SERVED: March 7, 2016

NTSB Order No. EA- 5772

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

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 4th day of March, 2016

MICHAEL P. HUERTA, Administrator, Federal Aviation Administration, Complainant, v. MATT LAWSON, Respondent.	)	Docket SE-19747

OPINION AND ORDER

1. ***Background***

Respondent appeals the oral initial decision of Administrative Law Judge Stephen R. Woody, issued June 11, 2015.[1] By that decision, the law judge determined the Administrator

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

proved respondent violated 14 C.F.R. §§ 43.9(a)(3),[2] 43.12(a)(1),[3] 43.13(a) and (b),[4] and 43.15(a)(1)[5] when he performed improper maintenance on a Cessna model CE-172E, made false entries in the aircraft's maintenance logbook and associated FAA forms, and certified the aircraft was airworthy following an annual inspection when the aircraft was not airworthy. We deny respondent's appeal of the Administrator's emergency order of revocation.[6]

A. *Facts*

Respondent, who has been working on and operating aircraft since 1967, held a mechanic certificate with airframe and powerplant ratings, as well as an inspection authorization, before the Administrator's emergency revocation action. Respondent owns Lawson Aviation, where he alters Cessna 172s by putting float kits on them, as well as performing a variety of other

[2] Section 43.9(a)(3) requires each person who performs maintenance on an aircraft must make an entry in the maintenance record of that equipment containing the name of the person performing the work if other than the person approving for return to service the work performed.

[3] Section 43.12(a)(1) states, "[n]o person may make or cause to be made … [a]ny fraudulent or intentionally false entry in any record or report that is required to be made, kept, or used to show compliance with any requirement under this part."

[4] Section 43.13(a) requires each person performing maintenance on an aircraft shall use the methods, techniques, and practices prescribed in the current manufacturer's maintenance manual or Instructions for Continued Airworthiness prepared by the manufacturer, or other methods, techniques, and practices acceptable to the Administrator. Paragraph (b) of the section requires each person performing maintenance on an aircraft must do the work in a manner and use materials of such a quality that the condition of the aircraft or part on which he or she works will be at least equal to its original or properly altered condition.

[5] Section 43.15(a)(1) provides each person performing an inspection required by 14 C.F.R. parts 91, 125, or 135 must perform the inspection so as to determine whether the aircraft (or portions thereof under inspection) meets all applicable airworthiness requirements.

[6] The Administrator initiated this case as an emergency under 49 U.S.C. §§ 44709 and 46105(c). Respondent subsequently waived the expedited procedures normally applicable to emergency cases for the purposes of this appeal.

structural repairs. Respondent completes approximately 12 FAA Form 337s (titled, "Major Repair and Alteration (Airframe, Powerplant, Propeller, or Appliance)") per year.[7]

The owner of a Cessna CE-172E (hereinafter, N5683T) requested respondent's alteration of the aircraft by placing a float kit on the aircraft and performing other work. In March 2011, respondent discussed major alterations he wanted to perform on N5683T with FAA Aviation Safety Inspector Daniel Moore. In particular, respondent and Inspector Moore discussed an engine and propeller installation. Respondent submitted a Form 337 to Inspector Moore, which described installation of a G model engine and a 78-inch propeller. Inspector Moore did not approve the form, due to insufficient technical data to support the major alterations. Respondent and Inspector Moore corresponded further, after which Inspector Moore assisted respondent with drafting a new Form 337 that referenced certain data in Block 8 of the form (titled, "Description of Work Accomplished").[8] Respondent submitted data to support the alteration, including Supplemental Type Certificate (STC) SA00728SE, which contains the Administrator's approval for a type design change permitting the installation of certain Continental IO360 engine models for various Cessna model aircraft. On July 22, 2011, Inspector Moore signed the Form 337, approving installation of a Model IO-360-G ("G model engine"), and a 78-inch propeller, in accordance with STC SA00728SE. The only approved deviation from STC SA00728SE noted on the Form 337 was the propeller size would be 78 inches, in lieu of 76 inches, as the STC required.[9] On December 26, 2012, respondent signed the form, certifying he had performed the work listed in Block 8, as described.

1. *Logbook Entries*

[7] FAA Form 337 is available at http://www.faa.gov/documentLibrary/media/Form/Form_337.pdf.

[8] Exh. A-2 (hereinafter "337(I)").

[9] Exh. A-2 at 2.

On December 20, 2012, respondent made a logbook entry in the maintenance records for N5683T, in which he certified the aircraft "had been inspected in accordance with [an] annual inspection and determined to be in an airworthy condition this date 12-20-12"[10] Respondent also made entries in the maintenance logbook stating he:

- Installed a Continental engine model IO-360-G in accordance with STC SA00728SE and field approval dated July 22, 2011;
- Installed an oil pressure and oil temperature gauge in accordance with another STC;
- Repaired the lower firewall using parts from an aircraft of the same year and model;
- Installed a floatplane kit in accordance with Cessna drawing 0500044;
- Installed a tail cone removed from an aircraft of the same year and model;
- Complied with 14 C.F.R. § 91.207[11]; and
- Reassembled, rigged, and test flew the aircraft.

2. *FAA Form 337s*

Respondent also completed four FAA Form 337s, certifying the work specified above, as well as additional work. On Form 337(I), as described above, respondent certified: the removal of the aircraft's original engine, propeller, and firewall forward; the installation of a McCauley propeller; an increase in the size of the propeller diameter from 76 inches to 78 inches; the insertion of a supplemental document into the aircraft flight manual; and the performance of a functional flight test. On Form 337(II), respondent certified his replacement of the lower firewall and tail cone with parts from "same model aircraft"; the placement of a fixture to assure alignment of the fuselage and tail cone; and that he completed these alterations in accordance

[10] Exh. A-1 at 2 (photograph of logbook, showing stamp respondent placed below notes, filled in the blanks shown in underline above, and signed adjacent to his certificate number).

[11] Section 91.207 sets forth requirements applicable to emergency locator transmitters.

with the applicable Cessna manual and "FAR AC 43.1&2."[12] Form 337(III) included respondent's certification that he installed an oil pressure and temperature kit including instrument, oil temperature sensor, and oil pressure sensor pursuant to an applicable STC. Finally, Form 337(IV) stated respondent installed a floatplane reinforcement kit pursuant to an applicable Cessna drawing and "AC 43-13-1&2."[13]

Forms 337(II)-(IV) did not require additional "field" approval from Inspector Moore, because respondent was to perform the work described without any deviation from the approved data cited on the forms. Respondent obtained such approval from Inspector Moore for the work described in Form 337(I) because he intended to install a 78-inch, rather than a 76-inch, propeller on the aircraft, pursuant to his plans to install the floatplane kit.

3. *Discrepancies*

Over a year after respondent's made his logbook entries and completed the aforementioned Form 337s, a different repair station performed an annual inspection of N5683T and contacted the FAA after inspecting the aircraft and reviewing the aircraft's records. Staff at the repair station reported several discrepancies. Principal Maintenance Inspector Randy Steffes, of the FAA Flight Standards District Office in Grand Rapids, Michigan, conducted an inspection on March 21, 2014, and noted 21 discrepancies on the aircraft.

Among others, the discrepancies included: the use of an erroneous placard, which did not accurately identify the engine model used; an incorrect tail cone, which was not from the same model Cessna as N5683T, and therefore contained rivet holes that did not align; installation of rivets for the lower firewall that were aluminum, rather than stainless steel, as the Cessna 100 Series Structural Repair Manual required; no use of sealant for new lower firewall rivets;

[12] Exh. A-3 at 2.

[13] Exh. A-5 at 2.

brackets on the tail cone and lower firewall that were damaged and, on the lower firewall, were incorrectly installed; installation of a floatplane/seaplane kit that was not in accordance with an STC that had been certified; installation of an 80-inch propeller, in violation of the previously-approved deviation (which permitted a 78-inch propeller); the lack of an alternator noise filter installed in accordance with the applicable STC instruction; the lack of a correctly installed fuel pump switch, which should have been located on the throttle arm of the throttle body; incorrectly installed oil pressure restrictor fitting, alternate air cable and spring-loaded alternate air door; the lack of required markings on engine instruments and the lack of a placard indicating sea level to altitude gallons per hour; and the substitution of an off-on switch for fuel pump, in lieu of the required HI-OFF-LOW switch.

Upon Inspector Steffes's inspection of N5683T, he determined it was not airworthy.[14] Although respondent completed the records on the aircraft in December 2012 and Inspector Steffes inspected the aircraft in March 2014, Inspector Steffes noted no changes to the aircraft had occurred during the 15-month time period.[15] After issuing a letter of investigation (LOI) on March 21, 2014, which contained an incorrect registration number for the aircraft, then issuing an amended LOI on March 24, 2014, Inspector Steffes met with respondent to discuss the discrepancies. Inspector Steffes testified respondent did not reply when Inspector Steffes inquired about what approved data respondent had used for many of the alterations. Respondent admitted he was aware the 80-inch propeller was on the aircraft. In response to Inspector Steffes's question about why the data plate indicated the engine was for a K model, respondent

[14] Tr. 119, 167; Initial Decision at 418.

[15] Tr. 113. Inspector Steffes noted the aircraft's maintenance logbook would have included entries if another mechanic had altered the aircraft. But see tr. 258 (respondent's testimony that, following his work on the aircraft, he recalled seeing the aircraft in Michigan and he noticed the installation of a new intercom system and a new interior in the aircraft).

said he must have overlooked it, and that a K model fuselage on an E model Cessna was appropriate, because "they're all the same."[16] Respondent acknowledged the riveting on the fuselage was weak. Respondent also recalled he did not review the information Inspector Moore had included in Block 8 before completing the work, because the owner of N5683T took the form to keep with his records. Respondent did, however, receive the form and reviewed it before signing it.[17]

On April 7, 2014, respondent submitted a report to the National Aeronautics and Space Administration (NASA), under the Aviation Safety Reporting Program (ASRP), to disclose the discrepancies.[18] Respondent sought to "tell his side of the story" in the report.[19] He also testified he had no motive to falsify any of the records at issue.

B. *Procedural Background*

On December 9, 2014, the Administrator issued an emergency order revoking respondent's Mechanic Certificate with Airframe and Powerplant ratings and Inspection Authorization. The order, which became the complaint in this case, alleged respondent violated 14 C.F.R. §§ 43.9(a)(3), 43.12(a)(1), 43.13(a) and (b), 43.15(a)(1), 91.403(d),[20] and that he

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[16] Tr. 116, 182, 349.

[17] Tr. 262-63, 280-81.

[18] Exh. R-11. Under the ASRP, the Administrator may waive the imposition of a sanction, despite the finding of a regulatory violation, as long as certain requirements are satisfied. Aviation Safety Reporting Program, Advisory Circular 00-46E at 4, ¶ 9c (December 16, 2011). The Program involves filing a report with NASA, which may obviate the Administrator's imposition of a sanction where: (1) the violation was inadvertent and not deliberate; (2) the violation did not involve a criminal offense, accident, or action found at 49 U.S.C. § 44709; (3) the person has not been found in any prior FAA enforcement action to have committed a regulatory violation for the past five years; and (4) the person completes and mails a written report of the incident to NASA within 10 days of the violation.

[19] Tr. 256.

[20] Section 91.403(d) prohibits alteration of an aircraft based on an STC unless the owner or operator of the aircraft holds the STC, or has written permission from the holder of the STC. The

lacked the qualifications necessary to hold a mechanic certificate. Respondent waived the applicability of the emergency procedures, and the case proceeded to hearing before the law judge on June 9 and 10, 2015. The law judge issued an oral initial decision the day after the conclusion of the hearing.

C. *Law Judge's Oral Initial Decision*

The law judge affirmed the majority of the Administrator's complaint. In his decision, he credited the testimony of Inspectors Moore and Steffes, especially with regard to the materiality of the maintenance records at issue. The law judge made specific, individual findings regarding each instance of intentional falsification contained in the Administrator's complaint. The law judge determined the Administrator failed to prove six of the 21 alleged discrepancies, and did not prove respondent violated 14 C.F.R. § 91.403(d), as charged. The Administrator did not appeal the law judge's findings; hence, this Opinion and Order does not address the charges the Administrator failed to prove.

Regarding the portions of the complaint the law judge affirmed, he determined the Administrator proved all three elements of the Hart v. McLucas standard for falsification. Under Hart v. McLucas, the Administrator must prove an airman: (1) made a false representation, (2) in reference to a material fact, and (3) with knowledge of the falsity of the fact.[21] In this regard, the law judge made the following specific findings:

- The data plate for the engine clearly identified a K model engine, or a G model converted to a K model; however, both the maintenance entry in the logbook as well as the Form 337(I) concerning the installation of an IO-360-G model engine was not consistent with the data plate. As a result, the entry was intentionally false.[22]

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law judge determined the Administrator's evidence was insufficient to prove respondent lacked permission from the owner of N5683T to alter the aircraft in accordance with the STC.

[21] Hart v. McLucas, 535 F.2d 516, 519 (9th Cir. 1976); see also Initial Decision at 437.

[22] Initial Decision at 438.

- Respondent installed an 80-inch propeller, contrary to the "plain language" on Block 8 of Form 337(I), which permitted a 78-inch propeller.[23] Respondent signed the Form 337, to certify his compliance with the terms of Block 8. This was an intentional falsification.[24]

- Respondent's replacement of the tail cone for the aircraft was inappropriate, because he replaced the tail cone from a Cessna 172K in N5683T, which is a Cessna 172E. Respondent's completion of the Form 337(II) in this regard, therefore, constitutes a false entry, in violation of § 43.13. However, respondent's understanding that the different models' tail cones were interchangeable shows a lack of knowledge of the falsity; therefore, the Administrator did not prove a violation of § 43.12(a)(1) in this regard.[25]

- Respondent's maintenance record entry concerning rivets on the firewall was false, and his work on it was not consistent with the structural repair manual requirements, because the rivets were aluminum, not stainless steel.[26]

- Respondent's entry on Form 337(III) concerning installation of the oil pressure sensors and temperature kit was intentionally false, because respondent affixed the sensors directly at the engine and mounted gauges in the cockpit in a location not visible to the pilot. These alterations did not comply with the applicable STC requirement; therefore, respondent's certification on the 337 form, indicating compliance with the terms of the form and applicable STC, was intentionally false.[27]

- Respondent's entry on Form 337(IV) regarding installation of a floatplane reinforcement kit contained falsified information, because respondent certified compliance with the Form 337 when the kit was not installed in accordance with the Cessna drawing referenced in the form.[28]

The law judge further affirmed various other portions of the Administrator's complaint.[29] For example, he found respondent did not install an oil pressure restrictor fitting, nor did he install an alternate air cable and spring-loaded alternate air door. He also installed an incorrect switch for the fuel pump and did not mark engine instruments appropriately. Therefore, the law

[23] Initial Decision at 439; Exh. A-2.

[24] Initial Decision at 440.

[25] Id. at 443.

[26] Id. at 443-44.

[27] Id. at 445.

[28] Id. at 446.

[29] Id. at 449.

judge found respondent intentionally falsified the aircraft's maintenance logs in indicating he had performed the work in accordance with the relevant requirements and that the aircraft was airworthy when he returned it to service.

The law judge also discussed respondent's affirmative defenses. The law judge held the Board's stale complaint rule did not apply to require dismissal of the Administrator's complaint, because the complaint alleged respondent lacked the qualifications necessary to hold a mechanic certificate. The law judge also found respondent did not articulate a rationale for his argument that the doctrine of laches required dismissal of the case, notwithstanding respondent's listing of the defense in his answer. The law judge found respondent's failure to establish he suffered actual prejudice precluded the defense.

Finally, the law judge discussed the appropriateness of the sanction of revocation. The law judge found respondent's falsification and failure to ensure the accuracy of the maintenance records at issue indicated respondent lacks the necessary care, judgment, and responsibility to hold a certificate. The law judge determined respondent's filing of a report with NASA under the ASRP did not apply to obviate the imposition of a sanction, because he filed it more than 10 days after he was aware of the alleged violations; respondent met with Inspector Steffes and received the amended LOI on March 24, 2014, yet he filed the NASA report on April 7, 2014. Therefore, the law judge found respondent failed to show he fulfilled all four prongs of the ARSP standard.

D. *Issues on Appeal*

Respondent contends the law judge erred in determining respondent falsified the maintenance entries. First, respondent asserts FAA inspectors never saw the aircraft at the time he inspected it; respondent argues, under Board jurisprudence, the Administrator's charge

against him concerning the annual inspection entry—in which he certified the aircraft was airworthy—is deficient.

Concerning specific maintenance-related charges, respondent contends:

- The Administrator did not prove respondent's description of the K model engine was erroneous, because he simply used the engine case from a K model, while the actual engine was a G model. Respondent further contends Inspector Moore led him to believe a field approval had been issued to cover the entire engine and propeller installation; respondent cites previous Board cases to show the Administrator's staff's implications are relevant to an intentional falsification charge. Respondent also asserts any deviations from the STC insofar as they relate to field approvals were not required to be described in the maintenance records, because the absence of a record does not amount to intentional falsification.

- An expert witness who testified during respondent's case-in-chief opined installation of an 80-inch propeller for a seaplane configuration on a Cessna 172 was appropriate.

- Respondent's replacement of the tail cone for the aircraft, which he acknowledges contained a data plate indicating the tail cone was from a Cessna 172K, was acceptable because a Cessna 172K is sufficiently similar to a Cessna 172E.

- Use of aluminum rivets, rather than stainless steel, is acceptable to Cessna; respondent asserts mechanics frequently use aluminum rivets.

- The STC that applied to the engine and propeller installation did not address the installation of an electronic oil pressure system; however, the Administrator charged respondent with failing to install the oil pressure restrictor fitting in accordance with the engine/propeller STC instruction.

- Respondent did not falsify Form 337(IV), regarding installation of a floatplane reinforcement kit.[30]

Respondent asserts, overall, he did not falsify the records as charged, mainly because Inspectors Moore and Steffes did not communicate concerning the field approval process. Respondent argues the STC the inspectors claimed he did not follow was unavailable, and Inspector Moore drafted the text of Block 8 in Form 337(I), which contains the basis for many of

[30] Respondent's appeal brief contains a general statement that he did not falsify any Form 337s. Appeal Br. at 19. The brief does not contain assertions specific to the Administrator's contention that he intentionally falsified a certification of a floatplane reinforcement kit because he failed to install the kit fully in accordance with the Cessna drawing referenced in the form.

the charges in the Administrator's complaint. Respondent argues he performed the modifications in accordance with the plans he discussed with Inspector Moore and that he did not intend to falsify any records.

Lastly, respondent renews his arguments concerning the stale complaint rule, the sanction, and the applicability of the ASRP. Respondent cites Administrator v. Tarascio[31] for the notion that the time that passed between the Administrator's discovery of the violations in the case *sub judice* and the pursuit of the charges against him indicates the complaint was stale. He also argues revocation is excessive because Inspector Moore was principally involved in the confusion of the applicable STCs' requirements. Finally, respondent argues his NASA report was timely because he was unaware of which allegations the Administrator sought to pursue against him until the meeting he had with Inspector Steffes on April 2 or 4, 2014; therefore, he contends he is eligible for a waiver of sanction under the ASRP because the report was timely, notwithstanding the fact that he received the first LOI on March 21, 2014, followed by the amended LOI, dated March 24, 2014.

2. *Decision*

On appeal, we review the law judge's decision *de novo*, as our precedent requires.[32]

A. *Intentional Falsification and Failure to Comply with Acceptable Standards*

[31] NTSB Order No. EA-5116 at 7 (2004) (citing Administrator v. Alvarez, 5 NTSB 1906 (1987), and stating, "[i]n our view, since the allegation of false entries was unsustainable on its face, in light of Alvarez, no issue of lack of qualification was presented and the law judge was thus free to determine whether the Administrator had taken more than six months to bring the airworthiness and carelessness charges").

[32] 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).

With regard to the issue of intentional falsification, we long have adhered to a three prong test. The Administrator must prove an airman: (1) made a false representation, (2) in reference to a material fact, and (3) with knowledge of the falsity of the fact.[33]

1. *Logbook Entries*

Respondent does not dispute he certified N5683T as airworthy in the aircraft's logbook on December 20, 2012. However, the evidence establishes the aircraft was not airworthy at the time of the annual inspection.[34] In addition to its lack of compliance with its STCs, the aircraft also contained numerous discrepancies that left it in a condition that was not safe for operation. For example, respondent used aluminum rivets on the engine's firewall, did not completely line up the rivets in the tail cone area, did not use an appropriate type of sealant for new lower firewall rivets he installed, and cut his own brackets for lower firewall installation. In addition, respondent did not install an oil pressure restrictor fitting, nor did he install an alternate air cable and spring-loaded alternate air door. He also installed an incorrect switch for the fuel pump and did not mark engine instruments appropriately. All these discrepancies are inconsistent with either Cessna's maintenance guidelines in the Cessna 100 Series Structural Repair Manual or data supplied for applicable STCs. Such a lack of consistency constitutes non-conformity with the aircraft's type design and amounts to a violation of 14 C.F.R. § 43.13(a) and (b).

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[33] Hart v. McLucas, supra note 21.

[34] Under longstanding Board jurisprudence, in order to be considered airworthy, an aircraft must both (1) fulfill the criteria established by its type certificate; and (2) be in a condition for safe operation. Administrator v. Surratt and Walkers, NTSB Order No. EA-5514 at 6 (2010) (citing Administrator v. Anderson, NTSB Order No. EA-3976 at 2 (1993); Administrator v. Nielsen, NTSB Order No. EA-3755 at 4 (1992); Administrator v. Copsey, 7 NTSB 1316, 1317 (1991); and Administrator v. Doppes, 5 NTSB 50, 52 n.6 (1985)). An STC functions to supplement or amend an aircraft's type design, in accordance with FAA authorization. Administrator v. Smith, NTSB Order No. EA-5646 at 5, 9 (2013).

In addition to erring in determining the aircraft was airworthy, respondent's logbook entries also did not accurately describe the work he performed. The fact that respondent placed a data plate indicating a K model engine was aboard the aircraft, rather than the Continental 10-360-G model engine listed in the logbook and required by the applicable STC, amounts to an intentional falsification. The data plate was incorrect, and even if respondent believed it would be acceptable to use the casing from a different model engine, he still did not provide the appropriate data or document his activities in the logbook to explain the true type of engine to the FAA or mechanics who might later work on the aircraft. This erroneous, incomplete entry was material, because it would undoubtedly affect decisions inspectors, mechanics, or operators might make concerning work on the aircraft. As Inspector Steffes explained, a few prominent differences among a G model and a K model engine exist: the engines maintain different levels of horsepower, oil capacity, and operating ranges.[35]

Logbook entries such as those mentioned above contain information that is material to the Administrator's inspectors' assurance that the aircraft is airworthy and to the assessments and determinations mechanics in the future may make concerning work on the aircraft. Respondent's entry in the logbook indicates he intended to certify the aircraft was airworthy, yet the aircraft maintained numerous discrepancies and did not comply with the documents, such as STCs, airworthiness directives, and a Cessna drawing, all of which respondent referenced in the logbook. As a result, with regard to the logbook entries, the Administrator presented ample evidence to establish respondent intentionally falsified the entries he made. Moreover, respondent's entries, combined with his testimony concerning several of the discrepancies,

[35] Tr. 119-120. Inspector Steffes further explained, "[t]he type of certificate number for a 172E is an A-12; the type certificate data sheet for a K model is A-7. Obviously there's enough of a difference between the two that it requires an entirely different type certificate." Tr. 123.

unequivocally shows respondent did not perform the work pursuant to the methods, techniques, and practices established by the manufacturer and/or acceptable to the Administrator. Overall, reviewing the logbook alone establishes the Administrator proved respondent violated 14 C.F.R. §§ 43.12(a)(1), 43.13(a) and (b), and 43.15(a)(1).

2. *FAA Form 337 and STCs*

A mechanic must have approval to deviate from the terms of an STC; without prior approval, the deviation amounts to a lack of adherence to the aircraft's type design, thereby rendering it unairworthy. Respondent's choice to install an 80-inch, rather than 78-inch, propeller on the aircraft was an admitted deviation from the applicable STC. Respondent acknowledges he did not obtain approval for this deviation from the Administrator.[36] Hence, his placement of an 80-inch propeller, in lieu of a 78-inch propeller, resulted in the aircraft not complying with its type design (as amended by the STC), and therefore not being airworthy. Accordingly, respondent's certification of the aircraft as airworthy in the maintenance logbook, as well as signing the appropriate Form 337 indicating compliance with the terms of the Form 337—in particular, those listed in Block 8 of the form—amounted to an intentional falsification. In this regard, Block 8.D. includes the following certification:

> I certify that the repair and/or alteration made to the unit(s) identified in item 5 above and described on the reverse or attachments hereto have been made in accordance with the requirements of Part 43 of the U.S. Federal Aviation Regulations and that the information furnished herein is true and correct to the best of my knowledge.[37]

[36] See tr. 265, 269; see also tr. 174 (Inspector Steffes testimony that a mechanic must obtain approval to deviate from an STC, and no such approval occurred here).

[37] Exh. A-2 at 2.

The evidence establishes respondent knew the 80-inch propeller was not approved.[38] In addition to respondent's deliberate choice to install the 80-inch propeller, we note the accuracy of records concerning the correct size propeller is material to the maintenance of the aircraft. Hence, the Administrator established all three prongs of the intentional falsification standard, as well as proving respondent failed to use the methods, practices, and techniques acceptable to the Administrator with regard to the installation of the propeller.

Likewise, installing a K model engine in N5683T was impermissible under the applicable STC. As indicated in the analysis above, respondent's entries in *both* the maintenance log[39] and his completion of the STC[40] concerning the engine model were false. Respondent informed Inspector Steffes that all engines were essentially the same, and leaving a data plate indicating a K model on an engine that was not a K model was simply an oversight.[41] Notwithstanding respondent's assessment that the models were indistinct, respondent was evasive in response to questions concerning his awareness that the alteration did not comply with the appropriate STC. Respondent opined, "I guess some of the old brochures on this that I had back in 2004 saying it was A, C, D, F, G, GB, HB, KB, K, all those were approved. I don't know where anybody got the idea that K couldn't be used."[42] We find, based on respondent's apparent unwillingness to consult the STC in order to ensure he replaced the engine in an appropriate manner and used an accurate

[38] Tr. 116, 182 (Inspector Steffes's testimony, recalling respondent told Inspector Steffes that he was aware the 80-inch propeller was on the aircraft), 222 (respondent's testimony, in which he admitted he instructed the owner of N5683T to refrain from operating the aircraft with the 80-inch propeller until respondent completed more work on it, such as attaching the floats).

[39] Exh. A-1 at 1.

[40] Exh. A-2 at 2.

[41] Tr. 116.

[42] Tr. 209.

data plate, combined with the law judge's credibility finding adverse to respondent,[43] establishes respondent intentionally falsified the logbook record indicating he had installed a Continental 10-360-G model engine in accordance with the STC.

The record contains additional evidence showing respondent certified compliance with STCs regarding his installation of an oil pressure temperature system, yet the work did not adhere to the STC. Respondent was uncertain as to which potentially applicable STCs applied, but when Inspector Steffes inspected the aircraft he found the work did not adhere to any applicable STC. Concerning the oil pressure temperature system, he could discern immediately that the oil pressure gauge was mounted in an incorrect location.[44]

As stated above, the FAA must approve any deviation from the requirements of an applicable STC. Respondent did not obtain such approval with regard to the oil pressure temperature system but he signed a Form 337 to certify he correctly installed the oil pressure and temperature kit including instrument, oil temperature sensor, and oil pressure sensor, all pursuant to an applicable STC. The precise installation of the oil pressure temperature system is material to the safe operation of the aircraft; hence, the need for adherence to the STC concerning its installation. In particular, Inspector Steffes confirmed the installation of the oil and temperature pressure gauge sensor directly affects the engine of the aircraft because "if the sensor fails or it breaks right up there at the elbow [where respondent installed it], you have no restriction of the

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[43] The law judge stated:

> I found Mr. Lawson's testimony that the engine was, in fact, a G model engine and he had simply failed to appropriately stamp the data tag to be less than credible. Thus, I find that the preponderance of evidence establishes not only that the entry was false but that Respondent knew it was false at the time that he made the logbook entry and signed off on the Form 337.

Initial Decision at 438.

[44] Tr. 109, 161-62.

oil escaping and flowing out of the engine."[45] Respondent was aware he needed to comply with the STC in installing the system, yet he elected to refrain from doing so.

With regard to the tail cone installation, respondent certified in the logbook that his replacement of the lower firewall and tail cone with parts from "same model aircraft," and stated he had placed a fixture to assure alignment of the fuselage and tail cone.[46] Respondent also certified he completed these alterations in accordance with the applicable Cessna manual FAA Advisory Circular. However, the placard on the tail cone indicated the part was from a Cessna 172K, rather than a 172E. Respondent asserts the difference is inconsequential. However, the record establishes the work he completed was unacceptable because the accuracy of the listing of the correct aircraft model number on the placard for the tail cone is critical for maintenance considerations.[47]

Our affirmation of the law judge's determination concerning the tail cone is relevant to paragraph 16(d) of the Administrator's complaint, which states, "the maintenance log for N5683T Forms 337 referenced … [t]he tail cone installed was not from an aircraft of the same model as N5683T, as the tail cone placard indicated it was from a Cessna R172K with a Serial Number 17257583, therefore the rivet holes did not align."[48] We reject respondent's argument that the difference is inconsequential, because accuracy of data plates is critical to compliance with the provisions of 14 C.F.R. part 43.[49]

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[45] Tr. 124.

[46] Exh. A-1.

[47] Tr. 210. As described above, the law judge found the Administrator did not prove a violation concerning of the regulations, as charged, concerning the installation of the tail cone with regard to Form 337(II). Initial Decision at 452. The Administrator did not appeal this finding.

[48] Compl. at ¶ 16(d); Initial Decision at 453.

[49] See, e.g., Administrator v. Potanko, NTSB Order No. EA- 3937 at 9-10 (1993) and Administrator v. Lott, 5 NTSB 2394, 2397 (1987), in which the Board stated, "the true identity

As with the logbook, we find the evidence establishes the certifications on the Form 337s themselves show the Administrator proved respondent violated 14 C.F.R. §§ 43.12(a)(1), 43.13(a) and (b), and 43.15(a)(1). Respondent did not provide rationale or evidence to establish the law judge erred in determining the Administrator proved the allegations with regard to the Form 337s. To the extent respondent contends he did not need to describe approvals of deviations in the maintenance logs, we disagree, as such approvals are a key component of the airworthiness of the aircraft and maintenance records must be scrupulously accurate.[50] We affirm the law judge's determinations that respondent's failure to adhere to the STCs and his certification of compliance with the Form 337s constituted both an intentional falsification and a failure to adhere to the methods, techniques, and practices acceptable to the Administrator.[51]

B. *Procedural Arguments and Sanction*

1. *Stale Complaint Rule*

Respondent contends the law judge erred in not dismissing the Administrator's complaint pursuant to the Board's stale complaint rule, which is codified at 49 C.F.R. § 821.33.[52] We

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of an aircraft is highly material since it is essential in determining the maintenance, repair and alteration history of that aircraft and its conformity to its type design and applicable airworthiness directives."). Such logic is also applicable to aircraft components.

[50] See, e.g., Administrator v. Guerin, NTSB Order No. EA-3827 at 5 (1993) (quoting Administrator v. Morse, NTSB Order No. EA-3766, at 12 (1992), in which the Board stated, "[a]n individual who does not ensure the scrupulous accuracy of his representations in records on which air safety critically depends cannot be said to possess the necessary care, judgment, and responsibility").

[51] As noted above, the Administrator also charged respondent with violating 14 C.F.R. § 43.9(a)(3) by failing to include an appropriate notation in the logbook to name the person performing work. The law judge affirmed this charge. The parties did not address this charge on appeal. We affirm the law judge's finding that respondent violated § 43.9(a)(3).

[52] The stale complaint rule provides a respondent may move to dismiss a complaint when the allegations of offenses occurred more than six months prior to the Administrator's advising the respondent as to the reasons for proposed actions. However, the rule also states the six-month rule of limitations does not apply to cases in which the Administrator alleges the respondent's

disagree with respondent's assertion. The complaint at issue clearly alleges a lack of qualifications, on several accounts. As the United States Court of Appeals for the District of Columbia Circuit recently clarified, a falsification charge alone functions to raise a lack of qualifications.[53] The Administrator's complaint against respondent alleges not only intentional falsification of critical maintenance records but also contains several detailed allegations with regard to respondent's failure to perform maintenance in accordance with the methods, techniques, and practices suitable to the Administrator.

The Administrator's assertion in the complaint that respondent lacked the qualifications necessary to hold a mechanic certificate was well-founded and based on multiple charges. Unlike Administrator v. Tarascio,[54] on which respondent relies for his argument that the stale complaint rule requires dismissal of the charges not proven, the charges in the case *sub judice* were indeed sustainable on their face. In addition, in Administrator v. Morse, the Board clearly held a mechanic who does not make accurate logbook entries lacks the care, judgment, and responsibility to hold his mechanic certificate.[55]

The complaint in the case *sub judice* lists myriad charges, all of which indicate a lack of qualifications. Even though the law judge determined the Administrator failed to prove charges concerning installation of the engine mounts, tail cone, and exhaust muffler system, as well as maintenance of the lower firewall rivet edge, the stale complaint rule does not provide for *post*

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conduct reflects a lack of qualifications necessary to hold a certificate. In cases where the Administrator alleges a respondent intentionally falsified a document, Board jurisprudence makes clear that such conduct shows, *per se*, that the respondent lacks the qualifications necessary to hold a certificate. Administrator v. Ducote, NTSB Order No. EA-5758 at 3 (2015) (following remand from United States Court of Appeals for District of Columbia Circuit, Huerta v. Ducote and NTSB, 792 F.3d 144 (D.C. Cir. 2015)).

[53] Ducote, 792 F.3d at 155; see also NTSB Order No. EA-5758 at 5.

[54] NTSB Order No. EA-5116 (2004).

[55] Administrator v. Morse, supra note 50 at 12.

hoc application to dismiss the complaint. In this regard, we reject respondent's argument that any of the charges were suitable for dismissal under the stale complaint rule.

2. *ASRP*

Respondent further contends he is eligible for a waiver of sanction under the ASRP. However, he has failed to fulfill the requirement that he prove all four prongs of the ASRP standard.[56] Respondent did not file the NASA report until April 7, 2014, even though he had met with Inspector Steffes on March 24, 2014 and discussed the discrepancies with him. Respondent cannot legitimately claim he did not become aware of the discrepancies until April 2 or 4, when he learned the Administrator sought to bring an action against his certificate. Respondent does not dispute the meeting that occurred on March 24, 2014, consisted of a detailed discussion concerning the discrepancies.[57] FAA Advisory Circular 00-46E provides, to be eligible for a waiver of sanction under the ASRP, respondents must report the violation to NASA "within 10 days after the violation, or date when the person became aware or should have been aware of the violation."[58] Respondent clearly was aware of the violations at the time of the March 24, 2014 meeting; indeed, Inspector Steffes inspected the aircraft on March 21, 2014, and then immediately began drafting a letter of investigation to deliver to respondent. At a minimum, respondent should have been aware of the violation at the time of the March 24 meeting. Therefore, his April 7, 2014 report to NASA cannot avail him of a waiver of sanction pursuant to the ASRP.

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[56] Supra note 18.

[57] Tr. 114-18.

[58] Supra note 18 at 4, ¶ 9(c)(4).

3. *Sanction Determination*

Finally, we also find meritless respondent's argument that the sanction of revocation of his certificate is excessive. Respondent presented several arguments at the hearing and in his appeal brief, in an attempt to explain his various decisions in the maintenance he performed on N5683T. The evidence, however, clearly shows respondent did not comply with applicable STCs and numerous required standards, yet he certified the aircraft as airworthy. Such conduct warrants revocation, because "an individual who does not ensure the scrupulous accuracy of his representations in records on which air safety critically depends cannot be said to possess the necessary care, judgment, and responsibility required of a mechanic."[59] In this regard, the Administrator relies on the accuracy of maintenance records, because the FAA cannot fulfill its responsibility in promoting aviation safety unless "logbooks are free of knowing misrepresentations of fact."[60] Respondent's disregard for the adherence to the requisite standards in performing maintenance on N5683T, and his falsification of logbook records, warrants revocation.

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied;

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

3. The Administrator's emergency revocation of respondent's Mechanic Certificate with Airframe and Powerplant ratings and Inspection Authorization is affirmed.

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

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[59] Olsen v. NTSB, 14 F.3d 471, 476 (9th Cir. 1994) (quoting Guerin, supra note 50); see also Morse, supra note 50 at 12.

[60] Cassis v. Helms, 737 F.2d at 545, 547 (6th Cir. 1984).

UNITED STATES OF AMERICA NATIONAL

TRANSPORTATION SAFETY BOARD OFFICE

OF ADMINISTRATIVE LAW JUDGES

In the matter of:	*	
	*	
MICHAEL P. HUERTA,	*	
ADMINISTRATOR,	*	
FEDERAL AVIATION ADMINISTRATION,	*	
	*	
Complainant,	*	
v.	*	Docket No.: SE-19747
	*	JUDGE WOODY
MATT LAWSON,	*	
	*	
Respondent.	*	

Kluczynski Federal Building
230 South Dearborn Street
Courtroom 3908
Chicago, Illinois

Thursday,
June 11, 2015

The above-entitled matter came on for hearing, pursuant to Notice, at 2:00 p.m.

BEFORE: STEPHEN R. WOODY
Administrative Law Judge

APPEARANCES:

On behalf of the Administrator:

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ORAL INITIAL DECISION

ADMINISTRATIVE LAW JUDGE WOODY: This is a proceeding under the provisions of 49 U.S.C. Section 44709, and the provisions of the Rules of Practice in Air Safety Proceedings of the National Transportation Safety Board. This matter has been heard before this Administrative Law Judge. As provided by the Board's rules, I have elected to issue an oral initial decision in this matter.

Pursuant to notice, this matter came on for hearing on June 9th through 11th, 2015, in New York City [sic]. The Administrator is represented by staff counsel, Ms. Lauren Hoyson, Esquire, of the FAA Great Lakes Region Regional Counsel's Office. Respondent was represented by Mr. Derrick Hahn, Esquire.

Sir, are you having trouble hearing me?

MR. LAWSON: No, I'm okay. I just have to turn my head. I'm sorry.

ADMINISTRATIVE LAW JUDGE WOODY: That's okay. I just want to be sure you can hear me.

The parties were afforded a full opportunity to offer evidence, to call, examine, and cross-examine witnesses, and make arguments in support of their respective positions. I will not

discuss all the evidence in detail. I have, however, considered all the evidence, both oral and documentary. That which I do not specifically mention is viewed by me as being corroborative or as not materially affecting the outcome of this decision.

The Respondent, Mr. Matt Lawson, has appealed the Administrator's Emergency Order of Revocation, which was dated December 9th, 2014. Pursuant to the Board's rules, the Administrator filed a copy of that order on December 22nd, 2014, which serves as the complaint in this case. Respondent subsequently waived his right to an expedited proceeding.

The Administrator ordered the emergency revocation of Respondent's mechanic certificate with airframe and powerplant, or A&P, ratings and inspection authorization based on Respondent's alleged violations of Section 43.12(a)(1), 43.13(a), 43.13(b), 43.15(a)(1), 43.9(a)(3), and 91.403(d) of the Federal Aviation Regulations, which are codified at 14 Code of Federal Regulations, and for ease I'll refer to the Federal Aviation Regulations as FAR provisions.

More specifically, the Administrator's complaint alleges that between December 20th and December 26th, 2012, Respondent made fraudulent or intentionally false entries in maintenance logbooks and associated Forms 337 for civil aircraft tail No. N5683T, a Cessna Model 172E, Serial Number 17251583, in violation of 14 C.F.R. 43.12(a)(1); that he failed to use methods, techniques, and practices prescribed in the current manufacturer's

maintenance manual or instruction for continued airworthiness, or other methods, techniques, and practices acceptable to the Administrator in performing maintenance, alteration, or preventive maintenance on N5683T in violation of Section 43.13(a); that when maintaining or altering or performing preventive maintenance on N5683T, he failed to do the work in such a manner and used materials of such quality that the condition of N5683T afterwards was at least equal to its original or properly altered condition, in violation of Section 43.13(b); that when performing an annual inspection of N5683T, failed to perform the inspection so as to ensure that the aircraft met all applicable airworthiness requirements, in violation of 43.15(a)(1); and he failed to make an entry in the logbook of N5683T containing the name of the person or persons other than Respondent who performed work on the aircraft, in violation of Section 43.9(a)(3); and that he altered N5683T based on the supplemental type certificate without being the holder of the STC or having written permission from the holder of the STC to do so in violation of Section 91.403(d).

In his answer to the Administrator's complaint, Respondent admitted to paragraph 1 of the complaint and denied the remaining paragraphs of the complaint. So for our purposes, paragraph 1 is deemed established for purposes of this decision.

The Administrator's Exhibits A-1 through A-17 were admitted into evidence; that is, with the exception of the first two pages of Exhibit A-6, which were not admitted into evidence.

The following Respondent's exhibits were admitted into evidence: R-1 through R-6, R-8 through R-11, R-15, R-16, R-19, R-22, R-24, 25, and 30. Exhibits R-26 and R-28 and, as noted, pages 1 and 2 of Exhibit A-6 were not admitted into evidence.

The Administrator presented the testimony of Inspectors Daniel J. Moore and Arthur Randy Steffes. Mr. Moore testified first and testified that he has worked for the FAA since 1998, is currently a supervisory airworthiness inspector and front-line manager for the Denver Flight Standards District Office, or FSDO. Prior to moving to Denver, he was assigned to the Grand Rapids FSDO where he held positions as aviation safety inspector, or ASI, as an assistant principal maintenance inspector, or PMI, as a PMI, as a front-line manager, and as the acting FSDO manager.

Before joining the FAA, he worked in the aviation industry for 19 years in a variety of maintenance-related positions, including as a mechanic, lead mechanic, director of maintenance, quality assurance representative, and quality manager.

He holds a mechanic's certificate with A&P rating since 1979 and a private pilot certificate.

Mr. Moore indicated he first discussed with Mr. Lawson his desire to install a modified engine in N5683T during an IA seminar in March 2011. According to Mr. Moore, there are a number of ways to accomplish a major repair or alteration to an aircraft. If an individual already has approved data supporting the

alteration or repair such as a type certificate data sheet, an STC, designated engineering report, or airworthiness directive, then he can complete the Form 337 and does not have to involve the FAA in the approval process. For instance, if an individual has purchased an STC from the STC holder, he can complete the Form 337 and the major alteration or repair and does not have to get further approval from the FAA since the FAA has already approved the STC. However, if he wished to deviate from the approved data, then he would need a designated engineering report or field approval from a qualified ASI first. He noted that field approval is a one-time approval pertaining to a specific aircraft.

For field approval, a mechanic needs to put together a field approval request, including a draft Form 337 with supporting data and normally with a cover letter. Mechanic is responsible for the completeness and accuracy of the 337 setting forth the scope of the repair or alteration. The package is submitted to FSDO for review by a qualified ASI. The ASI reviews the Form 337 and all supporting data to ensure airworthiness and safety of the aircraft. If the scope of repair or alteration isn't clear or is insufficient, then typically the ASI will contact the submitter to clarify. If the ASI rejects the field approval request, normally he would call the mechanic to make him aware of why he did not approve. Mr. Moore indicated he has never issued a field approval without some discussion with the mechanic.

Once the ASI determines the data is sufficient, then he

signs Block 3 of the Form 337 indicating the data is approved subject to a conformity inspection. The scope of the work is set forth in Block 8 of the form. Once approved, the Form 337 is returned to the mechanic. The mechanic should review the form to ensure he knows and understands what data to follow. If the mechanic desires to use data not in Block 8 or to deviate from the data in Block 8, then he would have to essentially start over, submitting a new request for review and approval. The mechanic can't simply do what he thinks is appropriate if it deviates from the approved data.

Then once the work is done, a repair station or individual with an inspection authorization has to complete a conformity inspection. The inspection is to determine that the modifications were done in accordance with the data in Block 8 and that the aircraft meets all airworthiness requirements and is in a condition for safe flight. The inspector signs the form and provides a copy to the owner of the aircraft and sends a copy to Oklahoma City where it is maintained in the permanent records for the aircraft.

Mr. Lawson submitted a Form 337 for field approval. The package included a couple of prior field approvals along with other reference data. Mr. Moore did not approve the initial field approval request. He indicated typically one would consider the prior field approvals only if they were very similar to the request submitted and including all supporting data.

He stated Mr. Lawson included a copy of the STC, which covered all the modifications except the deviation for the propeller from 76 inches to 78 inches diameter. He agreed that Mr. Lawson indicated that the STC was not available because he could not reach the STC holder. Mr. Moore also stated he had no reason to believe the STC would not become available later. Mr. Moore said he approved the data only, that it was Mr. Lawson's responsibility to get permission to use the STC from the owner. He indicated he contacted Mr. Lawson after he had approved the data and signed off on the field approval but that he wasn't present when the Form 337 at Exhibit A-2 was picked up by Mr. Lawson. He also pointed out that the Form 337 requires a conformity inspection which was signed off on by Mr. Lawson.

Mr. Moore agreed that he has not worked on an aircraft for 18 years. He also confirmed that the modifications completed under this Form 337 were to install a modified engine and a constant speed propeller. He was unaware that Mr. Lawson was also going to do a floatplane kit.

Mr. Moore confirmed that Mr. Lawson submitted a field approval checklist with his request as well as copies of prior field approvals. Mr. Lawson did indicate the STC was not available although Mr. Moore had no information about whether it would be available in the future. He agreed that Mr. Lawson did not say he had permission to use the STC. Mr. Moore confirmed the prior field approvals were out of the Grand Rapids FSDO. He was

not aware if Mr. Lawson had worked with Mr. Miller on this field approval before it was assigned to him. He could not recall who drafted the final language in Block 8 of the form, although he did remember a conversation with Mr. Lawson about changes needed to Block 8.

Mr. Moore agreed that Mr. Lawson sent a modified 337 to Mr. Moore that was not finally approved. Mr. Moore stated he did not formally reject the submission but called to discuss further changes that were needed. He disagreed that Mr. Lawson used the STC just for reference. He submitted information about the STC.

Mr. Moore did not provide Mr. Steffes correspondence with Mr. Lawson or copies of any prior drafts of the 337s, nor did he tell Mr. Steffes that they discussed the STC, that the STC was not available, or discuss with Mr. Steffes how the language in Block 8 came about. He agreed that if it was a matter of just following the STC, then field approval was not necessary. If the STC was not available, supporting data could be approved by field approval. Mr. Moore stressed that the Form 337 approved only the data. Mr. Moore indicated policy is to do data approval only and not to do on-site inspections of any aircraft being modified under a field approval to ensure compliance with the approval. He indicated he could notify an individual either orally or in writing about rejection of a Form 337 as drafted. Typically he would do so in writing only if it was a final rejection at the end of the process.

Mr. Moore stated he did not keep files with any copies of the draft 337s, and he indicated he had not experienced any falsification issues with Mr. Lawson in the past.

With respect to the prior field approvals submitted by Mr. Lawson, Mr. Moore could not remember specifically, but did not believe that those involved the same make and model aircraft. He reiterated that field approval only applied to the specific aircraft involved and the data considered and not to other aircraft, even if they were the same make and model. He was not involved with the prior field approval, so he's not sure what data was considered. He stated there's no policy that requires formal rejection of a field approval request, and his practice has been to discuss necessary changes orally with the applicant.

Mr. Moore testified that he did not tell Mr. Lawson he must have the STC before signing off on the Form 337. He assumed that as a seasoned A&P mechanic with an inspection authorization that Mr. Lawson was aware that he must have permission from the STC holder before using the STC. He indicated they had no discussions to clarify when Mr. Lawson intended to perform the modifications or when the STC might become available.

Next Inspector Randy Steffes testified that he is currently assigned to the Grand Rapids FSDO as a PMI. He's been with the FAA since 2008 and was previously employed in the Scottsdale FSDO as both an ASI and assistant PMI. He has been an A&P mechanic since 1984 and holds an inspection authorization as

well as commercial pilot certificate, both rotor and fixed wing. He has prior maintenance experience in the Marine Corps, both active and reserve, and with filling pilot and maintenance positions in the commercial aviation industry. He stated this matter first came to his attention in the form of a complaint by another mechanic performing an annual inspection on N5683T and who identified a number of discrepancies that caused him concerns about the airworthiness of the aircraft. Mr. Moore and Mr. Steffes met with the individual who filed the complaint who raised a number of concerns.

After their meeting, the determination was made to initiate an investigation. Mr. Steffes inspected the aircraft at the Complainant's maintenance facility. He also reviewed all aircraft records along with the aircraft's airworthiness certificate and logbooks. He indicated the maintenance logbooks are required to be completed by individuals performing maintenance to ensure compliance with approved data and airworthiness of the aircraft.

Logbook entries in Exhibit A-1 and the Form 337 in Exhibit A-2 revealed that Respondent completed certain alterations or repairs to the aircraft in December 2012 and signed off as having completed those modifications, then inspected the aircraft and signed off approving its return to service as airworthy. He identified Block 8 from Exhibit A-2 as setting forth the scope of work with the only deviation noted from the STC being the change

of propeller size from 76 to 78 inches in diameter. Mr. Steffes said the 337 form identified the engine as an IO-360-G engine as does the logbook entry; however, the engine data plate identifies the engine as an IO-360-K model, more specifically a G model modified to a K model. The propeller on the plane was measured at 80 inches in diameter. There were no logbook entries noting any maintenance or modification after Mr. Lawson returned the aircraft to service.

Mr. Steffes stated the mechanic is required to obtain the written permission from the STC holder prior to using the STC. The written permission is done by model and serial number of the aircraft involved. Mr. Thomas Anderson holds the STC referenced in the Form 337, and that STC or part of that STC was Exhibit A-10.

In inspecting the aircraft and comparing it against the installation instructions for the STC, Mr. Steffes noted numerous discrepancies between the two. For instance, he stated the engine mounts were inconsistent with TIG welding called for by the STC, as exhibited in Exhibit A-6 -- he noted that was important because the greater heat signature from a different welding method which could change the heat characteristics of the metal which could lead to cracks or the need for it to be re-treated -- nor did the bracing match the installation instructions.

Reviewing specific installation instructions in Exhibit A-10, Mr. Steffes noted that Instruction 1(j) called for

installation of a noise filter that was not installed; Instruction 4(b) requires a fuel boost microswitch that was not installed; no oil pressure restrictor elbow was installed as required by Instruction 4(j); the tachometer had no range markings; and the oil temperature and oil pressure gauges were not marked as required; there was no high-low fuel pump boost control switch as called for by the STC; and an 80-inch propeller was installed rather than one of the two options provided for by the STC for the field approval, which were the 76- and 78-inch propellers.

An additional Form 337 in Exhibit A-3 refers to the firewall and tail cone replacement with a tail cone from the same model aircraft done in accordance with the Cessna structural repair manual and FAR Advisory Circular 43-1&2; however, the tail cone was not from the same model but was identified by its data tag as a model 172K rather than 172E. Rivets on the firewall were not stainless steel as required by the Cessna repair manual, but were aluminum and, therefore, not fireproof. He also indicated the spacing on the rivets was not done correctly. There were elongated holes that were not filled, rivet heads overlapped, and brackets were installed at the top of other rivets, and rivets were installed too close to the edge of material. The Form 337 was signed off and inspected by Respondent. Exhibit A-4 was identified as another Form 337 signed off, inspected, and returned to service by Respondent which addressed installation of oil temperature and pressure sensors and gauges. The sensor

was installed directly on the engine which wasn't in compliance with the STC referenced. Further, the gauges were placed under the yoke and were unreadable while sitting in the seat.

Mr. Steffes identified Exhibit A-5 as a Form 337 for installing a floatplane reinforcement kit in accordance with a Cessna technical drawing and with Advisory Circular 43.13-1 and 2; however, the engine modification STC says the engine modification applies only to land-based planes nor did the modifications conform with the Cessna drawing. For instance, the float mount brackets installed in the firewall were not Cessna parts identified in the drawings and appeared to be cut from bulk material.

After reviewing the logbooks, Forms 337, and the aircraft records, Mr. Steffes drafted a letter of investigation, or LOI, dated March 21st, 2014, with a corrected copy of that LOI dated March 24th, 2014. Mr. Lawson elected to have an in-person meeting with the FSDO to discuss the discrepancies rather than to formally respond to the LOI in writing. Mr. Moore and Mr. Steffes were present for that meeting.

According to Mr. Steffes, he asked Mr. Lawson about the G versus K model engine, and Mr. Lawson said they were the same except the oil capacity and corresponding dipstick markings. He indicated he re-marked the dipstick. He could not say what technical data he relied on in determining the engines were the

same. When questioned about the 80-inch diameter propeller, he stated Mr. Lawson indicated he knew it was an 80-inch propeller but stated that the plane was going to be a floatplane as the reason the large propeller was installed. He conceded that the plane was not a floatplane when he returned it to service. When queried about the aft fuselage, Mr. Lawson offered that the fuselages were all the same. When asked about the different model, he indicated he must have missed that.

Mr. Lawson also indicated that someone else performed work on the fuselage replacement. He noted that he inspected the riveting and it was a little weak. Mr. Steffes noted the logbook entry does not say the work on the fuselage was done by others. Mr. Lawson confirmed his signature on all the Forms 337 and stated that he must not have looked at them very closely.

Mr. Steffes opined that the aircraft was not airworthy because it did not conform to its type certificate or properly altered condition and wasn't safe for flight. As to the differences between IO-360-G and K model engines, Mr. Steffes noted the horsepower was different, the oil temperature range differed, as did the tachometer range and oil capacity. He also noted that the K model engine was not certified or certificated in that aircraft at the time. He noted that the propeller discrepancy could affect RPMs and might result in a prop strike; that the aft fuselage brackets and rivets could affect structural strength and integrity; the aluminum firewall rivets could allow

an engine fire to reach the occupants in the aircraft; that the engine mount heat signature change from the welding discrepancy could cause cracks, could cause a reduced tensile strength; that the lack of a high-low fuel pressure switch could affect appropriate pressure in critical situations; and incorrectly marked gauges could result in operation outside operating limits and result in damage or failure. Mr. Steffes opined that the aircraft was, therefore, not airworthy when Mr. Lawson returned it to service.

He also reviewed the sanction policy guidance table and noted that the appropriate sanction for even one intentional falsification was revocation.

Mr. Steffes stated that he had no involvement in the field approval or drafting the Form 337 and was not present during any meetings between Mr. Moore and Mr. Lawson. He agreed no field approval was needed if alterations were done under an STC and that you can't use an STC if it is not approved and/or you don't have permission from the STC holder. He noted Block 8 of the Form 337 addresses approved data, and if the data is not approved, then it shouldn't be in Block 8. He stated prior field approvals could be used as accepted data to review for approval of a new field approval if they were applicable to the pending field approval. In his opinion, Block 8 should be completed by the mechanic and not an ASI.

He testified that if Block 8 is not acceptable, then an

ASI could return it to the mechanic with a rejection letter or may just discuss the information with the applicant. Mr. Steffes reviewed Block 8 of Exhibit A-2 as part of his investigation which includes both an STC and field approval. The only exception to the STC noted in Block 8 was the changed prop diameter from 76 inches to 78 inches.

Mr. Steffes was aware that Mr. Moore signed Block 3. From his review of the Form 337, it was clear to him that modification was being done in accordance with the STC and he would assume Mr. Lawson had the STC and permission to use it. Mr. Moore did not inform Mr. Steffes that he had discussed with Respondent that the STC was not available at the time. Mr. Moore did not provide any draft copies of Forms 337 or prior field approvals, and Mr. Steffes did not ask for any such documentation.

He did not discuss with Mr. Miller any involvement he may have had. Mr. Steffes had no knowledge that the field approval was intended to cover both the propeller change and engine change. He was not aware if the FSDO had approved prior similar modifications under field approval.

Mr. Lawson did indicate to him that the STC was unavailable. Mr. Steffes agreed that the LOIs he sent to Mr. Lawson on March 21st and 24th, 2014, contained administrative errors. He indicated those were mistakes and not intentional falsifications.

In reviewing the complaint at Exhibit R-6, paragraph 16,

he stated he had no knowledge of any special engine mounts required by the STC and was not aware of the STC holder rejecting welds as not meeting STC requirements. As to subparagraph (c), he agreed that if the engine was, in fact, a G model engine, then there will be no falsification on that point, but he disagreed that the STC allowed for use of either a G or K model engine. Mr. Steffes did not do any comparison of any tail cones from other model Cessna 172s to determine if they were the same. He understood the entry to mean a Cessna 172E and noted that the 172K model came out 12 years after the 172E.

He disagreed that there was just three or four rivet holes that had problems and stated that there were many rivets that there were issues with, which he opined absolutely affected the airworthiness of the aircraft. As to the brackets with tool damage, he noted that tool damage weakens the metal and affects airworthiness. As to use of the aluminum versus stainless rivets, he stated that he looked at the certification data for the aircraft and the Cessna repair manual and that determined aluminum rivets were not acceptable. He also noted the rivet edge distance will be in the drawings approved for production certification as well as Advisory Circular 43-13.

He indicated he wasn't aware if Mr. Moore signed off on a field approval to install the float kit, nor is he aware of an 80-inch propeller being approved for installation on a C-172 floatplane. As to the alternator noise filter, he did not know

why the STC required installation on the firewall, but that is what the STC requires and the noise filter was not there. He stated that he has not seen an on/off fuel pump switch as opposed to the STC required high-low switch in fuel-injected engines. He could not say whether a 24-volt switch could work with a 12-volt system on the Cessna 172E.

With respect to the oil pressure restrictor fitting, he saw no indication that Mr. Lawson reconciled and complied with conflicting STC requirements and cannot speak to that. He noted that there were no range markings on the instrument gauges. He did not know how many hours the plane was flown since being returned to service by Mr. Lawson, but believed that the tachometer indicated approximately 9 hours.

There were no maintenance entries after Mr. Lawson returned the plane to service in December 2012, and Mr. Steffes relied on the fact that any maintenance would have been properly documented. As for the automatic alternate air being installed, he stated that the STC did not provide for such installation. He did assume the installation was to be done in accordance with the STC. Mr. Lawson did say that the placards were all installed when the plane left his facility, and he agreed that Mr. Lawson would not be responsible if someone else removed the placards.

Mr. Steffes agreed that N5683T was not airworthy when he inspected it in 2014. He took no steps to revoke its airworthiness certificate at that time because he understood the plane was being

sold for parts. He recently, within the past few weeks, learned that the plane has been flying and steps are now being taken towards revocation of its airworthiness certificate.

He indicated the data tag on the tail section of the aircraft was not a stock Cessna data tag, and he assumed someone fabricated the tag. He tried to track down the tail cone from the N number on the tag but was unable to do so. As for the firewall, he does not know where it came from other than what was indicated on the data tag.

With respect to the brackets on the firewall, they appear to him to be permanently installed, which was part of the basis for his conclusion that they were not authorized. Mr. Steffes indicated he would not typically discuss with the ASI what was approved by the field approval since he saw nothing ambiguous in the language in Block 8 of the Form 337. He noted authority to use data is different than approval of the data and that field approval only applies to one particular aircraft by serial number and not to any other aircraft. He stated that the person installing a part is responsible for the airworthiness of the part.

He indicated that Mr. Lawson told investigators that the engine was a K model engine but that the engines were the same. He noted that there is no approved data to allow installation of a K model engine under the STC, nor was there approved data under the STC for the plane to be put on floats. It was approved for

land plane only. He also noted that the plane was a land plane when Mr. Lawson returned it to service and when he inspected it in 2014.

The Form 337 specifically indicated a deviation to install a 78-inch propeller, but an 80-inch propeller was on the plane. The Form 337 did not indicate a deviation from the high-low off switch called for in the STC. He testified that if further deviation from the STC is necessary, then you would need further approval to do so such as through another field approval. Mr. Steffes indicated there is no FAA signature on any of the other Forms 337 at issue here and no indication that Mr. Moore was aware of them.

He stated that when they interviewed Mr. Lawson, he stated that he understood that the entire installation had been approved under field approval by Mr. Moore. He also stated that the engine models and aft fuselages were basically all the same. As to the 80-inch propeller, Mr. Lawson indicated he knew the propeller was 80 inches. Mr. Moore told Mr. Steffes that he approved the data on the Form 337 at Exhibit A-2 but did not approve the entire installation.

The Respondent presented the testimony of Mr. Matt Lawson himself and Mr. Jean Bland. Mr. Lawson testified first that he began working on aircraft in 1967 when he first started learning to fly. He indicated he had a passion for the North Country and he soon began learning to put float kits on planes.

He has a mechanic certificate with A&P rating since 2004 and an inspection authorization since 2008. He's done a variety of aircraft maintenance work including airframe work, rebuilding aircraft, engine maintenance, structural repairs, et cetera. He also holds single-engine land and seaplane commercial pilot certificates and has approximately 10,000 flight hours. He noted that he completed a 4-year sheet metal apprenticeship and has 26 years of sheet metal experience. He has been certified in all facets of welding and has 10 to 15 years of welding experience. He has also taught vocational school including classes in blueprint reading, vocational drawing, and welding.

He is the owner of Lawson Aviation, previously B & L Aviation. He indicated his company does aircraft modification such as installing float kits, structural repairs, as well as various major repairs and alterations. He indicated he is familiar with completing Forms 337 and completed approximately a dozen forms per year for the past 10 years.

He stated he has completed work under both STCs and field approval and the STCs are much simpler. Although field approval is harder, he has worked with the Grand Rapids FSDO in the past and with other ASIs to successfully obtain field approval on several aircraft. He indicated his interaction and relationship to Mr. Moore was more difficult than with other ASIs in the Grand Rapids FSDO. He stated he has received prior field approval to install float kit at the same time as an engine

modification on the Cessna 172E, and the ASIs he worked with were Mr. Miller and Mr. Goldman.

Mr. Lawson indicated he had dealt with Mr. Tom Anderson, the STC holder, in the past. He purchased motor mounts from Mr. Anderson that didn't work as designed. He modified the motor mounts and completed technical drawings that he sent to Mr. Anderson which were eventually incorporated into an STC by Mr. Anderson. He indicated he also designed and fabricated a header tank for Mr. Anderson.

As to N5683T, the scope of the work on the plane when it initially came in was to convert it to a floatplane for Mr. Boodt to use on a lake. There was also damage to the firewall and tail cone that needed to be repaired and a STOL kit that was to be installed. He stated it was later that they decided to do the engine and propeller modifications. He found out that the STC wasn't available and he would need field approval. He stated he told the FSDO he wanted to install an IO-360-G engine. His request included a field approval checklist and copies of Forms 337 from prior field approvals. He indicated he contacted Mr. Moore after the 337 had been rejected, but he did not talk with him at the IA seminar in March of 2011. He met with Mr. Moore in Grand Rapids at the FSDO. Mr. Moore advised him he needed to make changes to his application, and Mr. Lawson scribbled notes from which he made changes to the Form 337. He indicated he told Mr. Moore during their meeting that the STC was not available.

Mr. Lawson stated he made changes to the form and resubmitted it to the FSDO. He said he did not get a call from Mr. Moore when it was approved and got no indication that his submission was not approved. Instead, he said he received the approved Form 337 in the mail. He stated he did not draft Block 8 of the approved 337. He figured Mr. Moore was his boss and this form was what he wanted so he signed it and did the work on that basis.

With respect to paragraph 16 of the complaint, Exhibit A-2, Mr. Lawson stated the engine mount he used was one he received from Mr. Anderson previously, and he saw no problem with the engine mount welds and had no information that they were rejected by the STC holder. Mr. Lawson stated that the engine used was a G model engine he built using the old case from a G model that had been converted to a K model. He admitted he should have stamped out the data tag to make that clear.

He stated the tail cones were from the same model aircraft, a Cessna 172. Whether it was a E or a K model doesn't make a difference in his opinion. According to him, there were only three or four rivets that had issues.

He noted when he inspected the airplane in early 2015, there were a number of items that should have had corresponding logbook entries, such as a new interior replacement tachometer. He said he knew one individual that did some work on the aircraft, and with respect to the tool damage on the tail cone, he said he

had no idea what that referred to. There was no damage when he returned the aircraft to service. He stated he used aluminum rivets on the firewall which he believes are acceptable. No sealant was necessary on the firewall because they did not break the seal. He stated they did not change the rivet edge distances, that they used Cessna rivet holes. He stated the brackets installed on the firewall were temporary and to establish a bolt pattern for a later float kit installation and that they did not serve any purpose. He indicated the intent was to remove rivets that were covered by the brackets later when the floats were attached. He stated he had previously installed a floatplane kit simultaneously with an IO-360 conversion.

He indicated his intent was to install an 80-inch propeller for the plane's later conversion to a seaplane. He stated that he advised the owner he should not fly the plane until the floats were attached.

As to the fuel boost pump system, he indicated the high-low switch was a 24-volt system and he doubted it could be used with a 12-volt system such as the Cessna 172E.

As for the oil pressure restrictor fitting, Mr. Lawson stated that he used a transducer with the restrictor built in and it was installed on the firewall when it left his shop. He stated that the automatic alternate air was an option under the STC. With respect to instrument markings, Mr. Lawson stated the range markings were on the instruments when he returned the aircraft to

service. He assumed Mr. Boodt removed the placards. He noted the exhaust system he used was appropriate for a Hawk XP and works perfectly with this aircraft.

As to Exhibit R-1, Mr. Lawson stated that those were draft 337 forms he prepared for field approval and presented to the FSDO. Pages 1 and 2 of that exhibit was rejected by the FSDO and contains his handwritten notes from his meeting with Mr. Moore. Pages 3 and 4 is the modified 337 he resubmitted with changes he discussed with Mr. Moore.

He identified R-2 as the Form 337 returned to him by Mr. Moore for the field approval. He stated that he did not prepare the information in Block 8 and assumes Mr. Moore did, noting that the N number in Block 8 of the approved form is not filled in as it was in his previous submissions and that his computer automatically fills in that information for him. He stated the description of work is not as he would describe. Mr. Lawson stated that he checked and confirmed that the aft fuselage he installed was compatible. He opined that the firewall riveting inspection called for in the Cessna service bulletin was not applicable. He also stated that the vertical brackets were already installed in the firewall when he purchased it.

In reviewing paragraph 6 of the complaint, that's at Exhibit R-6, page 2, Mr. Lawson noted that he reassembled, rigged, and test flew the aircraft. He performed the ELT testing per FAR Section 91.207. He advised that his logbook entry referenced only

the model number of the tail cone and did not reference a year, and when referring to model, he was referring to the Cessna 172 model only. He stated he did install a floatplane kit in accordance with Cessna drawing 0500044. He repaired the lower firewall using parts from an aircraft of the same year and model. He indicated that he installed an oil temperature and oil pressure gauge in accordance with the STC. And he stated he installed an IO-360-G model engine in accordance with the STC and field approval.

Mr. Lawson identified Exhibit R-11 as a NASA report under the Aviation Safety Reporting program that he filed on April 7th, 2014, after his meeting with Mr. Moore and Mr. Steffes on either April 2nd or 4th. He stated he filed the report because he realized after that meeting that there was a problem. Mr. Lawson stated that he last saw N5683T in Coldwater, Michigan, in February or March 2015 and that the aircraft looked different. It had a new intercom and electronic tachometer installed and the transducer was no longer on the firewall.

He reiterated that he did not try to conceal any work done on the aircraft and had no intent to falsify and that he told everyone what he was doing and how he was doing it. Mr. Lawson indicated he considers himself conscientious and when he signs a form, he means what he signs. This was not his first field approval and he has completed numerous Forms 337. He understands that when he signs Block 6 of the form, he is certifying that the

repairs or alterations are made in accordance with the requirements of Part 43 of the Federal Aviation Regulations. He agreed that "in accordance with" means the same as "in conformity with."

Initially he stated that he read the Form 337 received from Mr. Moore before beginning work and that he did not recall telling Mr. Steffes in April 2014 that he did not read the form. He then conceded that he read only the approval in Block 3, that the owner took the form and he did not read Block 8 of the form before doing the work. He stated there was no point in reading Block 8 because he assumed the Form 337 would be as he submitted it for approval.

He read Block 8 after he received it back from the owner. He indicated he had concerns about the form at that point but did not contact Mr. Moore or anyone else to clarify. His reason for not contacting Mr. Moore is that he did not have a good working relationship with him.

He agreed that he prepared the Form 337 at page 3 and 4 of Exhibit R-1 and that the language in Block 8 references an IO-360-G model engine and the same 78-inch propeller referenced in the 337 form he received from Inspector Moore; and although Mr. Lawson testified that the language in Block 8 of Exhibit R-2 was not what he wanted but what Mr. Moore wanted, he did not go back to Mr. Moore or anyone else to address his concerns.

He understands the need for a mechanic to accurately and

truthfully report maintenance performed and that the FAA and others rely on information in the forms. He also said he understands what constitutes approved data and that a mechanic must have approved data and be sure to conform to that data on the Form 337 before signing off on it. When Mr. Lawson signed off on the 337, the STC did not authorize installation of a 78-inch propeller on a land plane, nor did it authorize an 80-inch propeller on a land plane. He agreed the 80-inch propeller was only authorized on a seaplane.

Initially Mr. Lawson stated that the STC authorized installation of an IO-360-K model engine, but after reviewing Exhibit A-10 agreed that the STC did not authorize installation of a K model engine.

Mr. Lawson indicated he did install an 80-inch propeller on December 20th, 2012, but that he took it back off and installed a 76-inch propeller. He initially indicated he did not recall making an entry in the propeller logbook indicating an 80-inch propeller was installed but agreed there was such an entry after being shown the logbook.

On further questioning, he indicated that the 80-inch propeller was installed but had a vibration issue at higher RPM, so he removed the propeller and installed a 76-inch propeller that was used to test-fly the plane. He later reinstalled the 80-inch propeller when the plane was delivered to the owner, but told the owner he shouldn't fly the plane until the floats were attached.

He also confirmed there was no logbook entry for the swap out of the propellers or reinstallation of the 80-inch propeller.

With respect to the Form 337 for replacement of the tail cone and firewall at Exhibit R-3, he confirmed that he identified the model of the aircraft in Block 1 of the form as a Cessna 172E. He indicated that what went through his mind when he read Block 8 of the field approval Form 337 was that it was not the 337 he filed. He stated he did not discuss a delay with Mr. Moore to await the STC becoming available. Mr. Lawson stated he did not need any FAA approval to build up a G model engine.

Next Mr. Bland testified that he's been involved in aviation since 1963 when he began as a smokejumper and mechanic's helper. He joined the Army in 1965 for 4 years where he worked on aircraft and was a parachute rigger. He finished college in 1972 and went to work for Fairchild. In 1977 he went to work for Piedmont Aviation where he worked in the engine and propeller shops and earned his mechanic certificate with A&P rating in 1978. He also holds a pilot certificate since 1979 and an inspection authorization since 1984 and is a master parachute rigger. He's held a variety of positions related to aviation maintenance including as a director of maintenance for a Cessna dealer, operating an FBO and as a coordinator for a Part 147 mechanic school. He was also employed by the FAA between 1990 and late 2006. In his activities with certification of aircraft, he is familiar with returning aircraft to service after performing STC

work.

He testified that he's also very familiar with filling out Forms 337 and has been doing so since obtaining his inspection authorization. He also has experience obtaining field approval and using the STCs as approved data. He stated he reads and interprets advisory circulars and FARs routinely in his work. He was qualified as an expert in airworthiness.

Mr. Bland indicated he inspected the engine for N5683T on March 4th, 2015. Although he did not annual the aircraft and did not run the engine, he felt like the aircraft and engine were airworthy. He indicated he read the Continental service bulletin regarding changing data tags, and it appeared the engine data tag was appropriately marked for converting a G engine to K engine. He stated that in order to change the engine back to a G engine, you could go to Continental for a new data tag or could remove the C-K markings from the data tag and make a note in the logbook that the engine was changed back to a G engine.

With respect to the airworthiness of the propeller, Mr. Bland indicated that the type certificate data sheet and the STC in question allow for installation of an 80-inch propeller on a seaplane configuration. He stated he would review the logbook to see if the engine was run and the fuel injection set up for the larger propeller.

He testified that he inspected the tail cone section and rivets and felt like it was within airworthiness standards. He

saw maybe three or four rivets that were not good. He stated that it was not easy to tell without pulling the tail cone and looking at the bulkhead since the plane was recently painted. As far as the holes for the rivets not lining up, he indicated that even when you use the same make and model, the holes don't always line up. He discussed the fail-safe design where the plane is essentially overbuilt and stated he saw nothing with the rivets or tail cone that he believed was beyond fail-safe design. He did a visual inspection of the firewall and said he saw nothing that caused him any concern with its airworthiness. He concluded use of aluminum rivets in the firewall was acceptable based on his inspection on a number of Cessna 172 aircraft and discussions with the structural consultant at Cessna. His inspection of the other 172 aircraft revealed older model aircraft with aluminum rivets, some with rusting rivets that looked like some sort of steel and some had perhaps monel rivets.

As to the floatplane kit, he saw provisions for a floatplane kit to be installed on the aircraft, meaning templates have been provisionally installed for later installation of the floatplane kit. He said the Form 337 should identify the installation as provisional, but then offered that use of the word "reinforcement" in the Form 337 suggested to him that the installation was provisional. He indicated he did not review the Cessna drawing called out in the Form 337 pertaining to the floatplane kit. He noted that the type certificate data sheet

provides for Cessna 172 to be converted to a seaplane. With respect to the alternator noise filter, he opined that it does not affect safety of flight so it's not an airworthiness issue. He also stated he has seen the alternator noise filter located in a variety of locations on the firewall, on the alternator, et cetera. In his opinion, the location does not affect the function of the filter.

As to what constitutes an aircraft model, Mr. Bland indicated that any aircraft listed on the same type certificate data sheet are the same model aircraft.

As to the high-low fuel boost switch, he reviewed the STC requirement, but suggested that the high-low switch could not be or would not be compatible because it is a 24-volt system for a 12-volt aircraft. He opined the installed switch met airworthiness requirements based on the field approval. He concluded that the automatic alternate air as opposed to the manual cable adjustment presented no airworthiness issues and stated it is typical to have automatic alternate air with fuel-injected engines, such as here.

He stated there was no way to tell where the placards were when the aircraft was returned to service in December of 2012. He noted that there was an electronic tachometer installed when he inspected the aircraft in March 2015, which was different than what Mr. Lawson had installed.

Mr. Bland also found no airworthiness issues with the

exhaust system installed by Mr. Lawson. He found it very unusual to have Block 8 of the Form 337 changed by a FSDO inspector. Based on his inspection of the aircraft, the materials he reviewed, and his discussion with others, including Mr. Lawson, he opined that in December of 2012 when the aircraft was returned to service, it met its type design, was properly altered and was in condition for safe flight; thus, it was airworthy.

Mr. Bland noted that he saw N5683T for the first time on March 4th, 2015. He agreed that safe for flight does not equal airworthy. He also agreed that field approval must be based upon approved or acceptable data.

Next, Inspector Steffes was recalled as a rebuttal witness. He testified that he based his investigation on the complaint he received, documentation he reviewed, and what he observed when he inspected the aircraft. He indicated the complaint he received contained a couple of pages of discrepancies. He concurred that safe for flight does not equate to airworthy.

Inspector Steffes reviewed the engine mount invoice at Exhibit R-16 and noted that the date of the invoice was 2004. It references an aircraft with a different N number, and it indicates an unidentified STC is pending. There is a part number and serial number listed for the engine mount, but Inspector Steffes indicated he could not locate a part number or serial number on the mount during his inspection of the aircraft to determine if

that engine mount corresponded to the invoice, nor could he determine a part number or serial number from any of the photos taken.

He also noted the STC at issue here was approved in 2006 per Exhibit A-15, and he has no way of knowing if the STC referenced on the invoice is pending, is the same one, or what the finally approved data was. The approved STC gave specific instructions for the engine mount and installation, and he indicated the engine mount he observed during the inspection was not in compliance with the STC requirements.

Inspector Steffes indicated that during their interview of Mr. Lawson, he did not state that the engine was a G model as he testified here. When he was advised that the data plate identified the engine as a K model engine, he did not argue otherwise. Rather, he suggested that the K model and G model engines were basically the same engine.

As to the aft fuselage, Mr. Steffes stated that the 172E and 172K models were not from the same type certificate data sheet and the data plate on the replacement aft fuselage identified it as being from a 172K model aircraft.

He stated that most of the rivets on the aft fuselage did not comply with Advisory Circular 43.13. He was not aware of any aircraft manufacturer that allows the edge spacing to be as close as he observed. With respect to the firewall rivets, the Cessna structural repair manual, which was the approved data

referenced on the Form 337, requires stainless steel rivets be used. It contains no provision for using aluminum rivets. As for sealant, he stated any overlap in material must be sealed with Pro-Seal 700 or an equivalent sealant.

Mr. Steffes noted that the oil pressure and temperature sensors noted in the Form 337 in Exhibit A-4 were installed directly at the engine, which is contrary to the requirements that the STC referenced and indicated that just because they work does not mean they were airworthy. The alteration and repair has to be done in accordance with approved data, in this case the STC, in order to meet its type design, or be properly altered.

With respect to the float kit, Mr. Steffes stated that the vertical brackets in the kit drawing were not consistent with the brackets installed, which had no cutouts in the brackets; thus, the installation did not meet the reference drawing and there was no other approved data referenced. He disagreed that the language in the Form 337 indicated the installation was provisional. He also indicated that a floatplane was not authorized under the Thomas Anderson STC.

Mr. Steffes testified that Mr. Lawson told them that he installed the 80-inch propeller when the work was done. Today he's now saying that he installed, pulled, and later reinstalled the propeller. Mr. Lawson also testified that he didn't install a 78-inch propeller even though he signed off on a 337 that gave field approval to increase the propeller from 76 to 78 inches.

Mr. Steffes admitted that he did not know precisely where to look for the part number or serial number markings on the engine mount so he can't say one way or the other whether the engine mount on the invoice corresponds to the one installed on the aircraft. He also agreed that he did not look at the engine logbook to determine if any work had been done to build up the G model engine. He stated he had no reason to look at whether it was a G model engine because Mr. Lawson told him it was a K model.

He did not contact Cessna regarding the fuselage repair parts. He used the Cessna parts manual and type certificate data sheet. He stated his testimony was not intended to suggest that there were no log entries after the aircraft was returned to service by Mr. Lawson but only that there were no logbook entries related to the issues at hand. He noted that there was one logbook entry for installation of a new intercom between the time that Mr. Lawson returned the aircraft to service and Mr. Steffes inspected the aircraft in March of 2014. He testified that there was no entry for an annual inspection in March 2014 because the annual was never actually completed. Where paragraph 13 of the complaint indicates that an annual was performed, that would be inaccurate in the sense that "performed" suggests one was completed, and it was not.

Inspector Steffes understood that a float kit was installed and not floats. He agreed there is much more to the STC at issue than is contained in Exhibit A-10.

All right. Having summarized the evidence and the testimony of the witnesses, I'll now discuss the evidence in relation to the allegations in this case.

With respect to the alleged violation of FAR Section 43.12(a)(1), the elements of an intentionally false statement are: (1) a false representation; (2) in reference to a material fact; and (3) made with knowledge of its falsity. Those elements are based on the Hart v. McLucas case and a litany of cases that have applied that standard since that case was published in 1976.

Now, with respect to the materiality element, there is little question that the logbook and Form 337 entries in question are material. Both Inspector Steffes and Inspector Moore testified this information is the type relied upon by the FAA and others to ensure that maintenance has been appropriately performed and to determine the airworthiness and the safety of the aircraft. Nor has Respondent contradicted their testimony or otherwise substantially contested the materiality of the entries at issue. In fact, in his testimony, he conceded that he understood the importance of the accuracy and completeness of the maintenance entries and that the FAA and others relied on that information.

Accordingly, I find that materiality of the entries in question is established by the evidence. Thus, the key elements to be determined are whether the entries in question are false, and if so, if they were made by Respondent with knowledge of their falsity.

First with respect to the entry regarding installation of an IO-360-G model engine, the engine data plate clearly identified the engine as a K model engine, or more accurately as a G model converted to a K model engine. And when interviewed by investigators in April 2014, Mr. Lawson admitted to them that engine was a K model engine but asserted that the two engines are essentially the same save for oil capacity and dipstick markings.

I found the investigators' testimony on this point to be consistent and credible, particularly when considered in conjunction with the draft Form 337 submitted by Mr. Lawson for field approval, and that's at Exhibit R-1, which also originally identified the engine as a K model engine. Nor was the data tag altered or any entry made in the logbook to note the conversion of the engine back to a G model as Mr. Bland testified should be done.

In light of that testimony and evidence, I found Mr. Lawson's testimony that the engine was, in fact, a G model engine and he had simply failed to appropriately stamp the data tag to be less than credible. Thus, I find that the preponderance of evidence establishes not only that the entry was false but that Respondent knew it was false at the time that he made the logbook entry and signed off on the Form 337.

Similarly, as Respondent has testified and as he admitted during his interview with investigators, he was aware that the propeller installed on the aircraft was an 80-inch

propeller, contrary to the plain language in Block 8 of the Form 337 in Exhibit A-2. Even accepting that he may have intended to configure the plane as a seaplane, his obligation was to ensure the accuracy of the records and reconcile any discrepancies.

Further, even in the draft Form 337 at R-1, Respondent identifies the same propeller by model and serial number as was set forth in the final Form 337 which received field approval, and that propeller was identified in testimony as 78-inch and not an 80-inch propeller; and when the aircraft was returned to service and even when inspected in March 2014, it was a land-based plane and not a seaplane. Nor did the finally approved Form 337 or any previous drafts for that matter discuss seaplane configuration or installation of an 80-inch propeller. And as credibly testified to by Inspector Steffes, no floatplane or seaplane version of the STC referenced in the Form 337 was certified.

For similar reasons, I find that the multiple discrepancies noted between the modifications performed by Respondent under the field approval and the requirements of the STC in question were not only false but made with knowledge of the falsity. And I will address the specific allegations individually momentarily.

Now, while Respondent and his expert have testified in many instances that the STC requirements were unnecessary or incompatible, Respondent had an obligation to comply with the plain language of the approved data in that Form 337 or to seek

modification of the field approval to address any necessary changes. He chose to do neither and to simply make adjustments he believed were necessary or appropriate.

In that regard, I have carefully considered his argument that Inspector Moore filled out Block 8 of the Form 337 in Exhibit A-2 and that the language in Block 8 was not what he intended or requested. It is fairly clear from the evidence in prior Form 337 submissions that Mr. Moore did, in fact, complete Block 8 of the Form 337 granting field approval. Now, whether that was done in an attempt to assist Mr. Lawson in finally completing the form after several failed attempts or for some other reason is unclear. However, it is clear per the testimony of both Mr. Steffes and Mr. Bland that having an ASI complete Block 8 of the Form 337 is at best unusual and certainly not the preferred practice. No doubt that created the potential for some degree of confusion or miscommunication; however, that does not absolve Respondent of the responsibility to carefully and completely review the form and ensure that his activities are in compliance with the approved data or to seek clarification or modifications as necessary.

Here the language in the form is clear in that it requires the alterations to be done in accordance with the STC, with only one exception for substituting a 78-inch propeller for a 76-inch propeller. Now, by his own admission, Mr. Lawson voluntarily chose not even to read or review Block 8 of the 337 when he received it despite the fact that he testified to prior

failed attempts to obtain field approval and to reach some agreed-upon language. Instead, he chose to complete the work prior to reviewing the form and without reference to the approved data on the form. Just as critically, when he received the 337 back from the owner before signing off on the work and returning the aircraft to service, he chose not to seek clarification or guidance despite his testimony that he had concerns with the language and the incorporation of the STC.

Now, I find this to be analogous to the situation addressed by the Board and the Court in the Cooper and Boardman cases, which addressed an airman's failure to read questions on medical certificate applications. Now, the Boardman case is NTSB Order EA-4515; it's a 1996 case. Administrator v. Cooper, NTSB Order EA-5538, 2010, affirmed at 660 F.3d 476; it's a D.C. Circuit case from 2011.

And in Boardman, the Board stated, "It seems to us that an airman who, knowing that the Administrator relies on the accuracy of these answers, tenders an application that turns out to have a wrong answer to one or more of the many questions he freely chose not even to read, much less to thoughtfully answer, cannot reasonably argue that he lacked the intent to give false information." And further, that an airman, "having acted in a manner that could be viewed as evincing a willful disregard of the truth should be determined to have intended that whatever answer he gave be utilized."

Similarly here, Respondent demonstrated a willful disregard for the truth of the information provided by first not even reading Block 8 of the Form 337 before completing the work and then failing to seek clarification or modification of the information or ensuring his compliance with the plain language of the approved data before signing off on logbook entries and Form 337 returning the aircraft to service. Having failed in his responsibility to ensure the correctness of his representations, he would be hard-pressed now to claim ignorance of the falsity of the information supplied.

Regarding the Form 337 in Exhibit A-3 for the replacement of the tail cone of the aircraft, I find that evidence to be less convincing regarding intentional falsification.

First with respect to the tail cone, there is conflicting evidence regarding what constitutes a same model aircraft. On the one hand, Inspector Steffes credibly testified that the Cessna 172E is not the same model as a 172K and that the two aircraft have different type certificate data sheets. Even Respondent's expert testified that aircraft with the same type certificate data sheets are the same model aircraft. Yet, Mr. Bland and Mr. Lawson both testified as to their understanding that the tail cone sections for all Cessna 172 aircraft are interchangeable and that even two Cessna 172E model aircraft will have rivet holes that will not align properly.

Having considered the totality of the evidence and

testimony on this issue, I conclude that the Cessna 172E and 172K model aircrafts are different models given their differing type certificate data sheets as explained by both Mr. Bland and Mr. Steffes. Accordingly, I conclude that the information in Block 8 of the Form 337 regarding the tail cone is inaccurate or false. However, based on that same evidence, I conclude that the Administrator has failed to carry his burden of establishing that Respondent made the false representation with knowledge of its falsity. While the entry constitutes a violation of FAR Section 43.13, I do not find sufficient evidence of violation of FAR Section 43.12(a)(1).

Now, as to the lower firewall, the Administrator presented little or no evidence that the replacement firewall was not from an aircraft of the same year and model as testified to by Respondent; but what is clear based on the testimony is that the new rivets for the firewall were aluminum rather than stainless steel, as testified to by Inspector Steffes and as admitted by Respondent and Mr. Bland.

Where there is disagreement is on the issue of whether that constitutes work performed in accordance with the Cessna structural repair manual. Mr. Steffes' testimony is that the structural repair manual requires the use of stainless steel rivets. Neither Respondent nor Mr. Bland addressed the structural repair manual requirements, which is the approved data relied upon on the Form 337; however, both testified that aluminum rivets are

acceptable per Cessna guidance and observation of use in other C-172 aircraft. Even accepting Mr. Bland and Mr. Lawson's testimony that Cessna provided after-the-fact guidance that use of aluminum rivets was not objectionable, the fact remains that the approved data relied upon by Respondent on the Form 337 requires stainless steel rivets, and his use of materials not authorized by the data relied upon constitutes a misrepresentation. Whether he reviewed the data and chose to ignore the requirement or simply chose not to review and comply with the guidance, I find that his misrepresentation was a knowing one.

As to the rivets on the aft fuselage and lower firewall section, there is widely conflicting evidence regarding the number and nature of issues with those rivets. Mr. Steffes described widespread problems with the rivets while Mr. Bland and Respondent both testified that there were some rivet issues but only affecting about three or four rivets that they were able to observe when inspecting the aircraft in 2015.

With such widely varying testimony, what would have been helpful in making a determination as to the extent of issues and any impact on airworthiness was photographic or similar evidence to supplement the testimonial evidence. Absent that, I conclude that the Administrator has failed to carry his burden with respect to those specific allegations; and again, I will address specific allegations momentarily.

Now, with respect to the Form 337 at Exhibit A-4 for

installation of oil pressure and temperature kit including instrument and sensors, Inspector Steffes testified that his inspection revealed the sensors were attached directly at the engine, which did not comply with the STC requirement, and that the oil pressure and temperature gauge was mounted in the cockpit in a location under the yoke where it could not be seen from the pilot's seat. That testimony was essentially uncontradicted as neither Respondent nor Mr. Bland testified regarding the location of the sensor or the gauges.

Accordingly, I find that Respondent knowingly falsified the information pertaining to installation of the oil pressure and temperature kit in accordance with the identified STC.

Mr. Lawson did testify that he properly placarded the gauges - including the tachometer, oil pressure and temperature gauge, and sea level to altitude markings - before returning the aircraft to service and also that he properly located the oil pressure restrictor or transducer on the firewall, but that those placards and the transducer must have been removed and/or relocated afterwards.

I find that explanation unlikely, particularly in light of the lack of logbook entries documenting maintenance to the aircraft in the interim, the extent of problems identified, and my earlier findings regarding Respondent's credibility as to his explanation regarding the engine model and propeller entries.

With respect to the final Form 337 for installation of

the floatplane reinforcement kit, I find that a preponderance of evidence establishes that the Form 337 was false in the sense that the floatplane kit was not installed fully in accordance with the Cessna drawing and was incomplete. As described by Mr. Bland in his testimony, he found evidence that the kit was provisionally installed. His description of what constituted provisional installation is consistent with both Mr. Lawson and Mr. Steffes' description of the nature of the installation and what was observed. It is also consistent with the fact that floats were never attached to the aircraft.

Mr. Bland testified initially that the Form 337 should clearly identify the installation as provisional. As evidenced by his change of position that reinforcement implied provisional installation and Mr. Steffes' disagreement with that conclusion, the evidence establishes to me that the form did not make clear the provisional nature of the installation. While that may raise issues as to the adequacy of the maintenance entry, I conclude that it does not rise to the level of a knowing falsification.

Now, Respondent has raised a number of affirmative defenses in his answer to the complaint, most notably the stale complaint rule which he argued during closing argument. With respect to the stale complaint rule, Rule 33 of the Board's Rules of Practice provides that a complaint is subject to dismissal as stale if it sets forth allegations of offenses which occurred more than 6 months prior to the Administrator advising the Respondent

as to the reason for the proposed action under 49 U.S.C. Section 44709 unless the Administrator either establishes good cause for the delay in providing such notice or presents an issue of lack of qualification on the part of the certificate holder.

The Board has consistently held that where a legitimate issue of lack of qualifications is raised, the complaint is not subject to dismissal under that rule. Such an interpretation is consistent with the plain language of the rule itself; and in addressing the rule in Administrator v. Dill, which is at NTSB Order EA-4099, it's a 1994 case, the Board noted that the rule is meant to advance, not retard, safety enforcement, which is the reason why even in the face of lengthy delay the Administrator is permitted to proceed with cases that involve a lack of qualifications.

With regard to whether the complaint alleges a lack of qualifications, the Board has repeatedly held that an allegation of intentional falsification is sufficient to raise an issue of lack of qualification. Thus, I find that the complaint clearly alleges a lack of qualifications and dismissal of the Administrator's complaint as stale under the Rule 33 is not warranted here.

Respondent also raised the doctrine of laches in his answer to the complaint as an affirmative defense; although, aside from a response to an objection during the hearing, he presented no substantial evidence or made any substantial argument in that

regard. However, with respect to the doctrine of laches, the Board precedent has recognized that the affirmative defense of laches may be available even when the stale complaint rule is inapplicable; and I would cite to Manin v. National Transportation Safety Board, which is 627 F.3d 1239, it's a D.C. Circuit case, 2011; and also Administrator v. Tinlin and White, it's an NTSB Order EA-5658. That's a 2013 case.

In Manin, the Court of Appeals for the D.C. Circuit defined the doctrine as an equitable doctrine that applies where there is, (1), a lack of diligence by the party against whom the defense is asserted and, (2), prejudice to the party asserting the defense. The Court indicated consideration of laches is required if an airman could establish actual prejudice in his defense which is attributable to the Administrator's delay.

Here Respondent has presented no evidence nor articulated any specific argument as to any actual prejudice suffered as a result of any delay. Much of the delay at issue here was as a result of delay in the alleged violations being brought to the attention of the Administrator. It appears that the Administrator thereafter diligently pursued the investigation and collected documentary and photographic evidence which it made available to Respondent. Respondent was also able to present drafts of prior field approval requests which he suggested revealed an attempt to conceal or falsify evidence related to his application, an allegation which I find no support for.

Thus, even if I were to find a lack of diligence on the part of the Administrator, Respondent has failed to meet his burden of establishing that actual prejudice in his ability to defend against the Administrator's certificate action exists as a result of the delay. Thus, I find the complaint is not barred by the doctrine of laches.

There were other affirmative defenses raised in the answer to the complaint, but no evidence or argument was presented with respect to those, and I find Respondent has not met his burden of establishing those affirmative defenses. Thus, I find no basis for relief regarding any of those affirmative defenses.

I will address the NASA report issue separately, which was raised as an affirmative defense I should note, but I think applies to the sanction phase more appropriately, and I'll address it there.

Based on the foregoing evidence and discussion, I make the following findings with respect to the specific allegations in the Administrator's complaint. The standard for my findings is based on a preponderance of reliable, probative, and credible evidence. My findings are based upon that standard.

1. Respondent has admitted paragraph 1 of the complaint; thus, that is established.

2. I find that Respondent did make an entry in the aircraft logbook on December 20th, 2012, certifying he made major repairs and alterations to N5683T, a Cessna Model 172E, Serial

Number 17251583.

I find that the evidence establishes that the registered owner of that aircraft is Mr. William Boodt of Gobles, Michigan.

The evidence establishes that on or about December 20th, Respondent made a logbook entry in the aircraft maintenance record for N5683T stating that he certifies that the aircraft has been inspected in accordance with the annual inspection and determined to be in airworthy condition.

5. The evidence establishes that the above entry was signed by Respondent using his signature and certificate number.

6. Respondent described completion of multiple tasks in the above maintenance entry:

A. Installation of a Continental engine model IO-360-G in accordance with Supplemental Type Certificate SA00728SE and field approval dated 7/22/11 citing to the Form 337.

B. Installation of oil pressure and oil temperature gauge in accordance with STC SA02825NY.

C. Repair the lower firewall using parts from an aircraft of the same year and model.

D. Installation of a floatplane kit in accordance with Cessna drawing 0500044.

E. Installation of a tail cone removed from aircraft of the same model. Striking the words "year and."

F. Complied with FAR Section 91.207, AC 43.1&2; and

G. Aircraft was reassembled, rigged, and test flown.

7. The evidence establishes Respondent completed four FAA Forms 337 certifying work specified in the above-described logbook entry for N5683T. Those forms will be identified as Form 337-I, 337-II, 337-III, and 337-IV.

8. The evidence establishes each Form 337 for identification (I), (II), (III), and (IV) is signed by Respondent and dated December 26, 2012.

9. Form 337-I is stamped and signed by an FAA inspector. The stamp is dated July 22, 2011, and notes that it is subject to a conformity inspection by a person authorized under FAR Part 43, Section 43.7.

10. Evidence establishes Forms 337-II, III, and IV are not signed or stamped by the FAA.

11. In Form 337-I, Respondent certified the following work, in relevant part, was accomplished:

A. Removed the original engine, propeller, and firewall forward complete, installed Continental Model IO-360-G, Serial Number 352609, in accordance with STC SA00728SE;

B. Installed propeller McCauley 2A34C 203/90 DCA-12, Serial Number 861575, in accordance with STC SA00728SE and XP191388-II-172B-H, Revision 1R, dated March 6, 2006;

C. Respondent made and entered an exception to the STC

to increase the propeller diameter from 76 inches to 78 inches;

D. That supplemental document XP-172-2 dated May 1, 2006, was inserted into the aircraft flight manual Form 337-I; and

E. Functional flight test was performed and all operations were normal.

12. The evidence establishes that in Form 337-II, Respondent certified the following work in relevant part was accomplished:

A. Replaced the lower firewall and tail cone with parts from the same model aircraft.

B. Put in fixture to assure alignment of fuselage and tail cone.

C. Installed the lower firewall, installed the tail cone, and aligned the tail cone with the fuselage in accordance with Cessna manual and FAR AC 43.1&2.

13. In Form 337-III, Respondent certified the following work in relevant part was accomplished: Installed oil pressure and temperature kit including instrument, oil temperature sensor, and oil pressure sensor in accordance with FAA STC SA02825NY.

14. In Form 337-IV, Respondent certified the following work in relevant part was accomplished: Installed the floatplane reinforcement kit in accordance with Cessna drawing 0500044 and Advisory Circular 43.13-1&2.

15. That on or about March 17th, 2014, an annual inspection of N5683T was begun by a different repair station that resulted in the FAA inspecting N5683T and its maintenance record, striking the word "performed."

16. With respect to paragraph 16, the evidence establishes the FAA investigation revealed the following discrepancies with the work certified in maintenance log for N5683T and Form 337 and the Forms 337 referenced:

With respect to the subparagraph (a), I find that the evidence does not establish by a preponderance of evidence that special engine mounts required by STC were not installed;

Paragraph (b), I find the evidence does not establish that engine mounts used on N5683T were rejected by the STC holder for welds that did not meet STC specifications;

As to paragraph (c), I find the evidence establishes that engine placard identifies the engine as a Model IO-360-G-C-K and was known to be a Model IO-360-K when installed in N5683T although STC SA00728SE calls for a Model IO-360-G;

With respect to subparagraph (d), I find the tail cone installed was not from an aircraft of the same model as N5683T. As the tail cone placard indicated, it was from a Cessna R172K with a serial number of 17257583; therefore, rivet holes did not align;

With respect to subparagraph (e), I find the preponderance of evidence does not establish that new rivets for

the tail cone was not installed in accordance with Advisory Circular 43.13-1B, Chapter 4, when the new rivets were installed next to or overlapping existing rivet holes in the fuselage;

With respect to subparagraph (f), I find that the evidence does not establish that the brackets used for the tail cone installation appear to have tool damage;

Subparagraph (g), the evidence establishes that the new rivets for the lower firewall were aluminum rather than stainless steel as required by Cessna 100 series structural repair manual;

Paragraph (h), the evidence establishes no sealant was installed for the lower firewall rivets;

Subparagraph (i), I find the evidence does not establish by preponderance that lower firewall rivet edge distance did not comply with Advisory Circular 43.13-1B, Chapter 4;

Subparagraph (j), the evidence establishes that the brackets used for the lower firewall installation did not have finished edges and appeared to be cut from bulk material;

Paragraph (k), the evidence establishes brackets used for the lower firewall had overlapped rivet heads;

Subparagraph (l), the evidence establishes the floatplane or seaplane kit was installed simultaneously with STC SA00728SE kit installation although a floatplane seaplane version of the STC was not certified;

Paragraph (m), the evidence establishes installation of a propeller with a diameter of 80 inches violates the STC which

requires a standard propeller diameter of 76 inches with a permissible deviation to a maximum of 78 inches;

Subparagraph (n), the evidence establishes that an alternator noise filter was not installed in accordance with STC Instruction 1(d);

Paragraph (o), evidence establishes a fuel pump switch on throttle arm at the body was not installed in accordance with STC Instruction 4(b);

(p), evidence establishes a oil pressure restrictor fitting was not installed in accordance with STC Instruction 4(j);

Paragraph (q), evidence establishes that alternate air cable was not installed in accordance with the STC and a spring-loaded alternate air door was installed not approved by STC Instruction 4(l).

Paragraph (r), evidence establishes that engine instruments were not marked with green, yellow, and red range markings consistent with Instructions 10a through 10f.

Paragraph (s), the evidence establishes that the sea level to altitude gallons per hour placard was not installed in accordance with STC Instruction 13.

And subparagraph (t), the evidence establishes an off/on switch was installed for a fuel pump control instead of the high/low/off switch called for by STC SA02825NY.

With respect to the subparagraph (u), the evidence does not establish that the exhaust or muffler system was not installed

in accordance with the STC. In fact, there was little or no evidence presented by the Administrator with respect to the exhaust system and allegation in subparagraph (u), so I find that the Administrator failed to carry the burden with respect to that subparagraph.

17. Evidence establishes that Respondent admitted that he had not installed the aft fuselage and had failed to record who had done the work in the maintenance records. Again, that testimony was largely uncontradicted. Mr. Steffes testified regarding Respondent's admissions in that regard, and there was no testimony on that issue from Respondent or others.

18. Evidence establishes that the FAA investigation revealed that STC SA00728SE was unavailable from its owner between the years 2008 and 2013; and, thus, an authorized STC could not have been legally obtained and complied with in December of 2012. Respondent did not hold the STC and did not have written permission from the holder.

19. Evidence establishes that Respondent certified on Form 337-I that a propeller of 78 inches in diameter was installed on N5683T; however, an 80-inch diameter propeller was installed.

20. On or about April 2nd, 2014, Respondent acknowledged that he knew the approved deviation from the STC was up to 78 inches and the 80-inch propeller was impermissible.

21. Evidence establishes that the discrepancies listed in the paragraphs above rendered N5683T unairworthy at the time

that Respondent certified the aircraft as airworthy, and that obviously pertains only to those paragraphs or subparagraphs that have been established by the evidence. And specifically I find that as a result of those, the aircraft did not meet its type design and therefore was unairworthy and I need not reach a conclusion or decision on if or how that affected safety of flight.

22. Discrepancies listed in paragraph 16 (a) to (u) -- and again that is with respect only to those that I found that the evidence has established. But as to those that the evidence has established by preponderance, those discrepancies are such that the STC SA00728SE, even if Respondent had been authorized to utilize it, was not followed prior to returning N5683T to service on December 20, 2012.

23. Respondent failed to make entries in the logbook for N5683T identifying persons other than Respondent who performed preventive maintenance and/or altered the airframe, engine, or propeller component parts of N5683T.

24. On December 20, 2012, Respondent made an intentionally false entry in N5683T's aircraft maintenance record, to wit, the maintenance entries described in paragraph 6 above. And with respect to that finding and consistent with my earlier discussion, the specific subparagraphs that I find to constitute an intentionally false entry are with respect to subparagraphs 6A, B, D, and E, and with the modification as noted to subparagraph E,

echo.

25. The evidence establishes that on December 20, 2012, Respondent concealed the true condition of the aircraft by way of a false entry described in paragraphs 4 to 6, or made an entry without inspecting N5683T in a manner which met all applicable airworthiness requirements, the entry indicating the inspection was completed, thereby being false.

26. December 26, 2012, Respondent made intentionally false entries in multiple FAA Forms 337, to wit, maintenance entries which were described in paragraph 10. And again, that is with respect to my specific findings and limited to my specific findings as to those enumerated in Forms 337.

27. I do find that National Transportation Safety Board precedent has long held that a mechanic who does not ensure the scrupulous accuracy of his representations and records on which air safety critically depends cannot be said to possess the necessary care, judgment, and responsibility required of a certificate holder.

And based on those specifically enumerated findings, I find that Respondent committed the following violations: A violation of 14 C.F.R. Section 43.12(a)(1); 14 C.F.R. Section 43.13(a) and (b); 14 C.F.R. Section 43.15(a)(1); and 14 C.F.R. Section 43.9(a)(3).

With respect to the alleged violation of 14 C.F.R Section 91.403(d), I do not find a violation of that section.

Now, having found that the Administrator has proven those specifically enumerated allegations by a preponderance of reliable, probative, and credible evidence, I turn now to the sanction imposed by the Administrator in this case.

On August 3rd, 2012, Public Law 112-153, also known as the Pilot's Bill of Rights, was signed into law by the President. The law applies to all cases before the National Transportation Safety Board involving reviews of actions of the Administrator of the Federal Aviation Administration to deny airman medical certification under 49 U.S.C. Section 44703, or to amend, modify, suspend, or revoke airman certificates under 49 U.S.C. Section 44709. That law became effective immediately upon its enactment.

It specifically strikes from 49 U.S.C. Section 44709 and 44710 language that in cases involving amendments, modifications, suspensions, or revocation of airman certificates, the Board is, "bound by all validly adopted interpretations of law and regulations the Administrator carries out and of written agency policy guidance available to the public relating to sanctions to be imposed under this section unless the Board finds an interpretation as arbitrary, capricious, or otherwise not according to law."

Now, while I am no longer bound to give deference to the Federal Aviation Administration by statute, that agency is entitled to judicial deference due all other federal administrative agencies under the Supreme Court's decision in

Martin v. Occupational Safety and Health Review Commission. That is at 499 U.S. 144, 111 S.Ct. 1171.

Now in applying the principle of judicial deference to the interpretations of laws, regulations, and policies that the Administrator carries out, I must analyze and weigh the facts and circumstances in each case to determine if the sanction selected by the Administrator is appropriate.

In the case before me, the Administrator has argued that the appropriate sanction based on deference to FAA sanction guidelines and past precedent is revocation of Respondent's A&P certificate and inspection authorization; that even one intentional falsification demonstrates a lack of qualifications to hold any airman certificate.

Respondent has made no specific argument with respect to deference to the Administrator, but has argued that the evidence established that there was no intentional falsification and that revocation is not appropriate. Respondent also asserted that any sanction imposed should be waived as a result of Respondent filing a NASA report under the Aviation Safety Reporting Program, or ASRP.

Now, I find this case to be consistent with Board precedent which holds that an individual who does not ensure the scrupulous accuracy of his representations and records on which air safety critically depends cannot be said to possess the necessary care, judgment, and responsibility to hold a

certificate. That is based on the decision in Administrator v. Morse, which is NTSB Order EA-3766, and that's a 1992 case.

Further, Board precedent firmly establishes that even one intentional falsification compels a conclusion that the falsifier lacks the necessary care, judgment, and responsibility required to hold any airman certificate. That precedent stems from the case of Administrator v. Berry, NTSB Order EA-2689, which is a 1988 case; and since that time the Board has found and continues to find that even one intentional falsification compels a conclusion that the falsifier lacks the necessary care, judgment, and responsibility required to hold any airman certificate.

Now, with respect to the NASA report and any waiver of sanctions under the Aviation Safety Reporting Program, Advisory Circular 00-46E sets forth guidelines for that Aviation Safety Reporting Program. That advisory circular makes it clear that waiver of sanction is appropriate only in cases that do not involve an issue of lack of qualifications. And consistent with my findings above, I find that this case does raise an issue of lack of qualifications, and therefore waiver of sanction under the ASRP is not appropriate. Further, the guidelines require that any NASA report filed be filed within 10 days of the violation or of Respondent being aware or when he should have been aware of the violation, and I find that Respondent was aware or should have been aware of the violation as of March 25th or 26th, which is

more than 10 days before the NASA report was filed.

Therefore, I find that the sanction sought by the Administrator is appropriate and warranted in the public interest in air commerce and air safety; therefore, I find that the Administrator's order, the complaint herein, shall be affirmed as issued.

ORDER

It is hereby ordered that the Emergency Order of Revocation, the complaint herein, be, and is hereby, affirmed; that Respondent's mechanic certificate with airframe and powerplant ratings and inspection authorization are hereby revoked.

Entered this 11th day of June, 2015, in Chicago, Illinois.

EDITED ON
July 8, 2015

STEPHEN R. WOODY
Administrative Law Judge

APPEAL

ADMINISTRATIVE LAW JUDGE WOODY: That concludes my Oral Initial Decision. Mr. Lawson, you have certain appeal rights. You can appeal my decision. Your counsel may have discussed those with you and I'm sure will discuss those with you at some point.

I have here for you, Mr. Hahn, a written copy of the appeal rights. I'm going to hand you two copies -- actually I'm going to hand you three copies. I would ask you to give one copy to the Administrator's counsel. There's one for you and one for your client. I have a copy that I will hand to the court reporter momentarily for insertion in the record.

Mr. Hahn, do you desire that I provide any sort of oral advisement of his appeal rights on the record or will you handle that?

MR. HAHN: I will handle that, Your Honor.

ADMINISTRATIVE LAW JUDGE WOODY: All right. Thank you.

The one thing I would emphasize, and obviously you know this, Mr. Hahn, but just -- Mr. Lawson, for your benefit, is just the importance, if you decide to file an appeal, of the deadlines that are set forth in the written appeal rights. Those are generally hard and fast, as I'm sure your counsel will tell you. So those are important deadlines to keep in mind and to meet if you desire to file an appeal of my decision.

So with that, Counsel, is there anything of an administrative nature that we need to discuss before we terminate

the proceedings?

MS. HOYSON: No, your Honor.

MR. HAHN: I had two issues of clarification, your Honor. At the outset of your opinion, you mentioned that this trial was taking place in New York City.

ADMINISTRATIVE LAW JUDGE WOODY: Did I say that?

MR. HAHN: Yes.

ADMINISTRATIVE LAW JUDGE WOODY: I'm sorry. Obviously we are in Chicago, Illinois.

MR. HAHN: And then with regard to your reference to paragraph 26, that the false entries referred to in paragraph 10 on the 337s were false, the ones referred to in paragraph 10, paragraph 10 refers to the 337s 2, 3, and 4 only?

ADMINISTRATIVE LAW JUDGE WOODY: Correct.

MR. HAHN: So that's your finding as to 2, 3, and 4 only?

ADMINISTRATIVE LAW JUDGE WOODY: Correct. I made individual findings with respect to the allegations, and my -- the discussion that I provided with respect to the evidence, the overall evidence in the case obviously addressed those various 337s. So and I believe I addressed each of those individually and made specific findings as to evidence that related to allegations under those. The complaint is somewhat cumbersome, and so I tried to enumerate my specific findings as I went through the evidence; and I think I did that because I talked about each of those 337s.

So what I intended with respect to my -- paragraph 26 was just to indicate that my findings as to paragraph 26 were to be considered in conjunction with and consistent with the specific findings I made as to the evidence supporting that.

Does that make sense, or is that more confusing to you?

MR. HAHN: I guess I'm trying to determine if you went beyond what the complaint alleged for falsification on 337 number 1 or if you're just referring to what is alleged in the complaint.

ADMINISTRATIVE LAW JUDGE WOODY: Well, in terms of my findings with respect to paragraph 10, I don't think I went beyond the complaint. I made some specific findings obviously with respect to the Forms 337 and the falsifications that I found thereunder. And again, I think that has to do with the cumbersome nature of the complaint itself and trying to work through each of those allegations. So I don't know how to address that any more clearly only because I think it is perhaps subject to interpretation.

MR. HAHN: Thank you.

ADMINISTRATIVE LAW JUDGE WOODY: So I hope that helps. I'm not trying to be evasive. I just think that's the best answer I can provide to you.

All right. Anything else?

MR. HAHN: No, your Honor.

ADMINISTRATIVE LAW JUDGE WOODY: Okay. All right. Well, thank you very much. I know it's been -- and again, my

apologies for keeping everyone waiting. It took just a bit more time than I anticipated to get my thoughts together. So I appreciate your professionalism and attentiveness the last couple of days.

Mr. Lawson, good luck to you, sir.

With that, we'll terminate the proceedings. Thank you very much.

(Whereupon, at 6:39 p.m., the hearing in the above-entitled matter was adjourned.)

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Matt Lawson

DOCKET NUMBER: SE-19747

PLACE: Chicago, Illinois

DATE: June 11, 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.

_____

Rhonda Weiland
Official Reporter