

SERVED: November 5, 2008

NTSB Order No. EA-5417

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 4th day of November, 2008

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ROBERT A. STURGELL,)	
Acting Administrator,)	
Federal Aviation Administration,)	
)	
	Complainant,)	
)	Docket SE-18363
	v.)	
)	
RYAN D. HIOTT,)	
)	
	Respondent.)	
)	
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OPINION AND ORDER

The Administrator has appealed from the oral initial decision and order of Chief Administrative Law Judge William E. Fowler, Jr., issued on October 8, 2008.¹ The law judge granted respondent's appeal of the Administrator's emergency revocation

¹ A copy of the initial decision, an excerpt from the hearing transcript, is attached.

order, which the Administrator based on a violation of 14 C.F.R. § 61.59(a)(2).² We deny the Administrator's appeal.

On September 9, 2008, the Administrator issued an emergency order revoking respondent's commercial pilot and any other airman certificates that respondent holds.³ In the order, the Administrator alleged that respondent was designated as the "Responsible Person - Crew Ops" for Hiott's Flying Service (hereinafter "Hiott's"),⁴ which conducted banner towing operations under a certificate of waiver that the FAA had issued to Hiott's. Compl. at ¶¶ 2-3. The order alleged that respondent violated 14 C.F.R. § 61.59(a)(2) because respondent made a fraudulent or intentionally false entry on the

² Title 14 C.F.R. § 61.59(a)(2) provides that no person may make, or cause to be made, "[a]ny fraudulent or intentionally false entry in any logbook, record, or report that is required to be kept, made, or used to show compliance with any requirement for the issuance or exercise of the privileges of any certificate, rating, or authorization under this part."

³ This case proceeds pursuant to the Administrator's authority to issue immediately effective orders under 49 U.S.C. §§ 44709(e) and 46105(c), and in accordance with the Board's Rules of Practice governing emergency proceedings, codified at 49 C.F.R. §§ 821.52-821.57. Although the law judge stayed the effectiveness of the Administrator's order by granting respondent's Petition Challenging the Administrator's Emergency Determination below, the Board's Rules of Practice provide that the case shall remain on an expedited schedule unless the respondent waives the applicability of §§ 821.55-821.57. See 49 C.F.R. § 821.54(f).

⁴ At the hearing, the Administrator and respondent stipulated to an amendment of the Administrator's order to refer to Hiott's Flight Service, rather than Hiott's Flying Service. Tr. at 6.

certificate of waiver by handwriting in the name of James Miller as an authorized pilot for Hiott's, when the FAA had not authorized Mr. Miller to serve as a pilot for Hiott's. Id. at ¶¶ 5-6. Based on these allegations, the Administrator's order alleged that respondent violated 14 C.F.R. § 61.59(a)(2) by including a fraudulent or intentionally false statement on the certificate of waiver.

Respondent filed a timely appeal of the Administrator's order, and the case proceeded to hearing. At the hearing, the Administrator called Steven Petrossian, a principal maintenance inspector for the FAA in Miami, Florida, to testify. Inspector Petrossian testified that he was on duty when he received notification that an aircraft from Hiott's had sustained damage during a banner tow operation. Tr. at 20. Inspector Petrossian stated that he and another inspector drove to Opa Locka Airport to investigate the event, and that respondent and Mr. Miller were at the airport when he arrived. Tr. at 21-22. Inspector Petrossian testified that he reviewed the certificate of waiver in the aircraft, and asked respondent and Mr. Miller who had written in Mr. Miller's name on the certificate, and that respondent replied that he had written in Mr. Miller's name because "Inspector Gary" had told him to do so. Tr. at 24. Inspector Petrossian stated that respondent told him that he was too busy to go to Orlando to pick up an updated copy of the

certificate of waiver, so he handwrote Mr. Miller's name on the certificate. Tr. at 50. The Administrator introduced a statement that Inspector Petrossian wrote 3 days after the March 17, 2008 event, which corresponds with Inspector Petrossian's testimony. Exh. A-2; Tr. at 28.

The Administrator also called Gary Vidak, who is the FAA principal maintenance inspector for Hiott's, to testify. Inspector Vidak stated that he assisted with the authorization of Hiott's, but has no authority to make changes or additions to Hiott's certificate of waiver. Tr. at 56. Inspector Vidak testified that he oversees the information in the operations specifications for Hiott's. Tr. at 59; Exh. A-3. Inspector Vidak stated that Inspector Richard Scheibel was responsible for qualifying individual pilots to operate for Hiott's in accordance with the certificate of waiver, and that Inspector Vidak only briefly discussed the pilots for Hiott's with Inspector Scheibel. Tr. at 61, 74.

The Administrator's final witness was Inspector Richard Scheibel, who is the FAA's principal operations inspector for Hiott's. Inspector Scheibel testified that he oversees and approves pilots for Hiott's and another banner tow operation. Tr. at 79. Inspector Scheibel stated that he maintains a process of reviewing all the necessary paperwork on a particular pilot before approving the pilot to operate under the

certificate of waiver. Tr. at 79-80. Inspector Scheibel stated that, when he approves a new pilot, he either (1) makes the change on the certificate of waiver and has the holder of the certificate sign it, or (2) sends an e-mail message to the certificate holder indicating the authorization and instructing the certificate holder to place a copy of the e-mail with the certificate of waiver. Tr. at 80. Inspector Scheibel testified that these are the only two ways in which he indicates approval of a new pilot. Id. Inspector Scheibel cited his e-mail approval of another pilot for operation on the certificate as an example of this process. Tr. at 83; Exh. A-6 (e-mail message dated March 6, 2008). Inspector Scheibel stated that, with regard to the addition of Mr. Miller on the certificate, respondent had contacted Inspector Scheibel and stated that he wanted to include another pilot on the certificate. Tr. at 87. Inspector Scheibel testified that he instructed respondent to send him the paperwork on the new pilot, Mr. Miller. Tr. at 88. Inspector Scheibel stated that, while he was at home on March 14, 2008, he told respondent that he had not yet seen Mr. Miller's paperwork, and that he did not authorize any additional pilots for authorization on the certificate during the telephone conversation. Tr. at 90-91; see also Exh. A-7 (written statement of Inspector Scheibel stating that he had never given approval for Mr. Miller's operation under the

certificate of waiver). Inspector Scheibel testified that he did not know that respondent had added Mr. Miller's name to the certificate until the March 17, 2008 occurrence, and that, when he saw respondent on March 19, 2008, at the Flight Standards District Office (FSDO), respondent told him that he had assumed he could add Mr. Miller's name to the certificate because he had not been instructed otherwise. Tr. at 91, 93-94. Inspector Scheibel stated that he had not spoken with Mr. Miller and was not involved with any aspects of the investigation into the March 17 occurrence. Tr. at 95, 99. Inspector Scheibel acknowledged that FAA guidance indicates that certificate holders should submit paperwork to the FAA for approval 5 days prior to a pilot's operation, but stated that, "[j]ust because the paperwork is sent in doesn't necessarily mean that at the end of 5 days the pilots are approved." Tr. at 117.

In response to the Administrator's case, respondent called Mr. James Miller, who is the pilot that respondent sought to add to the certificate of waiver. Mr. Miller testified that he was previously employed at Aerial Banners, Inc., as a banner tow pilot, and that he was aware that the FAA would need to authorize his operation under Hiott's certificate of waiver. Tr. at 148. Mr. Miller stated that his employment at Hiott's commenced on March 14, 2008 (Tr. at 148), and that he completed approximately nine flights for Hiott's between March 15 and 17,

2008 (Tr. at 167-68). Mr. Miller testified that he was in respondent's truck and overheard Inspector Scheibel verbally approve his operation for Hiott's because respondent and Inspector Scheibel had the conversation on speakerphone. Tr. at 148-49. Mr. Miller stated that he overheard Inspector Scheibel say that Mr. Miller could operate an aircraft for Hiott's over the weekend, and that he would grant a new waiver for respondent the following Monday. Tr. at 149-50. Mr. Miller testified that he wrote his name on the certificate of waiver after the conversation, and that he did not believe he had made a false statement in doing so, but that he had never before written his name on a certificate. Tr. at 155, 158, 162. Mr. Miller stated that, prior to the time at which he wrote his name on the certificate, he did not speak with respondent about doing so. Tr. at 156. After the event with an aircraft from Hiott's on March 17, Mr. Miller testified that he spoke with the FAA, and that he does not recall the FAA asking him any questions about the certificate of waiver. Tr. at 161.

Respondent also called Robert Benyo to testify. Mr. Benyo stated that he owns two banner tow companies, including Aerial Banners, but is not a pilot. Tr. at 170. Mr. Benyo testified that he leased some aircraft to respondent when respondent started Hiott's, and that both respondent and Mr. Miller had previously worked for him at Aerial Banners. Tr. at 170-72.

Mr. Benyo stated that he provided Mr. Miller's training records to respondent approximately 1 to 2 weeks prior to the March 17 event. Tr. at 173. Mr. Benyo also testified that he was present and overheard respondent's telephone conversation with Inspector Scheibel, that he heard Inspector Scheibel say that Mr. Miller could begin flying for Hiott's, and that Inspector Scheibel would "send an e-mail or something in writing" the following Monday. Tr. at 175. After the conversation, Mr. Benyo recommended to Mr. Miller that he write his name on the certificate of waiver, as Mr. Benyo considered writing in names a standard procedure at Aerial Banners. Tr. at 177-78; see also Exh. R-6 at 5 (copy of outdated version of certificate of waiver from Aerial Banners, on which all pilots' names are handwritten). Mr. Benyo also stated that, had he not overheard the telephone conversation between respondent and Inspector Scheibel, he would not have recommended that Mr. Miller write his name on the certificate. Tr. at 184. Mr. Benyo concluded his testimony by stating that he believed it was acceptable for Mr. Miller to write his name on the certificate, and that he observed Mr. Miller write his name. Tr. at 194-95.

Respondent concluded his case with his own testimony, in which he stated that he was issued the certificate of waiver in February 2008, and that the FAA rescinded it the next month. Tr. at 202. Respondent stated that he spoke with Inspector

Scheibel over the phone, and that Inspector Scheibel asked him if he had submitted the necessary paperwork, and whether another FAA employee had observed Mr. Miller operate an aircraft during a banner tow. Tr. at 205. Respondent stated that, after he responded to Inspector Scheibel's inquiries affirmatively, Inspector Scheibel stated that he did not have a problem with Mr. Miller operating an aircraft for Hiott's, and that respondent could "pick up a fresh copy of the waiver on Monday morning [March 17, 2008]." Id.; see also Tr. at 224 (respondent's testimony that he took Inspector Scheibel's statement to mean that Mr. Miller was approved to operate the aircraft under the certificate). Respondent stated that he did not drive to the FSDO at which Inspector Scheibel was based on Monday, and that he called Inspector Scheibel and informed him that he was going to wait until Inspector Vidak had added another aircraft to the certificate of waiver, because driving to the FSDO twice would take too much time. Tr. at 206-207. Respondent testified that, the following day, he cancelled his trip to the FSDO because the March 17 event had occurred. Tr. at 207. Respondent further testified that he did not have any conversations with Mr. Miller concerning Mr. Miller's addition of his name to the certificate. Tr. at 210. Respondent stated that, if he had not been able to reach Inspector Scheibel over the phone, then he would have had another pilot conduct the

banner tow flight on March 17. Tr. at 225. Respondent stated that he knew that Inspector Scheibel had been out of the office for most of the week of March 10, 2008, and that he did not know if Inspector Scheibel had reviewed Mr. Miller's paperwork. Tr. at 229. Respondent testified that he did not see Mr. Miller write his name on the certificate, even though respondent's counsel's letter to the FAA stated that, "Hiott's handwrote James Miller's name on the Certificate of Waiver reflecting [Inspector Scheibel's] approval." Tr. at 233; Exh. R-3 at 3. Respondent stated that he did not check the certificate to see if it included Mr. Miller's name prior to Mr. Miller's flight on March 17. Tr. at 249.

At the conclusion of the hearing, the law judge issued an oral decision in which he determined that the Administrator had not met his burden of proving that respondent had intentionally falsified the certificate of waiver, as charged. Specifically, the law judge stated that he found Mr. Miller's testimony to be persuasive, and that Mr. Miller had stated that he had no idea that his addition of his name on the certificate of waiver was false. Initial Decision at 288-89. The law judge determined that the evidence that respondent introduced indicated that, "it was just a matter of seeing the paper approval by Inspector Scheibel." Id. at 289. The law judge further stated that this case involved a "communication misunderstanding," and that

respondent had successfully rebutted the Administrator's case by establishing the existence of this misunderstanding. Id. at 289-90. The law judge also concluded that respondent's testimony was credible. Id. at 290.

On appeal, the Administrator contends that the weight of the evidence does not support the law judge's finding. The Administrator's counsel contends that she presented a variety of evidence showing that Inspector Scheibel did not verbally authorize the inclusion of Mr. Miller's name on the certificate, and points out that Inspector Petrossian testified that he had previously never seen a certificate of waiver on which a pilot's name was handwritten. The Administrator's brief also contends that respondent's testimony regarding his impression that approval was automatic within 5 days unless an operator heard otherwise is not credible, and that the law judge concluded that "approval was pending" concerning Mr. Miller's authorization, but that such "pending approval" does not constitute authorization. The Administrator also points out the assortment of evidence from respondent in the record that is contradictory concerning who handwrote Mr. Miller's name on the waiver; the Administrator asserts that the law judge found that respondent did not have knowledge of Mr. Miller writing his name on the certificate, and that respondent therefore did not intentionally falsify the certificate, as charged, based on this contradictory

evidence. The Administrator also identifies certain portions of Messrs. Miller's and Benyo's and respondent's testimony that do not corroborate other evidence in the record, and contends that the law judge erred in finding such testimony credible.

Overall, the Administrator challenges the law judge's credibility determinations, and contends that the evidence supports a finding that respondent violated 14 C.F.R.

§ 61.59(a)(2), as charged. Respondent disputes each of the Administrator's arguments, and urges us to affirm the law judge's decision.

The Administrator correctly notes that the law judge's decision in this case is based upon his credibility determinations. First, we note that we have long held that the Board will not disturb a law judge's credibility finding unless it is arbitrary, capricious, or clearly erroneous.

Administrator v. Smith, 5 NTSB 1560, 1563 (1987). In this regard, we have previously noted that a law judge's credibility findings are not dispositive, as the Board, in conducting a de novo review of the record and decision below, may weigh the evidence and determine that the law judge's credibility findings are inconsistent with the overall weight of the evidence.

Administrator v. Andrzejewski, NTSB Order No. EA-5263 at 11 (2006).

Furthermore, with regard to cases in which the Administrator alleges that a respondent intentionally falsified a document upon which the Administrator relies, we have long adhered to a three-prong standard to prove a falsification claim; in this regard, in intentional falsification cases, the Administrator must prove that a pilot (1) made a false representation, (2) in reference to a material fact, (3) with knowledge of the falsity of the fact. Hart v. McLucas, 535 F.2d 516, 519 (9th Cir. 1976) (citing Pence v. United States, 316 U.S. 332, 338 (1942)). As the Administrator has argued, we have also held that a statement is false concerning a material fact under this standard if the alleged false fact could influence the Administrator's decision concerning the certificate. Administrator v. McGonegal, NTSB Order No. EA-5224 at 4 (2006); Administrator v. Reynolds, NTSB Order No. EA-5135 at 7 (2005); see also Janka v. Dep't of Transp., 925 F.2d 1147, 1150 (9th Cir. 1991).

In applying these standards to the case at hand, we find that the Administrator has not provided sufficient evidence to establish that the law judge's credibility findings were against the weight of the evidence. This case involved evaluating the testimony of the Administrator's and respondent's witnesses concerning whether respondent had the authority to include Mr. Miller's name on the record. As such, the Administrator was

required to identify evidence establishing that the law judge's decision did not comport with the weight of the evidence. After a careful de novo review of the record, we have concluded that the law judge based his resolution of this case on credibility determinations, and that the Administrator did not provide evidence that compels us to reverse the law judge's determinations.

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's appeal is denied; and
2. The law judge's initial decision is affirmed.

ROSENKER, Acting Chairman, and HERSMAN, HIGGINS, SUMWALT, and CHEALANDER, Members of the Board, concurred in the above opinion and order.

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
OFFICE OF ADMINISTRATIVE LAW JUDGES

* * * * *

In the matter of: *

ROBERT A. STURGELL, *

Acting Administrator *

Federal Aviation Administration, *

Complainant, * Docket No.: SE-18363

v. * JUDGE FOWLER

RYAN D. HIOTT, *

Respondent. *

* * * * *

Orange County Courthouse
425 North Orange Avenue
Courtroom 16-E, 16th Floor
Orlando, Florida

Wednesday,
October 8, 2008

The above-captioned matter convened, pursuant to
notice, at 9:35 a.m.

BEFORE: WILLIAM E. FOWLER, JR.
Chief Administrative Law Judge

APPEARANCES:

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ORAL INITIAL DECISION AND ORDER

This has been a proceeding before the National Transportation Safety Board pursuant to the provisions of the Federal Aviation Act of 1958, as that Act was subsequently amended, on the appeal of Ryan Dwayne Hiott from an Emergency Order of Revocation issued by the Federal Aviation Administration dated September 9, 2008, which seeks to revoke Respondent Hiott's commercial pilot certificate number (omitted).

The Administrator's Emergency Order of Revocation as duly promulgated pursuant to the National Transportation Safety Board's Rules of Practice in Air Safety Proceedings was issued by the Regional Counsel of the Southern Region of the Federal

1 Aviation Administration.

2 This matter has been heard before this United States
3 Administrative Law Judge, and rules and regulations pertaining
4 to emergency proceedings, as we have here, it is mandatory that
5 following the conclusion of the proceeding, the Judge issue an
6 oral initial decision on the record.

7 Following notice to the parties, this matter came on
8 for trial on October 8, 2008, in Orlando, Florida. The
9 Respondent was present at all times and was very ably
10 represented by Mark T. McDermott, Esquire. The Administrator
11 as the Complainant in this proceeding was likewise very ably
12 represented by Taneesha Marshall, Esquire, of the Regional
13 Counsel's Office, Southern Region of the Federal Aviation
14 Administration. Both parties have been afforded the
15 opportunity to call, examine, and cross-examine witnesses. In
16 addition, the parties were afforded the opportunity to make
17 argument in support of their respective positions.

18 I have reviewed the testimony and the documentary
19 exhibits duly admitted into the record as is presently
20 constituted. The Administrator has nine exhibits. The
21 Respondent had seven. The Administrator had three witnesses
22 testify. The Respondent had three witnesses testify, including
23 Respondent Hiott himself.

24 I have reviewed the testimony and the exhibits in
25 this case. This is a false statement case. This is what the

1 Administrator has charged. As both counsel during the course
2 of this proceeding stated, this means that the charge is that a
3 false or fraudulent statement was made by the Respondent with
4 knowledge at the time that that statement was made, that it was
5 false, it was material, it was relevant, and it was necessary
6 and very vital for the FAA for record purposes as well as the
7 numerous and sundry other reasons to have truthful, honest, and
8 candid statements by pilots, and applicants to be pilots.

9 After reviewing the testimony in this case, as I
10 said, the Administrator had witnesses Petrossian, Vidak, and
11 Scheibel, all very able and experienced men in the aviation
12 realm. The Respondent's three witnesses I would have to deem
13 to be likewise experienced in the aviation realm, but not only
14 in the general aviation realm, but in particular where the
15 operation of banner-towing is concerned.

16 Not to be unduly lengthy in this case, as I stated, I
17 reviewed the testimony and the evidence here. It is my
18 opinion, conclusion, and ultimate determination there was no
19 false statement made in this case. The very unique bit of
20 testimony we had here by James Miller, telephonically, counsel
21 for the Respondent went into great detail, and he interrogated
22 Mr. Miller as to what he did, what he recalled, and what he
23 said, regarding his flight of March 17, which unfortunately
24 ended in an accident.

25 Mr. Miller said he signed the Certificate of Waiver.

1 It was his signature. He had no knowledge at the time that it
2 even remotely resembled a false statement because there was
3 tacit approval pending for him to be a pilot for the Hiott's
4 Flight Service. This was pursuant to conversations Respondent
5 Hiott had had with Inspector Scheibel. Respondent's exhibits
6 concerning telephone calls of the conversations substantiate
7 and buttress the fact that it was just a matter of seeing the
8 paper approval by Inspector Scheibel, that James Miller had
9 been authorized to make the flights he did between March 14,
10 2008 and March 17, 2008. The 17th, of course, was the date of
11 the unfortunate accident. Fortunately, there were no injuries.
12 The damage to the aircraft was not substantial.

13 DISCUSSION

14 At the outset, to make a thorough review here, the
15 Administrator did present through its three witnesses and its
16 nine documentary exhibits a prima facie case, but that case was
17 rebutted, in my opinion, by the very persuasive, logical, and
18 compelling evidence of Mr. James Miller over the telephone,
19 that I just alluded to. Then we had the testimony by Mr. Benyo,
20 who probably has more expertise about banner-towing operations
21 than anyone in this courtroom.

22 This case comes down to, to use a colloquialism, a
23 communication misunderstanding based on what had gone on in the
24 past by pilots being allowed when they sent in their background
25 and experience, that after requisite five days they would be

1 approved to be operating on Certificate of Waiver operations,
2 as we have here, and what we are concerned with. The testimony
3 is quite compelling and persuasive that the experienced pilot
4 that Mr. Miller is, he had done this before. Witness Benyo had
5 testified in depth that this used to be done all the time until
6 about a year ago, to have a pilot sign the Certificate of
7 Waiver here. Certainly there was no knowledge on the part of
8 Mr. Miller that his signature was fraudulent or false at the
9 time he made it. And knowledge at the time is a very, very
10 important and material element and aspect in any false
11 statement case.

12 And then we had the conversation of the Respondent
13 himself, Mr. Hiott, who testified quite copiously and
14 voluminously, and in the final analysis I have no reason to
15 reject all or any part of his testimony as to what occurred and
16 what happened here.

17 Unfortunately, as I stated earlier in my opinion,
18 there was a miscommunication here between Respondent Hiott and
19 Inspector Scheibel. The approval was pending that is clear.
20 James Miller, in effect, thought it was a fait accompli. There
21 was no knowledge on his part, certainly to make any intentional
22 false statement, and fraud is completely out of the picture
23 here. It is unfortunate that Respondent Hiott was given a
24 notice as to the termination of his business, as a result of
25 this incident of March 17, 2008.

1 So, ladies and gentlemen, without unduly belaboring
2 the facts, I'm sure you get the drift of my ultimate
3 determination. It is my determination that Respondent's
4 evidence was most compelling, persuasive, and logical, and it
5 is found there is no false or fraudulent statement engendered
6 here by Respondent Hiott, I am now going to make my findings
7 and determinations accordingly, which are as follows,
8 concerning findings of fact and conclusions of law:

9 1) It is found that, and the Respondent admits, at
10 all times material herein, the Respondent was and is the holder
11 of a commercial pilot certificate number (omitted).

12 2) The Respondent admits and it is found that on or
13 before March 17, 2008, Respondent was designated as a
14 responsible person who operated for Hiott's Flight Service.

15 3) The Respondent admits and it is found that the
16 aforesaid flight service conducted banner-towing operations
17 under 14 C.F.R. Part 91 and its Certificate of Waiver number
18 (omitted), hereinafter referred to as CW, was issued on
19 February 21, 2008.

20 4) The Respondent admits and it is found that a
21 Certificate of Waiver is a record made and kept to show
22 compliance with the requirements for the exercise of commercial
23 pilot privileges as a pilot in command of an aircraft engaged
24 in banner-towing operations.

25 5) It is found that on or before March 17, 2008,

1 Respondent Hiott did not make a fraudulent or intentionally
2 false entry on the Certificate of Waiver by handwriting into
3 paragraph 4 of the authorized pilots' table, which states James
4 Miller, commercial (omitted), as an authorized pilot for
5 Hiott's Flight Service banner-towing operation.

6 6) It is found that the Certificate of Waiver entered
7 by Respondent Hiott was not fraudulent or intentionally false
8 in that the FAA, while the approval appeared to be pending, it
9 was Respondent Hiott's knowledge at the time based on previous
10 and prior standard operating procedures that it was just a
11 matter of days before the completed paperwork would be finished
12 and consummated further substantiating that, in fact, James
13 Miller was authorized to be a pilot for the aforesaid banner-
14 towing operations.

15 7) The Respondent admits and it is found that on or
16 about March 17, 2008, James Miller as pilot in command,
17 operated a civil aircraft N6169AB, a Piper PA36 Pawnee, on a
18 banner-towing flight for Hiott's Flight Service that resulted
19 in a landing incident in which the aircraft was damaged.

20 8) It is determined and found that by the non-making
21 of any fraudulent or intentionally false entry on the
22 Certificate of Waiver, Respondent Hiott has not demonstrated
23 that he lacks the qualifications to hold an airman's
24 certificate of any kind, including commercial pilot certificate
25 number (omitted).

