

704

Gabriel D. Bruno
Retired FAA Manager and Whistleblower

**“An Insider’s Analysis of the
FAA’s Failure to Protect the Skies”**

April 3, 2008

Contact information:
GBruno3@cfl.rr.com

My name is Gabriel D. Bruno and I am a retired FAA manager. I retired in January 2006 after 28 years of outstanding service with the FAA. Prior to my FAA service, I served for two years in the U.S. Army during the Vietnam-era. Over half of my FAA career was spent as a manager, including positions in FAA Headquarters and managing two Flight Standards District Offices (FSDOs). I spent nine years working in Headquarters. I also worked in four different FAA regions and I routinely earned awards for my outstanding performance over the years. My testimony is drawn from my own personal knowledge and experience as an FAA manager, not an outside observer.

I was compelled to attend the April 3, 2008 House hearing, on "Critical Lapses in FAA Safety Oversight of Airlines," because of my own experience as an FAA whistleblower. Sadly, what I witnessed during the proceedings indicates that things remain unchanged, and that until FAA Associate Administrator for Aviation Safety Nicholas Sabatini is removed from office, nothing will.

While the Committee probed Mr. Sabatini with questions to determine where the breakdown in the FAA organization took place that allowed Southwest Airlines to fly thousands of passengers in noncompliance with Airworthiness Directives, Sabatini invoked the "Ken Lay defense." He tried to convince the Committee that the problems were "not evident at [his] level". Considering the magnitude of the evidence, he is either the most out of touch individual in the Safety organization, or he is lying. If he was aware of these problems and did nothing to correct them, then he is guilty of putting the lives of thousands of passengers at risk. Either way he is the wrong individual to be in the position of Associate Administrator for Aviation Safety.

My personal experience with Sabatini, however, tells me that he was fully aware and actively engaged in the acts of retaliation that the Southwest CMO inspectors testified about. In 2001, when I was the FAA manager responsible for the oversight of the ValuJet/AirTran merger, I personally briefed Sabatini on the critical need for FAA resources to provide proper oversight of that rapidly growing carrier in accordance with the new ATOS program. He refused my requests for resources. Because I disagreed with Mr. Sabatini and pressed this vital safety issue, within 60 days I was under investigation for wildly bogus allegations by FAA Security. Agents Simms and Garcia told me in August 2001 that the investigation of me was the "most important investigation going on in Washington HQ" at that time. Three weeks later while Sabatini had FAA Security resources focused on me, the World Trade Centers and the Pentagon were attacked.

Sabatini also tried to convince the Committee that the Southwest scenario was an "aberration" that he would correct, and not a systemic problem. But, the Southern Region operates in the same manner under Sabatini's personally placed Division Manager, Ms. Dawn Veatch. One example is an inspector that was transferred out of his position because of maintenance violations that he was filing when he had oversight responsibility for AirTran Airlines. This happened in 2003 and it was the same pattern that we heard much testimony about occurring at the SWA CMO. The carrier wrote complaints about this inspector and his supervisor promptly removed him. This was an act consistent with the spirit of Sabatini's "Customer Service Initiative" (CSI). Sabatini himself demonstrated this pattern of favoritism when as the Eastern Region Division Manager, he became personally involved in and ordered the certification of a

new applicant, JetBlue Airlines, to be fast-tracked. This was at a time, when as a result of the ValuJet lessons, the FAA knew that it should have been exercising due-diligence in certifications and not invoking an artificial fast-track timetable. His cozy relationship with JetBlue was once again evidenced when it was discovered that their management conducted pilot fatigue experiments during passenger-carrying service, an illegal action that had the tacit approval of the FAA. See: http://online.wsj.com/public/article/SB116138760170199478-PVIdcORp24oo0PKMJ3E7z0O7juc_20061030.html?mod=blogs

As the committee is conducting its investigation, they will not be able to avoid seeing an agency filled with responsible adults who are harassed, abused and terrorized with fear for loss of their livelihood. However, there are many individuals from every region who, if put under the protection of subpoena, will tell the truth. Threats levied against Inspector Douglas Peters are not idle ramblings. I experienced this myself when I openly disagreed with Sabatini in 2001. My experience of unwarranted personal attack, denial of my Constitutional rights and a public smear campaign is well known within the FAA to this day.

BACKGROUND

Critical lapses in the FAA's safety oversight of airlines is something I have witnessed and experienced from a vantage point inside the FAA chain of command. I was the FAA manager that was given the responsibility of overseeing the merger between AirTran Airlines and ValuJet Airlines (VJA), after the 1996 VJA tragedy that claimed 110 lives. This is not ancient history; the lessons learned from that tragedy provide key insights into the current problems with Southwest Airlines. It was the VJA accident that brought about the Airline Transportation Oversight System (ATOS), which the FAA pours millions of dollars into today. ATOS was the FAA's ultimate response to the following investigations, reports and review: 1) The NTSB VJA investigation that cited lack of FAA oversight as a causal factor; 2) a post-ValuJet Department of Transportation/Office of Inspector General (DOT IG) investigation to determine what was wrong inside the FAA; and 3) the FAA's own "90 Day Safety Review", which made recommendations intended to preclude the recurrence of another tragedy by rapid growth air carriers.

Oddly, when the FAA implemented the ATOS program, they did not include any rapid growth carriers, including the newly merged ValuJet/Airtran airline, under the oversight umbrella of their new expensive ATOS program. In fact, I was flatly denied oversight resources and authorization to include the carrier that began the whole chain of events that resulted in the program. Instead, the FAA included only the top ten legacy carriers that were not the subject of the recommendation to develop the program in the first place. During the ensuing years, the FAA has spent millions of taxpayer dollars on ATOS. Meanwhile, the GAO has audited and reported continual problems with its effectiveness. The merged ValuJet/AirTran operation was finally admitted into ATOS nine years and eleven months after the May 1996 VJA tragedy.

As a result of this hearing on the Southwest Airlines/FAA expose', the FAA launched the so-called "Tiger Team." The ostensible purpose of this team is to investigate and correct the "breakdown" that occurred with Southwest (SWA) maintenance procedures, and the "breakdown" in their own oversight of those procedures. The premise, of course, that this is merely a "breakdown" in an otherwise effective system is faulty. A "breakdown" implies a one-

time event that is easy to identify and repair. A dysfunctional system, on the other hand, is an entirely different matter that requires extensive overhaul. It defies reason to assert that the system is otherwise effective when field inspectors have to risk their careers to get corrective action on such flagrant safety violations. A look at other incidents helps to shed light on the fact that the problems go much further than a mere “breakdown.”

Did the FAA inspector that also came forward over Northwest Airlines (NWA) maintenance issues risk his career over a simple “breakdown?” In the NWA case, the DOT IG found, “FAA’s handling of safety concerns appeared to focus on discounting the validity of the complaints. A potential negative consequence of FAA’s handling of this safety recommendation is that the other inspectors may be discouraged from bringing safety issues to FAA’s attention.” The FAA’s ATOS program did not uncover this “breakdown” either.

LOSS OF LIFE

Two other recent examples are the Jan. 8, 2003, U.S. Airways Express crash in Charlotte, NC, with 21 fatalities (NTSB ID # DCA03MA022), and the Dec. 19, 2005 Chalk’s Airways crash in Miami, FL, with 20 fatalities (NTSB ID # DCA06MA010). In both of these accidents the NTSB cited “faulty maintenance and lack of FAA oversight” as causal factors. Are these tragedies also the result of “breakdowns,” or do they demonstrate a larger pattern of the FAA’s negligence? Close examination of the causal factors identified by the NTSB reveals that these accidents were preventable, and hold the seeds for a “major” accident. They resonate with the unmistakable echoes of the VJA and Alaska Airline (AKA) accident investigation findings.

Despite this, the FAA and its Associate Administrator for Aviation Safety, Nicholas Sabatini, continue to repeat the FAA mantra that this is the safest period in air transportation history. That empty phrase is routinely used as a defense against any criticism and findings of FAA deficiencies. The full measure of safety is not the singular fact that we have not experienced a “major airliner” accident in recent years, but rather, how effective are our oversight and accident prevention programs? Can inspectors do their jobs? The fatalities that have occurred, and the findings of the Whistleblower Inspectors do account for something, even if they don’t register on the current FAA regime’s Richter scale. Once the “major” accident happens it’s too late. The finest accident investigation cannot undo the damage.

TWO EXAMPLES OF ABUSES OF “PARTNERSHIP PROGRAMS”

Today’s “partnership programs” are, for the most part, “don’t ask, don’t tell” understandings.

1. One illustration of this is the Service Difficulty Reporting (SDR) program. An independent snapshot review of Southwest’s use of this program revealed 32 reports from various sources of SWA flight emergency returns and diversions from 2002 to the present. Of these 32 reports, only 10 are in the SDR database demonstrating approximately 31% compliance rate with the SDR program. Only 6 of those 10 show a cause. With FAA acceptance of this type of deficient reporting, how can any “partnership program”, designed to identify adverse safety trends, have any validity?

2. Another example is the recent flurry of activity by air carriers grounding hundreds of their in-service aircraft to bring them into compliance with Airworthiness Directives (AD). Numerous “legacy” carriers, carrying thousands of passengers, had not complied with ADs to address fuselage cracks, rudder controls and wire arcing that could result in fires. The FAA’s “partnership programs” did not reveal this gross non-compliance. It took intense media reporting to motivate the airlines to come into compliance. Most likely these unairworthy aircraft would have remained in passenger service if the media had not scrutinized the FAA’s inattention and ineffectiveness.

The FAA’s complicity allowed thousands of fare-paying passengers to be at risk. The “don’t ask, don’t tell” mentality has to go. A demonstrable change in culture is needed and today’s FAA management is incapable of accomplishing that.

INVESTIGATIONS

The government’s Office of Special Counsel (OSC) currently has ordered two separate investigations as a result of disclosures I made about FAA gross mismanagement, resulting in a danger to the public. These disclosures reveal an outrageous dereliction of oversight responsibilities resulting in aviation safety and national security lapses.

With full knowledge of the risk to the public, the FAA has suppressed the information about FAA mechanic certificates that were obtained from a criminal enterprise, St. George Aviation. Mr. Anthony St. George was convicted and sentenced to two and one half years in federal prison for fraudulently issuing mechanic certificates to unqualified individuals. I was charged with recertifying the mechanics. This criminal activity was going on in the same place (Central Florida) and at the same time the 9/11 hijackers were receiving pilot certifications from area flight schools. When I instituted a genuine re-examination program, 80 percent of the first 350 mechanics failed to recertify. Inexplicably, Nicholas Sabatini responded by ordering the FAA cancellation of the program, leaving well over 1,000 untested mechanics working throughout the aviation industry. See attachment, “FAA Looks at Suspect Mechanics,” USA Today, April 3, 2008.

As a result of my whistleblower disclosures to OSC, DOT IG required the FAA to resume the program, because of the potential impact on aviation safety. Sabatini’s cancellation had left the program for dead for three years. The FAA has since admitted to making no effort to obtain information on where these people are employed or to establish liaison with any air carriers or repair stations where air carrier outsourced maintenance is conducted either domestically or at foreign locations. Further, under Sabatini and Ballough, the FAA has done no cross referencing with NTSB accident or incident investigations or data bases to determine involvement of St. George certificate holders where “faulty maintenance” has been cited as a causal factor of fatal accidents. They simply do not know if any of these mechanics are involved in the current SWA maintenance “breakdowns” or the broader issues of this hearing.

The FAA finally has an incomplete, partial retesting effort underway that does not meet their own regulatory certification requirements. They watered-down the test for recertification,

removing the requirement that an individual be able to demonstrate “hands on” competence, which is like handing out driver’s licenses without making someone drive a car.

Potentially more disturbing is the fact that the list of names that obtained FAA mechanic certificates from the St. George criminal enterprise includes the name of a 9/11/01 hijacker, Saeed Hamid Alghamdi.

Since possession of an FAA mechanic’s certificate can qualify an individual for employment and give them access to U.S. aircraft and airport security areas, it is astonishing that the FAA did not enact any airline notification/advisory procedures to U.S. air carriers. Neither Sabatini nor Ballough turned over the St. George list to any national security agency that could determine the level of risk caused by foreign nationals on this list. The DOT has requested another extension of time until May 12, 2008 to respond to OSC on this national security issue.

RESPONSIBILITY

So who is responsible for this state of affairs in the FAA? The FAA is an organization with a noble mandate, but it can only function as well as the individuals inside will allow. Like any government agency, the FAA is susceptible to all the weaknesses and challenges of any organization, such as positive workforce motivation and variations in the quality of leadership. To truly hold an organization accountable for the way it conducts business you have to hold the individuals, especially the leaders, accountable for their decisions. There are individuals who are not elected by anyone nor confirmed for their ability to properly conduct FAA business. These leaders enjoy the bureaucratic anonymity that comes with their taxpayer-funded jobs. In the case of a government agency, it is the fulfillment of a public trust that requires accountability to that public.

FAA Assoc. Admin. for Aviation Safety, Nicholas Sabatini, and his handpicked Dir. of Flight Standards, Jim Ballough, are the main drivers of this culture. There are also others who carry their water and the workforce knows well who they are. There is a history of the qualified being replaced by indebted cronies, and unqualified supervisors being promoted into even higher management positions. I can personally point to the FAA’s Southern Region as just one great example of this. Under Sabatini’s leadership, the FAA does not have a functioning safety system in place, only a taxpayer funded illusion of one. What actually is in place is a Quid Pro Quo understanding with the industry masquerading as “partnership programs”. As this Committee has confirmed, the way it works is the FAA buries violations so carriers can operate with little to no negative effect on profits. However, when an outrageously unsafe condition, such as at SWA, breaks through the cover, everyone retreats to their “ public position”. FAA management feigns concern and proposes a civil penalty, and the carrier, of course, claims safety was never compromised and vows to appeal the penalty. It is a well-orchestrated show for public consumption. The FAA management responsible for violating the public trust pushes the blame downward in the organization..

Rep. James Oberstar has rightly called for the house cleaning of the FAA from “top to bottom.” An FAA housecleaning for violations of the public trust must begin with the removal of Nicholas Sabatini and Jim Ballough. To have the necessary effect to begin to change the existing culture

in the FAA these must be removals, not resignations with parachutes leading to soft landings in highly paid industry jobs. Only by the removal of the toxic leadership can the conscientious inspectors stand up and lead the return of the FAA to the public trust and safety mandate.

Sabatini's relationships with special interests should be investigated for their influence on his FAA decision-making. He has allocated millions of taxpayer dollars to the ATOS *don't ask, don't tell* masquerade, that has proven ineffective and keeps hundreds of inspectors engaged in activities not productive to the FAA's safety mission.

In his March 29, 2007 appearance before the House Committee on Transportation and Infrastructure, Aviation Subcommittee, Sabatini stated, "I can assure you that my office is totally committed to making whatever adjustments the situation demands when it comes to safety oversight." Is the emerging evidence of silencing and intimidating safety inspectors his kind of adjustment? In my experience, the answer is "yes!"

WHAT CAN BE DONE

In addition to removing the FAA management that are responsible for the deterioration of the FAA's ability to enforce its safety mandate, and have created risk to the public, there are other actions that can and should be initiated, with a Congressional oversight timetable for completion.

1. The concept of managing the FAA safety mandate as a "business model" needs to be changed. This "business model" paradigm is inappropriate for a government agency whose expected product is public safety, not financial profit. Referring to the regulated air carriers as "customers" is inaccurate and sets up a "business" mentality that facilitates the revolving door. The FAA is a regulatory agency that should be guided by the Congressional legislation that created it, not air carrier profit and loss spreadsheets. The Federal Aviation Act of 1958 (re-codified) contains all the requirements and authority the FAA needs to do its job, and needs to be revisited. This enabling regulatory legislation doesn't refer to air carriers as FAA customers.
2. ATOS needs a major overhaul, or replacement by a program that actually emphasizes safety inspector findings and input, not rubberstamping whatever the air carrier provides. Analyzing deficient information provides nothing useful and takes inspector time away from real safety activities, such as engaging the air carriers on their shop floor. With less than an optimum size workforce, much can be done with taking advantage of current inspector expertise, by removing the blinders of ATOS program guidelines that stovepipe inspectors' attention.
3. The FAA's self-initiated, self-serving, "Self-Exam" amounts to nothing more than the wolf guarding the chicken coop telling you that everything behind the closed door inside the coop is OK. The recently issued FAA Notice 8900.36, that directs a paperwork-sampling audit is a self-created opportunity to give themselves a passing grade. Anyone finding problems would be admitting they did not do their jobs. An independent audit incorporating Congressionally mandated milestones, with FAA operatives standing at parade rest, would be more believable.

The House Committee could not have received more serious evidence of FAA gross mismanagement, which creates a danger to the flying public, without actually having a major accident occur. My “insider’s analysis” is that the FAA needs a rebirth of integrity.