

ter with Administrator Blakey, Sabatini, Ballough and Allen, which did not happen.

Mr. Nicholas Sabatini signed Regulation 14, CFR Part 193, under provisions of 49 U.S.C. 40123, to essentially prohibit the release of ASAP and other certain FAA-approved voluntary disclosure information on January 26th, 2005. The regulation essentially protects ASAP, which is a non-regulatory, voluntary program, created by an advisory circular, which supplants Federal Aviation regulations in this particular case, from the public's rights and the freedom for information regarding their safety.

Mr. OBERSTAR. Thank you. Very precise, very specific references. I appreciate that very much.

Mr. McNease.

Mr. MCNEASE. First of all, I would like to thank you for inviting me here today. Before I get into my statement, FedEx, where I was located, FedEx Certificate, the last guy on the seniority list is called the caboose. And I am the caboose here. I am not going to talk about ASAP, I don't need to do that, talk very little about ATOS. I can, because I have had the opportunity to listen to all of the testimony, there are a couple of items before I get into my statement that I would like to mention.

Mr. DeFazio, and well, let me wait and maybe he will come back and I will mention that. ATOS is now being mandated to all 135 operators and all 141 operators. It is going to be an impossible situation. There is not going to be any way for that to work. In the general aviation part of it, if you have one inspector, you can have 10 certificates, how is he going to do the work that it takes a fleet of people to do in the current situation with ATOS. So mandating the new, the operators, 135 and 141, to go to ATOS, is again going to be a real problem, I believe.

Just a little bit of background about myself, and I wasn't going to tell you all this stuff, but I need to, I have received numerous awards from the FAA. I was nominated as inspector of the year for the Southern region in 2005. I received a letter of commendation from Admiral Bussey many years ago. I graduated first in my military flight school class. I flew 173 combat missions.

I was appointed as the chairman of the Government Safety Inspector Working Group for the International Society of Air Safety Inspectors. I am a member of the Royal Aeronautical Society. I have been a test pilot. I currently hold an airline transport certificate with more than 16,500 hours and 40 years. I have 23 type ratings. I have pilots certificates from Switzerland, Italy, Indonesia, Costa Rica, Saudi Arabia, Malawi and Hungary.

I was also an undercover pilot for the DEA and Customs. Currently, I am the Director of Safety, Security and Regulatory Compliance for an air carrier in China.

Now I am going to read my statement, if you don't mind. I have spent 14 years of my life working for the U.S. Government; 10 of those with the FAA. During my last assignment with the FAA as an inspector on the Federal Express certificate, I found an issue with FedEx that has implications not with just FedEx, but throughout the industry.

Due to the loss of retirement benefits and large cuts in pilot salaries, many pilots are supplementing their income by flying for com-

panies other than their primary employer. This is legal and in accordance with current Federal aviation regulations only as long as flight, duty or rest times are complied with.

What I found was that the Director of Operations at Federal Express was issuing authorization letters allowing pilots to do outside commercial flying. When I contacted the Federal Express crew scheduling section, I was informed that the company has no policy nor method to track outside commercial flying.

During the course of another investigation, it came to the attention of our office that a pilot for FedEx had been caught flying an illegal charter trip. The pilot admitted that he had flown the trip, and immediate his status as check airman, representing the FAA, was rescinded. This pilot is an MD-11 international captain.

Since this pilot and the company had possibly violated the Federal aviation regulations by not recording or tracking the outside commercial flying, I asked my supervisor how he wanted me to proceed. I was told not to continue my investigation. I was given no reason why not to proceed.

I followed up with an e-mail to my supervisor to verify what I was told. No answer via e-mail was ever received by me. I later met with my supervisor, along with another inspector to act as a witness, and asked once again if he wanted me to not investigate this matter. I got the same answer, do not continue the investigation.

I was amazed that I was being told not to continue an investigation with such far-reaching implications. I am not implying that FedEx or the pilot involved had violated the Federal aviation regulations. What I am saying is that without an in-depth investigation, the FAA and FedEx have no way to determine if a violation has occurred or is continuing to occur.

This same situation applies throughout the airline industry and to my knowledge is not being investigated. Since I have given you this statement, and I will provide a copy of this to the Committee, it is an INFO, Information for Operators concerning this subject was issued by the FAA on March 21st, 2008. I don't think this is a coincidence that this was issued.

On another issue, I was treated the same way but at a much higher level with the FAA. I was told from FAA management in Washington to stop working on a problem. I attempted to contact the Associate Administrator, Nick Sabatini, via e-mail, telephone and through the chain of command for more than two years. I never once received any acknowledgement from him, in spite of his so-called open door policy.

I had the same situation with Mr. Ballough. I finally did get to see him. The purpose of my meeting with Mr. Ballough was to discuss an issue with Thomas Stuckey. I was given 30 minutes to present my case. I was told that I would receive an answer within two weeks from his staff. I am still waiting, it has been two and a half years.

I understand that the other issue that has to do with security, Chairman Oberstar has referred that matter to another Committee. So I won't go into details at this time. But it is very serious. I have met with the Homeland Security Committee people and something will happen with that.

Now that Mr. DeFazio is back and Mr. Carney and Ms. Johnson also, thank you very much for sticking around. I appreciate it.

One other thing, to Mr. DeFazio, I waited to hold this, you questioned a number of times about Mr. Mills' hand delivering everything. The answers you got from Mr. Sabatini, Mr. Ballough and Mr. Stuckey seemed to think that, or they seemed to tell you that that wasn't the way things happened. That is incorrect. It was the way things happened. I was in the Southern region, not the Southwest region. In the Southern region, my manager had to go out and deliver every one of those to everybody. It took him really probably a month and a half, or at least that long. He had other duties. But it happened throughout the FAA, it is not localized.

I hope you see that the testimony from all of us is that this is, I believe, a systemic problem with the FAA. It is happening in other parts of the Country, not just in the Southwest region.

Thank you for your time. I would be happy to answer your questions.

Mr. OBERSTAR. Thank you very much for that testimony and for the reaffirmation of Mr. Mills' testimony.

I have one question. Each of you has referred to this shift that we have been discussing throughout the day of emphasis at the FAA from a regulatory compliance oversight role in maintenance to one that is airline-friendly, cooperative with these voluntary disclosure programs, with the customer service initiative, with ASAP and ATOS. When did you see this shift occurring? During what period of time? What time frame was it happening? It didn't happen all at once, it just happened somewhat gradually, but you have all testified to it. We have heard it throughout the day. You are on the ground level, tell me when.

Mr. MCNEASE. I spent three tours with the FAA. I left in disgust all three times. It is terrible that I had to do that. But when I left the FAA before this last time, when I retired, I left in 1988. In 1988, we didn't have this problem. We just didn't have the problem that we have now.

When I came back in 2003, I noticed then that in 2003, we had another significant problem. Things had changed considerably over that period of time.

Mr. OBERSTAR. Well, 1988 was roughly the Bussey era?

Mr. MCNEASE. Yes, sir, it was.

Mr. OBERSTAR. There was a very compliance-oriented period then.

Mr. Thrash?

Mr. THRASH. Thank you. And I would like to say, it is a wise leader who surrounds himself with aviation expert professionals, as you have done, with Clay Thushay [phonetically]. As a Greek Hermes who was the pathfinder to help people along their way, on line-oriented flight training, which incorporated aircrew decision-making, he, I could say, I guess, fair Clay, Robert Helmick was a mentor. Dr. Robert Helmick worked in a brain trust sponsored by FAA, NASA and the University of Texas on 23, not 2317 Showcreek, but on Showcreek Boulevard down there, Lamar Boulevard. He also was a pioneer on advance qualification programs, which is a voluntary training program, which incorporates what Clay started, the crew resource management. And aircrew decision