

SERVED: December 1, 2015

NTSB Order No. EA-5763

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 30th day of November, 2015

_____)	
MICHAEL P. HUERTA,)	
Administrator,)	
Federal Aviation Administration,)	
)	
Complainant,)	
)	
v.)	Docket SE-18963RM1
)	
JACKSON E. LANGFORD,)	
)	
Respondent.)	
)	
_____)	

OPINION AND ORDER

1. Background

Respondent appeals the Decisional Order on Remand from United States District Court of Administrative Law Judge William R. Mullins, issued on April 16, 2015.¹ By that order, the law judge reaffirmed the Administrator’s 90-day suspension of respondent’s airline transport pilot (ATP) certificate, based on respondent’s alleged violation of 14 C.F.R. § 91.13(a) by

¹ A copy of the decisional order is attached.

creating a jet blast that endangered a Cessna 172 behind respondent's Lear 45.² We affirm the law judge's decision but reduce the sanction.

A. *Facts*

On October 12, 2009, respondent was pilot-in-command of a Lear 45 operated by Basin Aviation, a 14 C.F.R. part 135 air carrier. As described in our Opinion and Order prior to the remand order from the District Court,³ respondent operated the Learjet on a repositioning flight at Midland Airpark in Midland, Texas. Respondent and his first officer, Matthew Hogg, landed on runway 25 at Midland Airpark in instrument meteorological conditions and vacated the runway by first turning left onto runway 16 and then turning eastbound onto taxiway Echo. When respondent vacated runway 16 via taxiway Echo, David Goll, a Midland College flight instructor, and Joseph Gillett, a student pilot, were in a Cessna 172 on taxiway Bravo, which is parallel to runway 16 and perpendicular to taxiway Echo. The Cessna was facing north on taxiway Bravo, holding short of runway 16 and awaiting departure. In that position, the Cessna blocked respondent's taxi route back to his parking position on the Basin Aviation ramp, which the testimony established was near the midpoint of runway 16 along taxiway Bravo.

On the radio, respondent requested the Cessna switch places with him so he could turn right onto taxiway Bravo and taxi to his parking position. Mr. Goll declined the request because the Cessna was holding short of the runway awaiting an instrument flight rules (IFR) release from air traffic control. At the hearing, Mr. Goll recalled after he responded to respondent's request, he heard the Learjet's engines "spool up" to initiate taxi from the jet's position at the

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

³ NTSB Order No. EA-5673 (2013).

intersection of taxiway Echo and runway 16. He described the activity as a “jet blast.”⁴

Mr. Gillett’s testimony corroborated Mr. Goll’s: he recalled he “grabbed the yoke, held onto the brakes, and proceeded to ride out a very violent experience in that aircraft” when the jet blast occurred.⁵ He estimated the jet was 40 to 60 feet away from the Cessna at the time.⁶ In addition, Mr. Goll recognized the resultant skid marks from the Lear in a photograph the Administrator introduced at the hearing.

Respondent re-entered runway 25 via taxiway Bravo, turning left again on runway 16 and ultimately vacating runway 16 via a taxiway closer to midfield. Mr. Goll recalled he visually inspected what he could see of the Cessna from the cockpit, and saw no damage. Messrs. Goll and Gillett took off after receiving their IFR release from air traffic control.

B. Procedural History

On October 7, 2010, the Administrator issued an order to suspend respondent’s ATP certificate for 90 days, based on the allegations summarized above. The case proceeded to hearing before the law judge on May 3 and June 14, 2011. At the conclusion of the hearing, the law judge issued an oral initial decision, in which he determined respondent violated 14 C.F.R. § 91.13(a). The law judge’s decision, however, did not contain credibility findings for the witnesses who testified at the hearing. Respondent appealed the decision to the Board, on the basis that the law judge’s conclusion that respondent violated § 91.13(a) was inconsistent with the evidence. In particular, respondent pointed out the law judge’s failure to articulate any

⁴ Tr. 43-44.

⁵ Tr. 73-74.

⁶ Tr. 77.

credibility findings in his decision. Respondent also argued the sanction of a 90-day suspension for his alleged conduct was improper.

The Board remanded the case to the law judge for credibility determinations. In particular, the Board sought credibility assessments of the testimony of all witnesses, and directed the law judge to provide a summary of the facts that supported his credibility determinations.⁷ The Board also stated the law judge should not have compared the case *sub judice* to previous collision hazard cases, because the Administrator alleged only a violation of § 91.13(a) based on general careless or reckless conduct, rather than a collision hazard. Finally, the Board noted the law judge need not consider the Board's Lindstam doctrine, because the Administrator alleged a specific act of carelessness or recklessness in this complaint, and supported the allegation with direct evidence.⁸

Following the Board's Opinion and Order remanding the case, the law judge issued a decision finding Messrs. Goll and Gillett provided credible testimony. The law judge noted they testified consistently with one another and with the physical evidence and black skid marks left by the Learjet. Conversely, the law judge found respondent's testimony was not credible, due to inconsistencies between respondent's testimony and physical evidence, the testimony of Messrs. Goll and Gillett, and the statements made to an Federal Aviation Administration (FAA) aviation safety inspector. The law judge stated respondent's "attempt to characterize the physical evidence

⁷ NTSB Order No. EA-5625 at 5-6 (2012).

⁸ The Board's Lindstam doctrine, named for a 1964 Civil Aeronautics Board case, stands for the notion that 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. 41 C.A.B. 841 (1964). The burden then shifts to the respondent to come forward with an alternative explanation for the event sufficient to overcome the inference of carelessness. Therefore, the doctrine permits the Administrator to prove carelessness or recklessness by circumstantial evidence.

of the tire marks as being the result of differential braking was not consistent, particularly as these skid marks were beyond the [point] where differential braking might be required, and also because these skid marks were in a straight line.”⁹ The law judge also found Mr. Hogg’s testimony was not credible, based on other inconsistencies. Given this assessment of the evidence, the law judge again affirmed the Administrator’s order of suspension for 90 days.

Respondent appealed the law judge’s decisional order on remand to the Board, which affirmed the order primarily on the basis that the law judge’s credibility assessments were consistent with the evidence. The Board determined such assessments were influential in the disposition of the appeal because Messrs. Goll and Gillett testified respondent’s jet blast caused the Cessna to shake, and “the wings rocked very, very vigorously.”¹⁰ Mr. Gillett testified the incident was “violent,” and Mr. Goll observed the left main tires of the Learjet “[lock] up and [start] to make black marks on the pavement.”¹¹ The Board rejected respondent’s challenges, finding the evidence supported the law judge’s credibility assessments; as a result, respondent could not establish the assessments were arbitrary and capricious. Therefore, the law judge’s credibility determinations were entitled to deference. Overall, the Board clearly based its conclusion that respondent violated § 91.13(a) on the fact that the law judge found the testimony of Messrs. Goll and Gillett was credible.¹² In light of this conclusion, the Board determined the 90-day period of suspension was a reasonable sanction. The Board cited respondent’s apparent attitude of brazenness in applying a high thrust setting, causing the Learjet to point directly

⁹ NTSB Order No. EA-5673 at 9 (2012) (quoting Amended Decisional Order on Remand at 6).

¹⁰ NTSB Order No. EA-5673 at 11 (citing Tr. 44).

¹¹ Id.

¹² Id. at 14.

toward a runway at an uncontrolled airport in instrument meteorological conditions. The Board noted respondent likely caused the jet blast to retaliate against the Cessna pilots, because they declined to trade places at the airport.¹³

Following the Board's affirmation of the law judge's decisional order on remand, respondent appealed the Board's Opinion and Order to the United States District Court for the Western District of Texas.¹⁴ Subsequently, the Administrator filed a motion for summary judgment. On September 17, 2014, the district court denied the motion on the basis that factual issues remained in dispute; as a result, the court remanded the case to the law judge with the direction to resolve the issues of (1) "whether the Learjet was 40 to 50 feet away from the Cessna when it began to increase throttle to an excessive power while simultaneously applying the brakes," and (2) "how that finding impacts whether ... [respondent] violated § 91.13(a)."¹⁵ In addition to these findings, the district court instructed the law judge to determine whether the sanction of a 90-day suspension period was "warranted based upon the alleged grounds of reckless and careless conduct, not intentional or deliberate conduct."¹⁶

In response to the court's remand, the law judge issued a Decisional Order on Remand from United States District Court, which is the source of respondent's appeal presently before us. The law judge reaffirmed his findings in the decisional order, and specifically cited the testimony of Mr. Gillett, as well as the photographs in evidence, as the basis for his conclusion. In this

¹³ Id. at 15.

¹⁴ The Pilot's Bill of Rights, which Congress enacted in 2012, provides a party may "file an appeal in the United States district court in which the individual resides or in which the action in question occurred." Pub. L. No. 112-153 at § 2(d)(1), 126 Stat. 1159, 1161 (2012).

¹⁵ Langford v. Huerta, No. MO-13-CV-096 at 32 (W.D. Tex. Sept. 17, 2014).

¹⁶ Id.

regard, the law judge stated:

[T]he testimony of Mr. Gillett and the evidence as to the position of the skid marks left by the Learjet also leads this Judge to conclude that the preponderance of reliable and probative evidence establishes that the Learjet was between 40 and 50 feet away from the Cessna when Respondent Langford began to increase the Learjet's throttle to an excessive power while simultaneously applying its brakes.¹⁷

The law judge's decisional order also includes a summary of the testimonies of both Messrs. Goll and Gillett, particularly with regard to their observation of the nose of the Learjet dipping, smoke coming from the main gear, and black marks left on the pavement. The law judge again mentioned the fact that Messrs. Goll and Gillett had declined to switch places with respondent just before respondent increased the Learjet's throttle "to an excessive power" while simultaneously applying the brakes.¹⁸ The law judge found the evidence established a violation of § 91.13(a).

C. Issues on Appeal

Respondent now appeals the law judge's Decisional Order on Remand from United States District Court. Respondent's appeal mainly consists of the argument that the evidence does not support the law judge's conclusion that the Learjet was 40 to 50 feet from the Cessna at the time of the events. Respondent cites multiple reasons for his contention that this determination was erroneous, such as the law judge's failure to determine how far apart from one another the two aircraft were at the time the Learjet's nose dipped. Respondent also argues the

¹⁷ Decisional Order on Remand from United States District Court at 2. We recognize the law judge's decision also includes the range of 40-60 feet, in his summary of Mr. Gillett's testimony. Specifically, the law judge stated, "Mr. Gillett, the Instrument Student Pilot, testified that he believed the tail of the Learjet was 40-60 feet in front of them, and as it rolled away from them he saw the nose dip and the main gear was smoking." *Id.* (citing Tr. 77).

¹⁸ *Id.* at 2-3.

black marks on the pavement, when viewed in conjunction with the testimony of Mr. Goll, actually establish the Learjet was approximately 134 feet from the Cessna. Respondent asserts the district court instructed the law judge to consider certain evidence in making his determination concerning the distance between the two aircraft at the time of the jet blast, but that the law judge disregarded the district court's direction by not mentioning such evidence. Finally, respondent contends the law judge should not have mentioned whether he believed respondent's conduct was intentional, and that the law judge erred in failing to analyze whether the 90-day suspension period was appropriate in light of the facts.

2. Decision

On appeal, we review the law judge's decisional order *de novo*, as our precedent requires.¹⁹

A. Violation of § 91.13(a)

At the outset of our analysis, it is incumbent upon us to note the law judge articulated credibility findings that we consider conclusive. The law judge previously determined the statements of Messrs. Goll and Gillett were more credible than those of respondent and Mr. Hogg. The Board affirmed the law judge's credibility determinations upon finding they were not arbitrary and capricious,²⁰ and the federal district court treated the findings as decisive. As we elucidate in the discussion that follows, the credibility determinations that formed the basis of

¹⁹ Administrator v. Smith, NTSB Order No. EA-5646 at 8 (2013); Administrator v. Frohmuth and Dworak, NTSB Order No. EA-3816 at 2 n.5 (1993); Administrator v. Wolf, NTSB Order No. EA-3450 (1991); Administrator v. Schneider, 1 N.T.S.B. 1550 (1972) (in making factual findings, the Board is not bound by the law judge's findings).

²⁰ NTSB Order No. EA-5673 at 10-11 (citing Administrator v. Porco, NTSB Order No. EA-5591 (2011), aff'd, 472 Fed.Appx. 2 (D.C. Cir. 2012). The United States district court for the Western District of Texas affirmed the Board's analysis of the credibility determinations. Langford v. Huerta, No. MO-13-CV-096 at 22-23 (W.D. Tex. Sept. 17, 2014).

the law judge's findings remain critical to our conclusions in this case.

1. *Factual Record*

In the instant appeal, respondent essentially contends the testimonies of Messrs. Goll and Gillett defy logic. The majority of the argument in respondent's appeal brief consists of assertions based on his theory that the Cessna and the Learjet could not have been only 40 to 50 feet apart. The federal district court noted the law judge did not "make a finding as to the specific act that the Learjet was 40 to 50 feet away from the Cessna when it began to increase throttle to an excessive power while simultaneously applying the brakes."²¹ The court asserted this determination is "significant because the distances between the two planes goes to whether the alleged jet blast was careless and whether the jet blast could have put the Cessna in harms way."²² The court mentioned the existence of "evidence in the record relevant to this finding, including but not limited to, the blast charts, DVD demonstration, and measurement of the distance between the black marks and the hold short line, which was about 124 feet."²³ Because the court believed the law judge based his finding that respondent violated § 91.13(a) on the basis that the Learjet was 40 to 50 feet away from the Cessna when it spooled up, the court determined the law judge's finding was arbitrary and capricious.²⁴ Following the court's remand, the law judge determined the evidence established the aircraft were 40 to 50 feet from one

²¹ Langford v. Huerta, No. MO-13-CV-096 at 26 (W.D. Tex. Sept. 17, 2014).

²² Id.

²³ Id. The law judge summarized the evidence in his decision following this Board's initial remand, and found the demonstration depicted on the DVD (Exhibit R-19) was irrelevant, because it attempted to show actual endangerment. As discussed *infra*, the Administrator need only establish the existence of potential endangerment to prove a violation of § 91.13(a). Amended Decisional Order on Remand at 11 (Aug. 27, 2012).

²⁴ Id.

another; therefore, he found the facts established respondent violated § 91.13(a), as charged.

In the case *sub judice*, the factual record is established. The question for our consideration on appeal is whether the conduct amounted to a violation of § 91.13(a). To resolve this issue, we believe the credible testimonies of Messrs. Goll and Gillett, both of whom stated they needed to brake and engage in actions to control the surface movement of the Cessna,²⁵ indicate respondent's conduct was careless or reckless. Direct evidence, such as the testimony and photographs of black skid marks, supports the finding respondent caused the jet blast within sufficiently close proximity to be considered careless or reckless. Moreover, respondent does not dispute he spooled up the Learjet's engines, causing the nose of the aircraft to dip and smoke to come from the Learjet's tires. In addition, the record shows the left main gear of the Learjet locked, all within sufficiently close proximity to the Cessna that Messrs. Goll and Gillett determined they needed to apply the brakes and make efforts to control the Cessna.²⁶ While the District Court for the Western District of Texas implied the law judge should not consider whether respondent's conduct in causing the jet blast was intentional, we note the circumstances that preceded the jet blast indicate respondent had a motive to spool up the engines of the Learjet.²⁷ We do not believe the law judge's mentioning of this fact provides a basis for reversing the law judge's decision, when viewed in the context of the undisputed facts the law

²⁵ Tr. 43-44, 73, 75, 86.

²⁶ Not only did the law judge determine, and the Western District of Texas affirm, that the testimonies of Messrs. Goll and Gillett were credible, but we also believe respondent's conduct of increasing the throttle while applying the brakes would be nonsensical if the activity would not have had some effect Messrs. Goll and Gillett could experience. Neither respondent nor his co-pilot Mr. Hogg responded when the Cessna pilots asked whether respondent's aircraft was experiencing a mechanical issue to cause the jet blast. Tr. 50. Respondent did not attempt to assert the Learjet experienced an issue that caused uncontrolled acceleration of the engines.

²⁷ The Administrator's complaint alleges Messrs. Goll and Gillett's declination to trade places prompted respondent's decision to cause the jet blast. Compl. at ¶ 6.

judge summarized.

2. *Analysis of § 91.13(a)*

Such definite evidence, on its face, indicates respondent was proceeding in a careless or reckless manner, so as to endanger the life or property of another, in violation of § 91.13(a). The Board has long held a careless or reckless act causing *potential* endangerment satisfies the criteria of § 91.13(a).²⁸

Due to respondent's conduct, any number of imperiling outcomes could have occurred at the airport. Activity that causes smoking gears, the locking up of a main gear, and leaves black skid marks on the runway are all indications respondent could have harmed his co-pilot and the Learjet. Moreover, the fact the activity occurred within relatively close proximity to another aircraft *and an active runway* signifies carelessness or recklessness on the basis that the conduct could have endangered the life or property of another. The accumulation of the facts established at the hearing, clarified on remand, and summarized by a federal court, all sustain a finding the Administrator fulfilled the burden of proving respondent violated § 91.13(a). This conclusion endures regardless of the precise distance between the Cessna and the Learjet, because the evidence establishes the aircraft were sufficiently close to cause Messrs. Goll and Gillett to take action to keep the Cessna from moving, or to endanger respondent's co-pilot or the Learjet.

B. Appropriate Sanction

The United States District Court for the Western District of Texas found arbitrary and capricious the Board's decision that the 90-day suspension of respondent's ATP certificate was

²⁸ See Cooper v. Hinson, 109 F.3d 997, 1001 (4th Cir. 1997) (stating, "it is well-established that 'potential endangerment' is sufficient to sustain a violation of § 91.13(a)," and citing Administrator v. Evanko, NTSB Order No. EA-4221 (1994)); see also Roach v. NTSB, 804 F.2d 1147, 1157 (10th Cir. 1986); Administrator v. Lorenz, NTSB Order No. EA-5205 (2006).

appropriate. The court based this determination on its opinion that the Board, when concluding respondent acted in a deliberate, intentional manner, did not allow respondent the opportunity to challenge the evidence upon which the Board based this conclusion. The court remanded the case with an instruction to determine whether the 90-day suspension was warranted based on whether respondent's conduct was "careless and reckless."²⁹ When considering whether a respondent's behavior, *in toto*, was reckless, we consider individual actions within the sequence of events from which the violation arose, some of which may have been either intentional or deliberate. When clearly established by evidence, intentionally or deliberately dangerous conduct constitutes an aggravating factor.

Upon *de novo* review in this case, the majority of the evidence of intent was derived from respondent's co-pilot, whose testimony was found to be contradictory. The sufficiency of evidence establishing respondent's actions and the dangers they posed renders unnecessary a consideration of whether the evidence further establishes respondent's state of mind when he committed the acts at issue. The unequivocal evidence establishes the elements of carelessness or recklessness, to verify respondent violated § 91.13(a). Based on the foregoing analysis, and to avoid any conflict with the opinion of the District Court, we will eliminate any consideration of whether respondent acted with intent or deliberation in reevaluating the appropriate sanction in this case.

Regardless of his state of mind, respondent's behavior endangered both pilots in the Cessna and the Cessna itself. The FAA Sanction Guidance Table, which the federal court held

²⁹ Langford v. Huerta, No. MO-13-CV-096 at 32 (W.D. Tex. Sept. 17, 2014). We recognize the court used the conjunction "and" in instructing the Board how to apply the standard of § 91.13(a); however, the precise text of the regulation includes the disjunction "or." The regulation provides as follows: "[n]o person may operate an aircraft in a careless *or* reckless manner so as to endanger the life or property of another." 14 C.F.R. § 91.13(a) (emphasis added).

the Administrator did not introduce in a timely manner,³⁰ does not provide a definitive range of sanction options for an independent violation of § 91.13(a) based on a jet blast.³¹ The record contains insufficient evidence establishing intent as an aggravating factor in this case, yet it shows ample evidence supporting consideration of other aggravating factors..³² The record unequivocally establishes respondent chose to throttle up the engines of the Learjet at an uncontrolled airport in instrument meteorological conditions. Moreover, respondent had just landed on the runway at which he pointed his aircraft when he caused the jet blast. Respondent's proximity to a runway he knew was presently in use for takeoffs and landings when he caused the jet blast demonstrates a wanton and reckless disregard for the safety of others at the airport, including Messrs. Goll and Gillett. Respondent also holds an ATP certificate and endangered the property of two owners' aircraft. We conclude such conduct counsels in favor of a suspension period of 45 days.

³⁰ Langford v. Huerta, No. MO-13-CV-096 at 31 (W.D. Tex. Sept. 17, 2014) (referring to FAA Order 2150.3B, App. B (2007)). As the court noted, the argument concerning the timeliness of introducing the Sanction Guidance Table is now irrelevant to our analysis. Id. at 31-32. Instead, we review the Administrator's sanction to determine whether it is reasonable in light of the existence of mitigating and/or aggravating factors. Administrator v. Jones, NTSB Order No. EA-5647 at 19-20 (2013) (quoting 158 Cong. Rec. S4733-01 (June 29, 2012)).

³¹ FAA Order 2150.3B, App. B at Fig. B-3-j (2007) (listing sanction ranges for seven careless or reckless operations, such as taxiing collision, landing on or taking off from a ramp or other improper area, and taxiing aircraft off a runway, taxiway, or ramp; however, the figure does not mention jet blast). Furthermore, we note the Sanction Guidance Table has been updated since the jet blast upon which this enforcement action is based. Figure B-3-j of the Table, however, has remained unchanged.

³² Taylor v. Huerta, 723 F.3d 210, 215 (D.C. Cir. 2013) (recognizing the Board's consideration of aggravating and mitigating factors in determining sanction); see also Administrator v. Hackshaw, NTSB Order No. EA-5501 (2010) (recon. denied, NTSB Order No. EA-5522 (2010)) and Administrator v. Simmons, NTSB Order No. EA-5535 (2010).

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied;
2. The law judge's amended decisional order on remand is affirmed; and
3. The Administrator's 90-day suspension of respondent's airline transport pilot certificate is reduced to a 45-day period of suspension.³³

HART, Chairman, DINH-ZARR, Vice Chairman, and SUMWALT AND WEENER, Members of the Board, concurred in the above opinion and order.

³³ For the purpose of this order, respondent must physically surrender his ATP certificate to a representative of the FAA pursuant to 14 C.F.R. § 61.19(f).

Served: April 16, 2015

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

MICHAEL P. HUERTA,
ADMINISTRATOR,
FEDERAL AVIATION ADMINISTRATION,

Complainant,

v.

Docket SE-18963RM1

JACKSON E. LANGFORD,

Respondent.

**DECISIONAL ORDER ON REMAND
FROM UNITED STATES DISTRICT COURT**

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(BY FAX)

William R. Mullins, Administrative Law Judge: This case has been remanded to the undersigned by the United States District Court for the Western District of Texas, Midland-Odessa Division, to make specific findings in light of the evidentiary record. Specifically, that court has asked for findings as to:

(1) Whether the Learjet was 40-50 feet away from the Cessna when it began to increase throttle to an excessive power while simultaneously applying the brakes; and

(2) How that finding impacts whether or not Respondent Langford violated § 91.13(a).

The incident complained of occurred at the Midland Airpark on October 12, 2009, when the Learjet aircraft, operated by Respondent Langford, turned in front of a Cessna 172 aircraft that was holding short awaiting an instrument clearance from Air Traffic Control. The Cessna Instrument Student Pilot was Joseph Gillett, and the Instructor Pilot was David Goll.

Both of the Cessna pilots testified that the Learjet's engines began to spool up as it started its turn in front of the Cessna, and as it completed the turn, both pilots heard the Learjet engines begin to spool up even more and saw the Learjet nose dip, which would indicate brakes being applied. They then experienced a jet blast that required braking and control surface movement of the Cessna.

Mr. Goll did not testify as to the distance from the Cessna to the Learjet when it had made the turn, but he testified that he saw smoke coming from the tires of the Learjet and saw the left main gear of the Learjet lock up and start to make black marks on the pavement. (TR 44 3-6).

Mr. Gillett, the Instrument Student Pilot, testified that he believed the tail of the Learjet was 40-60 feet in front of them, and as it rolled away from them he saw the nose dip and the main gear was smoking (TR 77 9-15).

Both Cessna pilots testified that the Learjet left the black marks depicted in Exhibit 19.

The testimony of Mr. Gillett was the only evidence of distance when the Learjet made the turn. Both Cessna pilots testified to seeing the nose of the Learjet dip, which would indicate braking action, and the black marks left by the Learjet clearly show braking action while the engines were being accelerated.

This testimony of the nose dipping satisfies this trial Judge by a preponderance of the reliable and probative evidence, that the braking applied was simultaneous with the acceleration of the jet engine, and that braking continued up to and after the left main gear began leaving the skid marks. Additionally, the testimony of Mr. Gillett and the evidence as to the position of the skid marks left by the Learjet also leads this Judge to conclude that the preponderance of reliable and probative evidence establishes that the Learjet was between 40 and 50 feet away from the Cessna when Respondent Langford began to increase the Learjet's throttle to an excessive power while simultaneously applying its brakes.

The preponderance of reliable and probative evidence also establishes that, just before such action, the Learjet crew asked the crew of the Cessna if they would trade places on Taxiway Echo, and Mr. Goll, the Instructor Pilot aboard the Cessna, declined, explaining that the Cessna had been instructed by Air Traffic Control to hold short awaiting a clearance. The timing of the aforesaid actions of the Learjet and the proximity of the Learjet to the Cessna at the time those actions were taken clearly indicate to this Judge that Respondent Langford's actions of increasing the Learjet's

throttle to an excessive power with simultaneous application of the brakes were intentional in nature, and were done in such close proximity to the Cessna as to be reckless and endanger the safety of both the Cessna and that aircraft's crew. Indeed, the Learjet's actions resulted in a blast that caused the Cessna to buffet extremely and its wings to rock up and down, forcing Mr. Goll to grab the Cessna's yoke and push forward on it while applying the brakes in order to protect the Cessna from damage. Because Respondent Langford thus operated the Learjet in a such a reckless manner, the finding of a violation of § 91.13(a) is clearly warranted.

ENTERED AND SUBMITTED this 16th day of April, 2015, at Washington, D.C.



William R. Mullins
Administrative Law Judge