SERVED: April 12, 2012

NTSB Order No. EA-5625

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 11th day of April, 2012

MICHAEL P. HUERTA, Acting Administrator, Federal Aviation Administration, Complainant, v. JACKSON E. LANGFORD, Respondent.	)	Docket SE-18963

OPINION AND ORDER

1. *Background*

Respondent appeals the oral initial decision of Administrative Law Judge William R. Mullins issued on June 14, 2011.[1] By that decision, the law judge affirmed the Administrator's 90-day suspension of respondent's air transport pilot (ATP) certificate, based on respondent's

[1] A copy of the oral initial decision is attached.

alleged violation of 14 C.F.R. § 91.13(a).[2] We remand for clarification of the law judge's order in accordance with this decision.

A. *Facts*

Respondent was employed as the chief pilot for Basin Aviation located at the Midland Airpark in Midland, Texas. Midland Airpark is an uncontrolled airport.[3] On October 12, 2009, respondent was the pilot of a Lear 45 aircraft. Respondent and his co-pilot, Matthew Hogg, landed on runway 25 at Midland Airpark and taxied to taxiway Echo. David Goll, a Midland College flight instructor, and Joseph Gillet, a student pilot from Midland College, were holding short on taxiway Bravo in a Cessna 172.[4] The Cessna was to the right of the Learjet at the intersection of taxiways Bravo and Echo.

Respondent requested the Cessna switch places with him so he could turn right and taxi back to Basin Aviation on taxiway Bravo. The Cessna pilots informed respondent they were awaiting further instructions from ATC. Respondent then spooled up his engines and turned left in front of the Cessna in a 90-degree turn onto taxiway Bravo. The Cessna was located approximately ten feet behind the hold short line on taxiway Bravo when respondent made this turn.

Messrs. Goll and Gillet felt jet blast from the Learjet after it made the turn and observed smoke coming from the Learjet's left tires. Mr. Gillet estimated the Learjet was approximately

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[2] Section 91.13(a) prohibits careless or reckless aircraft operations so as to endanger the life or property of another.

[3] An uncontrolled airport is one without a control tower or air traffic control (ATC) unit. Thus, the pilots are responsible for safe aircraft movement around the airport.

[4] Though Midland Airpark is an uncontrolled airport, Messrs. Goll and Gillet were holding short awaiting further instruction from remote ATC to obtain an instrument flight rules release as part of Mr. Gillet's flight training.

40 to 60 feet away when it turned in front of them. The Cessna shuddered violently; its wings lifted up and down. Messrs. Goll and Gillet both testified the wheels of the Cessna stayed on the ground despite this violent shaking. Mr. Gillet pushed the yoke forward to counteract the jet wash. From the cockpit, Mr. Goll visually inspected what he could see of the aircraft and upon seeing no damage, Mr. Gillet took off after receiving clearance from ATC.

Following the incident, Mr. Gillet wrote a letter of complaint to the director of the Midland College flight program. The Federal Aviation Administration (FAA) received the letter from Midland College and opened an investigation. Inspector Gordon Morris, from the Lubbock Flight Standards District Office (FSDO) conducted the investigation. He interviewed numerous witnesses, summarizing those conversations in written memos. See Exhs. A-12, A-13, A-15, and A-17. Inspector Morris did not memorialize his conversations with respondent or Mr. Gillet in memo format. After interviewing the witnesses, Inspector Morris initially believed this case could be handled with a verbal counseling. However, Inspector Morris decided to pursue legal enforcement action against respondent after observing skid marks on the taxiway left by the Learjet. The skid marks were 75 feet long. The distance from the hold short line to the start of the skid marks was 124 feet.

On October 7, 2010, the Administrator issued an order suspending respondent's ATP certificate. The case proceeded to hearing before the law judge on May 3 and June 14, 2011.

B. *Law Judge's Oral Initial Decision*

The law judge found respondent violated 14 C.F.R. § 91.13(a). As a result, the law judge suspended respondent's ATP certificate for 90 days. In his oral initial decision, the law judge commented both parties had some problems with their evidence. With respect to Inspector Morris' testimony and evidence, the law judge noted the purported witness statements

which Inspector Morris created contained quotes attributed to the witnesses along with Inspector Morris' own opinion and conclusions based upon the witness interview. The law judge stated this comingling of fact and opinion "cast a cloud over this [case]." Initial Decision at 323-24. The law judge later stated, "[a]s we go to the comments by Mr. Morris, they were obviously his opinion versus a factual determination." Id. at 324.

In his legal conclusions, the law judge compared this jet blast case to Board cases involving collision hazards. He stated, "a collision hazard exists in the mind of the person who thinks that there's a collision hazard out there." Id. at 325. Using this legal theory as an analogy, the law judge relied upon Messrs. Goll's and Gillet's observations of the Learjet combined with the skid marks on the taxiway to conclude respondent violated § 91.13(a). After stating the act was not inadvertent, the law judge also affirmed the Administrator's 90-day suspension of respondent's ATP certificate.

C. *Respondent's Issues on Appeal*

Respondent appealed the law judge's decision. Respondent contends the law judge applied the incorrect standard of law by failing to make necessary credibility findings and by analogizing this case to one of a collision hazard. He asserts the law judge's findings were not consistent with a preponderance of reliable, probative, and substantial evidence. Finally, he claims the sanction was not supported by the evidence and is arbitrary, capricious, and unsupported by case law.

2. *Decision*

A. *Incorrect Standard of Law*

1. *Credibility Findings*

The law judge failed to make the required credibility findings in this case. We defer to

the credibility findings of our law judges in the absence of a showing such findings are arbitrary and capricious.[5] In Porco, we also instructed our law judges to specifically tie their credibility determinations to findings of fact. The law judge's resolution of the issues in this case required him to assess the credibility of the witnesses, yet the law judge failed to make any credibility determinations.

As one example of this lack of credibility findings, it appears the law judge believed some of what Inspector Morris wrote in the witness statements were, in fact, his own personal opinion or conclusions based upon the witness interviews.[6] However, the law judge made no credibility determination as to Inspector Morris' testimony. Likewise, the law judge failed to discuss how much weight he gave these witness statements or whether he believed the misinformation in these statements affected or influenced the investigation in any way. The law judge should address these issues in his decision on remand.

The Administrator urges us to find the law judge made implied credibility findings. We decline to do so and further reiterate our holding in Porco. In Porco, we addressed the issue of implied credibility findings by discussing the case of Pasternack v. FAA.[7] In light of Pasternack, which the D.C. Circuit remanded to us on the basis that we had inappropriately determined the law judge made an "implied" credibility finding, we are reluctant to substitute our own credibility determinations for the law judge's or supplement the law judge's determinations in

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[5] Administrator v. Porco, NTSB Order No. EA-5591 at 20 (2011), appeal pending, U.S. Court of Appeals for the District of Columbia Circuit, No. 11-1312; see also Administrator v. Smith, 5 NTSB 1560, 1563 (1986).

[6] While hearsay evidence is permissible under our Rules, we, like the law judge, find it very troubling that an FAA inspector would be including portions of fact and portions of his own opinion and conclusions in statements submitted to the Board as factual evidence at hearing. We advise the FAA to provide training to inspectors throughout the FAA to ensure this practice is not wide-spread.

[7] 596 F.3d 836, 838 (D.C. Cir. 2010).

any manner. Our law judges need to make clear credibility findings tied to specific findings of fact based upon the testimony and evidence presented at the hearing. For this reason, we refuse to rely on implied credibility determinations which may only be gleaned from the law judge's final ruling in a given case. Therefore, we remand this case to the law judge for specific credibility determinations as to both the Administrator's and respondent's witnesses. These credibility findings should by tied specifically to findings of fact relating to the testimony and evidence adduced at hearing.

2. *Analogy to Collision Hazard Cases*

Respondent contends the law judge erred in applying the standard for a collision hazard case to this § 91.13(a) violation. We agree the use of this analogy was erroneous. The Administrator did not charge respondent with violating 14 C.F.R. § 91.111(a), which alleges a collision hazard. When reviewing cases under § 91.111(a), the Board examines the proximity of the aircraft and also considers whether an experienced pilot felt compelled to take evasive action to avoid a collision.[8] While proximity is an element of the offense for a collision hazard case, it is not an element in a § 91.13(a) violation. Likewise in § 91.13(a) cases, we do not apply the standard of whether an experienced pilot felt compelled to take evasive action to avoid a collision as this standard does not specifically address an element of proof required for a § 91.13(a) violation. The law judge erred in applying the legal theory for § 91.111(a) cases to the case at hand. Therefore, on remand, we instruct the law judge to make his findings of fact and conclusions of law in accordance with our jurisprudence for § 91.13(a) cases.

Related to this ruling, we note counsel for the Administrator repeatedly referred to the Lindstam doctrine during his closing argument. We find that doctrine inapposite here. Under the

[8] Administrator v. Reinhold, NTSB Order No. EA-4185 (1994).

Lindstam doctrine, first articulated by the Civil Aeronautics Board in 1964, the Administrator need not allege or prove specific acts of carelessness to support a violation of § 91.13(a).[9] Instead, using circumstantial evidence, the Administrator may establish a *prima facie* case by creating a reasonable inference that the incident at issue would not have occurred but for the carelessness on the respondent's part. The burden then shifts to the respondent to come forward with an alternative explanation for the event sufficient to overcome the inference of carelessness. In the case *sub judice*, the Administrator chose to allege specific acts of carelessness. Therefore, the Administrator must prove those specific acts in order to carry his burden of proof and cannot rely on an inference of carelessness.

B. *Respondent's Remaining Issues—Sufficiency of the Evidence and Sanction*

In his decision on remand, the law judge should determine whether the Administrator met his burden of proof with regard to the alleged charge. In order for the Board to issue a well-reasoned decision on the merits of these remaining issues, the law judge must provide an assessment of the evidence as well as an explanation concerning how he weighed the evidence in reaching his decision.[10] The law judge apparently found evidentiary problems with both parties' cases when he stated,

> [s]o I just mention that because there's several cracks in this evidence on both sides. As we go to the comments by Mr. Morris, they were obviously his opinion versus a factual determination, and this thing with this blast chart. And I couldn't say this again more importantly for you, Mr. Morris, is that you need to be very careful about what's fact and what's opinion in recording these phone conversations.

Initial Decision at 324. Despite these shortcomings with the evidence, the law judge failed to make findings of fact or conclusions of law about how he weighed the

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[9] 41 CAB 841 (1964).

[10] Administrator v. Haddock, NTSB Order No. EA-5539 at 10 (2010).

documentary evidence and testimony from the seven witnesses. The law judge also did not discuss how much weight he gave the deposition testimony of Raymond Guderjahn, a FAA flight test engineer, in reaching his decision.

Based on the foregoing, we direct the law judge to provide a decision setting out credibility determinations, findings of fact, and conclusions of law based upon the evidence and testimony adduced at hearing sufficient to allow the Board to perform its review, should either party decide to appeal the law judge's decision on remand.

ACCORDINGLY, IT IS ORDERED THAT:

This case is remanded to the law judge for further proceedings consistent with this opinion and order.

HERSMAN, Chairman, HART, Vice Chairman, and SUMWALT, ROSEKIND, and WEENER, Members of the Board, concurred in the above opinion and order.

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

OFFICE OF ADMINISTRATIVE LAW JUDGES

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* * * * * * * * * * * * * * * * * *
J. RANDOLPH BABBITT,              *
ADMINISTRATOR,                    *
FEDERAL AVIATION ADMINISTRATION,  *
                                  *
              Complainant,        *    Docket: SE-18963
                                  *    JUDGE MULLINS
     v.                           *
                                  *
JACKSON E. LANGFORD,              *
                                  *
              Respondent.         *
* * * * * * * * * * * * * * * * * *
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Federal Building
100 East Wall Street
Room P-126, U.S. Bankruptcy Court
Midland, Texas 79701

Tuesday,
June 14, 2011

The above-entitled matter came on for hearing, pursuant to Notice, at 9:00 a.m.

BEFORE: WILLIAM R. MULLINS
Administrative Law Judge

APPEARANCES:

On behalf of the Administrator:

GREGORY S. LANDER
Federal Aviation Administration
Southwest Region
Office of the Regional Counsel
2601 Meacham Boulevard, 6E
Fort Worth, Texas 76137
(817) 222-5099
(817) 222-5945 (Fax)

On behalf of the Respondent:

DONALD M. KAISER
Hulse Stucki, PLLC
2912 West Story Road
Irving, Texas 75038
(214) 441-3000
(214) 441-3001 (Fax)

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12 ORAL INITIAL DECISION AND ORDER
13 ADMINISTRATIVE LAW JUDGE MULLINS: This has been a
14 proceeding before the National Transportation Safety Board held
15 under the provisions of Section 44709 of the Federal Aviation Act
16 of 1958, as amended, on the appeal of Jackson E. Langford, who
17 I'll refer to as Respondent, from an Order of Suspension that
18 seeks to suspend his airline transport pilot certificate for a
19 period of 90 days.
20 The Order of Suspension serves as a complaint in these
21 proceedings and was filed on behalf of the Administrator of the
22 Federal Aviation Administration through Regional Counsel of the
23 Southwest Region.
24 The matter has been heard before me, William R. Mullins.
25 I'm an administrative law judge for the National Transportation

1 Safety Board. And as provided by the Board's Rules, I will issue
2 a bench decision at this time.
3 The matter came on for hearing pursuant to notice of the
4 parties on the 3rd day of May of 2011, here in Midland, Texas.
5 And we proceeded throughout that day. And because of some
6 scheduling issues and witness issues, the matter was continued
7 then until today, the 14th day of June of 2011, here in Midland.
8 The Administrator was present throughout these
9 proceedings and represented by counsel, Mr. Gregory S. Lander,
10 Esquire, of the Southwest Region. Respondent was present on the
11 3rd of May; although, he is not here today. But he was present on
12 the 3rd of May and was represented by his counsel, Mr. Jay Stucki,
13 Esquire, of Hulse & Stucki out of Irving, Texas, and also Mr. Don
14 Kaiser, Esquire, of that same firm.
15 The parties were afforded a full opportunity to offer
16 evidence, to call, examine, and cross-examine witnesses. In
17 addition, the parties were afforded the opportunity to make
18 argument in support of their respective positions.
19 DISCUSSION
20 The Order of Suspension in this case -- and I won't read
21 it verbatim -- basically states that on October 12th of 2009, the
22 Respondent was operating a Lear Model 45 Civil Aircraft November-
23 145-Mike-Whiskey at the Midland Air Park in Midland, Texas. And
24 after landing on Runway 25, he turned left on Runway 16, and then
25 again left on Taxiway Echo. And at that time, there was a Cessna

1 172, November-66045, with a student pilot and instructor on board
2 that was holding short on Taxiway Bravo getting ready to go out on
3 16.
4 In the event, the Respondent called on the radio -- and
5 this is an uncontrolled field. He called on the radio to the
6 Cessna and asked if they could move up and let him pass. And they
7 advised that they were holding short, waiting instrument clearance
8 from air traffic control, and they could not move. Which required
9 then that Respondent taxi out onto this taxiway in front of them
10 and go back out on the runway and go back down the runway to
11 another taxiway to his ultimate destination of Basin Aviation.
12 The aircraft was owned by Basin Aviation.
13 And the allegations are, at the time he pulled out in
14 front of them, he increased his throttle to an excessive power
15 setting while simultaneously applying the brakes, which caused the
16 Cessna 172 to shudder violently. In any event, as a result of
17 that, the Administrator has alleged regulatory violation of FAR
18 91.13(a), which states that no person may operate an aircraft in a
19 careless or reckless manner so as to endanger the life or property
20 of another. And as a result of that allegation, the Administrator
21 is seeking a 90-day suspension of Respondent's airman certificate.
22 The Administrator had four witnesses. First was David
23 Goll, who was the flight instructor in the Cessna. And I'll come
24 back and talk a little bit about the testimony in a little bit.
25 The second witness was Joseph Gillett, who was the student pilot

1 in the Cessna 172. The third witness was Gordon Morris, who's
2 aviation safety inspector from Lubbock FSDO, which is the FSDO
3 that has the Midland area. And witness four was Don Vengen, an
4 aviation safety inspector also from Lubbock.
5 The Respondent had three witnesses. The first was the
6 Respondent, Jackson Langford. The second witness was Randy Estes,
7 who is director of maintenance for Basin Aviation that owned the
8 Learjet. And then today, we had the testimony of Matthew Hogg,
9 who was the copilot on board the Cessna.
10 And then in rebuttal, the Administrator offered the
11 deposition of Raymond Guderjahn, who's a FAA -- was an expert --
12 offered as an expert, I guess, in that deposition or was
13 identified -- and how that came about, he was identified as a
14 potential witness and was deposed by the Respondent. And
15 Mr. Guderjahn lives in Wichita and works for the Federal Aviation
16 Administration. And he's a flight test engineer for the FAA and
17 had been a flight test engineer for Bombardier back several years
18 ago, but did not work on the Learjet. I may talk about his
19 testimony in a little bit at length. Those were the witnesses.
20 The exhibits that were offered -- and I will talk about
21 them. I will describe them and identify them in the order that
22 they were presented to me. And I always thought that we should
23 have a court rule or a NTSB rule that they ought to be numbered in
24 the sequence that I get them, but they weren't.
25 We started out with A-19, which is a picture of the skid

1 marks that were left that day from this Learjet.
2 And A-13 was the second exhibit. It was a witness
3 statement of Flight Instructor Goll. And this was taken by
4 Inspector Morris.
5 The next exhibit was A-10, which is a letter from the
6 student pilot, Mr. Gillett, which apparently gave rise to all of
7 this litigation here today.
8 A-1 then was offered, which was Respondent's flight
9 certificate data.
10 A-2 was the registration details on this particular
11 Learjet.
12 A-2 and A-3 -- excuse me, I believe that's 3 and 4. I
13 may have misnumbered those -- are the copies of ops specs. First
14 was the ops specs involving the aircraft listed at Basin Aviation
15 to show that this Learjet belonged to them. And the second was
16 the ops specs which shows the officers of Basin Aviation, which I
17 think identified Respondent as their chief pilot.
18 A-7 that was presented was the airport diagram.
19 A-8 was a photo of this intersection where the incident
20 occurred.
21 A-12 was a record of a phone call with Lori Winter,
22 who's vice president of operations for Basin Aviation.
23 A-14 was a photograph of the skid marks.
24 A-15 was a record of a phone call with Mr. L.C. Durham,
25 who was director of the aviation service that owned the 172. A-17

1 was a record of a phone call with Mr. Hogg, the copilot of the
2 Learjet. Now, these are documents generated by Mr. Morris, the
3 aviation safety inspector.
4 A-16 was a letter from Mr. Durham -- is it Durham or
5 Dunham?
6 MR. LANDER: Durham.
7 ADMINISTRATIVE LAW JUDGE MULLINS: Durham to -- I
8 believe it was to Mr. Morris, but he talked about a meeting with
9 Ms. Winter.
10 A-5 then was the answer of the Respondent. And it had
11 exhibits. One was the affidavit of Mr. Hogg, and the other was
12 the jet blast area diagram.
13 A-21 was the photo of the aircraft logs of this Learjet.
14 A-22 was the deposition of Mr. Guderjahn, which was
15 offered here today.
16 A-23, initially offered but was withdrawn and was not
17 admitted because it was withdrawn, was an affidavit of
18 Mr. Guderjahn.
19 Respondent's exhibits included R-8, which was nursing
20 board allegations against this student pilot, Mr. Gillett, when he
21 lost his nursing license, impeachment testimony -- impeachment
22 evidence.
23 R-4 was an excerpt from the Compliance and Enforcement
24 Handbook, Chapter 1.
25 R-11 was the METAR, the weather -- showing the weather

1 conditions that day.
2 And then R-2 was the blast chart, which was also in
3 Exhibit A-5, the answer -- contained in the answer.
4 Those are the witnesses and exhibits.
5 Let me talk a little bit about, first, Mr. Goll and
6 Mr. Gillett, who were in the Cessna, testified basically and
7 confirmed those allegations. They confirmed that they were
8 sitting there holding short waiting for this clearance.
9 Now, there was some suggestion on the part of
10 Respondent's testimony that they could have moved. And I suppose,
11 technically, they could have moved. But there was no obligation
12 on their part to move. The technical part of their ability to
13 move was due to the fact it was an uncontrolled field. If it
14 would have been a controlled field, they wouldn't have been there.
15 And, of course, if it would have been a controlled field, the
16 Learjet probably wouldn't have turned where it did. They would
17 have been instructed to go somewhere else to turn.
18 But in any event, both Mr. Goll and Mr. Gillett
19 testified that after advising the Lear that they were waiting for
20 their clearance, the Lear turned in front of them. And they both
21 talked about they saw the nose of the Lear go down. They saw
22 smoke coming off the tire and felt this jet blast. And
23 Mr. Gillett testified that he shoved the yoke forward on the
24 Cessna to try to counteract this blast of air that they were
25 getting. And they both testified about this long tire mark that

1 was left that's been identified and exhibited in these photographs
2 that have been admitted.
3 The testimony then of Mr. Morris was that he -- first,
4 he, as he was driving down, he got a phone call from Ms. Lori
5 Winter. And he recorded that phone call, made an exhibit of that.
6 And I'll tell you, Mr. Morris, right now -- and you're
7 not the first aviation inspector I've said this to. If we would
8 do away with this hearsay admission of evidence, it would put a
9 requirement on you to start getting written statements from all of
10 these people rather than getting verbal statements and putting
11 your words down. And none of this would be admitted if we had a
12 hearsay -- if we used the Federal Rules of Evidence. And I have
13 long been in favor of using those Federal Rules of Evidence. I
14 don't think the Administrator would want to do that because it
15 would probably change the way you do business big time.
16 But I want to talk about that in terms of -- and I'll
17 mention to you, for example, the thing that makes it uncomfortable
18 for me is the statement -- and I'll go to Mr. Hogg's statement.
19 You had, in a couple of places in your telephone conversation
20 about Mr. Hogg, you had parentheses, i.e., as a direct quote from
21 him. But then in other places where it's not in parentheses, you
22 have statements like -- let me read it to you -- Mr. Langford
23 deliberately and simultaneously applied the brakes. That's not a
24 direct quote. And that's an opinion by you. And these things are
25 not designed to get aviation safety inspector opinions. They're

1 designed to get to the facts of the case. And so that cast a
2 cloud over this thing. But -- and I'll come back to this.
3 But the blast chart that the Respondent offered would
4 indicate that, as pointed out by counsel and even by
5 Mr. Guderjahn, it's a heat -- it shows the heat radius of this
6 area behind the aircraft, but not the velocity of the jet blast.
7 And although there was some issue taken with the AlliedSignal
8 chart that's contained in the deposition of Mr. Guderjahn because
9 it didn't include wind velocity that day and altitude at the
10 airport and heat, temperature, and all of that stuff, it still --
11 it's more accurate than a blast chart that just shows the heat
12 radius of standing behind one of these jets when it's powering up.
13 So I just mention that because there's several cracks in
14 this evidence on both sides. As we go to the comments by
15 Mr. Morris, they were obviously his opinion versus a factual
16 determination, and this thing with this blast chart. And I
17 couldn't say this again more importantly for you, Mr. Morris, is
18 that you need to be very careful about what's fact and what's
19 opinion in recording these phone conversations.
20 The case here, though -- and I could talk on and on
21 about the evidence. And I think Mr. Frazier indicated that it was
22 like a snowball. Or Mr. Kaiser. Excuse me. Kaiser, Frazier.
23 This case reminds me -- and I've had -- I've not had a case like
24 this before, a jet blast case, but I've had a number of cases over
25 the years involving collision hazards. And a collision hazard

1 is -- and the Board -- in fact, I've got reversed on one of them
2 pretty big time -- is that a collision hazard exists in the mind
3 of the person who thinks that there's a collision hazard out
4 there.
5 To that extent, there's a corollary with this case in
6 that the testimony of Mr. Goll and Mr. Gillett are pretty clear
7 that there was some pretty major rocking of the boat and they
8 saw -- one of them or maybe both of them saw the nose of the Lear
9 go down, would suggest that the brakes were set. They saw the
10 smoke coming off the tire, which would suggest the brake was
11 locked and/or set. And then there was this violent shaking of the
12 172. And it would be very difficult to overcome that sort of
13 evidence under the allegations as they've been set forth here
14 today.
15 The testimony of the two pilots in the 172 and the skid
16 mark that's still out there today, I guess, that was left two
17 years ago by this Lear just convinces me that the Administrator's
18 Order of Suspension should be affirmed.
19 And, unfortunately, for Mr. Langford, it's not the kind
20 of case where I could even consider 0 or even 30 days if that
21 happened, which I believe it did, and I think the evidence would
22 support that finding, that it's -- it was some deliberate act on
23 the part of this Respondent. It wasn't just some inadvertent
24 thing when he went around the corner and was taxiing back out
25 to this runway. There was no reason for that to have happened

1 except he was trying to create some anxiety for these 172 pilots.
2 And so, therefore, I believe that the order should be
3 affirmed in its totality.
4 ORDER
5 IT IS THEREFORE ORDERED that safety in air commerce and
6 safety in air transportation and a preponderance of the reliable
7 and probative evidence has established the regulatory violation of
8 the careless operation as alleged in the Administrator's
9 complaint. And under these circumstances and the facts of this
10 case and those findings, I believe that a 90-day suspension as
11 sought by the order is appropriate, and it will be so ordered.
12
13 _____
14 WILLIAM R. MULLINS
15 Administrative Law Judge
16
17 APPEAL
18 Mr. Kaiser, Mr. Langford and you can appeal this order
19 today. And you may do so by filing your notice of appeal within
20 10 days of this date.
21 The appeal has to go to the National Transportation
22 Safety Board, Office of Administrative Law Judges, Room 4704 at
23 490 L'Enfant Plaza East, S.W., Washington, D.C. 20594.
24 And if you do appeal it, then within 50 days of this
25 date, you must file your brief in support of that appeal. And the

1 brief goes to that same street address, but to Room 6401, which is
2 the Office of General Counsel of the National Transportation
3 Safety Board. And an appeal brief will be provided to you at no
4 cost if you do file an appeal. And it'll also be provided to the
5 Administrator.
6 And I think it goes without saying, but timeliness of
7 the appeal and the filing of the brief are critical to perfect
8 that appeal; otherwise, the Board is pretty black and white about
9 rejecting an appeal. And I have a copy of those rights.
10 I would ask that the record reflect that I've handed a
11 copy of those to Mr. Kaiser.
12 MR. KAISER: Thank you, Your Honor.
13 ADMINISTRATIVE LAW JUDGE MULLINS: And I have a copy for
14 the Administrator; although, I'm sure you keep a file of those.
15 MR. LANDER: Thank you, Your Honor.
16 ADMINISTRATIVE LAW JUDGE MULLINS: Mr. Kaiser, do you
17 have any question about the order?
18 MR. KAISER: I don't, Your Honor.
19 ADMINISTRATIVE LAW JUDGE MULLINS: Okay. Any question
20 from the Administrator?
21 MR. LANDER: No, sir.
22 ADMINISTRATIVE LAW JUDGE MULLINS: All right. Thank
23 you, gentlemen. The hearing is terminated.
24 (Whereupon, at 12:00 p.m., the hearing in the above-
25 entitled matter was adjourned.)

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Jackson E. Langford

DOCKET NUMBER: SE-18963

PLACE: Midland, Texas

DATE: June 14, 2011

was held according to the record, and that this is the original, complete, true and accurate transcript which has been compared to the recording accomplished at the hearing.

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Kailee Rekieta
Official Reporter