

SERVED: February 18, 2010

NTSB Order No. EA-5506

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 17th day of February, 2010

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J. RANDOLPH BABBITT,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	Docket SE-18647
v.)	
)	
U.S. AIRCRAFT INSTRUMENTS, INC.)	
)	
Respondent.)	
)	
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OPINION AND ORDER

Respondent appeals from the oral initial decision and order of Chief Administrative Law Judge William E. Fowler, Jr., issued on August 19, 2009, following an evidentiary hearing held on August 18-19, 2009.¹ The law judge denied respondent's appeal

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

and found that respondent violated 14 C.F.R. §§ 145.109(a) and (b)²; 145.201(b) and (c)(1)³; 145.207(a)⁴; 145.5(a)⁵; 43.13(a) and (b)⁶; and 145.223(a).⁷ As a result, the law judge upheld the

² The pertinent portion of § 145.109(a) requires that certificated repair stations "have the equipment, tools, and materials necessary to perform the maintenance, preventive maintenance, or alterations under its repair station certificate and operations specifications in accordance with part 43." Similarly, the pertinent portion of § 145.109(b) requires that certificated repair stations "ensure all test and inspection equipment and tools used to make airworthiness determinations on articles are calibrated to a standard acceptable to the FAA."

³ Section 145.201(b) prohibits certificated repair stations from maintaining or altering "any article for which it is not rated," and from maintaining or altering "any article for which it is rated if it requires special technical data, equipment, or facilities that are not available to it." Section 145.201(c)(1) prohibits a certificated repair station from approving for return to service "[a]ny article unless the maintenance, preventive maintenance, or alteration was performed in accordance with the applicable approved technical data or data acceptable to the FAA."

⁴ Section 145.207(a) states that certificated repair stations "must prepare and follow a repair station manual acceptable to the FAA."

⁵ Section 145.5(a) states as follows: "[n]o person may operate as a certificated repair station without, or in violation of, a repair station certificate, ratings, or operations specifications issued under this part."

⁶ Section 43.13(a) requires each person performing maintenance, alteration, or preventive maintenance on an aircraft to use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual, or other methods, techniques, and practices acceptable to the Administrator; similarly, § 43.13(b) requires each person performing such maintenance to complete the work in such a manner and use materials of such a quality that the condition of the aircraft or part "will be at least equal to its original or properly altered condition" with regard to qualities affecting airworthiness.

Administrator's emergency revocation of respondent's repair station certificate.⁸ We deny respondent's appeal.

The Administrator issued the emergency order of revocation on July 9, 2009, alleging that respondent violated the regulations cited above. The Administrator organized the order in ten counts.

Counts 1 and 2: Erroneous Calibration of Hass Barometer

Count 1 alleges that respondent's operations specifications included a rating to perform altimeter system tests and inspections, and that respondent utilized a pitot static tester (PST) for such work. The count further alleges that respondent's repair station manual requires a monthly calibration of the PST, for which respondent used a Hass barometer. The count asserts that respondent's manual also requires calibration of the Hass barometer every 3 years, and that respondent must maintain a certificate of calibration attesting that the calibration has been completed pursuant to standards issued by the National Institute of Standards and Techniques or other recognized national standards. The Administrator further alleged in this count that respondent

(..continued)

⁷ Section 145.223(a) requires that certificated repair stations allow the FAA to inspect the station "at any time to determine compliance" with 14 C.F.R. Ch. I.

⁸ Respondent has since waived the expedited procedures normally applicable to emergency cases.

provided FAA inspectors with copies of certificates of calibration with dates in 1995, 1997, 2001, 2004, and 2007, but that, notwithstanding these certificates, the Hass barometer was last calibrated on April 28, 1995. The count further alleges that, on May 4, 2009, respondent's president, owner, and accountable manager, Jeffrey Bell, admitted to FAA inspectors that he fabricated the certification records, and, as such, that four of the certificates of traceability and calibration for the Hass barometer are reproductions that Mr. Bell made for a fraudulent purpose on behalf of respondent.

Based on this set of allegations, Count 2 of the Administrator's order alleges that respondent performed 279 altimeter tests and/or inspections using a PST that was not properly calibrated. Count 2 identifies each of the 279 aircraft and lists the dates on which respondent allegedly performed the work, which range from May 8, 1998, to March 18, 2009. Based on the foregoing, the Administrator asserts that respondent failed to: comply with its repair station manual; ensure that the PST used was calibrated to a standard that the FAA finds acceptable; use the tools, equipment, and test apparatus necessary to assure completion of the work in accordance with accepted industry practices; have the tools and materials necessary to perform the work; and perform the work so that the altimeters would be at least equal to their original or

properly altered condition.

Counts 3-7: Impermissible Work on Items

Counts 3-7 of the Administrator's order allege that respondent's repair station manual states that respondent may not maintain or alter any item for which it is not rated, that respondent performed work on a T.C.I. Digitizer (Count 3) and on five Airpath Magnetic Compasses (Count 4), a Kollsman Magnetic Compass (Count 5), an ACK Altitude encoder (Count 6), and an Aerosonic Encoding Altimeter, part number 101627-11708L (Count 7). Based on these allegations, the Administrator contends that respondent violated § 145.201 because respondent did not comply with the limitations and ratings of its operations specifications by performing work for which respondent was not authorized.

Count 8: Use of Outdated Manual

Count 8 of the Administrator's order asserts that respondent performed work on certain United Instruments altimeters when respondent did not have in its possession the most current version of the manual for the maintenance. The order alleges that respondent was using the Sensitive Pressure Altimeter Manual of Installation Operation Service Overhaul Instructions Parts List from January 31, 1994, when that manual had been previously revised twice and renamed. As such, the order asserts that respondent performed maintenance on the

United Instruments altimeters when it lacked the required technical data to do so.

Counts 9 and 10: Inspection Refusal and Summary

Count 9 of the Administrator's order contends that, on July 9, 2009, FAA inspectors attempted to inspect respondent's repair station, but that respondent did not allow them to do so. As a result, the Administrator asserts that respondent deprived the inspectors of their right to determine respondent's compliance with the Federal Aviation Regulations. Count 10 of the Administrator's order summarizes the aforementioned allegations, and states that respondent did not have all the equipment, tools, and materials needed to perform maintenance on instruments for which it is rated.

Evidence

At the hearing, the Administrator submitted 45 exhibits into evidence and called five witnesses. Respondent provided six exhibits, and Mr. Bell testified on behalf of respondent. With regard to Counts 1 and 2, Aviation Safety Inspector Philip Stauffer testified that, on March 19, 2009, he went to respondent's repair station with another inspector, Timothy Griffin, and uncovered several items that concerned him. Inspector Stauffer stated that he reviewed five certificates of

calibration for respondent's Hass barometer. Exhs. A-3 - A-7.⁹ Both Inspectors Stauffer and Griffin stated that they viewed the original certificates before Mr. Bell's son photocopied the documents for them, and that neither saw anything written on the back of the certificates.¹⁰

The Administrator also called Bernard Hass, the president of Hass Instrument Corporation, to testify. Mr. Hass stated that, according to his records, the last time he calibrated respondent's Hass barometer was on April 28, 1995, and that the certificates that respondent provided to Inspector Stauffer appeared different from the certificates he would issue. Mr. Hass stated that he did not create the certificates that respondent provided to the FAA inspectors on March 19, 2009. Tr. at 171-72. Mr. Hass also testified that his company does not determine calibration intervals for their barometers, because the calibration schedule is left to the FAA and the

⁹ Inspector Stauffer testified that Mr. Bell produced exhibit A-7, which is a certificate of calibration dated August 10, 2007, after Inspector Stauffer specifically asked for it, and after the inspectors and Mr. Bell took a break from the inspection on March 19, 2009, for lunch. Tr. at 50-51.

¹⁰ The Administrator also called Aviation Safety Inspector Eric Bubny, respondent's principal avionics inspector from August 2004 to September 2008, who testified that he had also viewed some of the certificates, and never saw anything written on the back of the documents. Tr. at 185-86. As discussed below, respondent contends on appeal that the certificates included a disclaimer on the back, which stated that the certificate was intended solely for respondent's internal use.

customer, but that the typical calibration schedule for barometers maintained near the east coast is "normally" 3 years. Tr. at 87.

Both Inspectors Stauffer and Griffin also testified that they had a teleconference with Mr. Bell on May 4, 2009, in which Mr. Bell informed them that he received the certificates of calibration from Hass Instrument Corporation each time Mr. Hass returned the barometer after calibrating it. After this teleconference, however, Inspector Griffin and Joseph Kain, the manager of the Philadelphia Flight Standards District Office, testified that respondent called again the same day and admitted that he fabricated the certification records for the barometer. Tr. at 160, 200.¹¹

During respondent's case-in-chief, Mr. Bell testified that he signed Mr. Hass's name on the certificates, and made up a statement on the back of the certificates, which provides as follows:

This certificate from Hass Instrument Co. and is a copy of the original and is for internal use only, and is not to be confused as a calibration certificate. This is used to keep track of the maintenance for cleaning of the mercury, column, and the cistern for the Hass A1 S/N 2164 Barometer. Maintenance was performed in accordance with the Hass A1 Barometer operation manual.

¹¹ Inspector Griffin testified that Mr. Bell stated, "I screwed up. I made up those certificates of calibration." Tr. at 200.

Tr. at 226; Exh. R-6 (see also Exhs. R-1 and R-3, which contain similar language). Mr. Bell testified that this statement did not appear on the photocopies that the inspectors took after the March 19, 2009 inspection because his son only copied the front side of each certificate. Mr. Bell further stated that he added the statement to the certificates to release Mr. Hass of "any liability," and that he had "good intentions" at the time that he added the statement. Tr. at 226. Mr. Bell further testified that he did not believe his PST was improperly calibrated because mercury barometers do not change, as long as they are maintained, and that respondent's barometer was never incorrect.

Inspector Stauffer also identified an Excel spreadsheet that listed altimeter tests that respondent performed between November 26, 1995, and February 26, 2009. Inspector Stauffer testified that respondent's Hass barometer was last calibrated on April 28, 1995, and that, because the barometer must be calibrated every 3 years, all altimeter system tests that respondent performed after April 1998 were invalid. Exhs. A-13 (spreadsheet); A-14, A-15, A-16 (work orders dated March 5, 12, and 18, 2009, documenting additional altimeter system tests). As a result, Inspector Stauffer stated that respondent failed to comply with its repair station manual, which requires calibration of the Hass barometer every 3 years; failed to calibrate the PST used in the 279 altimeter tests in accordance

with a standard accepted by the FAA; and failed to use acceptable tools, equipment, and test apparatus.

With regard to Counts 3-7, the Administrator's counsel introduced into evidence the page of respondent's repair station manual that states, "[t]his repair station will not maintain or alter any item for which it is not rated, and will not maintain or alter any article for which it is rated if it requires technical data, equipment, materials, facilities or trained personnel that are not available." Exh. A-19. Inspector Stauffer testified that, during the March 19, 2009 inspection, he and Inspector Griffin obtained work orders from respondent indicating that respondent had performed work on several instruments that do not appear in the ratings and limitations section of respondent's operations specifications issued in 1994, 1995, and 2000.¹² Inspector Stauffer opined that Mr. Bell, on behalf of respondent, had no excuse for not knowing the instruments for which the operations specifications permitted him to perform work, because the items are listed on the operations specifications and Mr. Bell is the sole employee of respondent's corporation.

¹² Inspector Stauffer clarified that respondent's August 19, 1994 operations specifications permitted respondent to perform maintenance on an Airpath Magnetic Compass Model 2300 series, but that this item was not listed on respondent's August 16, 1995 operations specifications, and that, in any event, respondent had performed work on the model 2200 series, which was impermissible at all times. Tr. at 120-23.

Inspector Bubny testified that, between 2004 and 2008, when he oversaw respondent's repair station, he did not recall Mr. Bell ever asking to add a rating on respondent's operations specifications for an item on which respondent sought to perform work. Inspector Griffin opined that respondent's performance of maintenance on such items is hazardous, because the Administrator cannot oversee or attempt to regulate work about which the FAA does not know. Inspector Griffin also testified that respondent is responsible for knowing what items are listed on its operations specifications.

During respondent's case-in-chief, Mr. Bell testified that almost all of the items at issue were on previous versions of respondent's operations specifications, and that respondent's previous inspector, Joseph Myers, must have unintentionally failed to include the items when respondent applied for the Class 3 gyroscopic rating. Mr. Bell stated that he did ask Mr. Myers to add the ACK Altitude Encoder to respondent's operations specifications, but that Mr. Myers must have neglected to do so. Mr. Bell admitted that he did not review the operations specifications before signing them, and that none of the five instruments at issue are gyroscopic instruments.

Concerning Count 8 of the Administrator's order, Inspector Stauffer testified that he and Inspector Griffin obtained work orders from respondent that established that respondent

performed maintenance on two United Instruments altimeters, model 5934, on June 6, 2007, and February 20, 2009. Exhs. A-33 and A-34. Inspector Griffin testified that the manual that respondent used for the work on the altimeters was outdated. Tr. at 202. Inspector Griffin stated that, while at respondent's repair station, he called United Instruments and described the manual, and that a United Instruments employee told him that the manual was obsolete. Inspector Griffin stated that he sent a copy of some pages of the manual to United Instruments, and identified an e-mail message from a vice president at United Instruments, stating that the manual that they received from Inspector Griffin had been replaced. Exh. A-40.¹³ Inspector Griffin also identified revision pages and cover pages from the manuals that replaced respondent's manual. Exhs. A-41 – A-43. Inspector Griffin opined that respondent acted recklessly by performing work on items for which it did not have a current manual, and testified that having the most current manual for work one seeks to perform on instruments is critical to safety. In response to the Administrator's case concerning Count 8, Mr. Bell acknowledged that respondent did

¹³ Inspector Griffin testified that respondent's manual did not list a revision date, and that, "the Vice President at United Instruments stated that since 1995 the date was clearly marked on the manual. So, we assume that that manual was at least prior to that date." Tr. at 203. Inspector Griffin also stated that, since 1995, United Instruments had revised the manual twice.

not have the most current version of the United Instruments manual that applied to such altimeters. Mr. Bell stated that he did not receive automatic updates to the manual and did not know that he should have checked for updates.

Regarding Count 9 of the Administrator's order, Inspector Bubny testified that he attempted to inspect respondent's records in respondent's repair station on July 9, 2009, but that, when he contacted Mr. Bell about the inspection, Mr. Bell told him that such requests should be made in writing and sent to him via certified mail. Tr. at 187; Exh. A-37 (record of telephone conversation). Inspector Bubny also stated that Mr. Bell told him that his attorney would review the request and then allow the FAA to review respondent's records. Inspector Bubny testified that Mr. Bell also informed him that he had no transportation to the repair station because he had car trouble. Inspector Griffin corroborated Inspector Bubny's testimony concerning the attempt to visit respondent's facility. Tr. at 217-18. In response to the Administrator's case on this count, Mr. Bell testified that he informed the inspectors that he could not allow them into the repair station because he had car trouble, and that he has since invited the FAA to visit and inspect his facility. Mr. Bell acknowledged that he asked the inspectors to send a written request to visit respondent's repair station, but contended that he never refused to let the

inspectors visit the facility.

At the conclusion of the hearing, the law judge issued an oral initial decision, in which he determined that the Administrator produced sufficient evidence to show that respondent violated the regulations charged. Initial Decision at 305. The law judge determined that the Administrator had produced ample evidence to prove the allegations in each count of the order; specifically, the law judge stated, "to say that the Administrator was validly premised in bringing this Emergency Order of Revocation of July 9th, 2009, would be an understatement." Id. at 308. The law judge affirmed the Administrator's order and found revocation to be the appropriate sanction, based on the evidence.

Respondent's appeal principally consists of the same arguments that Mr. Bell unsuccessfully presented, on respondent's behalf, at the hearing.¹⁴ The appeal contends that respondent's Hass barometer need not be calibrated every 3 years, because FAA Advisory Circular 43-2B, item 6 (Oct. 16, 1980), states that high-quality barometers may only need to be calibrated at overhaul.¹⁵ In respondent's appeal brief, Mr. Bell

¹⁴ Mr. Bell, who is not an attorney, represents respondent and proceeds pro se on appeal.

¹⁵ The Advisory Circular, Exh. A-18 at 2, states: "[h]igh quality barometers provide for checking the zero adjustment and, if properly used and maintained, need only be calibrated at

states that he "made up the copies of Hass Instrument Corporations Certificate of Traceability and Calibration to keep track of the three year maintenance and calibration of the Hass Al Mercury Barometer." Respondent's brief also asserts that the instruments at issue in Counts 3-7 should have been included on his operations specifications, and that Mr. Bell trusted FAA inspectors to ensure that the instruments on which respondent performed work would be listed in the operations specifications. Respondent's brief urges us to review copies of respondent's old operations specifications, because the instruments were likely listed on them.¹⁶ With regard to Count 8, respondent acknowledges that it did not have a current repair manual for United Instruments altimeters, series 5934. Respondent's brief states that the 1994 version of the manual was not updated until 2002, and again in 2006, and that this long period between updates was the reason Mr. Bell missed the update. Finally, respondent's brief contends that Mr. Bell could not let Inspectors Griffin and Bubny into the repair station because his car had no brakes, and therefore he had no transportation. Respondent's appeal brief does not mention the allegation that

(..continued)
overhaul."

¹⁶ We note that the Administrator introduced copies of respondent's operations specifications from 2000 and 1994 (Exhs. A-29 and A-30), and that these documents do not list the instruments at issue.

Mr. Bell informed the inspectors that they must make requests to inspect respondent's repair station in writing. The Administrator contests each of respondent's arguments, and urges us to affirm the law judge's decision.

Respondent does not present any reason that compels us to reverse the law judge's decision in any regard. Mr. Bell clearly testified that he typed the certificates of calibration for respondent's Hass barometer and signed Mr. Hass's signature. Tr. at 226, 240. The argument that Advisory Circular 43-2B excuses respondent from adhering to the requirement of the repair station manual, that the barometer be calibrated every 3 years, is not persuasive.¹⁷ Mr. Bell fabricated the calibration certificates and dated them approximately 3 years apart, therefore indicating that he must have been aware that periodic calibration was required. In addition, 14 C.F.R. § 145.207(a) specifically requires adherence to repair station manuals. Respondent does not deny that its repair station manual requires that calibration of the Hass barometer occur every 3 years.

Mr. Bell also does not deny that he performed work on five items that were not listed in respondent's operations

¹⁷ We note that Mr. Hass's testimony included a description of a conversation he had with Mr. Bell after the FAA began its investigation, wherein Mr. Hass ostensibly informed Mr. Bell for the first time that Advisory Circular 43-2B does not require a specific calibration schedule for barometers, and that Mr. Bell did not appear to know of the advisory circular until Mr. Hass informed him of it recently.

specifications. The argument that FAA inspectors made mistakes by failing to include these items in the operations specifications is also not persuasive, because Mr. Bell accepted the operations specifications on behalf of respondent, and therefore obligated respondent to comply with them.

Mr. Bell, on behalf of respondent, also does not deny that he did not satisfactorily maintain the United Instruments manual for work performed on such altimeters. We have previously recognized that adherence to manufacturers' manuals is an important component of performing work on parts.¹⁸ Respondent presents no argument that would compel us to depart from our precedent on this issue.

Finally, with regard to the inspectors' request to inspect respondent's repair station, we note that Mr. Bell does not deny that he informed the inspectors that they must make their inspection requests in writing, and that such requests would be subject to review by Mr. Bell and his attorney. Respondent's brief does not address this fact, but instead only states that Mr. Bell had car trouble on the day that the inspectors requested a visit. Based on the undisputed fact that Mr. Bell told the inspectors that he would not allow them to inspect the repair station unless they first sent him a written request, we

¹⁸ See, e.g., Administrator v. Partington, NTSB Order No. EA-5453 at 10 (2009).

believe that the law judge did not err in concluding that respondent violated 14 C.F.R. § 145.223(a).

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied;
2. The law judge's decision is affirmed; and
3. The Administrator's order revoking respondent's repair station certificate is affirmed.

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

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ORAL INITIAL DECISION AND ORDER

This has been a proceeding before the National Transportation Safety Board held pursuant to the provisions of the Federal Aviation Act of 1958, as that Act was subsequently amended, on the appeal of the U.S. Aircraft Instruments, Inc., from an Emergency Order of Revocation dated July 9th, 2009, which purports to revoke the approved repair station certificate of the Respondent, U.S. Aircraft Instruments, Inc.

1 The Administrator's Emergency Order of Revocation duly
2 promulgated, pursuant to the National Transportation Safety
3 Board's Rules of Practice was issued by the Regional Counsel,
4 Eastern Region of the Federal Aviation Administration.

5 This matter has been heard before this United States
6 Administrative Law Judge. And is provided by the Board's Rules of
7 Practice dealing with emergency proceedings as we have here,
8 specifically Section 821.56 of those rules, it is mandatory as the
9 Judge in this proceeding I issue an Oral Initial Decision, which
10 I'm going to do at this time.

11 Both parties have been afforded the opportunity to offer
12 evidence, to call, examine, and cross-examine witnesses on behalf
13 of their case. In addition, the parties were afforded the
14 opportunity to make final argument in support of their respective
15 positions.

16 I have reviewed the testimony and the evidence in this
17 proceeding which consisted of 45 exhibits adduced by the
18 Administrator, and 6 exhibits adduced by the Respondent. The
19 Administrator had five witnesses. The Respondent had one witness
20 and that one witness being Respondent, president, chief repairman,
21 and operating officer from the Respondent U.S. Aircraft
22 Instruments, Inc., which is the Respondent in this proceeding.

23 The Administrator's Emergency Order of Revocation
24 encompassed 10 counts embodying 37 paragraphs and setting forth in
25 a conclusionary fashion 9 Federal Aviation Regulations allegedly

1 violated by the Respondent USAI, Inc. Which, of course, I'm using
2 that as the abbreviation for U.S. Aircraft Instruments, Inc.

3 This is, quite a case. A case which if you looked at
4 Count 2 in the Administrator's Emergency Order which consisted of
5 279 violations involving the altimeter system test and inspection
6 required with the utilization of a Pitot-Static Tester that had
7 not been properly calibrated.

8 It is my determination and conclusion that the
9 Administrator's evidence, both the testimony and the documentary
10 exhibits is overwhelmingly persuasive, compelling and logical.

11 Taking Count 2 alone, the Administrator has set forth
12 279 violations as I mentioned earlier, of the usage of this Pitot-
13 Static Tester to calibrate these altimeters on dates from May 8th,
14 1998, through March 12th, 2009, when the Respondent in this
15 proceeding, even though he possessed knowledge of the fact that
16 calibration had to occur every three years pertaining to the
17 instruments that we've been involved with here, he hadn't had a
18 proper calibration since April 28th, 1995.

19 So, what I'm saying ladies and gentlemen, is that Count
20 2 alone would provide a sufficient basis for the Administrator's
21 Emergency Order of Revocation.

22 But in addition to that, we've had the testimony of five
23 witnesses on behalf of the Administrator, starting with Operation
24 Safety Inspector Philip Stauffer who voluminously and copiously,
25 to say the least, substantiated not only every allegation of the

1 alleged violations in Count 2 of the Administrator's Emergency
2 Order of Revocation, but he went into depth as to almost every
3 other violation that the Administrator had set forth in his
4 Emergency Order of Revocation.

5 In addition to Inspector Stauffer's testimony, which I
6 said was all encompassing, we had the testimony of Bernard Hass,
7 who is a very important witness because the testimony has involved
8 the usage of the Hass barometer that the Respondent company
9 through its president, Mr. Jeffrey Bell, used.

10 We had the testimony of Mr. Joseph Kain, who is the
11 manager of the Philadelphia FSDO Office who was present with
12 Aviation Safety Inspector Timothy Griffin during the telephonic
13 conversation set forth in Administrator's Exhibit A-36 which
14 quoted Jeffrey Bell as saying, "I screwed up. I made up the
15 certification records. I lied. I don't want to go back to jail.
16 And I'm on probation. It's getting too deep. You guys are really
17 digging." That's a quote of Jeffrey Bell, the Respondent in this
18 proceeding, which upon a thorough analysis and understanding is
19 enough to additionally substantiate the Administrator's Emergency
20 Order of Revocation that we have here.

21 Then the third witness on behalf of the Administrator,
22 Mr. Bernard Hass, who is an electrical engineer and is president
23 of the Hass Engineering Company since the early '70s, said that
24 the last time the Respondent applied for calibration was
25 April 28th, 1995. Witness Hass also said Administrator's Exhibits

1 4, 5, 6, and 7, which had his company's name on it and allegedly
2 Mr. Hass' signature, Witness Hass testified "that was not his
3 signature on those documents". This adds to the additional basis
4 for the composition and origin of the Administrator's Emergency
5 Order of Revocation of July 9th, 2009.

6 The fourth and fifth witnesses of the Administrator,
7 Aviation Safety Inspector Eric Bubny and Aviation Safety Inspector
8 Timothy Griffin added to the overwhelming evidence such as it is.
9 It is very persuasive, logical, and compelling.

10 You may recall Inspector Griffin testified he, too, was
11 present at this telephone conversation as set forth in
12 Administrator's Exhibit A-36, which is dated May 4th, 2009,
13 whereupon the Respondent, Mr. Bell made these admissions that he
14 had made up the certifications as set forth in Count 2 of the
15 Administrator's Emergency Order of Revocation, as well as other
16 certifications set forth in the Administrator's Emergency Order of
17 Revocation.

18 We have a situation here which on the one hand, as
19 counsel for the Administrator ably stated during his final
20 argument, you have a degree of feeling for Mr. Bell. He's been in
21 business 29 years. Mr. Bell says he's had many good and satisfied
22 customers during that time that he's been performing and operating
23 his business.

24 Then, on the other hand, you have all of this evidence
25 that I have briefly alluded to thus far, adduced by the

1 Administrator in his Emergency Order of Revocation, which is so
2 compelling and thorough, as well as being logical, you can see the
3 ample basis of why we have been here for two days hearing the
4 Administrator's case against U.S. Aircraft Instruments, Inc., and
5 Jeffrey Bell as president of that outfit.

6 So that, gentlemen, to make a long story short, to say
7 that the Administrator was validly premised in bringing this
8 Emergency Order of Revocation of July 9th, 2009, would be an
9 understatement. I'm sure you follow what my ultimate
10 determination is. I will now proceed to make the following in
11 line with the Administrator's Order of Revocation.

12 SPECIFIC FINDINGS OF FACT AND CONCLUSIONS OF LAW

13 1. The Respondent admits and it is found that U.S.
14 Aircraft Instruments, Inc. is the holder of repair station
15 certificate number (omitted).

16 2. The Respondent admits and it is found that at all
17 times relevant herein pursuant to USAI's Operations
18 Specifications, this company was rated to perform altimeter system
19 tests and inspections required by 14 CFR, Section 91.411 and as
20 described in 14 CFR 43, Appendix E.

21 3. The Respondent admits and it is found that in order
22 to perform the aforementioned altimeter system tests and
23 inspections, USAI used a Pitot-Static Tester.

24 4. The Respondent admits and it is found that pursuant
25 to Section 6 of the aforesaid company's repair station manual, the

1 Pitot-Static Tester used by the company, USAI, must be calibrated
2 on a monthly basis.

3 5. The Respondent admits and it is found that all times
4 relevant herein this company, USAI, used a Hass barometer,
5 Model ALJVP31-01, Serial Number 2164, hereinafter, the Hass
6 barometer, to calibrate the company's Pitot-Static Tester.

7 6. The Respondent admits and it is found that pursuant
8 to Section 6 of the aforesaid company's repair station manual, the
9 Hass barometer must be calibrated every three years and have a
10 certificate of calibration from the testing facility attesting
11 that the standards used to test the equipment were traceable to
12 the National Institute of Standards and Techniques or other
13 recognized National Standards laboratories.

14 7. It is found that on or about March 19th, 2009, USAI
15 provided Aviation Safety Inspectors of the Federal Aviation
16 Administration with copies of certificates of traceability and
17 calibration for the Hass barometer dated, and I'm incorporating by
18 reference the dates as set forth in Paragraphs a) through e) as
19 set forth in Paragraph 7 in the Emergency Order.

20 8. It is found that notwithstanding the above, the Hass
21 barometer has not been calibrated since or on or about April 28th,
22 1995.

23 9. It is found that specifically on or about May 4th,
24 2009, the president, owner, and accountable manager of USAI,
25 Jeffrey Bell, admitted to Aviation Safety Inspectors of the

1 Federal Aviation Administration that he made up the certification
2 records for the Hass barometer referred to in Paragraph 7 b)- 7 e)
3 above.

4 10. It is found that as a result of the above, the
5 following certificates of traceability and calibration for the
6 Hass barometer are reproductions made or caused to be made by USAI
7 for fraudulent purposes.

8 Subsection Paragraphs a), b), c), and d), I am
9 incorporating what those paragraphs spell out by reference as set
10 forth under Paragraph 10 of the Administrator's Emergency Order.

11 11. Count 2 of the Administrator's Emergency Order of
12 Revocation. It is found that USAI performed the altimeter system
13 test or inspection required by 14 CFR Section 91.411 and approved
14 the altimeters of the following aircraft for return to service
15 with a Pitot-Static Tester that had not been properly calibrated
16 on or about the following dates:

17 And I'm incorporating by reference those dates set forth
18 in numbered Paragraphs 1 through 278 as set forth in the Count 2
19 of the Administrator's Order of Revocation.

20 12. It is found that by virtue of the foregoing
21 concerning USAI's Hass barometer and the altimeter tests or
22 inspections described in Paragraph 11 above, USAI failed to, and
23 I'm incorporating by reference as the Paragraphs a), b), c), d),
24 and e), as set forth under Paragraph 12 of the Emergency Order of
25 Revocation.

1 13. Count 3. It is found that pursuant to the
2 introductory section of USAI's repair station manual, USAI may not
3 maintain or alter any item for which it is not rated.

4 14. It is found that on or about May 27th, 2005, USAI
5 inspected and returned to service a TCI digitizer.

6 15. It is found in accordance with Section A003 of
7 USAI's Operations Specifications, USAI is not authorized or rated
8 to perform maintenance on a TCI digitizer.

9 16. It is found by virtue of the foregoing concerning
10 the aforementioned maintenance performed on the TCI digitizer, the
11 following Paragraphs a), b), and c), as set forth under Paragraph
12 16 of the Emergency Order of Revocation, I'm incorporating what
13 those paragraphs spell out by reference.

14 17. It is found that about each of the following dates
15 USAI repaired, inspected, and returned to service an Airpath
16 Magnetic Compass as set forth in the following dates, a), b), c)
17 d) and e), and I'm incorporating by reference those dates under
18 Paragraphs a), b), c), d), and e), under Paragraph 17 of the
19 Administrator's Emergency Order.

20 18. It is found in accordance with Section A003 of the
21 aforesaid company's Operations Specifications, this company is not
22 rated to perform maintenance on an Airpath Magnetic Compass.

23 19. It is found by virtue of the foregoing concerning
24 the aforementioned maintenance that USAI company performed on
25 Airpath Magnetic Compasses on each of the aforementioned dates,

1 USAI as set forth in Subparagraphs a), b), and c), which I'm
2 incorporating by reference, did not have the ability to perform
3 what they did with reference to Airpath Magnetic Compasses.

4 20. Count 5, in Paragraph 20, it is found that on or
5 about April 25th, 2007, USAI, the aforesaid company repaired,
6 inspected, and returned to service a Kollsman Magnetic Compass.

7 21. It is found that in accordance with Section A003 of
8 the aforesaid company's Operations Specifications, the aforesaid
9 company is not rated to perform maintenance on a Kollsman Magnetic
10 Compass.

11 22. It is found that by virtue of the foregoing
12 concerning the aforementioned performed on the Kollsman Magnetic
13 Compass, the company:

14 a) maintained an article for which it is not rated;

15 b) operated in violation of the Operations
16 Specifications, and/or;

17 c) operated in violation of the repair station manual.

18 23. It is found that on or about January 1st, 2009,
19 USAI calibrated and returned to service an ACK altitude encoder.

20 24. It is found in accordance with Section A003 of the
21 aforementioned company's Operations Specifications, this company
22 is not rated to perform maintenance on an ACK altitude encoder.

23 25. It is found by virtue of the foregoing concerning
24 the aforementioned maintenance performed on the ACK altitude
25 encoder, USAI, as set forth in Subparagraphs a), b), and c), was

1 not maintained accordingly as those sections set out in
2 Subparagraphs a), b), and c) under Paragraph 25 of the
3 Administrator's Emergency Order of Revocation.

4 26. Under Count 7, the Respondent admits and it is
5 found that on or about March 3rd, 2009, the aforesaid company
6 inspected and returned to service an Aerosonic encoding altimeter
7 PN101627-1117081.

8 27. It is found that in accordance with Section A003 of
9 USAI's Operations Specifications, USAI is not rated to perform
10 maintenance on an Aerosonic encoded altimeter.

11 28. It is found by virtue of the foregoing maintenance
12 performed on the Aerosonic encoding altimeter:

13 a) maintained an article for which it was not rated,
14 the aforesaid company did;

15 b) operated in violation of its Operations
16 Specifications and/or operated in violation of its repair station
17 manual.

18 29. Under Count 8, Section 29. It is found that on or
19 about the following dates USAI repaired or inspected and returned
20 to service the following United Instruments altimeters:

21 a) June 6th, 2009, United Instruments altimeter Part
22 Number 5934PD3, Serial Number 414882.

23 b) February 20th, 2009, United Instruments altimeter
24 Part Number 5934, Serial Number A108.

25 30. The Respondent admits and it is found that at the

1 time USAI performed the aforementioned maintenance on the United
2 Instruments altimeter, the aforesaid company did not have in its
3 possession the most current version of the pertinent manual for
4 this maintenance.

5 31. The Respondent admits and it is found that
6 specifically the aforesaid company was utilizing the Sensitive
7 Pressure Altimeter Manual of Installation Operation Service
8 Overhaul Instructions Parts List when this manual was reissued as
9 the Sensitive Pressure Altimeter Maintenance Manual and
10 Illustrated Parts List on or about January 31, 1994.

11 32. The Respondent admits and it is found that the
12 Sensitive Pressure Altimeter Maintenance Manual and Illustrated
13 Parts List was subsequently revised on or about July 1, 2002, and
14 March 15th, 2006.

15 33. The Respondent admits and it is found that by
16 virtue of the foregoing, USAI performed maintenance on the
17 aforementioned United Instrument altimeters notwithstanding that
18 it lacked the required technical data which was set forth in the
19 most current version of the pertinent manual.

20 34. Under Count 9. Respondent admits and it is found
21 that on or about July 9th, 2009, Aviation Safety Inspectors
22 attempted to inspect USAI's repair station to determine compliance
23 with the Federal Aviation Regulations.

24 35. It is found that notwithstanding the above, on or
25 about July 9th, 2009, the Aviation Safety Inspectors were not

1 allowed or permitted to inspect USAI's repair station.

2 36. It is found that USAI's refusal to allow the
3 Aviation Safety Inspectors to inspect the company's repair station
4 facility deprived the Inspectors of their right to inspect any FAA
5 repair station at any time to determine the repair station's
6 compliance with the Federal Aviation Regulations.

7 37. It is found that by reason of the counts listed
8 above, USAI, and I'm incorporating by reference what paragraphs
9 under that Section a), b), c), d), e), f), g), h), and i) spell
10 forth. Incorporating by references what those paragraphs a)
11 through i) under Finding 37 of the Administrator's Emergency Order
12 of Revocation set forth.

13 38. As a result, U.S. Aircraft Instruments, Inc., I am
14 finding violated the following Federal Aviation Regulations:

15 a) Section 145.109(a), and I'm incorporating by
16 reference what that section spells out;

17 b) Section 145.109(b), likewise incorporating by
18 reference what that section spells out;

19 c) Section 145.201(b), incorporating by reference what
20 that section spells out;

21 d) Section 145.201(c)(1), incorporating by reference
22 what that section spells out in the Order;

23 e), f) and g) which sets forth Section 145.207(a),
24 Section 145.5(a), and Section 43.13(a), I'm incorporating by
25 reference what those sections spell out and set forth in the

1 Administrator's Emergency Order of Revocation.

2 And also Section 43.13(b) I'm incorporating that section
3 by reference as it's spelled out in the Administrator's Emergency
4 Order of Revocation.

5 I'm incorporating by reference under Paragraph i) in
6 that Order Section 145.223 which deals with a certificated repair
7 station must allow the FAA to inspect that repair station at any
8 time to determine compliance with this chapter.

9 39. This Judge finds that safety in air commerce or air
10 transportation and the public interest does require the
11 affirmation of the Administrator's Emergency Order of Revocation
12 dated July 9th, 2009, in view of the aforesaid violations which
13 I've just alluded to and referred to pointedly earlier in this
14 decision.

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ORDER

IT IS ORDERED AND DECREED THAT the Administrator's
Emergency Order of Revocation dated July 9, 2009, be and the same
is hereby affirmed.

This Order is issued by William E. Fowler, Jr.,
United States Administrative Law Judge.

EDITED ON
September 8, 2009

William E. Fowler, Jr.
Chief Administrative Law Judge