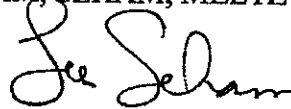


- A. For an Order directing FedEx to rescind its directive for Captain Estabrook to undergo any further mental health evaluation or treatment;
- B. For an Order directing FedEx to suppress, remove and expunge all disciplinary proceedings, medical and psychiatric evaluations and treatment histories concerning Captain Estabrook from FedEx personnel files, including all contracted medical agents' records;
- C. For an Order directing the removal and expungement of all references to psychiatric evaluation and treatment in all government records, including but not limited to, the Federal Aviation Administration;
- D. For an Order directing FedEx to cease and desist from all discriminatory conduct toward Captain Estabrook;
- E. For an Order awarding Captain Estabrook the costs of this action, including payment of reasonable attorney's fees;
- F. For an Order granting such additional relief as the Secretary of Labor, or other decision maker in this process, deems proper and just; and
- G. For an Order granting full compensatory damages including compensation for pain, suffering and emotional distress due to this adverse action.

Dated: White Plains, New York  
October 3, 2013

SEHAM, SEHAM, MELTZ & PETERSEN, LLP








By: \_\_\_\_\_



Lee Seham, Esq.  
445 Hamilton Avenue – Suite 1204  
White Plains, NY 10601

Attorney for Complainant  
Captain Mark Estabrook

## **EXHIBIT A**

 UNITED STATES DEPARTMENT OF LABOR		<input type="text"/>		
A to Z Index   En español   Contact Us   FAQs   About OSHA				
OSHA		OSHA QuickTakes Newsletter  RSS Feeds  Print This Page  Text Size  Was this page helpful?		
Occupational Safety & Health Administration		We Can Help		What's New   Offices
<a href="#">Home</a>	<a href="#">Workers</a>	<a href="#">Regulations</a>	<a href="#">Enforcement</a>	<a href="#">Data &amp; Statistics</a>
<a href="#">Small Business</a>		<a href="#">Training</a>	<a href="#">Publications</a>	<a href="#">Newsroom</a>
				
<b>Thank You!</b>				
<p>Your Safety and Health Hazard Notice has been forwarded to the OSHA Federal Area Office listed below. Your complaint may be forwarded to the State of Tennessee, which operates its own OSHA approved State Plan. <a href="#">Click here</a> for more information on State Plans or if you would like to contact the state directly. If you identified yourself, you will be contacted by OSHA. Please call the OSHA Federal Area Office below if you are not contacted.</p>				
Complaint Number: 861872				
<hr/>				
Tennessee				
<hr/>				
Nashville Area Office 51 Century Boulevard Suite 340, Nashville, TN 37214 (615) 232-3803 (615) 232-3827 FAX				
<hr/>				
Establishment Name:	FedEx Express			
Site Street:	3131 Democrat Rd., Building C			
Site City:	Memphis			
Site State:	Tennessee			
Site Zip:	38118			
Management Official:	Captain Rob Fisher			
Telephone Number:	901.224.3435			
Type of Business:	Express Shipping			
<hr/>				
Hazard Description:				
<hr/>				
<p>On April 10, 2013, after coordinating a delay with GOC (Sherrie Hayslett) and speaking to the FedEx Duty Officer (Mark Crook) that there was a line of thunderstorms [described in an active SIGMET] between my departure airport Laredo, TX (KLRD) and Memphis, TN (KMEM), the Duty Officer directed me to depart and fly toward KMEM and through the line of thunderstorms. Asserting my pilot in command authority under 14 CFR Sec. 91.3(a) I related: "I am not going to depart until I can plan my arrival for storm passage through Memphis." He then told me he had consulted with our FedEx Weather Department and said they told him the thunderstorm would pass through Memphis in about 30 minutes. He directed me to takeoff and fly to Memphis. I declined. It would be 4-6 hours later before the storm would pass through Memphis. "You are the only one not taking off" he said, and directed me to go sit in the cockpit until we had our departure clearance. Laredo tower held us on the ground for over 2 additional hours due to a weather hold for all Memphis inbound flights as directed by Memphis Air Route Traffic Control. 14 CFR Sec. 91.3(a) provides: "The pilot in command is directly responsible for, and is the final authority as to, the operation of that aircraft." In addition to violating Sec. 91.3(a), such an operation would have violated 14 CFR Sec. 91.13(a) which provides: "No person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another." These provisions in Part 91 of the Federal Aviation Regulations specifically apply to Part 121 operations such as those conducted by Federal Express.</p>				

See 14 CFR Sec. 91.1(a) ["this part prescribes rules governing the operation of aircraft...within the United States."]. These directives are also in violation of FedEx Flight Operations Manual (FOM) procedures 8.17 TURBULENCE, which states, in part, that "Turbulence increases the difficulty of flight operations. In extreme cases it may cause damage to the aircraft. Areas of known severe/extreme turbulence should be avoided. If the Captain determines an area of turbulence to be unsafe, he will detour or delay the flight until conditions improve. All meteorological conditions (e.g., SIGMETS, PIREPS, ATC advisories, etc.) shall be considered prior to releasing a flight to or operating in areas of turbulence." My decision to exercise my pilot in command authority has led to a Section 19.D.1 disciplinary interview Capt. Rob Fisher has declared he intends to convene on May 1, 2013, in Memphis, TN. Despite my requests, I have not been provided with records or recordings of my conversations either with the Duty Officer or the Dispatcher. The GOC dispatcher lied about my consultation with her when she agreed I should stay at the hotel and wait out the storm. My first officer, Randy Burleson, can verify this. The audio tapes will also corroborate my account of events. My conversation with the Duty Officer was an act of intimidation in response to my reporting an FAR violation to my employer as is the receipt of the letter received from my supervisor Rob Fisher notifying me of an interview set for May 1, 2013, under the auspices of Section 19.D.1 of the Collective Bargaining Agreement (CBA) currently in force and effect at Federal Express. There are approximately 4,500 pilots at FedEx Express.

---

**Hazard Location:**

The hazardous location is airborne in nature. Every aircrew that may be intimidated by flight management to penetrate severe turbulence and thunderstorms is at risk all over the world.

This condition has previously been brought to the attention of:

\* The following government agency: FAA

I am an employee.

My name may be revealed to the employer.

Complainant Name: MARK ESTABROOK

Complainant Telephone Number: 901-230-4933

Complainant Mailing Address:

PO BOX 1890

MANCHACA

Texas

78652

Complainant Email: cargopilot@gmail.com

[Freedom of Information Act](#) | [Privacy & Security Statement](#) | [Disclaimers](#) | [Important Web Site Notices](#) | [International](#) | [Contact Us](#)

U.S. Department of Labor | Occupational Safety & Health Administration | 200 Constitution Ave., NW, Washington, DC 20210  
Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627

[www.OSHA.gov](http://www.OSHA.gov)

## **EXHIBIT B**

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

Alan Armstrong  
Attorney at Law  
2900 Chamblee-Tucker Road  
Building 5, Suite 350  
Atlanta, GA 30341

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

Dear Mr. Armstrong:

The request to withdraw the complaint filed by Mark Estabrook (Complainant) in the above-captioned matter has been approved. With this withdrawal, the case in this matter is closed.

If, at any time in the future, 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.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Robinson", followed by a horizontal line.

Matthew E. Robinson  
Regional Supervisory Investigator

## **EXHIBIT C**



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.  
FAA Senior Aviation Medical Examiner  
Board Certified in Family Medicine

19 2013  
001

770-451-0317

3828 S. First St.  
Austin, Texas 78704  
512-443-1311  
[www.AustinRegionalClinic.com](http://www.AustinRegionalClinic.com)



## **EXHIBIT D**

STEPHEN D. LEONARD, M.D., F.A.C.S.  
2900 CHAMBLEE-TUCKER ROAD, BLDG. 5-210  
ATLANTA, GEORGIA 30341

AVIATION MEDICINE

Telephone: (404) 266-0010  
Facsimile: (770) 855-4024  
Email: sdleonard@comcast.net

August 24, 2013

Re: Mark Estabrook

To Whom It May Concern:


I had the opportunity yesterday for a lengthy conversation with FedEx pilot Mark Estabrook to evaluate his mental and emotional qualifications as an airline pilot. These have been called into question following what he describes as his attempt to alert his employer to possible security vulnerabilities in their operation.

I am a general and vascular surgeon by training, not a psychiatrist or neuropsychologist. However I have been an aviation medical examiner for 31 years, was a USAF flight surgeon for ten years, and have been a pilot for 44, so I am not unfamiliar with normal and abnormal patterns of thought and behavior among aviators.

Mr. Estabrook is clearly intelligent, with the broad-based fund of knowledge about aviation and general subjects that one expects in his position. His affect is entirely appropriate, his speech is fluent and on topic, he gives no evidence of any abnormal ideation. He denies any history of depression, suicidal or destructive thoughts, or thoughts of any overt antisocial acts. He is, like many of his contemporaries, more sure of his positions and more assertive than the average person, but he is quick to acknowledge that he has made mistakes.

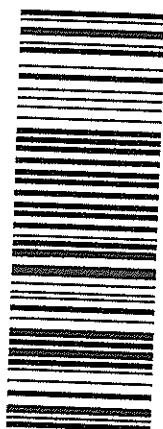
The strong impression I draw from talking to him and from lengthy discussion of what is admittedly one side of his story is that there is no psychological issue that should be of any concern regarding Mr. Estabrook's medical qualification as a pilot. If he has been impolitic in his highlighting what he perceives as security vulnerabilities that would seem to be an administrative, not an aeromedical issue.

Sincerely,

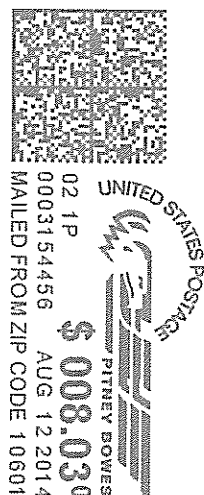


Stephen D. Leonard, MD

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UNITED STATES POSTAGE  
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02 1P \$ 008.030  
0003154456 AUG 12 2014  
MAILED FROM ZIP CODE 10601

**SEHAM, SEHAM, MELTZ & PETERSEN, LLP**

ATTORNEYS AT LAW

445 HAMILTON AVENUE, SUITE 1204

WHITE PLAINS, NEW YORK 10601

**TO:**

Kurt A. Petermeyer, Regional Administrator  
Occupational Safety and Health Administration  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, S.W., Room 6T50  
Atlanta, GA 30303

RETURN POSTAGE GUARANTEED

000061

**FedEx Express / Estabrook / 4-1760-14-002**

<b>Left Side</b>	<b>Tab #</b>	<b>Right Side</b>
Case Activity Worksheet	<b>1</b>	Complaint
Complainant Notification	<b>2</b>	Respondent Position
Respondent Notification	<b>3</b>	Investigator's Notes
Primary Agency Notification	<b>4</b>	Complainant Rebuttal
Designation of Representative	<b>5</b>	Complainant Medical Information
Additional Correspondence	<b>6</b>	Report of Investigation
Determination Letters	<b>7</b>	Telephone Log / Activity Sheet
Case Summary	<b>8</b>	

RCF OSHA JUL30-14-PH0325



DOL-OSHA Whistleblower Investi  
Activity/Telephone Activity

Date	Activity
7/11/14	Forwarded Case file to RSI for approval.
7/15/14	Mailed determination letters to CP/RP.
7/29/14	FORWARDED CASE FILE TO ATLANTA RO. <i>MBH</i>

# ACTIVITY LOG

Date	Activity
10/28/13	Received Complaint mailed opening letters.
11/5/13	Email contact established with CP Atty.
11/7/2013	Received Designation of Representation from RP Atty.
11/18/13	RP contacted to introduce. Position due 2 December.
12/5/13	Received RP Position and forwarded to CP Atty via email for rebuttal Due Back 12/16/13
12/14/13	Phone conversation with CP Atty. Stated he never received RP Position. Forwarded via Email
/	Due back Jan 3.
12/18/13	RP requested 1/15/13 for rebuttal. <i>TR</i>
01/8/14	Scanned and sent case file to Regional Office for FOIA Request.
2/5/14	Emailled RP Atty @ ESTABROOK Position. Due back 2/14/14.
3/11/14	Left message with RP Counsel in Ref to Setting Interview Schedule.
4/15/14	Spoke @ RP Atty in ref to scheduling interview @ Mgmt. Additionally spoke about additional allegations made by CP.
6/28/14	Received additional correspondence from RP Atty.

6

000066



July 15, 2014

MEMORANDUM FOR: LAUREN FEHLMAN  
Regional Supervisory Investigator

FROM: JASON P. BRUSH  
Investigator

SUBJECT: FedEx Express / Estabrook / 4-1760-14-002

STATUTE: Wendell H. Ford Aviation Investment and Reform Act for the 21st  
Century, 49 U.S.C. §42121

COMPLAINANT:	Mark Estabrook	<u>Represented By:</u>
	P.O. Box 1890	Lee Seham, Attorney
	Manchaca, TX 78652	Seham, Seham, Meltz & Petersen
	Telephone: (901)230-4933	445 Hamilton Avenue, Suite 1204
	cargopilot@gmail.com	White Plains, NY 10601
		(914)997-1346
		ssmplaw@ssmplaw.com

RESPONDENT:	FedEx Express	<u>Represented By:</u>
	3610 Hacks Cross Road	David P. Knox, Senior Counsel
	Memphis, TN 38124	FedEx Express
	(901)369-3600	3620 Hacks Cross Road
		Memphis, TN 38124
		(901)434-8600
		<u>David.knox@fedex.com</u>

	ANALYSIS	EXHIBIT
TIMELINESS	Complainant, Mark Estabrook, a commercial airline pilot for FedEx Express (Respondent) was temporarily removed from flight status on August 7, 2013 pending a psychiatric evaluation. As this complaint was filed on October 9, 2013 and is within 90 days of the alleged adverse action, it is deemed timely. Subsequently on April 16, 2014, Complainant amended his complaint to include the adverse action of being temporarily being placed in Non-Qualified (NOQ) flight status pending the receipt of medical clearance from his Aviation Medical Examiner (AME), this too was timely.	1
COVERAGE	Respondent is an air carrier within the meaning of 49 U.S.C. §42121 and 49 U.S.C. §40102(a)(2).  Complainant is an employee within the meaning of 49 U.S.C. §42121.	1, 3
PROTECTED ACTIVITY	Complainant, on April 10, 2013, refused to fly an aircraft because of bad weather and filed a whistleblower complaint, <i>FedEx/Estabrook/4-1760-13-080</i> . However, after no action was taken against Complainant, this matter was withdrawn by Complainant  Complainant alleged protected activity when he requested to meet with Respondent CEO about his personal concern for industry safety. However, as explained below, this allegation does not constitute protected activity.	1
KNOWLEDGE	Though Respondent legal department acknowledges Complainant's previous whistleblower complaint, it is explained below that the decision maker of the adverse action of removing Complainant from flight status had no knowledge of Complainant's prior whistleblower complaint.  Respondent does acknowledge Complainant's request to speak to management concerning alleged aviation safety (eg. Flight data tracking).	
ADVERSE ACTION	Complainant was removed from flight status pending a psychiatric evaluation on August 7, 2013.  On or about April 10, 2014, Complainant was removed again from flight status until he was cleared by his Aviation Medical Examiner on or about April 17, 2014. The additional medical clearance was required by Respondent as they learned that	1, 3-5

	Complainant received injuries as a result of civil unrest, that required surgery while vacationing in Kiev, Ukraine.	
DEFENSE	<p>On April 10, 2013, Complainant, while sitting in his hotel room and watching weather on his television, made a decision that he was not going to fly a scheduled flight from his location in Texas to Respondent's Memphis, TN terminal because of a thunderstorm that was expected to be in Memphis that same time Complainant was due to land. On or about April 28, 2013, Complainant was requested to meet with Respondent Fleet Captain to discuss the April 10, 2013, refusal to fly. Respondent maintained that whether or not Complainant actually took off from the airport or not was absolutely Complainant's call. However, Complainant duty location was at the airport in Texas and not his hotel room.</p> <p>On April 29, 2013, Complainant filed a whistleblower complaint claiming retaliation for refusing to take a flight under unsafe conditions. On May 2, 2013, Complainant withdrew his whistleblower complaint.</p> <p>For the current complaint, Complainant 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 Complainant refers was an email he sent to the Respondent System Chief Pilot rather than to his direct supervisor, Respondent Fleet Pilot.</p> <p>Complainant's email said he wanted to "talk to Fred," meaning Mr. Fred Smith (Respondent CEO). According to Respondent, Complainant cryptically said he wanted to discuss "something related to 9-11" and instructed Respondent Chief Pilot 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." David P. Knox, <i>FedEx v. Estabrook</i>, Dec 3, 2013. Respondent believed this was not an appropriate way to arrange a meeting with the CEO of a global enterprise. Respondent believed that Complainant's request for Respondent CEO to call at Complainant'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.</p> <p>Respondent's Chief Pilot nevertheless responded to Complainant and arranged a meeting on August 9, 2013, with Complainant's Fleet Captain and Respondent Managing</p>	3, 5

Director of Aviation and Regulatory Security (Security Director), to discuss Complainant's concerns. Prior to the meeting, Complainant was removed from the flight schedule with pay (because of Respondent's perception that Complainant's email demonstrated the possibility that he was unfit for duty). According to Respondent's statements, Complainant expressed his understanding of the reason for removing him. Complainant met with his Fleet Captain and Security Director and a representative from Respondent's legal department on August 9, 2013. During the meeting Complainant described several of his concerns, including specifically Respondent's practice of providing shipment tracking information on-line. Complainant expressed concern that terrorist groups like Al Qaeda could use this information in carrying out terrorist attacks. Complainant suggested Respondent ask the Federal Department of Homeland Security to order other airlines to cease making tracking information available on-line. Additionally, and perhaps of greatest concern to Respondent, Complainant voiced his extremely peculiar concerns about (b) (7)(C)

(b) (7)(C)

(b) (7)(C)

Complainant said he was well-versed in intelligence sharing and gathering methods. Respondent stated that Complainant explained that his skills dated back to his childhood, when his father helped people escape from Cuba. Complainant also told Respondent that he had been chased "all over Russia" as a young man. On the whole, Respondent Fleet Pilot, and particularly the Respondent Security Director, found his comments curious and quite disconcerting.

During the meeting Respondent also asked Complainant whether he ever posted comments on a public on-line airline pilot forum under the name "Mayday Mark." Respondent was aware that an individual using the on-line name "Mayday Mark" and identifying himself as a Captain for

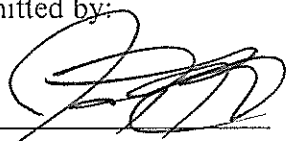
	<p>Respondent had recently posted "One of my doctors thinks I may have had a seizure to do being chronically tired." Complainant denied that he was "Mayday Mark" and Respondent accepted his denial.</p> <p>After the meeting concluded, Respondent was concerned that Complainant may not be entirely fit to fly an aircraft. Complainant's email to Respondent Systems Chief Pilot, when coupled with his observed behavior during the August 9 meeting and his perceived bizarre theories and requests about (b) (7)(C) Respondent questioned whether Complainant 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 Respondent and the Airline Pilots Association (ALPA), which represents the pilots, Respondent instructed Complainant on August 16, 2013, to report to Respondent's aeromedical advisor for evaluation. Complainant was removed from the flight schedule, with pay, until the evaluation could be completed.</p> <p>Complainant initially spoke with Respondent's aeromedical advisor. After the conversation, Respondent aeromedical advisor believed there was sufficient cause for Complainant to undergo a full psychiatric evaluation, and he referred Complainant to an independent Psychiatrist. Complainant's psychiatric evaluation was scheduled for September 11, 2013. After this evaluation was completed, the aeromedical advisor initially determined that Complainant did not meet the FAA medical standards and was unfit for flying duties. Following the CBA, Complainant then submitted an evaluation previously performed by a doctor of Complainant's choosing as a "secondary evaluation" indicating he was fit to fly. Because the medical evaluations were inconsistent, pursuant to the CBA a Medical Review Panel was convened and it was ultimately determined that Complainant was fit to return to duty. Complainant was returned to active status. Significantly, Respondent has since made Complainant whole with respect to his compensation and sick-time allowance, as required by the CBA.</p> <p>On April 16 ,2014, Complainant filed a supplemental complaint based upon being placed in NOQ status pending Respondent's receipt of medical clearance from Complainant's AME.</p>	
CHRONOLOGY	<p>April 10, 2013, Complainant refused to fly a Respondent plane from Texas to Memphis due to inclement weather in the Memphis area.</p>	

	<p>April 29, 2013, Complainant filed a whistleblower complaint with the Secretary of Labor in fear of retaliation for refusing to take the flight on April 10.</p> <p>May 2, 2013, Complainant withdrew his complaint.</p> <p>May 4, 2013, Complainant met with Respondent Fleet Captain to discuss the April 10, flight refusal.</p> <p>August 4, 2013, Complainant emailed Respondent System Chief Pilot requesting an audience with Respondent CEO for the purposes of discussing "something related to 9/11." Complainant was placed on Non-Qualified (NOQ) flight status.</p> <p>August 9, 2013, Complainant met with Respondent Management to discuss his concerns. Due to the nature of the meeting, Complainant remained on NOQ status at the request of Respondent Chief of Security.</p> <p>October 9, 2013. Complaint filed an AIR 21 Whistleblower Complaint with the U.S. Secretary of Labor.</p> <p>November 2013, Complainant was returned to flight status after being cleared by AME's.</p> <p>April 2014, Complainant was again placed in NOQ status until he was cleared by AME's for injuries received while off-duty.</p>	
FACTUAL ANALYSIS	<p><u>Prima Facie Case:</u></p> <p>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.</p> <p>Complainant has been unsuccessful in demonstrating all of the prima facie elements. In regards to the engagement in a protected activity, there is no question that Complainant engaged in protected activity when he refused to fly out of an airport because Complainant determined the weather was dangerous. Additionally, his filing of a whistleblower</p>	

	<p>complaint is protected. In regards to his request for a meeting with Respondent CEO to “discuss issues related to 9-11,” it is unclear whether this would be considered a protected activity under AIR21. However, even if Complainant were to be successful in proving his concern was a legitimate concern for the safety of Respondent’s pilots and airplanes, as discussed below, there is insufficient evidence to show that this possible protected activity was a contributing factor to the adverse action.</p> <p>Complainant suffered an adverse action when he was removed from flight status and forced to undergo psychiatric evaluation before he could return to duties as a pilot. Complainant suffered additional adverse action when he was removed from Flight status in April 2014.</p> <p>The temporal proximity between the protected activity and the adverse action would normally infer a relationship between the events. However, as explained above, Respondent provided a legitimate, non-retaliatory reason for the adverse action(s). Complainant makes no accusation of animus or disparate treatment. Therefore, the required nexus between the protected activity and the adverse action does not exist.</p> <p>Furthermore, even if Complainant were successful in alleging a prima facie case, Respondent would still avoid liability as they have produced clear and convincing evidence that they would have taken the same action despite any protected activity. Respondent stated that Complainant’s statements were “curious and quite disconcerting” enough that a psychiatric evaluation was necessary to determine whether or not Complainant could be trusted with flying a cargo jet. Complainant’s CBA provides that Respondent “[m]ay direct a pilot to contact or see the Company’s aeromedical advisor if the Company <b>has reasonable basis</b> to question whether a pilot has developed or recovered from and impairment to his ability to perform duties as a pilot. A pilot in active status who is directed to contact or see the Company’s aeromedical advisor, shall be removed from any conflicting scheduled activities with pay until the aeromedical advisor determines whether the pilot is fit for flight duty.” <i>FedEx Express Pilot’s Collective Bargaining Agreement, Section 15.D.1 &amp; 2</i>. Although this would be a subjective analysis, based on testimonial and documentary evidence, it appears that it was “reasonable”.</p>	
--	---	--

	<p>Complainant has not provided any evidence that the proffered rationale for his removal(s) from flight status or order for psychiatric evaluation was pretextual in nature.</p> <p>Significantly, once a medical board determined that Complainant was suitable to return to his normal duties, Respondent not only immediately returned Complainant to his flight status but reimbursed Complainant for the medical expense of seeking a second opinion about his mental state. Complainant's second removal from flight status was immediately rescinded upon clearance from Respondent's AME per 14 CFR Part 67.</p> <p>Additionally, it should be noted that during his removal(s) from flight status, Complainant's suffered no material damage as his salary remained untouched, to include his flight pay.</p>	
RECOMMENDED DETERMINATION	DISMISSED	
	Recommended Relief	
REINSTATEMENT	N/A	
BACK WAGES	N/A	
INTEREST	N/A	
OTHER COMPENSATORY DAMAGES	N/A	
PUNITIVE DAMAGES	N/A	
EXPUNGEMENT	N/A	
POSTING	N/A	
ATTORNEY'S FEE	N/A	
OTHER RELEVANT INFORMATION FOR SUPERVISOR'S CONSIDERATION	N/A	

Submitted by:



Jason P. Brush

Investigator, Region IV



I have reviewed this investigative file and I concur with the recommendation above.

A handwritten signature in black ink, appearing to read "Lauren Fehlman", written over a horizontal line.

7/15/14

Lauren Fehlman

Regional Supervisory Investigator



CONFIDENTIAL MEDICAL INFORMATION

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



Authorization for the Release of Medical Records

I, Mark Estabrook, (full name of worker/patient) hereby release to the U.S. Department of Labor - OSHA, the following medical information from my personal medical records:

(Describe generally the information desired to be released)

Psychiatric report contained in Exhibit G of Complainant's January 31, 2014 submission.

I give my permission for this medical information to be used for the following purpose:

**Documentation of injuries and/or illnesses related to my employment.**

However, I do not give permission for any other use or re-disclosure of this information.

The U.S. Department of Labor – OSHA, will hold the medical information obtained with this authorization for release confidentially for no more than nine months, unless citations and penalties are issued related to the current inspection and are later contested and/or unless otherwise required by law. If this occurs, the medical information will be maintained until such time that litigation is completed and/or required by law. All submissions of this information in any legal proceeding will be under seal. After all actions are completed with regard to these records, the information will be returned to the individual or organization originally holding the records or it will be destroyed.

Lee Seham, Esq., Attorney for Mark Estabrook

Full name of Employee or Legal Representative

A handwritten signature in black ink, appearing to read "Lee Seham".

Signature of Employee or Legal Representative

March 26, 2014

Date of Signature

00/25/2013 17:11

5124488264

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 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.  
FAA Senior Aviation Medical Examiner  
Board Certified in Family Medicine

10/20/13  
11:11

for 444 Alan Armstrong  
770-451-0317

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AVIATION MEDICINE

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Facsimile: (770) 855-4024  
Email: [sdleonard@comcast.net](mailto:sdleonard@comcast.net)

August 24, 2013

Re: Mark Estabrook

To Whom It May Concern:

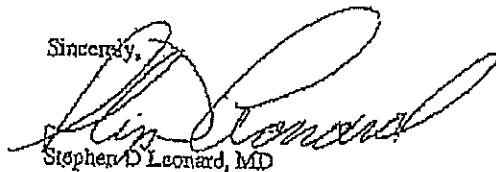
I had the opportunity yesterday for a lengthy conversation with FedEx pilot Mark Estabrook to evaluate his mental and emotional qualifications as an airline pilot. These have been called into question following what he describes as his attempt to alert his employer to possible security vulnerabilities in their operation.

I am a general and vascular surgeon by training, not a psychiatrist or neuropsychologist. However I have been an aviation medical examiner for 31 years, was a USAF flight surgeon for ten years, and have been a pilot for 44, so I am not unfamiliar with normal and abnormal patterns of thought and behavior among aviators.

Mr. Estabrook is clearly intelligent, with the broad-based fund of knowledge about aviation and general subjects that one expects in his position. His affect is entirely appropriate, his speech is fluent and on topic, he gives no evidence of any abnormal ideation. He denies any history of depression, suicidal or destructive thoughts, or thoughts of any overt antisocial acts. He is, like many of his contemporaries, more sure of his positions and more assertive than the average person, but he is quick to acknowledge that he has made mistakes.

The strong impression I draw from talking to him and from lengthy discussion of what is admittedly one side of his story is that there is no psychological issue that should be of any concern regarding Mr. Estabrook's medical qualification as a pilot. If he has been impulsive in his highlighting what he perceives as security vulnerabilities that would seem to be an administrative, not an aeromedical issue.

Sincerely,



Stephen D. Leonard, MD

To: 14043344600 From: 17136273488 Date: 09/17/13 Time: 10:17 AM Page: 01  
Sep 18 2013 12:17AM HP FaxGlass 7136273488 page 1

**GEORGE S. GLASS, M.D. P.A.**  
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\*\*\*\*\*CONFIDENTIAL\*\*\*\*\*

FACSIMILE TRANSMITTAL SHEET

TO: Chn's-Harvey White FROM: George S. Glass, M.D.  
COMPANY: \_\_\_\_\_ DATE: 9/17/13  
FAX #: 404-334-4600 PHONE #: \_\_\_\_\_  
# OF PAGES (INCLUDING COVER): \_\_\_\_\_  
RE: Mark Esterbrook  
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**GEORGE S. GLASS, M.D., P.A.**

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September 16, 2013

*General Psychiatry*

**Report on Mark Estabrook**

Reason for Referral

I was asked by Alan Armstrong, the attorney for Mark Estabrook, Dr. Bettes from the Harvey Watt Company, as well as Mr. Tice of the management of the FedEx Corporation to review records and then interview Mark Estabrook. Mr. Estabrook is a Captain on the Airbus for FedEx, has been with them for 24 years, and because of issues that occurred at work, it was thought that he should be seen for a psychiatric evaluation. The primary concern appeared to be whether Mr. Estabrook was psychiatrically impaired such that he could no longer perform as a pilot.

Current Problem

Mr. Estabrook presented to my office early for his appointment, and when asked why he was there said *"I have been a thorn in my CEOs side for 24 years since I first came to FedEx."* He proceeded to enumerate why he had been and continued to be a thorn for management, which include the following issues from his perspective:

1. When he first arrived at Fed Ex he began a newsletter which he admitted was essentially a union organizing newsletter which he said upset the management, who I gather did not want a union at the time.
2. Having done that, he then help start a union which by his report the company did not like. He went on to say that he pushed that by debating those issues with the CEO in the newspaper.
3. He confronted the company when the 16 hour *"duty day requirements"* were to be expanded to 24 hours. He said that he protested the change which caused NASA to do a study, the results of which were that tired pilots were essentially flying as if they were drunk. He said the company got the study suppressed, so he went to a judge using the freedom of information act to publicize the study, so the *"Duty on time was not changed, but management again was upset with him."*
4. In the 2001-2002 time frame he began a website called *"Airline Pilot.com"* in which he wrote an article recommending that pilot's be armed, which is now the law, and Mr. Estabrook was on the media talking about that which again the company did not like.
5. In 2001-2002 he wrote an article about how the company should be secretive in terms of revealing their flight details and flight times because that information could be used by terrorists. He said that that information, and his reports were ignored.

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1



6. He recently brought his opinion and the publication of flight schedules and times up again after he said terrorists had sent dummy printer cartridges from the Middle East, and then tried to do it with real bombs, which were fortunately intercepted before they could explode.

Most recently, apparently a pilot was posting things on a "wall" by which I assume he meant an internet site, using the name "*Mayhem Mark*", and the company thought it was Mr. Estabrook. The individual purportedly had had a stroke, which Mr. Estabrook has not had, and therefore pointed out to them, but he was taken off active flight status. He said that he told them that that he was not that person, but believes he is accused of it, and is now very upset about that.

When asked why he was being picked on at this time he said he thought his manager now had an opportunity to "*harass me*". He went on to say that the manager, and one of the assistant chief pilots had been in the union at one time, but now were management and wanted somehow to punish him. He said that he was just responding to a company policy that was called "*If you see something, Say something*". He went on to talk about his concerns about the tracking, and had asked the two individuals who he believes are harassing him to let him talk to Fred Smith, the head of Fed Ex. He went on to say "*I've always been a union organizer type person, even in high school. I don't know why I do it, but Doctor, does it make you crazy to want to be in a union*".

Mr. Estabrook denies symptoms of depression, and said that he has no problems sleeping, but has gained weight over the last 10 to 15 years and has had an increase in libido since he began taking testosterone.

He was divorced three years ago after three years of litigation to a woman he was married to for 20 years. He said she had affairs on him which he could no longer ignore, although she left when their youngest daughter finished high school, which she told him she would do. When asked more about that he said "*If you ask my wife she would say I was unavailable to her because I was flying a lot, but I would say that she was unfaithful. She was a marathon runner, a good mom, and is a hospital dietitian, so you can see I put on weight, and we are different.*" They have a 25-year-old daughter from that marriage who does financial for a tractor company in Nashville, and a 23-year-old daughter who just graduated from nursing school and is working in an operating room in Chattanooga. He said that he has contact with them.

He said he has been dating a little since the divorce but is not interested in a commitment.

For fun he is involved in photography, has a number of pictures he has taken of 60's and 70's rockstar's that he is retouching, and showed me one. He also is involved in making a film regarding Gus Grissom the astronaut.

He said that he has never seen a psychiatrist before, but that he and his wife saw three different marriage counselors for several sessions each, but she stopped going.

When asked about his job, he said that he likes making the type of money he makes as a Fed Ex pilot, could not find another job where he could make as much at his age, and thought that he could be less provocative to his employer in the future. Toward the end of the interview he said *"I think I probably have a problem with authority which I've always had in which is why I always try to make things happen. I don't know why I do it, but I always have."*

When asked if he wanted to continue working there and what he would have to do not to jeopardize his situation and get along with people, he said he had in fact done that for the previous 10 years until recently and could give no reason why things escalated again except that he had asked to see Mr. Smith when he learned that his theory of tracking flights had been used by terrorists and ignored by management.

#### Past History

Mr. Estabrook grew up in Irving, Texas. His father died at the age of 48 of a heart attack and was an American Airlines pilot who took him to union meetings when he was 10 where he would stuff envelopes. He was described as a charismatic, comedian type person who always had people around him and spent time with him when he was a child. His mother is 80, is arthritic, lives in the Dallas area, and worked for American Airlines in reservation. He had an older brother who would be 63 who died of drug and alcohol abuse in 2008. He said his brother grew up with Stevie Ray Vaughn, played in his group, and then got into drugs and alcohol with him. At 56 he is the middle child and a 46 year brother is a *"normal guy who is not very ambitious and is married with three children."* He denies any family history of alcoholism or emotional problems although his brother had a drug problem.

He said he was an honor roll student in grade school and high school where he was involved in sports and the student council president. He went to college at the University Texas, majored in filmmaking, graduated with a 3.0, spent several years learning to fly, and then went to the University of Oklahoma where he got a Masters in a Public Administration. He joined the Air Force after he learned to fly because he could not get in earlier, was qualified to fly F-15s and F-16's but flew P 33's and ultimately ended up flying AWACS for four years over the Persian Gulf. This is part of the reason he believes that he has an inside understanding of terrorists. He left the military after 7 ½ years as a Captain and was hired by FedEx.

#### Mental Status Examination

Mr. Estabrook presented himself in a somewhat rambling manner, as if he was almost hypomanic, was somewhat paranoid and guarded initially about filling out forms and paperwork, and ultimately told my secretary, half jokingly, *"I'm an asshole"*, which seemed somewhat inappropriate. The mental status examination revealed a gray-haired, pleasant, 56-year-old man

who was dressed in a dark suit and tie. He seemed nervous in interview, and would talk at times in more detail than was needed. He went on to answer the questions he was asked in a straightforward manner but would often go on to elaborate additional details. He did not seem depressed and was not suicidal. He did not appear to be particularly paranoid although he was clearly joking, but did seem surprised at the company's reaction to his behavior. Underneath his gregariousness, and grandiosity he seemed to be somewhat insecure, and I think was surprised that he had been referred to a psychiatrist by the company. There was no evidence of psychosis or hallucinations. He made one mistake in subtracting serial 7's, and his explanation of proverbs was quite personalized, and self-centered.

#### MMPI Results

An MMPI which was done showed "...client attempted to place himself in an overly positive light by minimizing faults and denying psychological problems...defensive stance is characteristic of individuals who are trying to maintain the appearance of adequacy and self-control. This client tends to deny problems and is not very introspective or insightful about his own behavior...the individual is likely to have little awareness of his difficulties...likely to be rigid and inflexible in his approach to problems...likely to project an excessively positive self-image and to be somewhat arrogant and intolerant of others' failings...apparently rather hedonistic and immature, he has difficulty controlling his aggressive and sexual impulses at times...he may have particular difficulty controlling anger...may be overly sensitive to rejection, a low tolerance for frustration, tend to blame others for his difficulties instead of taking responsibilities for them...moody and occasionally somewhat rebellious, which may cause him problems with authority figures...interpersonally, he may be somewhat intolerant and insensitive...views himself as being confident in social situation, and he tends to be exhibitionistic and forceful in expressing his views..."

#### Initial Impression

Axis I, Rule Out Depression

Axis II, Not specified, but probably an issue

Axis III, Non-Contributory

Axis IV, Family, Occupational, Relationship Stressors

Axis V, GAF 55

#### Medical Opinion and Recommendation

Mr. Estabrook appears to be a lonely, somewhat isolated man who is living alone, has somewhat minimal involvement with his children, and while he said he has friends and hobbies, it appears that his primary activity has been photography and hassling with the company. I

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suspect that he is identifying with his father who he saw as a charismatic, outgoing, comedian, pilot, and labor organizer, and is trying to be somewhat like him. That said, clearly his efforts have been ineffective, and I think he may be depressed, somewhat hypomanic, and may be doing some of his clearly provocative activities just to stay involved with other people. I did an MMPI which I have attached, but I believe that he would benefit from more detailed neuropsychological and projective psychological testing.

In addition, I believe he might benefit from some relatively brief group or individual therapy to help him realize how his behavior is seen by others, and how he might modify it so that he can make things better at work.

While I suspect that he could technically continue flying, his personality issues and behavior are such that I suspect that others will not want to fly with him, and he is so inappropriate that he may create problems for himself and the company, while he feels he is helping others.

Thank you for this interesting referral and please feel free to contact me should you have any further comments or questions.

Yours truly,

George S. Glass, M.D.

*Distinguished Life Fellow, American Psychiatric Association*

*Certified, American Board of Psychiatry and Neurology*

*Certified, American Medical Society on Alcoholism and Other Drug Dependencies*

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PAGE 01/07

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**William E. Green, III, MD**

**Practice Limited to Psychiatry and  
Addiction Psychiatry**

# Fax

<b>To:</b>	Harvey Watt and Co. ATTN: Dr. Bettes	<b>From:</b>	William E. Green, III, MD, DFAPA
<b>Fax:</b>	404-761-8326	<b>Pages:</b>	7 total with cover
<b>Phone:</b>		<b>Date:</b>	10/28/2013
<b>Re:</b>	Mark Estabrook	<b>cc:</b>	

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Here is the report on Mark Estabrook. Can you please give this to BOTH Dr. Bettes and Chris Johnson. Thank You!

William E. "Win" Green III, MD  
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803-691-7997 home

William E. Green, III, M.D.  
Board Certified – General Psychiatry  
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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

William E. Green, III, M.D.

MARK ESTABROOK

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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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MARK ESTABROOK

Date of Service: 10/23/13

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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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MARK ESTABROOK

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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

William E. Green, III, M.D.

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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.

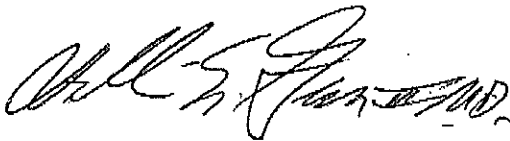
DISCUSSION AND RECOMMENDATIONS: Captain Mark Estabrook is a 57-year-old divorced white male airline pilot employed by Federal Express who most recently sent an e-mail concerning security concerns on his part to his chief pilot. He subsequently was brought in for a meeting with several members of management 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

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William E. Green, III, M.D.

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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. 1<sup>st</sup> St., Austin, TX 78738  
Stephen D. Leonard, M.D., FACS, 2900 Chamblee-Tucker Rd., Bldg. S-210, Atlanta,  
GA 30341



CAPT Rob FISHER FLT CAPT for Airbus. Jan 2011 to Mar 14.  
4/30/2014

NoQ happens once per month I would say.  
That is pretty common. Psyc issues once that  
I recall.

If company has reasonable cause to believe Psyc  
Issues we can send a pilot for evaluation  
Repayment agreement. Comp. Doc and PDoc  
agreed on SMC Doc agreement.

First learned from Rob Myce and Bill McDonald.  
Got a curvium letter. We decided to talk to  
him. We got together and he told us his  
concerns. He talked about two areas. One was  
about tracking issues. One was about Auburn  
Calloway. The meeting was very short. He was  
placed back on FLT STATUS.

Knowing what I know as a flight mgr,  
there was no reason to keep him off FLT STATUS.

The Corporate Sec guy left before meeting was  
over. In hindsight we probably should have  
kept him off FLT STATUS and conferred with  
Todd Ondra rather than make the decision  
on our own.

Todd Onda called us back and told us he had to be on 15D psyc.

Rob Tyce. Todd called me and said what concerned him was reference to Andrew Calloway and Al Qaeda.

I acknowledged since this was safety & security, they had a stake in say of a 15D referral.

We consult with Harvey Watt in ATL for medical. It keeps flight ops from knowing personal medical information and personal intimate information.

— Rob called me and gave me the news.

I had to make the difficult call to Mr Estabrook. I was not completely convinced. I take up to my people. I called Mark and told him in the interest of caution he had to be placed back on NOB. He was very upset. I wrote everything and sent it all to Rob Tyce.

May 2013 I brought Mark in and counseled him about the weather incident.

he tell him when to be @ work HE tells us when he is going to move the airplane.

- I did not know Mark filed a whistleblower complaint until you just told me.

Todd Ontra had no idea he filed a WB complaint for the weather incident. He had no reason to know

No knowledge of previous concerns raised in 2002 as he claimed.

I am responsible for 950 pilots. He was another guy in the crowd.

We have 4,500 pilots now. Absolutely no pilot or any other employee for that matter should believe they can just make a phone call and expect Fred Smith to call him over a security issue.

I think we exercised considerable restraint in that we did not have him go through another 15D who goes to ~~the~~ a place where was in going on and not being paid to do so. And places his self in the face of danger? We still have an obligation to be safe.

He flew 2 trips before we knew what kind of injuries he had. Being under anesthesia surgery would require him to be cleared by his AME.

As of now he is back on the line and flying.



Once that process started, I was out of it.  
Once the process stopped, I put him back on  
the flight schedule. He became another  
guy in the crowd again.

I got an email straight from him saying  
he was in a hospital in Germany. Got hit  
by shrapnel in Ukraine. Wanted to know  
what he should do. I went to Bill  
McDonald. McD. told me to have him  
cell in sick. I told him to get to  
a computer and put in Sick Status.

~~Typical~~

Tyce. - My paralegal got an email from Mark saying  
to have Fred Smith call him. And a link  
to his web site showing him in the hospital.  
Now a ? is named. Do we have a pilot  
that should have be disclosing information to  
his AME. Because if we allow him to fly  
the FAA would be all over us. ~~After~~ He was  
No @ until he provided that information to  
Harvey Watt. Once he did provide that info  
Harvey Watt and they cleared him he was put  
back on the line.

2.4x 20 min

MARK ESTABROOK

McDonald Fischer's Boss

Rob Fischer. Supervisor / FLT Mgr

FEDEX 25 years

+5 Flight Engineer

Flying Experience 40 years

AF: T-37/38 33 ESA

300-310 (900 pilots) -  
(4,500 pilots total)

I think problems started in Laredo, TX about unsafe dispatch

The duty officer was trying to force me to fly into T-Storms which is a FAA violation. A/c traffic was grounded around Memphis. I was told by the tower I wasn't going anywhere.

I had a cordial conversation @ my dispatcher but the duty officer told me he was going to raise disciplinary action against me. I got a letter from FEDEX telling me to report for a hearing.

We were monitoring the storm from TELEcast @ the Hotel.

There have been a dozen times in my career where I have coordinated with the dispatcher from the hotel because of weather.

Why was McDonald singling you out? Over my years

I have been an active advocate of Lebon. I was involved forming the 1st FEDEX Union. I sued NASA that prevented FEDEX from changing my Pilot work hours. I have been involved in many activities that I believe McDonald has something against me.