SERVED: February 18, 2016

NTSB Order No. EA-5767

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 16th day of February, 2016

MICHAEL P. HUERTA, Administrator, Federal Aviation Administration, Complainant, v. PAYAM KAMBOD, Respondent.	Docket SE-19825

OPINION AND ORDER

1. *Background*

Respondent appeals the oral initial decision of Administrative Law Judge Patrick G. Geraghty, issued June 16, 2015.[1] By that decision, the law judge determined the Administrator proved respondent violated 14 C.F.R. § 61.59(a)(2)[2] when he falsified pilot record folders for

[1] A copy of the law judge's initial decision, an excerpt from the hearing transcript, is attached.

[2] Section 61.59(a)(2) prohibits making, or causing 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

seven students enrolled in Global Aviators Academy, where respondent was owner and certified flight instructor. We deny respondent's appeal of the Administrator's emergency order of revocation.[3]

A. *Facts*

On May 18, 2015, the Administrator issued an emergency order revoking respondent's Airline Transport Pilot (ATP), Flight Instructor, and Ground Instructor certificates. The order, which became the complaint in this case, alleged respondent violated 14 C.F.R. § 61.59(a)(2) and lacked the qualifications necessary to hold any airman certificate because he falsified seven student records. In particular, the Administrator alleged respondent forged the signature of former Chief Flight Instructor, Alfonso Martinez, in the pilot records to indicate Mr. Martinez conducted flight checks and administered stage and end-of-course examinations when Mr. Martinez did not make such entries. The Administrator further alleged respondent, rather than Mr. Martinez, had conducted the flight checks and examinations when he was not authorized to do so because he was not the Chief Flight Instructor. In addition, the Administrator alleged respondent made false entries indicating he provided cross-country instructional flights to a student when the instructional flights did not occur.

(..continued)
compliance with any requirement for the issuance or exercise of the privileges of a certificate, rating, or authorization under this part."

[3] The Administrator initiated this case as an emergency under 49 U.S.C. §§ 44709(b) and 46105(c), and the NTSB Office of Administrative Law Judges (OALJ) conducted the hearing in accordance with the Board's Rules of Practice applicable to emergency cases, which provide for expedited procedures. 49 C.F.R. part 821, subpart I. Respondent requested a continuance and a new hearing in his Brief in Support of Appeal, dated June 23, 2015. Pursuant to delegated authority at 49 C.F.R. § 800.24(b), the NTSB General Counsel construed respondent's brief as a request to waive the emergency procedures, granted the waiver, and denied respondent's request for a new hearing. Letter from David K. Tochen to Payam Kambod (June 24, 2015).

Respondent appealed the order on May 26, 2015. On May 27, 2015, the OALJ sent a letter to respondent's counsel informing him the OALJ had received the Emergency Notice of Appeal and the case would be handled in accordance with the rules applicable to emergency cases. These rules provide, in part, as follows:

> (d) *Waiver.* Except as provided in § 821.54(f), or where the law judge or the Board determines that it would unduly burden another party or the Board, a certificate holder (respondent) affected by an emergency or other immediately effective order of the Administrator may, at any time after filing an appeal from such an order, waive the applicability of the accelerated time limits of this subpart; however, such a waiver shall not serve to lengthen any period of time for doing an act prescribed by this subpart which expired before the date on which the waiver was made.[4]

The letter further informed respondent that a continuance would not be granted, and that respondent could elect to waive the emergency procedures.[5] In addition, the law judge issued a Prehearing Order and a Notice of Emergency Hearing on May 28, 2015; both documents informed respondent that the NTSB would not grant a continuance in an emergency proceeding.[6]

The OALJ scheduled a hearing for June 16, 2015. Respondent's attorney, Doug Griffith, filed a motion to withdraw as respondent's counsel on June 12, 2015, four days before the hearing, and the law judge granted the motion. On Sunday, June 14, 2015, Respondent emailed the law judge to request a 15-day continuance of the hearing in order to retain counsel.[7] In response, staff in the OALJ advised respondent that a continuance would not be granted but that respondent could elect to waive the emergency procedures as late as June 15, 2015 to secure more time to retain counsel and prepare his case.[8] Respondent did not waive the emergency

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[4] 49 C.F.R. § 821.52(d).

[5] Letter from Office of Administrative Law Judges to Doug Griffith (May 27, 2015).

[6] Prehearing Order at 3; Notice of Emergency Hearing at 3.

[7] Appeal Br. at 2.

[8] Tr. 18, 81-83.

procedures on June 15; therefore, the hearing proceeded as scheduled the next day. During the hearing, respondent made numerous requests for a continuance of the hearing, all of which the law judge denied.[9] Respondent also requested a waiver of the emergency proceedings during the hearing, which the law judge denied.[10]

C. *Law Judge's Oral Initial Decision*

At the conclusion of the hearing, the law judge summarized the testimony and evidence received at the hearing and made credibility determinations. The law judge determined the Administrator established by a preponderance of reliable, probative, and credible evidence respondent intentionally falsified pilot records for seven students.[11] He based this determination on his credibility findings, which were favorable to the Administrator's witnesses.[12] The law judge affirmed the Administrator's emergency order of revocation.[13]

D. *Issues on Appeal*

Respondent neither challenges the law judge's substantive findings nor asserts the Administrator's sanction was inappropriate. On appeal, he only contends the law judge erred in denying his request for a continuance of the hearing and his request to waive the emergency procedures.[14] Respondent asserts the law judge's denial of his requests deprived respondent of his right to counsel. Respondent requests a new hearing.

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[9] Tr. 18-19, 83-84, 91.

[10] Tr. 90.

[11] Initial Decision at 200-201.

[12] Id. at 196-97.

[13] Id. at 202.

[14] On December 31, 2015, respondent filed an Addendum in Support of Appeal, with which he included several documents containing additional evidence, such as printed text messages. Respondent's addendum and supplemental documents are untimely. Section 821.48(d) does not permit additional evidence or pleadings in the absence of good cause for a respondent's delay in

2. *Decision*

On appeal, we review the law judge's decision *de novo*, as our precedent requires.[15]

A. *Request for Continuance*

In the case *sub judice*, the OALJ received and docketed respondent's appeal on May 26, 2015, and the Board's Rules of Practice required the hearing to take place within 30 days.[16] Granting respondent's June 14 request for a 15-day continuance of the proceedings would have precluded the law judge from conducting the hearing within 30 days as required by the Rules of Practice. Therefore, the law judge's denial of respondent's request for a continuance—in the absence of a waiver of the emergency procedures—was consistent with our Rules of Practice.

Likewise, the law judge did not err in denying respondent's repeated requests, during the hearing, for a continuance.[17] NTSB administrative law judges maintain wide latitude in the manner in which they conduct hearings.[18] Regarding the hearing at issue here, eight witnesses, as

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(..continued)
submitting the items; respondent has not articulated good cause, nor did he request leave from the Board to submit additional documents. As we stated in Administrator v. Leaschauer, NTSB Order No. EA-5712 at 7-8 (2014), 49 C.F.R. § 821.48(d) states, "[s]ubsequent to the filing of appeal and reply briefs, the parties may [only] file citations to supplemental authorities," and parties may not use such filings "to correct omissions in briefing, respond to a reply brief… [or include further] argument."

[15] 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) (stating, in making factual findings, the Board is not bound by the law judge's findings).

[16] 49 C.F.R. § 821.56(a).

[17] Tr. 18, 82-83, 91.

[18] See, e.g., Administrator v. Fatout, NTSB Order No. EA-5685 (2013); Administrator v. Air Trek, Inc., NTSB Order No. EA-5440 (2009); Administrator v. Giffin, NTSB Order No. EA-5390 (2008) (citing Administrator v. Bennett, NTSB Order No. EA-5258 (2006)); Administrator v. Martz, NTSB Order No. EA-5352 (2008); Administrator v. Jeanmarie and McMath, NTSB Order No. EA-5346 (2007); Administrator v. Zink, NTSB Order No. EA-5262 (2006); Administrator v. Van Dyke, NTSB Order No. EA-4883 (2001); see also Lackey v. FAA, 386 Fed. Appx. 689, 693 (9th Cir. 2010).

well as the Administrator's attorney and the law judge, had traveled to the site of the hearing, and another witness was waiting to provide testimony by telephone. We agree with the law judge's determination that granting a request for a continuance made after the commencement of the hearing would have been wasteful, inconsistent with the Board's Rules of Practice, and ineffectual, in the absence of a waiver of the expedited procedures. Respondent has proffered no reason for us to deviate from our deference to the law judge's discretion in the manner in which he conducted the hearing.

B. *Waiver of Emergency Procedures*

Following the commencement of the hearing and after witnesses began to testify, respondent sought to waive the emergency procedures.[19] Concerning such waiver, the Board's Rules of Practice state:

> Except … *where the law judge or the Board determines that it would unduly burden another party or the Board*, a certificate holder (respondent) affected by an emergency or other immediately effective order of the Administrator may, at any time after filing an appeal from such an order, waive the applicability of the accelerated time limits of this subpart; however, such a waiver shall not serve to lengthen any period of time for doing an act prescribed by this subpart which expired before the date on which the waiver was made.[20]

Permitting a waiver of the emergency procedures once a hearing commences under 49 C.F.R. § 821.56 would cause an undue burden on the Administrator and the law judge. As explained above, witnesses were present to testify at the hearing, and the law judge had traveled to the location of the hearing. The OALJ had also reserved a location and procured court reporting services for the hearing. We do not question the law judge's determination that such an occurrence would have unduly burdened the witnesses and the law judge, at a minimum. The law

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[19] Tr. 90.

[20] 49 CFR 821.52(d) (emphasis added).

judge did not abuse his discretion in determining respondent's waiver of the emergency procedures after the hearing commenced was untimely.[21]

C. *Right to Counsel*

Lastly, respondent argues the law judge's denial of his request for a continuance of the hearing or waiver of the emergency procedures served to deprive respondent of his right to counsel and, therefore, the Board should order the occurrence of a new hearing. Respondent bases this contention on the fact that his attorney withdrew his appearance four days before the hearing, and respondent claims he was unable to secure counsel to represent him at the hearing. We have previously held respondents do not have a right to counsel in aviation certificate enforcement appeal cases; therefore, respondent's argument is without merit.[22]

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied;

2. The law judge's decision is affirmed; and

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[21] See generally Administrator v. Converse, NTSB Order No. EA-5566 (2011); see also Administrator v. Execjet Charter, Inc., NTSB Order No. EA-5714 at 6-7 (2014) (applying abuse of discretion standard when the law judge permitted amendment to complaint at hearing) and Administrator v. Riggs, NTSB Order No. EA-5436 at 11-12 (2009) (applying abuse of discretion standard when the law judge refrained from sanctioning the Administrator for alleged noncompliance with discovery in emergency case).

[22] Administrator v. Mize, NTSB Order No. EA-5579 (2011); Administrator v. Bakhit, NTSB Order No. EA-5489 (2009); Administrator v. Nadal, NTSB Order No. EA-5308 (2007). See also Administrator v. Adcock, NTSB Order No. EA-4507 (1996); Administrator v. Olsen and Nelson, NTSB Order No. EA-3949 (1993).

3. The Administrator's emergency revocation of respondent's ATP certificate, flight instructor certificate, and ground instructor certificate, is affirmed.

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

UNITED STATES OF AMERICA NATIONAL

TRANSPORTATION SAFETY BOARD OFFICE

OF ADMINISTRATIVE LAW JUDGES

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In the matter of:	*	
	*	
MICHAEL P. HUERTA,	*	
ADMINISTRATOR,	*	
FEDERAL AVIATION ADMINISTRATION,	*	
	*	
Complainant,	*	
v.	*	Docket No.: SE-19825
	*	JUDGE GERAGHTY
PAYAM KAMBOD,	*	
	*	
Respondent.	*	

* * * * * * * * * * * * * * * * * *

United States District Court
312 North Spring Street
Courtroom 12
Los Angeles, California 90012

Tuesday,
June 16, 2015

The above-entitled matter came on for hearing, pursuant to Notice, at 9:30 a.m.

BEFORE: PATRICK G. GERAGHTY
Administrative Law Judge

APPEARANCES:

On Behalf of the Complainant:

LISA M. TOSCANO, Esq.
Federal Aviation Administration
Western-Pacific Region
15000 Aviation Boulevard
Lawndale; California 90261
310-725-7110

On Behalf of the Respondent:

PAYAM KAMBOD, *Pro Se*
150 South Bonnie Avenue
Pasadena, California 91106

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10 ORAL INITIAL DECISION AND ORDER
11 ADMINISTRATIVE LAW JUDGE GERAGHTY: This has been a
12 proceeding before the National Transportation Safety Board on the
13 appeal of Payam Kambod, hereinafter referred to as Respondent, on
14 his appeal from an Emergency Order of Revocation which seeks to
15 revoke on an emergency basis his Airline Transport Pilot
16 Certificate, his Flight Instructor Certificate, and his Ground
17 Instructor Certificate, and any other airman certificate held by
18 him. The Emergency Order of Revocation serves herein as the
19 Complaint, and was filed on behalf of the Administrator, Federal
20 Aviation Administration, herein the Complainant.
21 The matter has been heard before this Administrative Law
22 Judge, and as required by the Board Rules in emergency
23 proceedings, I am issuing a bench decision in the matter.
24 Pursuant to notice, the matter came on for trial on June
25 16, 2015, in Los Angeles, California. Complainant was represented

1 by one of his Staff Counsel, Lisa M. Toscano, Esquire, of the
2 Western Pacific Region Federal Aviation Administration. The
3 Respondent was present at all times, and elected to represent
4 himself *pro se*.
5 I have considered all of the evidence, both oral and
6 documentary, and in discussing the evidence, I intend to only
7 summarize that, and highlight that which leads to my conclusion
8 herein. I have, however, considered all of the evidence, both
9 oral and documentary. That that I don't mention is viewed by me
10 as being essentially corroborative or not materially affecting the
11 outcome of the decision.
12 AGREEMENTS
13 By pleading and specifically the Answer filed on behalf
14 of the Respondent, numerous charging paragraphs of the Complaint,
15 of which there are 100, were admitted in that Answer.
16 Therefore, without enumerating all of them, since it is
17 reflected in the court record, all those admitted allegations are
18 taken as having been established for purposes of this Decision.
19 DISCUSSION
20 As noted previously, the Complainant herein seeks to
21 revoke the Certificates -- all of the Certificates held by the
22 Respondent, and as based upon the allegation that he has acted in
23 regulatory violation of the provisions of Section 61.59(a)2, of
24 the Federal Aviation Regulations, which prohibits any person to
25 make or cause to be made a fraudulent or intentionally false entry

1 in any record or report that is required to be kept, made or used
2 to show compliance with any requirements for the issuance or
3 exercise of the privileges of a certificate, rating or
4 authorization under Part 61.
5 In addition, it is alleged that, by reason of the
6 actions alleged in the Complaint, that the Respondent has shown
7 that he has lacked or does lack the good moral character that is
8 required of the holder of an Airline Transport Pilot Certificate,
9 as promulgated in Section 61.153(c) of the Federal Aviation
10 Regulations.
11 The Complainant's case was made through the testimony of
12 several witnesses and -- numerous exhibits, which exhibits
13 essentially are comprised of the school records of Global, which
14 is the flight school at which the students were attending. Global
15 Aviators Academy. Global Aviators Academy at one time had a Chief
16 Flight Instructor, Mr. Alfonso Martinez, and Mr. Payam Kambod was
17 one of the owners or operators of the flight school, and was also
18 a flight instructor at that school.
19 Mr. Martinez was called by the Complainant. He
20 testified that the records that we were referring to as all the
21 student records for the various students, which I will
22 subsequently identify, are records that are required to be kept
23 and to be maintained, and that they were part of the Jeppesen
24 course that was adopted for purposes of the certification of the
25 Global flight academy and their Part 141 flight school.

1 And I would simply note that I would have to agree with
2 Mr. Martinez, specifically, Section 141.101 requires that the
3 school, a Part 141 school, which Global was, must establish and
4 maintain a current and accurate record of the participation of
5 each student in that school. These are records that are required
6 to be kept by that Regulation.
7 They are -- those records are also used to demonstrate
8 to the FAA that the students have been trained to a point where
9 they can be recommended for, and are qualified to be recommended
10 for, examination for the particular certificate for which they are
11 Training.
12 It is for the issuance of those students' certificates.
13 It is not for the use of the Respondent's certificates. It is
14 records that are required to be maintained and to be relied upon
15 by the Administrator in determining the eligibility of the
16 students presented by the school for certification, either as
17 private pilots, instrument ratings, or whatever particular rating
18 or certificate they were trying to achieve.
19 Going on from there. Mr. Martinez reiterated several
20 times that the particular records of -- all of which we have
21 reviewed, are required to be kept and were kept at the school.
22 They were not allowed to leave the school, and the students could
23 only look at the records in the presence of an instructor.
24 So the students, on Mr. Martinez' testimony, which is not
25 contradicted, that the records were always in the possession of

1 the school, the student never had individual access to his own
2 records, and there was never any shown that anyone else had any
3 access to these records to make entries or deletions in those
4 records.
5 So, on the evidence in front of me, the records were
6 always in the custody of Global, and any entries in those records
7 were purportedly made by the particular instructor signing for the
8 checks, stage checks, flight checks, actual flight time in the
9 course, chronological records.
10 There's no indication anyone else, other than either
11 Mr. Martinez, purportedly, since his signature appears, or the
12 Respondent, had access to these records. There is no indication
13 of anyone else.
14 So in front of me, the only two people that had access
15 to the records are the two individuals, Martinez and the
16 Respondent, other than, in particular instances in these records,
17 where an instructor is signing for a particular flight. But those
18 flights are not at issue in this case.
19 Mr. Martinez was shown Exhibit C-3, which is a copy of
20 Mr. Estrada's records. Mr. Martinez says he didn't recall the
21 student, and when shown the documents, he indicated that,
22 particularly with page 4, the lesson -- ground lesson records,
23 that he did not sign that document.
24 He also testified that he was the Chief Flight
25 Instructor only during the period up to about February or March of

1 2014, and that after February, he wasn't -- was not acting as the
2 Chief Flight Instructor. And that was because, as he explained
3 it, sometime in February of that year he was not getting many
4 students coming his way, was his expression, and that he then told
5 the Respondent that he, the Respondent, would have to take over
6 and apply and become the chief flight instructor, because
7 apparently Mr. Martinez was not getting enough remuneration from
8 his participation at Global Aviation.
9 With reference to the rest of Mr. Estrada's records, and
10 -- for example, on page 7, indicating the last two entries on that
11 page of the records, that they were not his, Mr. Martinez's,
12 signature.
13 Exhibit C-6 was Mr. Alaimo's records. Mr. Martinez
14 stated he had never even met this student. Referring to pages 2,
15 4 and 8, he stated that none of those signatures as they appeared
16 in the records were in fact his signature, and that he had not
17 conducted any either ground stage checks or flight checks for Mr.
18 Alaimo.
19 C-7 are the records for Mr. Esfahani. Mr. Martinez
20 testified that he had never conducted any stage or ground checks
21 with this student, and referring to that Exhibit C-7, pages 2, 4
22 and 5, that the signatures that purported to be his, Mr.
23 Martinez, were in fact not his signature.
24 Exhibit C-8 are the student records of Mr. Salami.
25 Referring to the ground stage examination, the flight checks,

1 Mr. Martinez testified that he had never given any of those to
2 that student. With reference specifically to the entries on pages
3 1, 2, 3 and 8, where his purported signature appears, Mr. Martinez
4 says that none of those signatures were in fact his. Page 8 is,
5 of course, the chronological log page. But none of the
6 signatures, according to Mr. Martinez, were his.
7 Exhibit C-9 is the instrument course record for Mr. --
8 Mr. Quintero. Mr. Martinez again testified he had never given any
9 of the ground stage or flight checks to this student. And
10 referring specifically to pages 1 and 2, where his purported
11 signature appears, it was not his signature.
12 And his similar testimony to his signatures as it
13 purports to appear on pages 4, 5, 7 and 11, he again testified
14 that he had not made those entries and that they were not his
15 signature.
16 C-10 are the records for Mr. Kincaid, who was in the
17 private pilot program. Mr. Martinez testified that he had no idea
18 who Mr. Kincaid is, and that he had never given any checks of any
19 type to Mr. Kincaid.
20 Specifically, that he had not signed where it shows an
21 entry on page 1 of Mr. Kincaid's records; similarly that he did
22 not sign the entry on page 5, and pages up to page 7, 9, 10 and
23 11, where it purports to be his signature, are in fact not his
24 signature.
25 Records with respect to Mr. Knight, who was a student,

1 Mr. Martinez testified that contrary to the entries in the
2 records, that he, Mr. Martinez, had never acted as a flight
3 instructor or given ground or flight stage checks to Mr. Knight,
4 and stated again, with respect to this student, "I do not know
5 this student." And, again, went on to testify that none of the
6 signatures that purported to be his as they appear on pages 2, 3
7 and 7, are in fact his true signature. That is, he never made
8 those entries.
9 Exhibit C-14 are the logbook entries in reference to page
10 3 of that, I believe Mr. Salami's logbook, that the entry there
11 purporting to be his signature for May 14, 2014, is not his
12 signature. Also, the last two lines on that page for May 20th and
13 May 22nd, again, were not his signature. With respect to Mr.
14 Salami, Mr. Martinez again stated, "I do not know who this
15 individual is," let alone giving instruction or check rides.
16 Specifically with Mr. Salami, "I never gave him flight training; I
17 did not conduct flight or ground checks or any type of exams with
18 this individual." And particularly with respect to flight checks
19 as circled on the chronological logs for 28 and 29.
20 On cross-examination by the Respondent, he was asked
21 whether he believed -- Mr. Martinez believed all his testimony was
22 true, and Mr. Martinez stated, "I believe all of my statements
23 were true" as he gave them in his testimony.
24 And reiterated, again, in cross-examination that the
25 last time that he had acted as Chief Flight Instructor was

1 February 2014, and did not act in that capacity at any time after
2 that date. And went on to state that he believed that toward the
3 end of February or early March, he told the Principal Operations
4 Inspector, the POI, Mr. Marchand, that he, Mr. Martinez, was
5 leaving as the Chief Flight Instructor.
6 Turning, then, to the students themselves, Mr. Estrada
7 was called to testify. Summarizing his testimony with respect to
8 his records at Global, he stated he did not see this at any time
9 that he was at Global, and had never reviewed those training
10 records.
11 With respect to the entries on page 11, dual cross-
12 country, he stated, "I never received dual cross-country on April
13 24th"; it is not a true and correct entry, with similar testimony
14 as to the entries of April 25, 28, and May 1st. "I did not
15 execute these cross-country flights." And stated, with respect to
16 the entry on page 7, that he did not initial in the initial column
17 in the chronological log.
18 With respect to the entries on page 11, particularly
19 items dated April 24 and 28, cross-country flights, he testified
20 that it had not occurred, and that during his entire time at
21 Global, he never flew cross-country.
22 He referred to Exhibit C-5, which was a separate
23 personal log that he kept because his own hardbound logbook was
24 kept at Global. He testified he recorded the flights in his
25 hardbound logbook, but the logbook was only seen on the last day of

1 his training. And it was returned to him on the morning of his
2 check ride. He went on to testify, "I have never had flight checks
3 or ground checks with a Mr. Martinez," in fact stating that he had
4 never met a Mr. Martinez.
5 On cross-examination, he was queried as to why he went
6 up for his check ride and obtained his rating, when he knew he had
7 not had the cross-country requirements under Part 61. And he
8 admitted that he knew he had not done the requirement. That was a
9 candid response, which to me goes to the credibility of this
10 witness.
11 And he explained then why he went about getting his
12 rating, because, according to the testimony, the Respondent told
13 him not to worry about it; that he, the Respondent, would take
14 care of it. After the check ride, that he did not write or text
15 anything with the Respondent because he apprehended that -- or
16 approached the Respondent in person to question him about the
17 false entries, false information, and ask why it was done, and
18 that the response from the Respondent was that because the Part 141
19 requirements had a quota for students, and he needed to graduate a
20 certain number of students.
21 And going on then, in redirect, to state that
22 subsequently he had voluntarily surrendered his instrument rating
23 to the Federal Aviation Administration for cancellation.
24 Mr. Alaimo testified by phone. He is now with the California
25 Highway Patrol as a potential officer. He stated that he knew the

1 Respondent from the airport; that the Respondent had asked him to
2 become a student at Global because, as explained to Mr. Alaimo,
3 that Global needed more instrument students in order to qualify
4 under the Part 141 requirements.
5 He stated at no time that -- while at Global, did he
6 receive any instruction from the Respondent; particularly no
7 ground training other than maybe pre-flight counseling before they
8 went up for a flight, but no ground lessons as a regular program.
9 He stated he had never received any exam check stages, no written
10 exam, no stage flight checks; he had never flown in any aircraft
11 with the Respondent, and he had never met the Chief Flight
12 Instructor. There was no cross-examination.
13 Mr. Esfahani testified with respect to his Exhibit C-7.
14 He was a Private Pilot and an Instrument student. He stated he
15 had never met Mr. Martinez, the purported Chief Flight Instructor.
16 He stated Global kept possession of his logbook, and that he had
17 personally given it to the Respondent to be kept by Global, and
18 that he saw his student folder only at the end of the course,
19 which means, as I understood his testimony, that he had never had
20 access to it to make any type of entries or deletions.
21 With respect to the exhibit itself, C-7, he testified with respect
22 to page 12, entry on April 26, that he only flew with the
23 Respondent, and he had no end-of-course flight checks with Mr.
24 Martinez.
25 Exhibit C-8 was with Mr. Salami. Mr. Salami testified

1 that he had never received any flight checks with Mr. Martinez.
2 He had received no exams from Mr. Martinez, as reflected on page 2
3 of his exhibit; he had no flight checks from Mr. Martinez as --
4 purportedly reflected on page 3 of the Exhibit.
5 He acknowledges, on page 8, the chronological log, that
6 he did put in his initials "B.S.," where the signature of Mr.
7 Martinez appears. But he indicates -- that Global had
8 his logbook, and that he had never had any flight instruction with
9 Mr. Martinez.
10 Why Mr. Salami made his initials there, and what
11 ramifications that may have with respect to him or his
12 certifications, are not at issue here. The fact is that he
13 affirmed repeatedly in his testimony that he'd never had any other
14 training or checks with Mr. Martinez. And since it is consistent
15 throughout, I accept his testimony as credible.
16 Mr. Quintero also testified with respect to his records.
17 He testified that the Respondent was his flight instructor at
18 Global, and that he never received any instruction with Mr.
19 Martinez, and, in fact, does not know who Mr. Martinez is.
20 With respect to the entries on page 11 of his Exhibit, where Mr.
21 Martinez' signature appears, he testified that at the time that he
22 initialed, he could not recall whether Mr. Martinez' signature was
23 even there at that time.
24 With respect particularly to the ground tests as they
25 appear on page 7, that he had no exams given to him by Mr.

1 Martinez, nor any flight checks, and that his logbook had been
2 kept by the Respondent at the flight school.
3 On cross-examination, he reiterated that all those
4 flights done with this particular student had been done by the
5 Respondent. All of the flights in the logbook were, in fact,
6 performed with the Respondent. But the issue is also that it shows
7 signatures purportedly by Mr. Martinez.
8 And on examination, the cross-examination, he stated
9 that he flew the flight, on pages 7, 11, with the Respondent, not
10 with Mr. Martinez. So the evidence in front of me, brought out on
11 cross-examination, is that, yes, the flights were performed, but
12 they were flown by the Respondent as the instructor, not with Mr.
13 Martinez. And the fact is that the record shows on its face that
14 it was Mr. Martinez, not the Respondent, as the flight instructor.
15 Mr. Kincaid testified as to his records in Exhibit C-10. He never
16 met Mr. Martinez. He had no written stage examinations with
17 Martinez. "I did not receive them." None of the initials on the
18 chronological log were his initials, according to this student.
19 With respect to pages 3 and 5, no flight stage checks were
20 received -- with Mr. Martinez. Again, the testimony is
21 that he never received any of these required examinations or
22 checks from Mr. Martinez.
23 As to the solo flights, he was adamant in stating that
24 he never soloed any of the Global school's aircraft. That is,
25 that he never performed any solo flights as they purported to be

1 reflected in his records. He stated that the school had kept his
2 pilot logbook and it was kept by the Respondent.
3 Referring specifically to Exhibit C-11, page -- where it
4 says .5 hours he stated that that flight did not occur. Page 50
5 2.5 hours, his answer: "This is not a correct entry; it never
6 happened. The entries were not made by me. I don't know who made
7 them."
8 With respect to the entry of 4.1 hours, he again stated
9 that that flight had never occurred, and that the entry in the log
10 was not made by him. Again, on cross-examination, he stated he
11 had the required solo time for obtaining his certification because
12 he had done solo flights at a previous school. That testimony was
13 never disputed.
14 But he reiterated again that he had never received any
15 solo flight training with Global or exercised any solo flight time
16 in Global aircraft. And stated that since he had received his
17 certificate, he had only flown one flight since his check ride.
18 So he's probably not even current and qualified, and that he had
19 first seen the entries in his logbook with respect to the solo
20 flights when they were pointed out to him by personnel from the
21 Federal Aviation Administration, apparently in the process of the
22 investigation.
23 Mr. Jade Knight testified also with respect to his
24 records, C-12, he does not know, on his testimony, Mr. Martinez.
25 He never received any flight checks with Mr. Martinez. And with

1 respect to page 3, a flight check on February 17th, "I never flew
2 with Mr. Martinez." He states he didn't make the entries as to
3 his initials, but again, with no explanation of why he would do
4 that or what the ramifications would be to him of initialing a
5 record that may have shown Mr. Martinez' name at that time. And
6 indicating again that Global, the school, had possession of his
7 hardbound logbook during the period of time he was a student
8 there.
9 On cross-examination he stated he had flown all flights
10 with the Respondent, Mr. Kambod, not with Mr. Martinez. Now, with
11 respect to the stage examination as reflected on page 2 of his
12 exhibits, that was flown, according to the witness, with the
13 Respondent. Respondent was not the chief flight instructor. And
14 Mr. Knight testified that the only checks that he did fly while at
15 Global were flown with the Respondent, not Mr. Martinez.
16 Ms. Deborah Fallica testified on behalf of the
17 Complainant as an expert. She holds an ATP, multi-engine land, and
18 has operated as a POI in Part 141 schools, and her testimony was
19 accepted on that basis.
20 She's testified to the necessity of these records, that
21 they are required to be kept. And, of course, she is really just
22 reiterating what is required under Part 141.101 of the Federal
23 Aviation Regulations.
24 And I would observe also that Part 61 has the
25 requirement that the records be kept and maintained to show

1 currency, and also qualifications for the particular certificate
2 for which the student is -- or rating that he assumed he is
3 applying for. So these are all records that are required to be
4 kept under the pertinent Federal Aviation Regulations.
5 Respondent testified on his own behalf. He does have a
6 background of somewhere about 5,000 hours of flight time. He
7 holds the Certificates which I have already mentioned herein, his
8 Airline Transport Pilot, single, multi-engine land, with CFII, and
9 the Ground Instructor also.
10 In his testimony, however, he has never pointed out --
11 and I simply indicate that in his direct testimony, he has never
12 explained why Mr. Martinez' record signature appears in all these
13 records or why all these students would deny ever having even met
14 Mr. Martinez. So there is no direct contradiction from the
15 Respondent to that testimony. That essentially covers the
16 Respondent's presentation in the case. There were no other records
17 offered as student records to dispute those proffered by the
18 Complainant.
19 Turning then to the evaluation of the case. To sustain
20 their position in this case, the Complainant must show their case
21 is established by a preponderance of the reliable and probative
22 evidence. In this case, it is a charge of intentional
23 falsification.
24 Under Board precedent, and under case law from various
25 Courts of Appeal, there are three elements. To establish

1 intentional falsification, it must be shown that an entry is
2 material, that it is false, and that it is made with knowledge of
3 its falsity.
4 In this case, credibility is a determinative factor:
5 a critical issue. And I have observed the testimony of the
6 witnesses that testified, the students as they appeared here in
7 person, and listened to Mr. Alaimo as he testified by phone.
8 In evaluating the credibility, I have observed their demeanor, but
9 also taken into account the consistency of the testimony of each
10 of these individuals.
11 There has been no showing why these individuals, and
12 particularly Mr. Alaimo, who is now apparently attempting to
13 become a California Highway Patrolman, would have any reason or
14 benefit to be gained by getting together and conspiring to give
15 testimony that they never met Mr. Martinez, were never given any
16 check rides or ground stage checks by Mr. Martinez. There's no
17 credible explanation to explain why these students would all give
18 testimony to the same end: "I have never met Mr. Martinez, I've
19 never flown with Mr. Martinez, I've never been examined by
20 Mr. Martinez; Mr. Martinez never interacted with me."
21 I find their testimony credible, and give weight to that
22 testimony that in fact they never flew with Mr. Martinez and that
23 Mr. Martinez never gave them any of the checks or examinations as
24 they are reflected in the Exhibits received. Their testimony
25 supports the testimony of Mr. Martinez.

1 Again, there's no showing what Mr. Martinez has to gain
2 by saying that he wasn't the Chief Flight Instructor at the time.
3 He could easily have said "yes, I was," and thrown the entire FAA
4 case out. But his testimony is consistent with the students'.
5 I don't know him. And that was Mr. Martinez' testimony with
6 several of the students. "I never met that individual. I don't
7 know who that student is." And again, through all the records, in
8 each instance where it purported to be his signature, he
9 specifically denied that it was, in fact, his signature.
10 On balance, then, in observing his demeanor on the stand
11 and the consistency of all of the testimony of the students -- and
12 again, there's no showing how -- that the sets of students ever
13 got together with Mr. Martinez to come up with some type of
14 conspiracy that would benefit them to say that Mr. Martinez never
15 flew with them, or for Mr. Martinez to say, "I never gave these
16 check rides or examinations," or that "I never met these
17 individuals." Therefore, I find that testimony to be credible and
18 -- and give it significant weight.
19 Turning, then, to the elements, these records and the
20 entries therein are, in fact, material. They're material under
21 Part 141.101, they're material under Part 61. They are required
22 to be kept by the school to demonstrate that these students were,
23 in fact, trained according to the course, that they were examined
24 by the chief flight instructor, and that they passed the
25 examinations and were qualified to apply for and to receive the

1 certificate or rating for which that particular individual was
2 applying.
3 These are material records, since they are records that
4 could be used to influence the Federal Aviation Administration in
5 making a decision as to the qualification of the student and
6 whether he has been trained to the extent that he could be
7 qualified to receive the certificate or rating.
8 In addition, they are records, as I queried Ms. Fallica
9 about, that in the untoward event that something had happened to
10 one of these students, that the FAA will go back and look at their
11 logbooks or their training to see whether or not they had been
12 trained. These records could influence an accident investigation
13 by the FAA or by the Board. These are all material records that
14 can influence the FAA in its required activities.
15 Turning then to the issue of whether the entries are
16 false. On the overwhelming weight of the credible evidence, the
17 entries in these records are false. Mr. Martinez did not make
18 these signatures. They are not his. The students did not receive
19 the checks. They never met Mr. Martinez, in some instances.
20 Mr. Martinez does not know who some of these students are. They
21 are clearly false entries on the weight of the evidence. There
22 was no contradictory evidence. There was no showing as to anyone
23 else having any access to these student folders.
24 In fact, the testimony was that the students could look
25 at these folders only in the presence of an instructor; that they

1 were kept by the school. The inference being that only the
2 instructor, or Mr. Martinez, or the Respondent would have had
3 access to these records. There's no showing of any evidence of
4 any other individual being identified as who could have made
5 Mr. Martinez' entries on these records where his name purports to
6 appear.
7 The only two individuals who are really in the position
8 of governing this school, if I can use that term, were Mr.
9 Martinez when he was there as Chief Flight Instructor, and the
10 Respondent as an instructor in the school. Those were the only
11 two individuals with the primary access to these records.
12 And in fact, even on one of the admissions in here, the Respondent
13 admitted that when an entry where he purportedly gave instruction
14 to the student, that the student actually had received the
15 instruction from a Mr. Caverly. So on that admission itself, in
16 the responses to discovery, the Respondent is indicating that he
17 had made a false entry.
18 Similarly, with respect to the entries -- and so I'm
19 just specific, with the records with respect to Mr. Alaimo again,
20 as charged in Paragraphs 36, 37 and 38 of the Complaint, the
21 chronological flight log record shows four cross-country flights
22 to Mr. Alaimo.
23 Mr. Alaimo denied that any of these flights ever
24 occurred, and that testimony is not contradicted. It is admitted
25 in Paragraph 37 by the Respondent in his Answer that the records

1 show that he signed his name and provided his - Flight
2 Instructor Certificate number and expiration date, and
3 the record does reflect that. And it is admitted, he admits in his
4 Answer, the charge in Paragraph 38, that at the time that
5 the Respondent made the entry in Paragraph 36 as to the four
6 cross-country flights, that he, the Respondent, knew he had not
7 conducted any flight instruction with Mr. Alaimo. It's an
8 admission of an intentional false entry.
9 On the issue, therefore, of false entries knowingly
10 made, I find that the evidence in front of me, by a clear
11 preponderance, demonstrates that the Respondent did in fact
12 knowingly make false entries by entering Mr. Martinez' name as
13 Chief Flight Instructor when Mr. Martinez had not acted in that
14 capacity and had not made those entries and had not made those
15 entries in any of the students' records as they are reflected.
16 And particularly then with respect to the admissions that there
17 are two admitted intentionally false entries, as I've just
18 indicated with respect to Mr. Alaimo and also with the
19 admitted entry of giving instruction by the Respondent, when in
20 fact it was given by Mr. Caverly. So those are two false entries
21 admitted on their face by the Respondent.
22 I find, therefore, by a clear preponderance of the
23 reliable and probative evidence, that the Respondent has acted in
24 regulatory violation of the provisions of Section 61.59(a)(2), in
25 that he has made intentionally false entries in records required

1 to be kept and made to show compliance with any requirement for
2 the issuance or exercises of the privileges of certificates,
3 ratings or authorizations of those students who were applying for
4 those certificates or ratings under Part 61.
5 As the holder of an Airline Transport Pilot
6 Certificate, and as the principal in a Part 141 flight school,
7 which holds a particular designation under the Federal Aviation
8 Administration, they have been granted the authority to train these
9 students under a course curriculum, and to exercise check rides
10 and examinations to show that they had been properly trained.
11 This is a degree of responsibility granted to them as a holder of
12 a Part 141 certificate. And particularly, the holder of an
13 Airline Transport Pilot Certificate, as the Board has repeatedly
14 held, holders of that type certificate are held to the highest
15 degree of care, judgment and responsibility.
16 A requirement under Section 61.153(c) is that the holder
17 of an Airline Transport Pilot Certificate must have good moral
18 character. Intentional falsification repeatedly of student
19 records, as shown here, by the holder of an ATP, a Flight
20 Instructor with an instrument rating attachment, a Ground
21 Instructor, a principal in a Part 141 school, the activities
22 established here on the weight of the evidence show a complete
23 lack of judgment and responsibility.
24 Without reiterating, these records do not reflect true
25 and correct training of these students. In material, the actions

1 to me demonstrate that the Respondent lacks the qualifications to
2 hold any class of airman certificate, and also that he lacks the
3 judgment and responsibility which translates into good moral
4 character, because if you have the good moral character, you will
5 exercise the highest degree of care, judgment and responsibility,
6 as required by the level of certificates that you hold. I
7 therefore find that the evidence on the preponderance shows that
8 the Respondent does lack the requisite degree of good moral
9 character as required by Section 61.153 of the Regulations.
10 I therefore, upon the evidence in front of me, will
11 affirm the Administrator's Emergency Order of Revocation, the
12 Complaint herein, as issued.
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1 ORDER

2 IT IS ORDERED THAT:

3 1. The Emergency Order of Revocation, the Complaint herein,
4 be, and the same hereby is affirmed as issued.

5 2. That, effective immediately, the Respondent's Airline
6 Transport Pilot Certificate, his Flight Instructor Certificate with
7 attached Ratings, and his Ground Instructor Certificate, and any
8 other airman certificate held by him, are hereby revoked on an
9 emergency basis.

10 Entered this 16th day of June 2015, at Los Angeles,
11 California.

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13 EDITED ON PATRICK G. GERAGHTY

14 June 23,2015 Judge

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1 APPEAL

2 ADMINISTRATIVE LAW JUDGE GERAGHTY: Ms. Toscano, would you
3 come up here, please.
4 MS. TOSCANO: Yes.
5 ADMINISTRATIVE LAW JUDGE GERAGHTY: The record will
6 reflect that I'm handing Ms. Toscano printed copies of the appeal
7 provisions in emergency proceedings from an oral initial
8 decision. And I'm asking that you retain one and give
9 one to the Respondent.
10 MS. TOSCANO: Yes, Your Honor.
11 ADMINISTRATIVE LAW JUDGE GERAGHTY: And the record will
12 reflect that Ms. Toscano has given a copy to the Respondent.
13 Is there anything further for the record?
14 MS. TOSCANO: No, Your Honor. Thank you.
15 ADMINISTRATIVE LAW JUDGE GERAGHTY: Nothing further.
16 The proceeding is closed. Thank you.
17 (Whereupon, at 4:20 p.m., the proceeding in the above-
18 entitled matter was adjourned.)
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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Payam Kambod

DOCKET NUMBER: SE-19825

PLACE: Los Angeles, California

DATE: June 2, 2015

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

Renee A. Pacheco
Official Reporter