with regard to the pilot to whom the discipline was issued; or
 - ii. The Company may conduct a preliminary hearing under Section 19.E, in which case, any discipline, and the precedential effect thereof, would be determined in accordance with Section 19.C.
 - f. In any case, if the Company offers discipline in the context of a hearing waiver, but ultimately holds a preliminary hearing on the matter (whether under the process described in paragraph d. or e., above), the offer of discipline and the hearing waiver, and any discussions pertaining to that offer, shall be considered settlement discussions and shall carry the same evidentiary protections that normally accompany such discussions.
10. When mutually agreeable, the Company may conduct disciplinary hearings pursuant to Section 19.E. by telephonic and/or video conference.
11. Removal From Service
- a. If a pilot is removed from flying during the disciplinary process set forth in this Section, prior to any disciplinary action being taken, his access to Company communications systems (e.g., e-mail, VIPS, etc.) shall not be restricted or eliminated, and he shall continue to accrue all pay and benefits (e.g., seniority, longevity, retirement, vacation, sick leave), as if he had not been held out of service.
 - b. During the disciplinary process set forth in this Section, if (i) a pilot's use of Company jumpseats has been restricted by the Company and (ii) the pilot does not have a residence within 100 nautical miles of the location of the disciplinary hearing, the Company shall provide him with travel to and from the disciplinary hearing and, if necessary, 1 night's stay in a hotel room in the location of the disciplinary hearing.
 - c. After a pilot has been withheld from service with pay for more than 2 full bid periods, he is not eligible to bid a flying line. Instead, he must bid a pay-only line and shall be paid the BLG/RLG for his awarded pay-only line. The pilot may elect that he instead be paid the average of his awarded lines' credit hour values, plus carryover, during the previous 12 bid periods.

Sec. 19.F. (continued)

12. Nothing in this Section shall be construed so as to waive or limit any privilege, provided under applicable law, that would protect information from disclosure, including the attorney-client privilege.

“RX 2”

Flight Operations Manual

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2 General Policies

2.01 General

(FAR 121.135, OpSpec A005)

FedEx Express flight operations are conducted in compliance with the applicable FARs, Operations Specifications, Certificates, and the policies and procedures established 2.15 in this manual. There shall be no deviations from applicable FARs or FAA Operations Specifications unless an exemption or deviation is approved by the FAA (OpSpec A005). However, no policy or regulation shall be interpreted as a substitute for the exercise of sound judgment.

Each required manual must not be contrary to any applicable Federal regulation and, in the case of a Flag or Supplemental Operation, any applicable foreign regulation, or the operations specifications or operating certificate (FAR 121.135(a)(4)).

Note:

European Aviation Safety Agency (EASA) is the regulatory agency that is tasked with governing certification and licensing of pilots and air carriers in Europe. Therefore, FedEx Express is not to be considered a EU-OPS operator when utilizing the route manual. However, unless otherwise noted, flight operations in foreign regions/countries require compliance with the applicable rules and regulations of that specific region/country.

2.02 Common Language

ISARP FLT 1.7.2

English is the designated language to be used by all flight crewmembers for communication:

- On the flight deck during line operations.
- Between flight crew and other company employees during line operations.
- During flight crew training and evaluation activities.

Manuals pertaining to Flight Crew duties are published in English.

2.03 Safety And Crewmember Responsibility

(FAR 121.135)

Safety is the most important consideration in all FedEx operations. The operating philosophy at FedEx also supports the conclusion that safety is an essential ingredient to commercial success. In the course of flight operations, several factors must be given due consideration by all flight crewmembers. The most important include Safety, Legality, and Reliability.

The following items describe the key crewmember responsibilities as they relate to the primary responsibility – Safety:

- During times when various priorities of safety, legality, and reliability appear to be in conflict, it is the responsibility of all crewmembers in general, and the Captain in particular, to ensure that safety remains the primary focus.
- Any crewmember who observes a non-standard procedure that has not been explained shall immediately communicate this deviation to the other crewmembers.
- Any uncertainty regarding the safety of an operation is to be questioned and satisfactorily resolved before that operation is conducted or continued.
- If a crewmember becomes aware of a significant operational conflict which causes concern, he must inform the Captain even if it means disrupting his crew rest.
- Whenever there are warning signs that Situational Awareness is inadequate or at risk, they must be communicated immediately so that corrective action may be taken.

- ~~Every crewmember must address and resolve any doubts or confusion regarding what is happening; what a particular crewmember is to do, how that crewmember is to do it, or who is doing what.~~

2.04 Safety Management System

The FedEx Express Safety Management System has been developed to maintain a safe operation through the Identification of hazards, assessment and mitigation of risk, and promotion of safety awareness. Safety Risk Management (SRM) and Safety Assurance are at the heart of the FedEx Safety Management system. SRM describes the process of identifying hazards, analyzing and assessing risks, making risk control decisions, and then implementing those risk control measures in the system operation. Safety Assurance focuses on the performance of the SRM process by monitoring and measuring the effectiveness of the risk control measures from the SRM. The purpose of Safety Assurance is to gain confidence in the performance and effectiveness of implemented risk controls, as well as to identify new hazards in the operational environment.

- The FedEx Express president and chief executive officer is the SMS accountable executive and is responsible for the Corporation's safety program and for setting forth the Corporation safety philosophy.

- The FedEx Express president and CEO has the ultimate responsibility and authority to develop and implement the FedEx SMS, and has delegated his authority as the FedEx accountable executive to the Air Operations executive vice president (EVP), who ensures that FedEx develops and implements an integrated, comprehensive SMS throughout the operation.
- The Air Ops EVP has authority for the implementation, enforcement, and effectiveness of the SMS. The EVP has the final authority for the safety process within FedEx Express.
- The Air Ops Safety and Airworthiness Vice President is tasked with managing the day-to-day operations of the Safety and Airworthiness programs within FedEx Express.

The SMS program encompasses four main areas:

- **Policy:** The defined policies (senior management commitment), procedures, documentation and organizational structures needed to accomplish the goal of an SMS.
- **Safety Risk Management (SRM):** The process of identifying hazards, analyzing and assessing risks, making risk control decisions, and then implementing those risk control measures in the system operation.
- **Safety Assurance:** The focus on performance of the SRM process by monitoring and measuring the performance and effectiveness of the risk control measures from the SRM.
- **Safety Promotion (SP):** Training, competency, communication and promoting of a 'just culture' within air operations.

The Safety Management System Manual provides an overview of FedEx Safety Management under the auspices of 14 CFR Part 5.

2.05 Fatigue

It is the crewmember's responsibility to be properly rested for each phase of the trip. However, if circumstances prevent this, no FedEx crewmember should feel pressured to fly when not properly rested. A crewmember who is fatigued should immediately notify Crew Scheduling if unable to complete a trip.

2.07 Security

The security of FedEx equipment and facilities can best be aided by alert and security-conscious employees. In the absence of other responsible Company personnel, the flight crew is responsible for aircraft security. Any crewmember finding a stranger near or on board a Company aircraft or other equipment shall courteously request identification and determine if the person has the right and requirement to be there. Crewmembers are required to pay particular attention to preflight inspections when the aircraft has been parked on a public airport ramp unattended by FedEx personnel. This is necessary to determine that unauthorized persons have not entered or tampered with the aircraft.

2.09 Management Personnel

(FAR 119.65, FAR 119.67, OpSpec A006)

The following personnel are assigned to management positions required by FAR 119.65 (a). Business offices are located at:

3131 Democrat Rd., Memphis, TN 38118.

These personnel shall meet the qualification requirements of FAR 119.65(d) and 119.67.

The certificate holder shall notify the CHDO within 10 days of any change in personnel or any vacancy in any position listed below.

Director of Operations - Paul E. Cassel

Duties and responsibilities:

Plan, organize, and direct daily flight operations and ensure safe, secure and efficient use of aircraft and resources; ensure compliance with International and Federal Aviation Regulations; formulate policy and procedures for the Flight Department; research, develop and recommend procedures for improving system performance and enhancing safety.

Authority:

Investigate disciplinary action for violations of Company and/or Federal Aviation Regulations; promote the welfare and morale of flight crewmembers. This authority may be delegated as operational needs dictate.

Chief Pilot - James L. Bowman

Duties and responsibilities:

~~Direct line flying operations, including the operational management of line crewmembers; administer procedures and practices which ensure safe, secure and efficient use of aircraft and resources; ensure that utilization of all resources are in compliance with International and Federal Aviation Regulations and corporate objectives.~~

Authority:

Perform as the direct representative of the Sr. Vice President, Flight Operations and act with the authority of the Director of Operations when assigned; direct the activities of the System Chief Pilot and Regional Directors of Operations APAC/EMEA in the overall management of Flight Operations.

System Chief Pilot - Robert E. Fisher

System Chief Pilot does not hold a Part 119 designation. The System Chief Pilot is the direct manager of FedEx Fleet Captains and is the functional leader of FedEx crewmembers globally.

Director of Safety - Edward A. Lyons

Duties and responsibilities:

Develop, design, direct the FedEx Flight Safety program for the Air Operations and other associated Operating Divisions; act as FedEx foreign and domestic liaison for aviation related matters; advise senior executive and legal management of all company and governmental aviation related issues, compliance and policies; ensure timely completion of the Self-Inspection program.

Authority:

The Director of Safety (DOS) is responsible for the conduct of aircraft accident/incident investigations involving FedEx Express assets. The DOS selects a Party Coordinator appropriate to the level of response of any National Transportation Safety Board (NTSB) accident investigation or a Lead Technical Advisor to any ICAO Annex 13 investigation.

2.10 Flight Operations Duty Officer

The Flight Operations Duty Officer is designated by the Director of Flight Operations, to act in his behalf to ensure the safe, legal, reliable and cost effective operation of the global air network.

The Flight Operations Duty Officer is qualified as PIC in one or more aircraft currently used in line operations.

The Flight Operations Duty Officer position is in effect 24 hours a day during line operations.

Some of the duties and responsibilities of the Flight Operations Duty Officer are:

- Acts as the operational control representative of the Director of Operations after takeoff when the authorization specified for the Release cannot or will not be met due to an abnormal condition. For the purpose of this section, diversion to, or change of the listed dispatch alternate for below minimums weather or delays at destination is not considered abnormal.
- Function as an asset while interpreting issues between Flight Crewmembers and other departments or groups.
- Maintain operational contact with managers in GOC, Crew Scheduling, Flight Safety, and FAA Air Traffic Control personnel.
- Communicates any problems relating to the safety of operations to the appropriate system.
- Exercises authority for declaring an Operational Emergency.

2.11 Accident Prevention Program

The accident prevention program is intended to minimize the accident threat to FedEx employees and aircraft -- on the ground and in flight. This program takes an integrated view of all functions to provide people with a safe and productive environment for the accomplishment of required tasks. It provides for the reporting of unsafe conditions and practices that could result in personal injury or equipment damage. It requires the thorough investigation and resolution of reported or observed conditions that are considered to be a threat to FedEx personnel or property.

Accident prevention involves every facet of the FedEx worldwide flight operation and every level of FedEx management. Crewmembers should be observant of every phase of FedEx operations and if they believe unsafe or emergency conditions could arise for which there are no established procedures, they are encouraged to submit a Flight Safety Report to the Managing Director, Flight Safety.

Responsibilities assigned herein provide for rapid communication and resolution of safety matters. The Managing Director, Flight Safety will:

- Act as the focal point for flight safety surveys, audits, accident prevention matters, and accident/incident reporting and investigation.
- Coordinate directly with other departments to develop recommendations for interdepartmental safety matters.
- Investigate accidents and incidents involving Flight Operations assets and develop recommendations for elimination of identified hazards.
- Maintain liaison with outside agencies such as FAA, NTSB, and NASA concerning accident prevention and investigation, airport facilities, etc.
- Maintain an active safety education program, compile accident and incident data to determine trends requiring preventive actions and provide feedback within Flight Operations on accident and incident investigations.
- Conduct flight safety surveys and audits to determine accident potential involving Flight Operations personnel, procedures, and equipment and make appropriate recommendations to the Director of Operations.

2.13 Flight Safety Report

FedEx has established a program that provides the employee with a Flight Safety Report (FSR) form for the description of observed unsafe occurrences or conditions, real or potential and for making safety improvement suggestions. An employee submits an FSR to the Managing Director, Flight Safety, for investigation, comment, and action. An employee may submit a FSR with identification or anonymously. The program is designed to encourage the frank and open exchange of information as vital in identifying hazardous situations, determining causes of mishaps, and developing corrective actions. To ensure that the program meets its objectives, each FSR submitted shall be treated as an internal FedEx document. No FSR shall be used by FedEx management as the basis for disciplinary action against or as evidence in determining misconduct of an employee.

The FSR form is also used for the initial reporting of those events listed in the Emergency Procedures Chapter that the FAA or NTSB requires to be reported. The information contained in these reports will be used to prepare the documents required by the FAA or NTSB.

Upon receipt of a FSR, the Managing Director, Flight Safety initiates any additional reporting of the occurrence required by the FAA, NTSB or this manual. If the occurrence is validated as a safety matter, it will be investigated by Flight Safety or submitted to the division or office responsible for correcting the condition.

Departments receiving FSR will initiate corrective action and will forward a reply to Flight Safety.

2.14 Aviation Safety Action Program (ASAP)

FedEx participates in an ASAP agreement with Air Line Pilots Association (ALPA) and the FAA. While ASAP participation by a crewmember is voluntary, an ASAP submission will satisfy any FSR required under 2.13 and 2.15.

Sole Source Report – only the crew knows about the event being reported. Non Sole Source Report – someone outside the crew (i.e., ATC) knows about the event. There are no time limits to submit a Sole Source Report. In the case of a Non Sole Source Report, for the ASAP report to be accepted it must be submitted within 24 hours (domestic trips) or 48 hours (international trips) of the end of the duty period that the event happened. US Domestic, and some international ATC facilities have quality assurance auditors that routinely review radar tracks and may initiate enforcement action even if the controller advises you that there was no problem.

If unable to connect to the Internet to submit an ASAP report, call 901-224-5203 or email PilotASAP@fedex.com Link: mail to: PilotASAP@fedex.com and leave a message. The message should include the submitters name, employee number, flight number/date and a brief explanation of the event. Note the time and date of the phone call or email, an electronic report must be submitted within 3 days of the phone call.

Further details describing the ASAP Report Process Chart, Advisory Circular, MOU, applicable section of the CBA, FAQs, and link to the online submission are available under the pilot.fedex.com website on the Safety home page.

2.15 Mandatory Reports

It is the responsibility of the Pilot in Command to immediately notify the company of any event that causes significant damage, injury or negative public exposure, as well as any of the events in the table next page. The table shows the reporting requirements for each event.

In-flight, if the event is a significant threat to safety, contact GOC when time and work load permit. Otherwise, contact the Duty Officer after the flight. The Duty Officer desk is manned 24/7 and is considered the preferred method of notification for an event that is a significant threat to safety. The initial notification of an event to the Duty Officer will not serve as a basis for the discipline or discharge of a pilot nor will that information be shared with individuals outside of Fit Safety and Fit Stds.

Mandatory Reports and AML Entries Table

EVENT	FOM Ref.	Duty Officer	AML	FSR	Security Report
Abnormal engine shutdown	9.15 9.37	X	X	X	
Actual/Suspected ATC or regulatory agency violation	2.79	X		X	
ADS-B Problem (safety related)				X	
Aircraft structural damage or tail strike/Aircraft damage on the ground with crew on board	9.35 9.37	X	X	X	
Aircraft weight and balance or loading deficiency, e.g., receipt of FINAL W/B prior to loading completion.				X	
Aircraft-to-ground communication failure			X	X	
Altitude deviation		X		X	
AML/ARD discrepancies			X	X	
Any observed hazardous condition	9.13			X	
Any TSA level 1-4 threat encountered	13.25				X
Any takeoff that is rejected, discontinued, or cancelled by the flight crew after the aircraft has entered the runway. (1)				X	
Bird/Wildlife strike (2)			X		
CPDLC Problem (safety related)				X	
Dangerous goods discrepancies	10.13			X	
Declared emergency/priority handling (e.g., emergency fuel or minimum fuel)	3.47 9.07	X		X	
Emergency evacuation	9.37	X	X	X	
Exercise of Captain's emergency authority	9.03	X		X	
Extended operation (ETOPS) issue				X	
Failure of emergency equipment to operate normally			X	X	

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William E. Green, III, M.D.
Board Certified – General Psychiatry
Addiction Psychiatry and Addiction Medicine
5115 Forest Drive, Suite B
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803-792-1177

MARK ESTABROOK
Date of Service: 10/23/13

INITIAL FAA PSYCHIATRIC EVALUATION

IDENTIFYING INFORMATION: Captain Mark Estabrook is a 57-year-old divorced white male employed by Federal Express who is based in Memphis, Tennessee and lives in Austin, Texas. He is referred by Dr. Bettes at Harvey Watt & Company in Atlanta for an independent "fitness for duty" evaluation after some conflicts arose between himself and management at Federal Express. I also have in my possession a psychiatric evaluation done by Dr. George Glass on September 16, 2013, a note from Dr. Nugent on August 23 as well as a longer report on August 22, 2013, as well as a letter done by Dr. Stephen Leonard on August 24, 2013. There is also a referral letter from Harvey Watt & Company discussing the fact that this is an independent fitness for duty evaluation. Captain Estabrook is aware that this report will be provided to Dr. Bettes and eventually could be provided to other sources, including both Federal Express as well as the Federal Aviation Administration. He has signed releases authorizing me to release the reports to Dr. Bettes as well as copies to Dr. Nugent and Dr. Leonard.

HISTORY OF PRESENT ILLNESS: Captain Estabrook indicates that the reason he was referred is apparently related to an e-mail that he sent to his chief pilot in August 2013. He indicates that he was the original chairman for the ALPA Security Committee at Federal Express, that was formed shortly after the terrorism attacks of 2001. He served as the chairman of this security committee for the first two years. He apparently expressed some concerns to Federal Express back then about the fact that they published both package information as well as aircraft information on the internet, that allowed packages to be tracked. He was concerned about this information possibly being utilized for setting timing devices on explosives in a package. He initially expressed his concerns back in 2002 and was subsequently told that they were not going to change this due to "marketing issues." Subsequently, he indicates that he later discovered during the summer of 2013 that apparently terrorists had successfully sent "dummy packages" on both Federal Express as well as UPS; and they later tried to actually send two explosive packages on Federal Express and UPS. These were fortunately discovered by Saudi Arabian security officials. In early August of this year, he again sent an e-mail to his chief pilot expressing concern about "security issues" and that he was requesting a meeting with senior management in order to review his concerns. Shortly thereafter, he was notified by his chief pilot that he was being "grounded" and there was a meeting scheduled between himself as well as a Federal Express labor relations attorney, the vice president of security at Federal Express, and his direct Airbus supervisor. He initially went into the meeting thinking that they were going to discuss his security issues. After raising his various concerns about security, he subsequently discovered that he was being "bushwhacked" and that Federal Express was raising

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concerns about him and his "psychiatric issues". He even reported that he was asked if he had had a "TIA." Apparently, a pilot had been publishing information on an internet web site under the pseudonym "Mayday Mark", and he was subsequently accused of being this pilot. Apparently, this pilot had expressed concerns and had also admitted to failing to notify the FAA of a prior TIA, which would be illegal. He subsequently was referred for an evaluation with Dr. Glass and reference is made to Dr. Glass's report for further details. He has since been referred to me for a second psychiatric opinion to determine whether he has any aeromedically significant psychiatric issues which would interfere with his ability to safely operate aircraft.

We discussed the issues that led up to his e-mail and he genuinely has felt concern that the public information on the internet that allowed tracking of packages as well as flights could possibly be used as a way to bypass security and possibly set timing devices on explosive packages. His initial intent was to raise this again as a potential security issue and he feels that management has turned this around into a personal attack on him. He also wonders if this may be related to the fact that apparently he had a situation occur in April of this year where he was in Texas and wound up reporting to flight operations that he could not take off from Amarillo due to heavy thunderstorms. He reported this to flight operations and subsequently it was recorded as a "no-show." This was in spite of the fact that he and his crew were in the hotel ready to go to the airport as soon as the weather became safe. Apparently, the company duty officer filed a complaint about him and Mark subsequently filed a report as well as a federal "whistle-blower" complaint with the FAA. This led to the complaint by the company ultimately being dropped and disciplinary action was withdrawn. He has always been active in unionization and that this has brought him undue attention by management over the years. He has been employed at Federal Express for approximately 23 years and notes that when he first joined Federal Express, he actually published one of the first newsletters for pilots. At that time, he recommended formation of an independent union and eventually Federal Express did form an independent union, which later changed to ALPA. He feels as if he was subsequently "labeled" as problematic due to his activity in the union as well as with management. From his perspective, he also feels as if several other events that are documented in Dr. Glass's report have led to him being "singled out" by management. He feels that he was legitimately "pointing out a concern" related to security issues and was raising this with the chief pilot in order to again look at ways to improve airline safety. He indicates that this was not done as an effort to "cause problems."

In terms of his alcohol use, Captain Estabrook notes that he does enjoy draft beer and will drink alcohol on average around twice a week. Usually he will drink draft beer and notes that he will typically drink between one and two, as well as occasionally a maximum of three beers in a day. He notes that he is always very careful about driving after consuming alcohol. He has never been arrested for public intoxication or driving under the influence. He also denies ever having

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any tolerance changes or blackouts and, as far as he is aware, no one has ever expressed concern about his alcohol use. His use of alcohol has always remained at about this level and he notes that he has never felt concern about his alcohol use. In terms of other substances, he denies ever trying any drugs and specifically denies cannabis, hallucinogens, sedative hypnotics, opiates, inhalants, cocaine, or amphetamines. He has never used intravenous drugs and has never felt it necessary to cut back on his alcohol use.

PAST PSYCHIATRIC HISTORY: Captain Estabrook has never been treated psychiatrically or had any counseling, other than several episodes of marital counseling before his eventual divorce. He has never contemplated or attempted suicide and also has never received any treatment for any psychiatric disorders. He also has never been treated for alcoholism or other substance use issues.

PAST MEDICAL HISTORY: Mark indicates that he is in generally good health. The only medications he takes are a baby aspirin as well as fish oil each day. He also notes that he was found to have low testosterone levels and he takes testosterone injections twice a month. He notes that since starting on them his energy level, as well as his libido, have improved modestly. The only other medical issue he has had is apparently a slipped disc at the L4-L5 level that twice has led to hospitalization. He has not had surgery and has tried to avoid this. He did apparently have epidural steroids with a good response on the second event. Other than this, he has had no major medical issues. He does struggle with obesity and notes that he is not very good about regular exercise. He denies any known drug allergies.

FAMILY PSYCHIATRIC HISTORY: The patient notes that his maternal grandmother apparently struggled with alcoholism and his oldest brother also struggled with both alcohol and drug issues, before eventually passing away from an overdose. He is unaware of any psychiatric disorders, although he wonders if his older brother may have had some ongoing psychiatric issues that led into the alcohol and drug use. As far as he is aware, no one has ever been treated psychiatrically or attempted suicide in his family.

SOCIAL AND DEVELOPMENTAL HISTORY: Captain Estabrook indicates that he was born in Oklahoma and moved in his early childhood to Irving, Texas. He grew up in Irving, Texas and apparently did very well there in school. In general, he made A's with occasional B's, although he notes that after he got later into high school and discovered "girls," his grades declined somewhat. After graduating from high school, he attended the University of Texas in Austin and majored in radio, film and television production. He has always been extremely interested in photography and is a very active photographer. He did fairly well in college and eventually graduated with a four-year degree. While he was in college, he started taking flying lessons and actually completed all of his ratings except the ATP within the first several years after graduation. He then joined the Air Force and ultimately was in the Air Force for around seven and one-half years, and received an honorable discharge. While in the Air Force, he

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primarily flew T-33 jets, although towards the latter part of his career he flew as a pilot on the AWACS surveillance aircraft. After being discharged from the Air Force, he worked briefly at US Airways for around six months before being offered a position at Federal Express. He has been at Federal Express for 24 years. He has well over 10,000 flight hours and has never had any major violations or significant events.

He was the middle child of three boys. Apparently, his older brother eventually developed alcohol and drug problems during his teens and ultimately overdosed from drugs. He notes that when he was growing up he remembered seeing all of the issues with his older brother and this "scared" him about alcohol and drugs. This was part of why he never did try any drugs. He and his younger brother are very close and his younger brother has worked in various fields over the years. He also was close with both his mother and his father. His father apparently died unexpectedly at age 48 from a heart attack. His mother is still alive in her early 80s, although she suffers from significant medical issues. He was never subjected to any physical or sexual abuse. Apparently, part of his interest in aviation came from the fact that his father was a long-term pilot at American Airlines before he passed away. Captain Estabrook met his wife and they dated for a while before eventually marrying. They were married for a total of 23 years before ultimately divorcing. He notes that the divorce was primarily related to "personality issues," and indicates that his wife worked as a hospital dietician and apparently may have had some extramarital affairs later in their marriage. They divorced approximately three years ago after several years of separation. He does note that the divorce was fairly contentious. He has a 26-year-old daughter and a 23-year-old daughter from this marriage and remains close to both of them. Since his divorce, he has dated several different women on a casual basis, but notes that he is still somewhat "gun shy" in terms of relationships. He does have a girl that he has been dating more seriously over the past four months named Anna, but they have not made any long-term commitments.

During his free time, he enjoys photography and is very active in photography. He has never been arrested or had any legal issues.

MENTAL STATUS EXAMINATION: The patient is an early middle-aged white male of medium height who was clearly overweight. Dress was appropriate, specifically dress slacks and a dress shirt. He was alert and oriented times four, and cooperative with the exam. Eye contact was well maintained. Speech was fluent with intact language skills. No abnormal movements or behaviors were noted. His mood was euthymic with an appropriate and reactive affect. He denied any vegetative symptoms of a major psychiatric disorder. Thought form was logical and goal-directed without loosening of associations or flight of ideas. He specifically denied any hallucinations, delusions, paranoia, suicidal ideation, or homicidal ideation. We discussed the references to "paranoia" in Dr. Glass's note and he clearly feels as if some of his statements were taken out of context. He notes that he felt as if he has been "appropriately" paranoid ever since

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this situation has occurred, and that he feels as if his position at the company has been threatened by this. All during our interview I never saw any evidence of inappropriate or excessive paranoia, and clearly there was no evidence of delusions. His current fears and sense of being "targeted" by the company do appear to be appropriate for the situation. Throughout our interview, I never saw any "paranoia" as referred to in Dr. Glass's report, and he very clearly DOES NOT have any evidence of psychosis. His concerns about his job appear to be appropriate for his situation. His insight was intact and his judgment was also felt to be entirely intact. There was no evidence of thought disorder or major mood symptoms. His memory, including immediate, recent and remote was also entirely intact. He remembered past presidents back to Eisenhower accurately, and also performed serial 7's without error. He remembered three out of three objects immediately as well as at five minutes, and again at 10 minutes. There was no evidence of cognitive dysfunction on his mental status exam. There was also no evidence of any major Axis II personality issues. He did display an appropriate level of self-confidence that is typically seen in pilots, however, he clearly was very open to taking advice from others and willing to work with a team, and throughout our interview I never saw any evidence of any inappropriate behavior that would interfere with his ability to function as a pilot in command.

IMPRESSION:

AXIS I: None.

AXIS II: None.

AXIS III: Obesity, otherwise generally healthy.

AXIS IV: Moderate.

AXIS V: Current 75, highest past year estimated 75 to 80.

DISCUSSION AND RECOMMENDATIONS: Captain Mark Estabrook is a 57-year-old divorced white male airline pilot employed by Federal Express who most recently sent an e-mail concerning security concerns on his part to his chief pilot. He subsequently was brought in for a meeting with several members of management and subsequently was grounded and sent for two separate psychiatric evaluations, as well as several evaluations by different AMEs. During my evaluation today, I did not see any evidence of any abnormal thinking or mood symptoms, and also feel as if he is psychiatrically stable and displays no evidence of any coexisting psychiatric disorder which would interfere with his ability to safely operate aircraft. I also strongly disagree with some of the medical opinions of Dr. Glass in that I do not see any evidence of "depression or hypomania", and that he was truly trying to raise these issues more as safety and security issues and not in an effort to raise trouble or cause problems at work. I also do not see any evidence of a need for ongoing individual or group therapy and see no evidence of any

To: 14047618326 From: 16036619819 Date: 10/28/13 Time: 11:27 AM Page: 07
10/28/2013 14:27 8036619819 AEROMED LLC PAGE 07/07
Estabrook Resp
Attachment G

William E. Green, III, M.D.

MARK ESTABROOK
Date of Service: 10/23/13
Page 6

personality disorder or other behavior that would interfere with his ability to fly safely, as well as work and interact with other crew members in a constructive fashion. I feel that he is perfectly capable to return to active flight status without any limitations from a psychiatric perspective. I am also available to discuss this report further if it is felt necessary.



William E. Green, III, M.D.

WEG/dmc-0138

D&T: 10/23/13

cc: Thomas N. Bettes, M.D., M.P.H., Harvey Watt & Company, 475 North Central Avenue, Atlanta, GA 30354
Mark Nugent, M.D., Austin Regional Clinic South, 3828 S. 1st St., Austin, TX 78738
Stephen D. Leonard, M.D., FACS, 2900 Chamblee-Tucker Rd., Bldg. S-210, Atlanta, GA 30341

“RX 6”

08/26/2013 17:11 5124488264

ARC SOUTH

PAGE 01/01



South

August 23, 2013

To Whom it May Concern:

I serve as the Aviation Medical Examiner for Captain Mark Estabrook, who has requested I describe my observations and examination findings during his July 19, 2013 flight physical. During that encounter, I did not notice anything unusual or abnormal. Captain Estabrook was well groomed, pleasant, conversant, oriented, logical, and appeared cognitively intact. The FAA does not require, and I did not perform, detailed testing designed to identify subtle cognitive deficits or psychological disorders. Nevertheless, my interaction with Captain Estabrook was entirely unremarkable, similar to prior examinations, and I had no concerns regarding his fitness for pilot duty. His neurological examination was normal.

Sincerely,

Mark A. Nugent, M.D.

Mark A. Nugent, M.D.
FAA Senior Aviation Medical Examiner
Board Certified in Family Medicine

PH 2013
V 01

for attn Alan Armstrong
770-451-0317

3828 S. First St.
Austin, Texas 78704
512-443-1311
www.AustinRegionalClinic.com

RECEIVED

AUG 27 2013

Harvey Watt & Company

ME 1304

“RX 7”

Maryanne Miller

From: Tina Benjamin
Sent: Thursday, August 22, 2013 10:35 AM
To: Shelia Voye; Cindy Sartain; Jennifer Crisp
Subject: FW: Mark Estabrook EE: 88775
Attachments: Estabrook Company Mand ltr Aug 16, 2013.pdf

FYI

*Tina Benjamin #85842
FedEx Express
Flight Operations Admin/MEM
Fleet Air Operations/PAC
901.434.5000 Office
901.492.5205 Fax
tmbenjamin@fedex.com*



From: Christopher Johnson [<mailto:cjohnson@harveywatt.com>]
Sent: Thursday, August 22, 2013 10:33 AM
To: Tina Benjamin
Subject: FW: Mark Estabrook EE: 88775

From: Christopher Johnson
Sent: Thursday, August 22, 2013 11:29 AM
To: 'cargopilot@gmail.com'
Cc: Tom Bettes, MD
Subject: Mark Estabrook EE: 88775

Captain Estabrook,

I hope you are doing fine I am assisting Thomas N. Bettes, MD, MPH with your case. The purpose of this e-mail is to provide you with the information that will be needed to support your return to work with Fed-ex when you are ready. Dr. Bettes will contact today via telephone.

PLAN OF ACTION:

As previously discussed with Dr. Bettes, he recommended a medical evaluation (s) to assess your ability to perform Flight duties as a pilot. FedEx management has a reasonable basis to question whether you have developed an impairment. FedEx Management and Harvey W. Watt's Senior AME, Dr. Bettes, have recommended an evaluation at Talbott Recovery Campus, Atlanta GA <https://www.talbottcampus.com/>. FedEx management has instructed that I schedule your evaluation as soon as possible. At this time, your evaluation is scheduled for Aug 26, 2013. Please arrange with the Pilot Administration Center Manager your travel arrangements.

This is for evaluation only, and not treatment (4 to 5 days), beginning on Monday Aug 26, 2013. Talbott staff will pick you up from Hartsfield. If you have any questions, please do not hesitate to contact our office.

SheliaVoye@fedex.com

Phone (901) 434-8498

Mobile: (901) 417-1472

Fax: (901) 492-9005

Christopher A. Johnson
Aeromedical Consultant
Harvey W. Watt & Co.
800-241-6103 ext: 244
(404) 404-767-7501 (Main)
(404) 334-4600 (FedEx Fax)
(404) 768-5594 (Alt Fax)
HarveyWatt.com

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“RX 8”

Maryanne Miller

From: Rob Fisher
Sent: Wednesday, April 24, 2013 10:17 AM
To: Cindy Sartain
Subject: FW: Cap Mark Estabrook #88775 Flight 1317/11 LRD-MEM
Attachments: F1317Sherrie first conversation.wav; F1317 Estabrook Crook conversation.wav; F1317-2 Sherrie second conversation.wav

Cindy.....Here they are.....rob

From: Mark Crook
Sent: Wednesday, April 10, 2013 11:46 PM
To: William McDonald; Rob Fisher; FODO; Michael Speer
Subject: Cap Mark Estabrook #88775 Flight 1317/11 LRD-MEM

Received a call at 0215Z from the LRD ramp manager informing me that the crew for FDX 1317/11 was not at the ramp and they were due out in 10 minutes. This was the first I had heard of any problem so I immediately called the Captain, Mark Estabrook. Cap Estabrook told me he had coordinated staying at the hotel with the dispatcher Sherrie Hayslett and was not going to operate an aircraft through any line of thunderstorms. I asked if Sherrie and he had agreed to delay the flight. He told me that he was delaying the flight.

I went over and talked with Sherrie. She told me she had no idea the crew was still at the hotel. When the Captain told her they were going to be late, she assumed the Captain meant that the flight was going to be delayed into MEM due to the MEM weather.

At the scheduled arrival time of FDX 1317 (0412Z), 40 aircraft were on the ground in MEM and no holding was in progress in any quadrant by MEM approach control.

At 0317Z a first tier ground stop was announced for MEM. Since LRD is in Houston Center, this included flight 1317. This ground stop was 52 minutes after the scheduled block time for flight 1317 and should have never included them.

I've attached Sherrie's first conversation with Cap Estabrook, my conversation and then Sherrie's second conversation. This Cap accuses me of pilot pushing and ordering him to takeoff during Sherrle's second conversation. At no time did that ever happen in my conversation with Cap Estabrook.

In my 2+ years as a DO, I have never had a Captain take it upon himself to delay a flight without coordinating and coming to an agreement with the dispatcher. Cap Estabrook was directive to Sherrie and told her how it was going to be. Cap Estabrook also never took it upon himself to touch base with the weather department. He became the sole source of weather by looking at the weather plot on intellicast and delayed the flight by that sole source of information.

Over to you guys but this Captain is on his own program in a system that runs by time not much slop.

Cap Mark Crook
ACP/Flight Operations Duty Officer

“RX 9”

Maryanne Miller

From: Rob Fisher
Sent: Wednesday, May 01, 2013 4:36 PM
To: William McDonald
Cc: Mitch Matheny; Rob Fisher; Cindy Sartain
Subject: Mark Estabrook 19.D Investigation

Hi Bill,

Mitch and I just completed the 19.D Investigation involving Mark Estabrook.

The meeting commenced at 1300 local in my office on Tuesday, 01May13. Mark was represented by Edgar Irizarry and Mitch sat in with me.

After going over the events that took place, Mark was persistent about being pushed to fly into the Line of Thunderstorms that was affecting the western edge of Memphis Airport. He also claimed that he would do it again if there was another thunderstorm of that magnitude between his route of flight and his destination.

I stopped him and explained that what he did, and what he was saying, were 2 different things.

I explained to him that the company requires him to report to work 1 hour prior to his departure time as per the CBA Ch.12.B. I also told him that the FOM is also specific with the Count Down Parameters in the FOM Appendix J.

We told Mark that despite the fact that the Dispatcher agreed with him to stay in the hotel.....no Dispatcher, Duty Officer or Scheduler would or should allow him to do so. It was his responsibility to get he and his crew to the airport 1 hour prior to the scheduled departure time. I explained, only on rare occasions would a crew member be granted to stay at the hotel such as an aircraft that may not be expected to depart due to mechanical issues which involved waiting for a part or an airport closure at departure or destination.

We told him from now on, to expect to come to the airport as per the guidelines of the CBA/FOM. Any decisions to depart later or earlier than scheduled should be made jointly between the Captain and the Dispatcher. This is where a crew member may exercise their authority based on weather, which was the case in this event.

Mark understands that he should have called the D.O. and also agreed that he should have been more forthcoming in his desire to stay in the hotel when talking to the Dispatcher. He also understands that rarely (if ever) would a crew member be granted extra time in the hotel based on weather at the destination and that a crew member is expected to report to the airport and handle all paperwork and perform a walk around inspection on the aircraft. We told him that FedEx expects him to carry the freight to the destination in a safe, legal and efficient manner and that no one in Flight Management expects him to operate into an unsafe situation.....but we DO expect our crews to report to work on time and prepare to move the freight when it is safe and legal to do so.

I see no issues with this event and I believe that we will not have any further problems with Mark.

Rob

“RX 10”

**UNITED STATES DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

MARK ESTABROOK,)	
)	
Complainant,)	
)	
v.)	Case No.: 2014-AIR-00022
)	Hearing Date: TBA
)	
FEDERAL EXPRESS CORPORATION,)	
)	
Respondent.)	

AUDIO RECORDINGS

4/11/2013 Captain to Dispatcher; 1:25:35 am; 4/10/13; 8:25 pm

Sherrie: GOC this is Sherrie.

Estabrook: Hey Sherrie, this is Mark Estabrook on, what are we, 1317.

Sherrie: Laredo - Memphis

Estabrook: Laredo to Memphis that's correct. I'm just giving you a heads-up, it looks like we're going to be late tonight.

Sherrie: Oh yea, I think many will be late. But you're speaking in reference to the weather.

Estabrook: Yea.

Sherrie: Yea

Estabrook: I just, I you know, I hate to assume anything so I just wanted to give you a heads-up, but we're on top of it. Right now we're still at the hotel.

Sherrie: OK

Estabrook: We're going to get a taxi here as we watch the weather in the lobby on Intelecast.

Sherrie: Un-hum

Estabrook: But I wanted to let you know where we were and not to panic.

Sherrie: OK, well let's see. Have you had a chance to look at your [unintelligible]?

Estabrook: My FO is doing that downstairs right now. I'm just getting my bags.

Sherrie: OK.

Estabrook: So we will keep an eye on it and you've got my cell phone number if you have any reason to contact me.

Sherrie: Let me write that down, 230-4933

Estabrook: Correct and it's Mark

Sherrie: All right, Mark. I'll be happy to call you with any updates. But you know with the weather moving in, sometimes, with adjacent center metering, the other towers actually hear things before the dispatchers do because the center is constantly changing stuff.

Estabrook: Right.

So if you hear something and you haven't heard from me if you'd drop me an [unintelligible] real quick with an update.

Estabrook: I mean, you know it might be hail in Memphis when we take off from Laredo because we're going to try to time it so we get there just at the right time.

Sherrie: That would be perfect

Estabrook: It may not look good outside, but you don't have a window anyway, do you?

Sherrie: Yes

Estabrook: (Laughter) I thought they took your windows away until morale improved.

Sherrie: (Laughter) No. They were kind enough to leave us with windows, in the hopes that it would improve morale.

Estabrook: Oh, Ok. All right. Thanks, Sherrie

Sherrie: You're welcome. I'll give you a call if I hear anything.

Estabrook: All right bye-bye.

Sherrie: All right, bye.

###

4/11/2013 Ramp to Duty Officer 2:14:04 am; 4/10/13; 9:14 pm

Crook: Duty officer Mark Crook

Robert: Hello sir. I'm calling from Laredo. This is Robert at the LRD Ramp

Hey Sir, I don't know if this is the right number but the flight crew for flight 1317 hasn't shown up, and they're supposed to fly out of here in about 10 minutes.

Crook: 1317 and they haven't shown up?

Robert: Laredo to Memphis. Yea. I [*unintelligible*] the hotel but I, you know, I just barely noticed that they're not here.

Crook: OK. Hold on just a moment. Hey Mike, the 1317 crew down in Laredo hasn't shown up to the ramp and they're supposed to block in about 10 minutes.

Unintelligible (between Crook and Mike)

Crook to Mike: I don't know. The ramp is calling in now.

Unintelligible (between Crook and Mike)

Unintelligible (between Robert and someone else)

Crook: Did you call, did you try to call the Captain.

Robert: Are you asking me?

Crook: Yes.

Robert: I don't have a number for him. Do you have a number for him?

Crook: No. I'll try to call him. Give me your number at the ramp.

Robert: OK 956-523-3927

Crook: 3927. And what was your name?

Robert: Robert. Do you know what hotel they're staying at? I know they used to stay at Homewood Suites I think. It's . . .

Unintelligible (Robert to someone else)

Crook: Give me the flight number again. 1317?

Robert: Yea. 1317 Laredo Memphis.

Unintelligible (Robert to someone else)

Robert: Yea!

Crook: They're staying at the Fairfield Inn and Suites.

Robert: Fairfield.

Crook: I'll call the captain right now.

Robert: Ok. Thank you, sir.

###

4/11/2013 Duty Officer to Captain; 2:16:49 am; 4/10/13; 9:16 pm

Estabrook: Hello.

Crook: Mark, hey Mark Crook, duty officer sir. How are you?

Estabrook: Good.

Crook: Hey, are you guys at the ramp yet.

Estabrook: No we're sitting in the lobby at the hotel watching Intelecast.

Crook: Watching what?

Estabrook: Intelecast. Are you familiar with Intelcast?

Crook: Yes, I, I thought you said the broadcast

Estabrook: Oh no, no, uh, Sherrie who is working the flight she's working, what is it, 1317.

Crook: Yes.

Estabrook: She is our dispatcher and she's aware of it. I called her an hour ago and she and I are on the same page

Crook: Ok, what was the decision? What's going on?

Estabrook: We're on a weather hold. We're not going to fly through a line of thunderstorms.

Crook: OK. They put you on a weather hold?

Estabrook: No. I put myself on a weather hold. I am not going to fly though a line of thunderstorms.

Crook: OK.

Estabrook: Have you looked at the radar?

Crook: Mark, I'm very familiar with it, but you know typically, we just found out that you guys are supposed to push in 10 minutes and you're not at the ramp. So this is the first I've heard of it.

Estabrook: OK. Somebody in GOC is not talking to the woman that's working the flight. Somebody got involved and they don't know what's going on. And I made sure over an hour ago that they knew what was going on. And she agreed with me. She said there's no way.

Crook: Ok.

Estabrook: I said I know. So we're waiting for the weather to push through, and we'll, if we can, time it right, we'll arrive right as it has ended up on the east side of Memphis.

Crook: So what time are you planning to take off?

Estabrook: I don't have a time. We're watching the weather.

Crook: OK. The weather has sped up. They're expecting it to move through here about 30 minutes earlier than they expected before.

Estabrook: I'll make that determination at the ramp. But we're not, I don't see us, taking off in 30 minutes.

Crook: I didn't say take off in 30 minutes. I just told you the weather has sped up 30 minutes.

Estabrook: OK. But I want you to know that I'm on top of it and Sherrie's on top of it.

Crook: All right

Estabrook: All right. Thank you.

###

4/11/2013 **Sherrie Second Conversation with Estabrook; 2:39:41 am; 4/10/13; 9:39 pm**

Sherrie: GOC this is Sherrie

Estabrook: Hey Sherrie this is Mark Estabrook.

Sherrie: Yes

Estabrook: There's a lot of people that are calling me tonight panicking, doing pilot pushing and all of that crap. Do you know who started that?

Sherrie: No. I'm not sure. I know that the ramp was looking for you and they were wondering why you were late and I told them that you called and said you'd be running late, but -

Estabrook: They're calling me again on the other line

Sherrie: Ah

Estabrook: First I had crew scheduling call me and I said no we're waiting for weather in Memphis. And then a few minutes later the duty officer called me and was chewing me out saying I needed to take off. And I go, no I'm not taking off and he goes, well GOC wants to know why you're not taking off. And I said, well I talked to Sherrie over an hour ago and let her know that we were on a weather delay.

Sherrie: No, actually when you said that you were running late I was under the impression that you meant that you thought that you'd be late into Memphis. I didn't realize that you meant you were staying at the hotel.

Estabrook: Oh, well, that's what we were doing. We were just waiting for the weather, watching the radar screen.

Sherrie: And, I thought that meant that you were going to be waiting at the airport. I didn't realize you meant -

Estabrook: Yea, but then see when the duty officer continued this conversation and I told him we were on weather hold. And he says, well you're a no show at the ramp. And I go I let Sherrie know we were going to be late.

Sherrie: Right, But that didn't -

Estabrook: Well let me finish what I was saying. And then he transitions to, you need to take off and I go no I'm not going to take off. And he says, well everyone else is

taking off. You know, trying the old you know the crowd theory. You're the only one that's not taking off. And I go look I'm not [*unintelligible*] 50,000 feet I'm not going to climb over it, and even if I did, when I got there it would be right there in Memphis. So, I'm waiting and, you know, he wasn't too pleased with that. So that's the part of the conversation, I can understand the breakdown in communication about show time at the ramp and all that. That's not a problem. I get it. But you know trying to push the pilot to take off when he says he's not going to do it, that's just not satisfactory. And I know you; you were not like that at all. In my conversation with you, you were completely understandable, but the duty officer pissed me off.

Sherrie: I'm sorry to hear that, but unfortunately I've got another call so

Estabrook: All right Sherrie. I just wanted to make sure we're on the same page.

Sherrie: Right. Actually, I guess we kinda weren't because I didn't realize you were staying at the hotel but.

Estabrook: Well that's just a breakdown in communication. I don't have a problem with that.

Sherrie: All right, well, I'll probably talk to you later.

Estabrook: All right, bye Sherrie.

Sherrie: Bye.

###

4/11/2013 Duty Officer Voicemail (Hang-up); 2:42:41 am; 4/10/13; 9:42 pm

Your call has been forwarded to an automated voice messaging system. 90

Hang-up

###

4/11/2013 GOC Manager to Dispatcher; 2:42:50 am; 4/10/13; 9:42 pm

Sherrie: GOC. This is Sherrie

GOC Mgr.: Hey Sherrie. When you talked to that captain was it on the 8025 or was it a different phone line?

Sherrie: It was probably 8025 but he just called back.

GOC Mgr.: Oh good.

Sherrie: Yea, but you know I made it again when he asked me you know why is he being pushed to leave. I told him well

GOC Mgr.: It's his damn job, that's one thing

Sherrie: I just mentioned to him that apparently there was some sort of miscommunication because when he said he was running late I was never under the impression that meant that he would be at the hotel.

GOC Mgr.: Yea

Sherrie: And he conceded that you know that that was obvious that he wasn't you know going to be staying that he didn't say that he'd be at the hotel.

GOC Mgr.: He danced around with mark. He knows he's in the wrong.

Sherrie: Did you find it.

GOC Mgr.: No I'm still trying to find it. But he knows he's in the wrong. (*unintelligible*)

Sherrie: It was probably about an hour ago but yea it is, and now you know he's upset because he says he feels like the duty officer is trying to make him go.

GOC Mgr.: OH. Let me find that recording too. Thank you.

Sherrie: I mean just minutes ago. I was listening I was listening to him because I wasn't allowed to speak.

GOC Mgr.: Ah. Ok. We'll find that nice recording of him.

###

4/11/2013 **Captain to Dispatcher, 2:52:05 am; 4/10/13; 9:52 pm**

Sherrie: GOC this is Sherrie.

Estabrook: Hey Sherrie, this is Mark again.

Sherrie: Yes.

Estabrook: Can you send me a new flight plan coming in from the west instead of going through it and coming in from the east.

Sherrie: Yes, yes I can.

Estabrook: OK. Thanks.

Sherrie: Umhum, Bye.

###

“RX 12”

U.S. Department of Labor

Occupational Safety and Health Administration
Atlanta Regional Office
Sam Nunn Federal Center
61 Forsyth Street, SW Room 6T50
Atlanta, Georgia 30303
(678) 237-0400
(678) 237-0447 FAX



May 2, 2013

FedEx Express
Attn: Legal Department
3610 Hacks Cross Road
Memphis, TN 38124

RECEIVED
RISK MANAGEMENT

MAY - 3 2013

Dwayne S. Byrd
Managing Director

Re: FedEx Express/Estabrook/Case No 4-1760-13-080

Dear Sir or Madam:

The complaint in the above-captioned matter has been withdrawn from our office. With this withdrawal, the case in this matter is closed.

If at any time you have any questions or require any information regarding employee rights and employer responsibilities under the whistleblower protection statutes administered by OSHA, please feel free to contact this office by mail or telephone.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew E. Robinson", written over a horizontal line.

Matthew E. Robinson
Regional Supervisory Investigator

“RX 13”

From: Cargo Pilot [mailto:cargopilot@gmail.com]
Sent: Sunday, August 04, 2013 08:00 AM
To: William McDonald
Subject: Fred Smith

Bill,

I need to talk to Fred. It has nothing to do with Flight Ops or you. It deals with something related to 9-11. I did my best to protect the company and reported as much as I could through Bill Henrickson when I was the Security Chairman at ALPA. Ask Fred to call me on my cell but realize I turn it off when I sleep. I am about to close my eyes and call it a day.

Mark Estabrook
C 901-230-4933
H 512-772-1605

“RX 14”

Phil Tadlock

From: William McDonald
Sent: Tuesday, August 06, 2013 7:56 PM
To: John Maxwell; Jim Bowman; Todd Ondra
Cc: Robb Tice; Rob Fisher
Subject: Fw: Fred Smith

Mark's response to my email.

I have not responded. Will confer with Rob to ensure that there will be a face to face meeting with Mark and Rob and Todd.

Bill

Captain William McDonald
Managing Director
System Chief Pilot
901.224.5525

From: Mark Estabrook
Sent: Tuesday, August 06, 2013 06:58 PM
To: William McDonald
Subject: RE: Fred Smith

Thanks, Bill. I placed a call to Rob this afternoon and left a message. I really wanted to fly that trip to Panama so I wish we could have talked before I got removed. But having said that, I understand why you did what you did.

If I could arrange a conference phone call with the head of corporate security and Fred, I think this could take less than 15 minutes.

Mark

From: William McDonald
Sent: Monday, August 05, 2013 2:11 PM
To: Mark Estabrook
Cc: Rob Fisher; Todd Ondra; Robb Tice; Jim Bowman
Subject: FW: Fred Smith

Mark,

I have read your email and have some concerns about the issue you raised. I would like for you to meet with your Fleet Captain, Robb Fisher, as well as the Director of Corporate Security, Todd Ondra. I will have Rob contact you to arrange this meeting. Until that time I have directed that you be removed from flight status, with pay (NOQ).

I hope that in this way we will be able to resolve your concerns.

Thanks for your patience,

Bill

Captain William McDonald
System Chief Pilot
Managing Director/Flight Operations

Office: 901.224.5525
Mobile: 901.326.4175
wwmcdonald@fedex.com

From: Cargo Pilot [<mailto:cargopilot@gmail.com>]

Sent: Sunday, August 04, 2013 08:00 AM

To: William McDonald

Subject: Fred Smith

Bill,

I need to talk to Fred. It has nothing to do with Flight Ops or you. It deals with something related to 9-11. I did my best to protect the company and reported as much as I could through Bill Henrickson when I was the Security Chairman at ALPA. Ask Fred to call me on my cell but realize I turn it off when I sleep. I am about to close my eyes and call it a day.

Mark Estabrook
C 901-230-4933
H 512-772-1605

“RX 15”

Cindy Sartain

From: Rob Fisher
Sent: Friday, August 16, 2013 2:34 PM
To: Christopher Johnson
Cc: Gail Hubbard; Cindy Sartain; Rob Fisher
Subject: RE: Captain Estabrook Written Statement

Hi Christopher,

Here is my statement in reference to Mark Estabrook's case:

This whole event was regarded by members of FedEx Flight management as a strange request. As you are probably aware and as all FedEx pilots are aware, Fred Smith is the Chairman of the Board of the parent company of FedEx Express, as well as the founder of the overnight transportation industry. The demands on his time, as the leader of a world-wide, multi-modal transportation system are great. Members of Flight Management question Captain Estabrook's judgment if he genuinely believed that he could arrange through a casual email to the System Chief Pilot to have Mr. Smith call him at Captain Estabrook's convenience.

Due to the nature of Captain Estabrook's strange request, and his reference to the events of September 11, 2001 in his email, it was decided to remove Captain Estabrook from his work schedule and bring him to Memphis for a meeting with his Fleet Captain (myself), Todd Ondra, a Managing Director in the FedEx Express Security organization, and Company attorney Robert Tice.

The meeting was held on August 9, 2013. Captain Estabrook proceeded to describe a number of security concerns that he has, many of which relate to Al Qaeda and the possibility that FedEx Express could be a target for Al Qaeda terrorist acts. In addition, and perhaps most concerning, Captain Estabrook described his thinking regarding Auburn Calloway. You may be aware that Mr. Calloway is a former FedEx Express pilot who was imprisoned following his criminal convictions resulting from his attempt to hijack a FedEx Express aircraft, during the course of which he inflicted serious and permanent injuries on the operating crew members of that aircraft. Captain Estabrook stated that he has heard rumors that Mr. Calloway has converted to the Muslim faith and he is concerned that Calloway might be secretly communicating with Al Qaeda terrorists.

It may very well be that Captain Estabrook is medically fit for flight duty. However, as you know, FedEx Express and all other U.S. airlines are required to conduct their air operations to the highest degree of safety in the public interest. Mr. Ondra has extensive experience in security matters. Largely at Mr. Ondra's urging, FedEx Express Flight Management has determined that in the interest of flight safety, Captain Estabrook should be referred to the FedEx Express aeromedical advisor for an evaluation of his fitness for duty.

Thanks for your attention to this matter. If you wish to speak with Mr. Ondra as part of your evaluation, please let me know and I can assist in this arrangement.

Rob Fisher
Airbus Fleet Captain
901-224-3435
901-494-2905

“RX 16”



From: Christopher Johnson [<mailto:cjohnson@harveywatt.com>]
Sent: Friday, August 16, 2013 10:44 AM
To: Rob Fisher
Cc: Gail Hubbard; Cindy Sartain
Subject: RE: Captain Estabrook Written Statement

Captain Fisher,

I will be assisting Thomas N. Bettes, MD, MPH with Captain Estabrook case. Can you provide a written statement of events which lead to the 15d letter? Dr. Bettes and Talbott Recovery Doctors will need to know the particulars to plan the next course of action for the pilot. An email will be acceptable.

Sincerely,

Christopher A. Johnson
Aeromedical Consultant
Harvey W. Watt & Co.
800-241-6103 ext. 244
(404) 767-7501(Main)
(404) 334-4600 (FedEx Fax)
(404) 768-5594 (Alt Fax)
HarveyWatt.com

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“RX 17”



P. O. BOX 20787, ATLANTA,
GA 30320
TELEPHONE (800) 241-6103
(404) 767-7501
FAX (404) 761-8326
<http://www.harveywatt.com>

To: Captain Mark Estabrook (EE#: 88775)
Federal Express Corporation

From: Thomas N. Bettes, MD, MPH
Aeromedical Advisor

Date: September 24, 2013

Subj: Unfit for Flying Duties

Effective immediately, there is sufficient information on this pilot that Captain Estabrook does not meet the FAA medical standards, due to underlying medical condition.

I have carefully reviewed the medical information pertaining to Captain Estabrook.

The supporting medical documentation provided by Captain Estabrook's treating physician(s), Captain Estabrook is unfit for flying duties.

If you have any questions, please feel free to contact our office.



475 N. CENTRAL AVE ATLANTA,
GA 30354
TELEPHONE (800) 241-6103: Ext 244
(404) 767-7501: Ext 244
FAX (404) 334-4600
<http://www.harveywatt.com>

October 2, 2013

Captain Mark Estabrook (EE#: 88775)
10026 Wild Dunes Drive
Austin, TX 78747

Re: 2nd opinion request

Dear Captain Estabrook,

Thank you for your letter of Sept 26, 2013 concerning your referral for a medical evaluation and required contractual obligations. As the FedEx aeromedical advisor, I think I understand your position that FedEx has not complied with certain provisions of the FedEx/ALPA CBA, and that you have filed grievances regarding your position. I also appreciate that you have submitted to the Section 15.D. Company-mandated Medical Exam "under protest." I hope you can appreciate that I am striving to meet my obligations as the FedEx aeromedical advisor and that Harvey Watt & Co. is also striving to keep your Section 15.D. exam in compliance with the provisions of the CBA.

I am informed that FedEx does not agree with your claim that Section 15.G.2. of the CBA has any application to your case. FedEx informs me that their position is that the applicable provision now in process is Section 15.D.7. and not Section 15.G.2.

Apparently, that difference of opinion is an issue for eventual resolution in the grievance process. In any event, I'm certainly not qualified to debate that question, and I am writing to ask if it is your intention to challenge my determination that you are not fit for duty.

Assuming that Section 15 D.7. of the CBA is now applicable to your case, please let me know if it is your intent to pursue a 2nd medical opinion under Section 15 D.7. If so, as indicated in that provision of the CBA, please notify us immediately whether you wish to engage a physician of your own choice, or have the 2nd physician be ALPA's designated aeromedical advisor physician or some other ALPA-designated physician. We need to have that information to begin preparing for the "Medical Review Panel" process established in Section 15 D.7.

Further, it is our understanding that as provided in Section 15.D.7 you have a 30 day deadline for your designated physician to complete his review, although the CBA also provides that this deadline can be extended "if warranted by extenuating circumstances."

Thank you for your prompt attention to this matter.

Sincerely,



Thomas N. Bettes, MD, MPH

cc: Phil Tadlock, Federal Express
Cindy Sartain, Federal Express
Terry McTigue, ALPA, Fedex MBC

RECEIVED

OCT 04 2013

Harvey Watt & Company

FDX 4-000129

“RX 18”

Maryanne Miller

From: tbettes@verizon.net
Sent: Saturday, October 12, 2013 1:01 PM
To: cargopilot@gmail.com; tbettes@verizon.net
Cc: Maryanne Miller
Subject: Re: Mark Estabrook: 15D7

Capt Eastbrook,

We agree that Dr. Nugent is qualified to serve an opinion as a second physician reviewer of your Fitness-for-Duty, as per the Labor Agreement, and that Dr. Green would be an appropriate and agreeable choice to conduct a required third evaluation. Chris and/or I will be in touch with further details about scheduling this appointment and completing this evaluation process.

Thanks !

Tom Bettes, MD

On 10/09/13, Cargo Pilot wrote:

Dear Dr. Bettes,

For the record, I am formally advising that I proceeded with a second opinion under 15.D.7. I selected Dr. Mark Nugent in Austin, Texas to provide that opinion. He has previously submitted his medical opinion relative to my fitness for duty in a letter to you over a month ago. He has also spoken on the phone very recently with you. My understanding is that he advised that he disagrees with you that I needed psychiatric evaluation or treatment. It is my understanding that there is now needed a "tie breaker" evaluation by a third doctor. As I indicated to you in an earlier email, I am willing to go see Dr. Green in South Carolina as a "tie breaker" in this process.

Let me know if this is also your current understanding. I am still unclear about the 30-day window.

Sincerely,

Mark Estabrook

“RX 20”



GEORGE GLASS, M.D., P.A.
4600 Post Oak Place Drive, Suite 307
Houston, Texas 77027
Tel (713) 666-9811 | Fax (713) 627-3488

475 N. CENTRAL AVE
ATLANTA, GA 30354
TELEPHONE (800) 241-6103: Ext 244
(404) 767-7501: Ext 244
FAX (404) 334-4600
<http://www.harveywatt.com>

Aug 30, 2013

RE: Federal Express Pilot Captain Mark S. Estrabrook (BE#: 88775)

Dr. Glass,

This letter will serve as a referral of the above-captioned Federal Express Pilot for evaluation of their current status and fitness for duty in relationship to FAA medical standards. Specifically, the company has a reasonable basis to question whether the pilot has developed an impairment to perform duties as a pilot. Comprehensive-evaluation date will be September 11, 2013 at 3:15pm.

This is a Federal Express Corporation directed medical evaluation, and all charges for this consultation will be paid by the Company. Your billing should indicate that the Captain Estrabrook was referred by this office and should be addressed as follows:

FedEx Flight Group Management
3620 Hacks Road,
Building B, 3rd Floor
Memphis, TN 38125-0123

Once completed, your report must be sent only to required parties, Aviation Medical Examiner, Thomas N. Bettes, MD or Aerospace Consultant, Mr. Christopher A. Johnson at: Fax (404) 334-4600 or mailed to 475 N. Central Ave, Atlanta, GA 30354.

Also, please note that unless you have written permission from the Captain Estrabrook, this case should not be discussed with anyone other than this office.

Additionally, Captain Estrabrook's contact information: cell (901)230-4933, 10026 Wild Dunes Drive, Austin, TX, 78747. Email: cargopilot@gmail.com. DOB: 05/09/1956. Please let us know if you need additional medical documentation to assist with your evaluation.

Sincerely,

Thomas N. Bettes, MD, MPH

“RX 21”

Maryanne Miller

From: Cindy Sartain
Sent: Monday, September 09, 2013 1:50 PM
To: Maryanne Miller
Subject: FW: Mark Estabrook EE: 88775 Dr. Glass
Attachments: Estabrook - Dr.Glass Referral.pdf

From: Christopher Johnson [mailto:cjohnson@harveywatt.com]
Sent: Monday, September 09, 2013 1:40 PM
To: Cindy Sartain
Subject: FW: Mark Estabrook EE: 88775 Dr. Glass

fyi

From: Christopher Johnson
Sent: Friday, August 30, 2013, 10:49 AM
To: cargopilot@gmail.com
Subject: RE: Mark Estabrook EE: 88775 Dr. Glass

Captain Estabrook,

As you know, I am assisting Thomas N. Bettles, MD, MPH with your case. Unfortunately, Dr. Cronson had to cancel your appointment.

PLAN OF ACTION:

Dr. Bettles recommended a medical evaluation with George Glass, M.D., P.A., <http://www.georgesglassmdpa.com/>. He well verse in aviation medicine and routinely works with FedEx and American Airline pilots. Dr. George Glass is a Board Certified psychiatrist, addictionologist and forensic psychiatric expert who has been practicing in the Houston, TX area for over 35 years. I've scheduled your evaluation for September 11, 2013 at 3:15.

This is for evaluation only, and not treatment. This is a one day evaluation that will take approximately 2 hours. Attached is your referral. Below is Dr. Glass' contact information. If you have any questions, please do not hesitate to contact our office.

4600 Post Oak Place Drive, Suite 307
Houston, Texas 77027
Tel (713) 666-9811 | Fax (713) 627-3488
Email: gdoc123@aol.com

Christopher A. Johnson
Aeromedical Consultant
Harvey W. Watt & Co.
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(404) 404-767-7501 (Main)
(404) 334-4600 (FedEx Fax)
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“RX 23”



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(404) 767-7501
FAX (404) 334-4600
<http://www.harveywatt.com>

To: Pilot Administration Center (PAC)
Federal Express Corporation

From: Thomas N. Bettes, MD, MPH
Aeromedical Advisor

Date: October 30, 2013

Subj: FedEx Airline Pilot Mark Estabrook (EE# 88775)

I have carefully reviewed the medical information pertaining to the subject pilot.

There is sufficient information on this pilot to demonstrate that he meets the FAA medical standards, and I recommend that he be returned to flying duties, effective immediately.

“RX 24”

Jennifer Crisp

From: PAC (Pilot Administration Center)
Sent: Wednesday, October 30, 2013 2:38 PM
To: Mark Estabrook
Cc: PAC (Pilot Administration Center); Jennifer Crisp; sim30 sim30
Subject: return to work #88775 Mark Estabrook

Hi Mark, I left you a voicemail on your cell, but I wanted to follow up with an email as well.

We have received from Harvey Watt & Co a return-to-work release for you; please call in well in VIPS when you are able. You will also need to contact Flight Training Scheduling to schedule a sim. You can reach them at 901.397.9018 or sim30@fedex.com.

If you have any questions, please don't hesitate to contact us.

Take care,
Jennifer Crisp
Pilot Administration Center
901.434.5000 Phone
855.FDX.1PAC Toll free
901.492.5205 Fax
pac@fedex.com



“RX 26”



Code of Business Conduct and Ethics

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Letter from the Chairman



Throughout the world, the FedEx name is synonymous with integrity and reliability. Our reputation is an important strategic asset — it is up to all of us to protect and enhance it. In today's environment, our strong corporate reputation is invaluable.

We have a long-standing commitment to complying with the law wherever we operate and striving to maintain a high standard of business and personal ethics.

Every FedEx director, officer and employee is expected to comply with the policies set forth in this Code of Business Conduct and Ethics. FedEx contractors and global service participants performing services on behalf of FedEx or operating under the FedEx brand name are also expected to comply with those portions of the Code that apply to them.

It is important to read this Code and to develop a working knowledge of the laws and regulations that directly affect your job. This Code cannot cover every situation where choices and decisions must be made. Other FedEx policies, manuals and handbooks are important components of our overall compliance and ethics program and should be read in conjunction with this Code. Above all, do not hesitate to ask your manager, Company Contact or an attorney in your company's legal department for clarification or advice before making a decision about which you are uncertain.

If you have reason to believe that a legal or ethical violation has occurred, it is your duty to report it to your manager, Company Contact or the legal or human resources department, or by using the FedEx Alert Line. Our policies forbid any form of retaliation against you for fulfilling this obligation.

Our officers, directors and managers have the additional responsibility of promoting the principles set forth in this Code and fostering a culture in which ethical conduct is recognized, valued and exhibited by all team members. Our commitment to doing the right thing depends on your ability to set the proper tone and to address suspected violations promptly with care and respect.

Our commitment to maintaining the highest ethical and professional standards is an integral part of our Purple Promise to make every FedEx experience outstanding. Thank you for taking the time to read, understand and comply with this Code, and for your continuing dedication and hard work.

Sincerely,

A handwritten signature in black ink, appearing to read "Frederick W. Smith". The signature is written in a cursive style with a large initial "F".

Frederick W. Smith
Chairman, President and Chief Executive Officer

Lawful and Ethical Behavior



Lawful and ethical behavior is critical to our continued success and is required. You must comply with those laws and regulations relating to your business conduct. In addition, you must avoid and report any activity that involves, or could lead to the involvement of, FedEx in any potentially unlawful practice. Accordingly, you must understand the laws and regulations relevant to your work and comply with the legal requirements of the country where you are working.

Some laws affect everyone, such as those concerning equal employment opportunity and occupational health and safety. Other laws primarily affect employees and Contractors in particular roles, such as those concerning the operation of our transportation networks, financial reporting and customer service. The laws that govern our activities may be complex, but ignorance of the law does not excuse you from your obligation to comply. Seek advice from your managers, Company Contact or your company's legal department if you are unclear about those laws or regulations relating to your work.

In addition to complying with the law, you must adhere to the ethical and other standards set forth in this Code. FedEx strives to conduct all of its business activities in a manner consistent with the highest standards of integrity and ethical behavior. You are expected to demonstrate an uncompromising degree of integrity, responsibility and professional conduct in the performance of your responsibilities. You should be honest and sincere in your dealings with, and must respect the rights of, customers, government officials, the public, suppliers, competitors and fellow employees

or Contractors. You must never take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other such intentional practice. Nor should you participate in or facilitate any illegal conduct by others.

This Code contains policy statements and summaries for many key areas of business and personal conduct. While it addresses our main issues of concern, there are other specific policies in place that you must read and understand. For instance, FedEx Express employees should refer to, among other things, the policies contained in The People Manual. Contractors should refer to the terms of their contracts with FedEx, as well as their own internal policies and procedures. Also important are maintaining an open relationship between employees and managers, having productive and professional relationships with employees at other FedEx companies and exercising sound judgment and integrity at all times.

Managers are responsible for their own and for their employees' adherence to this Code. We must ensure that we act lawfully and ethically at all times, even if it costs us business or profits in the short term. Lawful and ethical behavior is in our long-term best interests, as it maintains our excellent reputation for trustworthiness and reliability. Proper business conduct encourages loyalty from our team members, vendors and customers and fosters a mutually beneficial relationship between FedEx and the communities in which we operate.

Special Responsibilities of FedEx Managers

— All FedEx managers must have a strong sense of integrity and are expected to behave in an exemplary and truthful manner. If you are in a management position, you have a special responsibility to conduct yourself in a manner that is consistent with the principles set forth in this Code. You serve as a role model for your employees and your actions are both seen and emulated by those who report to you. The tone you set in your everyday actions is the single most important factor in fostering a culture where your employees act in compliance with the principles set forth in this Code.

As a leader, you must:

- Make sure those who report to you have read and understand the Code.
- Enforce the Code and related policies and procedures consistently.
- Exercise appropriate supervision and oversight to ensure compliance with the Code within your area of responsibility.
- Support your employees who, in good faith, raise issues or concerns.
- Anticipate, prevent and detect compliance risks.
- Ensure that none of your employees are retaliated against for making good faith reports.
- Promptly report and address any compliance violations or weaknesses, including taking appropriate disciplinary action.

Q: We hired a person who formerly worked for a competitor. She is aware of proprietary and confidential information about her former employer. Is it okay for her to share this information at FedEx?

A: No. FedEx policy prohibits disclosing proprietary, technical information and confidential business information about her former company. Even if it were accidentally disclosed, you cannot use the information. Simply stated, FedEx will treat proprietary and confidential information about other companies in the same way that we expect former FedEx employees to treat our confidential information.

Q: FedEx raises the bar for performance each year, and we always seem to be under pressure to do whatever it takes to achieve better results. Do these obligations to meet difficult business and financial goals conflict with my obligations under this Code?

A: No. These obligations are not only compatible, they are directly related. Doing the right thing for the right reason is always good business. The company's interests are never served by unlawful or unethical business practices. Our market economy is fundamentally built on trust, and FedEx is one of the most trusted brands in the world. Maintaining the highest ethical and professional standards is critical to maintaining this valuable trust.

Q: My group at FedEx has a longtime vendor whom we have always paid by mailing a check to the vendor's headquarters in Scranton, Pennsylvania. For the most recent payment due, the vendor has asked me to send his payment via a wire transfer to an account in the name of a British Virgin Islands company at a bank in the Bahamas. Should I be suspicious?

A: Yes, you should be suspicious if a transaction involves transferring funds to or from countries or entities unrelated to the transaction or not logical for the other party. Requests to transfer money to third parties also raise red flags that need to be investigated to ensure the legitimacy of the transaction. Before proceeding, consult with your manager or your company's legal department.

Lawful and Ethical Behavior

Q: The different laws are so complicated and cover so many different areas, how can I be sure that I won't violate some technicality? Moreover, how am I supposed to understand it all? I'm not a lawyer.

A: Don't abandon your own judgment. If something seems intuitively wrong to you, ask before acting. You also have an obligation to understand the finer points of the rules governing your job. Your company's legal department is familiar with the written policies in place at your operating company. Do not hesitate to contact them if you need clarification of the laws or of FedEx standards and policies.

Q: What should I do if there is a conflict between a FedEx policy and the law in a country in which I'm working?

A: Our goal is to comply with all local laws and to adhere to the highest standards of integrity and ethics everywhere in the world. Just because the laws of a particular country may be less restrictive in some respect than those in the U.S., that is not an excuse for violating FedEx policies, and vice versa. FedEx managers, Company Contacts and your company's legal department are responsible for providing clear instructions about how to deal with any conflict between a local law or custom and a FedEx policy. If you find that a conflict exists that your manager has not addressed, you should report it to his or her attention immediately. If you need additional guidance, contact your company's legal department. It is essential that FedEx be aware of any cases in which our practices may be in conflict with local legal requirements.

FedEx upholds the highest standards of integrity and ethical behavior.



Open Door Policy

You are encouraged to communicate your ideas and concerns directly to management or your Company Contact. It is important that you speak up promptly so that your ideas or concerns can be addressed. Working together in an atmosphere of trust, respect and cooperation provides the most productive work

environment. If your manager or Company Contact cannot resolve a matter or if you believe your manager or Company Contact is part of the problem, you can contact your company's human resources department for guidance or call the FedEx Alert Line.

Q: I have some ideas about how to make my job more efficient. Should I share my thoughts with management?

A: Some of our best ideas come from employees who see a better way of doing things. In today's competitive marketplace, it is increasingly important to be thinking about and acting upon ideas that can make us more efficient. Even small ideas, when applied to a multi-billion dollar enterprise like FedEx, can yield significant benefits. Do not hesitate to share your ideas with others in the company.

Q: Whenever I point out problems in my department, my supervisor either ignores me or doesn't follow up. How can I communicate if nobody is listening?

A: First, make sure that your communications are effective. Always be prepared, know what you want to say and why you are saying it. Be sure your listener is ready to listen and is not distracted or preoccupied with other concerns. Use plain, simple language and phrase your requests or suggestions positively. Finally, ask for feedback. Make sure that your message was sent and received as you intended.

If you have tried and honestly believe your communications are being ignored, then pursue other outlets. Talk with your company's human resources department or with your supervisor's manager. Everyone at FedEx has the right to, and is encouraged to, contribute their thoughts, ideas and actions to building a better business. Remember that, for a variety of reasons, not all ideas will be adopted, but suggestions are always welcome.



The best ideas often come from employees.

Health, Safety and Environment

We are committed to providing a safe, healthy and alcohol- and drug-free workplace. All forms of unlawful conduct, including threatening or intimidating behavior, assaults or violence of any kind, are prohibited. All employees are responsible for reporting unsafe work conditions, threats and actions or situations (including those relating to vendors or customers) that have the potential for workplace violence. You must understand and comply with the

safety, health and environmental laws and regulations that affect our business activities, as well as any related company policies. We are also committed to avoiding, where possible, adverse impact to the environment and communities where we do business. We also insist that Contractors, suppliers and others who work with us adhere to, and follow, applicable laws and regulations.

Q: Despite what FedEx says about safety first, my manager demands that I meet targets that can only be met by breaking safety procedures. I raised the issue with my co-workers, but they told me to keep quiet or I might be fired. What should I do?

A: Safety procedures must never be compromised. You should first discuss the situation with your manager, or with the next level of FedEx management. If you are not comfortable doing this, or if you fail to gain management's attention, you should call the FedEx Alert Line or contact your company's human resources or legal department. FedEx will not permit any retaliation against employees who raise genuine concerns.

Q: I strained my back at work, but I do not want to report it because I was partially to blame and because it will break my unit's injury-free record. What should I do?

A: You should never ignore or hide a problem. All accidents must be reported to management as soon as possible so that FedEx can take whatever action is necessary for your safety and to prevent similar incidents in the future. Corrective actions might include changes to work procedures or additional safety training.

Q: I have been selected for a random drug test. I don't use illegal drugs, so I don't believe I need to be tested. Isn't testing an invasion of my privacy?

A: No. As a provider of transportation and related services, we must comply with numerous legal requirements that are designed to keep our employees and workplaces free of alcohol and illegal drugs. The aim is to ensure safety for our employees and the public. Under certain circumstances, and in accordance with the law, FedEx may test its employees. Our testing is done in a manner consistent with your personal privacy and dignity.

Q: I think my boss has a drinking problem that is interfering with work in my area. What can I do? I really want to help.

A: You have an obligation to report your suspicions to your boss's manager or to your company's human resources department. As a provider of transportation services, it is crucial to employee and public safety that all FedEx workplaces be entirely free of alcohol and prohibited drugs. By reporting your suspicions now, you not only fulfill your duty to FedEx, but you may also potentially be helping your boss come to terms with a serious problem.

Reporting Abuses — FedEx Alert Line

If you know of or suspect there is a violation of any law, regulation, this Code or any other FedEx policy, any unethical behavior related to FedEx, or any questionable accounting, internal accounting controls or auditing matters related to FedEx, you must immediately report it to your manager, Company Contact or your company's legal or human resources department or use the complaint processes within your operating company. We encourage you to talk to managers, Company Contacts, members of your company's legal or human resources department or other appropriate personnel when in doubt about the best course of action in a particular situation. If you report a violation or suspected violation to your manager, Company Contact or a member of your company's human resources department and appropriate action is not taken, you must contact your company's legal department. FedEx policies prohibit any form of retaliation against a person who reports in good faith any known or suspected misconduct.

The FedEx Alert Line has been established for the anonymous and confidential reporting of any known or suspected violation of law, this Code or any other company policy or any other unethical behavior. The

FedEx Alert Line is toll-free, and is available 24 hours a day for use by FedEx employees and Contractors anywhere in the world to the extent permitted by applicable law. Trained operators who are not FedEx employees staff the FedEx Alert Line. Information you provide using the Alert Line will be promptly transmitted to the appropriate parties, which may include members of senior management and persons from any or all of the following FedEx departments: legal, security, human resources and internal audit. When you call the FedEx Alert Line, your report will be assigned a control number that will allow you to call back to receive an update on the matter from FedEx, if any is available, or to contribute additional information.

The FedEx Alert Line:

1.866.42.FedEx (1.866.423.3339)

International callers should consult the FedEx Web site to find the number that applies to their region or country:

[http://investors.fedex.com/
phoenix.zhtml?c=73289&p=iroI-govAlerts](http://investors.fedex.com/phoenix.zhtml?c=73289&p=iroI-govAlerts)

Reporting Abuses — FedEx Alert Line

Q: I'm concerned that a manager will retaliate against me for reporting a possible violation of company policies.

A: It is our policy that no retaliation will occur, in any form, for reporting concerns in good faith. Corrective and/or disciplinary action will be taken against anyone who retaliates directly or indirectly against anyone who reports a known or suspected violation of company policies.

Q: I'm concerned that my manager may be committing fraud against the company, but I'm not really sure. What should I do?

A: Report your concern to your company's legal department immediately or call the FedEx Alert Line and provide adequate detail. Either way, your information will be handled discreetly during the investigation. If we can find no independent corroboration of your concern, no action will be taken against your manager and no action will be taken against you for your good faith report. Even if your manager suspects that you have reported him or her, we strictly prohibit any form of retaliation against you for reporting your concern in good faith.

Q: My manager is asking me to do things that I believe violate company policies. What should I do?

A: Contact the next level of FedEx management or a member of your company's human resources department. He or she can discuss the company policies with you and address your concerns regarding perceived violations. If the situation is not resolved, or if you're not comfortable discussing the issue with this individual, contact your company's legal department or call the FedEx Alert Line. In any event, if you suspect the things asked of you are illegal, contact your company's legal department or make a report using the FedEx Alert Line.

Q: I believe I received a poor performance evaluation after I made a complaint about the accounting treatment of an item. Previously, I had always received excellent reviews. What can I do?

A: FedEx policy prohibits any retaliation against employees who raise legitimate concerns in good faith. If you believe that you, or another employee, have been retaliated against, you should contact your company's legal or human resources department with your concerns. You can also call the FedEx Alert Line.

The FedEx Alert Line
allows for anonymous and
confidential reporting.



Concluding Advice

The preceding pages of this Code describe the FedEx commitment to lawful and ethical business practices and serve as a guide for all of our team members. Our objective is to provide you with the right information and tools for you to perform your job with the high level of ethical and professional standards that are expected of everyone associated with FedEx.

While you should read and be familiar with the Code (as well as the specific policies and procedures applicable to your job), not all ethical or compliance issues are clear-cut. No two situations are alike, and seemingly subtle differences can affect how a particular situation should be handled. In these circumstances, you should always ask yourself:

- Do I have all the facts?
- Does it violate the law or any FedEx policy or procedure?
- What consequences could result from my decision or inaction?
- Would I be proud to tell people I respect about my actions?

- Would I want to read about it in tomorrow's newspaper?
- Is there someone at FedEx that can provide some guidance for me?

If you find yourself in a situation where you are unsure of what to do, you should seek guidance through one of the several resources described in this Code.

Each of us plays an important role in the success of our company. By delivering on the Purple Promise with integrity and honesty, we can help to assure the continued success of FedEx.

Adopted June 2, 2003
Last Amended on January 14, 2013

“RX 27”



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The Hangar

Rob Fisher
A300/A310
Updated: 7/1/13

John Grones
B777
Updated: 6/11/13

Jeffrey Kilmer
MD-11/10
Updated: 5/21/13

Mary Murphy
B727/B757
Updated: 5/8/13

Our new expectation: "When you see something, say something"

June 11, 2013

Ladies and Gentlemen on the 777,



Captain John Grones

Homeland security has been determined to be everybody's job. This newly shared responsibility to reduce the threat of terrorist acts requires a fundamental change in the way society-at-large behaves. The new ask is: "If you see something, say something," and it's having remarkably successful results. In our world, that could be an unattended bag (sitting on the ground in an airline terminal. That bag could be a bomb put there as a terrorist act. The desired outcome is for the casual bystander to not ignore the bag. Report it to someone who can do something about it and remove the potential threat.

In the FedEx Express world of being a manager, we also have an obligation to "Say something when we see something." In human factors terms, ignoring a known problem is a Supervisory Factor described as "failure to correct a known problem." Or there is a secondary description for it, when it is known as: "preventing a planned inappropriate operation." And failure to exercise your obligations is known as, "inadequate supervision."

I think you get the point. As crewmembers, we have the obligation to correct known problems, to prevent inappropriate operations, and to adequately supervise our obligations in these regards.

Here is an actual example of the problem.

This week I removed two crewmembers from trips because they were traveling to Memphis via jumpseat, and then operating on to additional destinations ... in one case to Dubai, and the other to Narita. Showtime for the jumpseat to landing at destination was 23:30 in the first case, and 21:30 in the other. These were evening jumpseats, so a normal person would have been awake all day prior to traveling to Memphis. You can draw your own conclusions as to how long those days were, but I do not believe that even if you napped during this extended period of time would you have been safe to operate for the arrival at destination.

I do *not* go looking for this type of situation. But if I find out that you are scheduling yourself this

PILOT ADMINISTRATION CENTER



AVAILABLE M-F
7AM - 5PM CST
901-434-5000
or 1-855-339-1722
PAC@fedex.com

way, then I will have to intervene. You also give up any contractual protections for a missed flight due to a problem on the inbound flight to Memphis. One of the parameters in Section 26.J.2 (CBA) is that the time from show for the jumpseat until the end of the duty period can't exceed 13:30. If you are caught by this circumstance you are subject to discipline.

In our airplane, the length of typical flights makes commuting more problematic. If you schedule yourself for onerous days by jumpseating into long flights, you have made yourself a threat to the flight operation and it cannot be ignored.

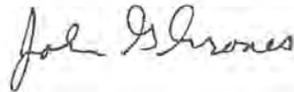
There has to be a change in the way we think about commuting for the ultra long flights. You must be prepared to legally operate the aircraft to the limits of the FARs, and this becomes an issue of fitness for duty.

In the event of an accident or incident, the FAA and the NTSB do a 24 then a 48 hour "look back". Traveling by jumpseat then operating an ultra long flight as a continuous operation does not pass the reasonableness test.

Please do what you need to do so that you are both properly rested and fit for duty. Then I won't need to say something when I see something that is unsafe...

"Schedule Yourself with Safety"

– Captain John Grones



Have a question or comment? Send John an email: jggrones@fedex.com

Please help us keep all our photos in the family by not copying or distributing outside of FedEx.

Recent Posts

Our new expectation: "When you see something, say something"

June 11, 2013

Homeland security has been determined to be everybody's job. This newly shared responsibility to reduce the threat of terrorist acts requires a fundamental change in the way society-at-large behaves. The new ask is: "If you see something, say something," and it's having remarkably successful results.

We need to pay attention to the rash of recent incidents

May 23, 2013

For some reason we have had a spike in errors in our system in the last few weeks. I am unable to define any one thing that could point to the reason for it. We operate in a complex and demanding flight environment, however that is not a new condition for us. The incidents are somewhat baffling and I would suggest you read the communication on Captain McDonald's "Thoughts From the Dark Side" for a list of the recent events. Even though most of them did not happen on our fleet, each one of them could have happened on our fleet.

Jeppesen is here – being very prepared can make the experience positive

March 25, 2013

As I write this, we now have at least eleven airplanes that have the Jeppesen product uploaded to the EFB database. The feedback I have received has been both positive and negative. I'll go over the negative first. We have two LMS lessons that basically teach you a little about the Approach plate format and tell you how to do a quick start to initially turn it on. To be blunt, if that is all you do to prepare for using this product, you will probably be one of those people who have a negative experience.

Ladies and Gentlemen of the 777...

February 27, 2013

As I write this we have one airplane that has been uploaded with the Jeppesen Data Base in the EFB. We have a Class III EFB, so our system has been much easier to work with than the Class II EFB our friends are using who fly the MD11. You could say we have a better set of Tools in our Toolbox. But that doesn't mean it's going to be easy to use. After ten years of LIDO we have unlearned Jeppesen quite well. It isn't intuitive because a lot of us have been LIDO-ized, so information is not where you expect it to be with Jeppesen.

When in Doubt, 'Write It Up'

January 14, 2013

I'd like to thank each of you for the excellent peak performance you delivered this past holiday season! As soon as we have some relevant breakout numbers for the 777 Fleet, I'll share them with you. But suffice to say you all did an outstanding job, and it is sincerely appreciated.

Let's dive into something that is top of mind as we start our New Year..

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“RX 28”

Important Safety

<https://pilot.fedex.com/owa/?ae=Item&t=IPM.Note.EnterpriseV...>**Important Safety**

Bill McDonald [wwmcdonald@fedex.com]

Sent: Friday, October 10, 2014 4:05 PM**Cc:** Chuck Yannizzi; Emma Kegel; William McDonald**To:** All FedEx Pilots**Date:** September 24, 2014**From:** David J. Bronczek**To:** FedEx Express Team Members**Re:** Important Safety & Security Reminder

An extremely important challenge all companies face in today's world is the prevention of violence in the workplace. Unfortunately, FedEx is not immune to this risk. The entire FedEx leadership team remains committed to working with all team members to maintain a work environment free from violence, threats of violence, harassment, or any other acts – physical or verbal – that may put your safety at risk.

Reporting your concerns before situations escalate is the key to prevention of workplace violence.

To make a report, team members can contact Security, Human Resources, or any member of management. Reports can also be made online through the web based reporting form <http://sdraegrprodapp.corp.ds.fedex.com/wpv/> (see note below) or by calling the FedEx Alert Line at 1.866.42FEDEX (1.866.423.3339). As always, if it's an emergency, dial 9-1-1.

In the near future, you will receive a card from your manager to go with your Employee I.D. that contains reminders for how to handle potential workplace violence situations. Please keep the card with your I.D. at all times, and follow the instructions if the need arises.

Thank you for your support in making workplace violence prevention a priority at FedEx. Any questions related to this awareness program may be directed to your local Security Specialist.

The following information will be printed on the card provided by your manager:

Workplace Violence Prevention**Report. Prevent.**

Workplace violence is any behavior that would put someone in a state of fear or concern for his or her safety.

Reporting is the key to prevention

It is your responsibility to report any behavior that is inconsistent with maintaining a safe and secure workplace.

To make a report:

- Contact FedEx Security, Human Resources, or a member of your management.
- Use your operating company's web-based reporting system.
- Call the Alert Line: **1.866.42FEDEX** 1.866.423.3339

IF IT'S AN EMERGENCY, DIAL 9-1-1.**Active Threat Event Awareness**

An active threat event is an uncontrolled situation in which an attacker is using a weapon to cause serious injury.

Awareness and preparation

- Know the exits
- Notice unusual activity
- Plan your evacuation route
- Rehearse your plan

If an active threat event occurs

Evaluate these responses, in this order:

1. **Get out** if you can do so safely.
2. **Hide out.** Conceal yourself in a secure place.
3. **Take action.** As a last resort, attempt to incapacitate the attacker.

WHEN IT'S SAFE TO DO SO, DIAL 9-1-1.

Additionally, please review The People Manual - Section 8-80: Security by using the following link: http://library.fedex.com/library/corporate/people/08_80.htm (see note below).

*Please note that you must be on a Company computer to access the links in this document.

“RX 33”

UNITED STATES DEPARTMENT OF LABOR
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
OFFICE OF ADMINISTRATIVE LAW JUDGES

MARK ESTABROOK,)	
)	
Complainant,)	
)	
v.)	Case No. 2014-AIR-00022
)	
FEDERAL EXPRESS CORPORATION)	
)	
Respondent.)	

DECLARATION OF MARYANNE MILLER

I, MaryAnne Miller, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct:

1. I am over eighteen years of age and competent to provide a declaration in this action. I make these statements from personal knowledge in support of Respondent's Memorandum in support of the *in camera* review of documents designated as privileged.

2. I am a Senior Paralegal Specialist in Federal Express Corporation's Legal Department and Labor Relations Group.

3. In my role as a Senior Paralegal Specialist, I have personal knowledge of the individuals included in the Legal Department and Labor Relations Group. I also have personal knowledge of certain individuals in FedEx's Flight Operations and Security Departments.

4. Christine Richards is an in-house attorney and the Executive Vice President, General Counsel and Secretary of FedEx Corporation, the parent corporation to Federal Express Corporation.



5. Rush O'Keefe is an in-house attorney and the Senior Vice President and General Counsel of FedEx Express:

6. John Maxwell is an in-house attorney and the Vice President of Labor Relations for FedEx Express. Mr. Maxwell regularly provides legal advice and counsel to various members of management. This includes, among other things, advice concerning the interpretation and application of the terms of any and all collective bargaining agreements between FedEx and the Air Line Pilots Association.

7. Robert Tice is an in-house attorney and a Lead Counsel in Labor Relations Group of the Legal Department for FedEx Express. Mr. Tice regularly provides legal advice and counsel to various members of management. This includes, among other things, advice concerning the interpretation and application of the terms of any and all collective bargaining agreements between FedEx and the Air Line Pilots Association.

8. Scott Williams is an in-house attorney and a Senior Counsel in the Labor Relations Group of the Legal Department for FedEx Express. Mr. Williams regularly provides legal advice and counsel to various members of management. This includes, among other things, advice concerning the interpretation and application of the terms of any and all collective bargaining agreements between FedEx and the Air Line Pilots Association.

9. Phil Tadlock is an in-house attorney and a Senior Attorney in the Labor Relations Group of the Legal Department for FedEx Express. Mr. Tadlock regularly provides legal advice and counsel to various members of management. This includes, among other things, advice concerning the interpretation and application of the terms of any and all collective bargaining agreements between FedEx and the Air Line Pilots Association.

10. Cindy Sartain is a Senior Paralegal Specialist in the Labor Relations Group of the Legal Department of FedEx Express. In that capacity, she assists in the representation of FedEx in matters arising under all collective bargaining agreements between FedEx and the Airline Pilots Association, including grievances filed under any CBA. She works under the direction of the attorneys in the Labor Relations Group.

11. I am a Senior Paralegal Specialist in the Labor Relations Group of the Legal Department of FedEx Express. In that capacity, I assist in the representation of FedEx in matters arising under all collective bargaining agreements between FedEx and the Airline Pilots Association, including grievances filed under any CBA. I work under the direction of the attorneys in the Labor Relations Group.

12. Paul Cassel is the Senior Vice President of Flight Operations for FedEx Express.

13. Jim Bowman is the Vice President of Flight Operations for FedEx Express.

14. Bill McDonald was at the relevant time the Managing Director and System Chief Pilot of Flight Operations for FedEx Express. He is currently the Managing Director of Flight Operations Contract Administration for FedEx Express.

15. Rob Fisher was at the relevant time the Airbus Fleet Captain of Flight Operations for FedEx Express. He is currently the Managing Director and System Chief Pilot of Flight Operations for Federal Express.

16. Mitch Matheny is the Airbus Fleet Manager of Flight Operations for FedEx Express.

17. Tracy Amett is the Manager for Jumpseat Administration for FedEx Express.

18. Joe Pearson was at the relevant time the Managing Director of Flight Operations Support for FedEx Express. He is currently the Regional Chief Pilot for the Asia/Pacific Region for Federal Express.

19. Alex Antonian is the Senior Manager of Flight Operations Support for FedEx Express.

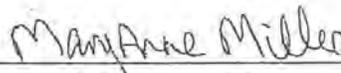
20. Shelia Voye is a Manager in the Pilot Administration Center for FedEx Express.

21. Dana Williams is a Flight Operations Administrator of Fleet Operations for FedEx Express.

22. Terry Harris is the Vice President of International Security for FedEx Express.

23. Todd Ondra is the Managing Director of Aviation and Regulatory Security for FedEx Express.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct to the best of my personal knowledge. Executed pursuant to 28 U.S.C. § 1746 this the 12th day of June 2015 in Memphis, Tennessee.



MaryAnne Miller