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UNITED STATES

NATIONAL TRANSPORTATION SAFETY BOARD

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In the matter of: :

FINE AIRLINES FLIGHT 101 :

MIAMI, FLORIDA :

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Deposition of WAYNE DRAYER, taken pursuant to
Notice at The Miami Hilton Airport & Towers, 5600 Blue
Lagoon Drive, Miami, Florida in the Conch Key and Summerland
Key Rooms, on Wednesday, November 19, 1997 at 8:00 a.m.

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3 APPEARANCES:

4 Appearing on behalf of the National Transportation

5 Safety Board:

6 ROBERT BENZON, Investigator-in-Charge

7 RON SCHLEEDE, Deputy Director

8 FRANK MCGILL, Maintenance Air Safety Investigator

9 DAVID J. IVEY, Air Safety Investigator

10 National Transportation Safety Board

11 490 L'Enfant Plaza S.W.

12 Washington, D.C. :0554-2000

13 Appearing on behalf of Fine Airlines:

14 JOHN ZAPPPIA, Director of Operations

15 4600 N.W. 36th Street

16 Miami, Florida

17 Appearing on behalf of the Federal Aviation Administration:

18 JOSEPH F. MANNO, Air Safety Investigator

19 FAA Headquarters

20 800 Independence Avenue, S.W.

21 Washington, D.C. 20591

22 Appearing on behalf of Aeromar, Inc.

23 MR. RAYMUNDO POLANCO, Vice President

24 2460 N.W. 66th Avenue

1 Building 701
2 Miami, Florida

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I N D E X

6

7 WITNESS PAGE

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E X H I B I T S

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19 NUMBER FOR IDENTIFICATION IN EVIDENCE

20

21 (None)

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P R O C E E D I N G S

(Time Noted: 8:00 a.m.)

MR. BENZON: On the record.

Now this proceeding is being taken in connection with the National Transportation Safety Board's investigation of an aircraft accident involving Fine Airlines, Inc., Flight 101, a Douglas DC8-61, occurring on the afternoon of August 7th, 1997, at the Miami International Airport, Miami, Florida.

The registration number of the airplane is November 27 Uniform Alpha. The Safety Board accident investigation number is DCA97MA059.

I'm Robert Benzon, a Senior Air Safety Investigator for the Safety Board, and the investigator in charge of this investigation.

The Chairman of the Safety Board, Mr. Jim Hall, has authorized me to administer the oaths to the witnesses, and this is a copy of my authorization to do that.

1 This is an administrative fact finding
2 proceeding, and a continuation of the investigation's
3 operations and airworthiness interview process.

4 There are no adverse parties or interests
5 here, and there are no formal pleadings. This
6 investigation is not being conducted for the purpose of
7 determining the rights or liabilities of any person.

8 This phase of the Safety Board's
9 investigation is being conducted to supplement the
10 facts, conditions and circumstances of the accident,
11 and to develop a complete factual record that will
12 enable the Safety Board to determine the probable cause
13 and factors of the accident.

14 And most importantly, to ascertain measures
15 that will best tend to prevent similar accidents in the
16 future.

17 In accordance with 49CFR831.7, the witnesses
18 to be questioned have the right to be accompanied by
19 and represented or advised by counsel, or by other duly
20 qualified representatives.

21 He or she may advise the witness, if
22 necessary, after questions are posed. Counsel or
23 representatives should not address the Hearing Officer,
24 myself, or any other participants during these

1 proceedings.

2 During this proceeding the witnesses will be
3 interviewed under oath, and the oath will be
4 administered by me.

5 I will then turn questioning over to Captain
6 David Ivey, the operations group chairman, or Mr. Frank
7 McGill, the maintenance records group chairman.

8 Each witness will be first asked to provide their full
9 name and business address for the record. They will be
10 required to provide general information regarding their
11 employment, and their areas of responsibilities also.

12 They will also be asked to provide any
13 information about any training and background that
14 qualifies them for their position.

15 After the witness is qualified, questions
16 relevant to the investigation will be posed by these
17 gentlemen.

18 Following their questioning, each party
19 spokesman will be afforded the opportunity to pose
20 questions to the witness.

21 Following this, Mr. Ron Schleede, to my
22 left, the Deputy Director of the Office of Aviation
23 Safety, and I, may have a few follow up questions.

24 I would like to restrict the questions to

1 one round, as we just described. If a second round is
2 necessary, it should be restricted to brief, clarifying
3 questions.

4 In the interest of expediency, at no time
5 will the dialogue between an individual questioner and
6 a witness be interrupted.

7 The record of these interviews will become
8 part of the public docket for this investigation, and
9 any parties wishing to purchase a copy of the
10 transcript of these proceedings should contact the
11 Court Reporter to my right.

12 I would like each of the Staff of the Safety
13 Board, that will be questioning witnesses, to identify
14 themselves for the record by stating their full name,
15 affiliation, title, and business address.

16 Again, I'm Robert Benzon with the NTSB. I'm
17 a Senior Air Safety Investigator, and work out of 490
18 L'Enfant Plaza East, S.W., Washington, D.C., 20594.

19 Mr. Schleede?

20 MR. SCHLEEDE: I'm Ron Schleede, Deputy
21 Director, Office of the Aviation Safety of the NTSB, at
22 the same address that Bob used.

23 MR. BENZON: Captain Ivey?

24 CAPTAIN IVEY: I'm David Ivey. I'm the

1 Senior Operational Factors Investigator for the
2 National Transportation Safety Board, at the same
3 address previously announced.

4 MR. MCGILL: And I'm Frank McGill, Air
5 Safety Investigator for the Engineering Division, same
6 address in Washington.

7 MR. BENZON: Okay, we also have Mr. Girard
8 Steichen, another member of our staff, observing this
9 proceeding.

10 He's, in fact, going to be writing up the
11 report of this accident. And Girard, all you need to
12 do is give us your name and title.

13 MR. STEICHEN: Girard Steichen, assigned to
14 write the report for this accident, working at
15 the same address as above.

16 MR. BENZON: Okay, will the party spokesmen
17 around the table please introduce yourselves.

18 We can start with John.

19 MR. ZAPPPIA: John Zappia, Chief Operating
20 Officer, Fine Airlines.

21 MR. BENZON: And Joe?

22 MR. MANNO: Joe Manno, Air Safety
23 Investigator from the Office of Accident of Accident
24 Investigation with the FAA.

1 MR. BENZON: Mr. Polanco?

2 MR. POLANCO: Raymundo Polanco, Vice
3 President of Aeromar Airline.

4 MR. BENZON: Okay. Well, well we now appear
5 to be ready to begin. It's going to be kind of a long
6 day, so make yourselves comfortable, and I'll call the
7 first witness.

8 Mr. Wayne Drayer.

9 MR. DRAYER: Here.

10 MR. BENZON: Wayne, if you could sit over
11 there, but don't sit quite yet. I'm going to
12 administer an oath to you while you stand up.

13 MR. DRAYER: Okay.

14 MR. BENZON: Please raise your right hand.
15 Whereupon,

16 WAYNE DRAYER,
17 was called as a witness and, having been first duly
18 sworn, was examined and testified on his oath, as
19 follows:

20 MR. BENZON: Okay, thanks for coming.
21 David.

22 EXAMINATION

23 BY CAPTAIN IVEY:

24 Q. Good morning, Mr. Drayer.

1 A. Good morning.

2 Q. Thank you for being here.

3 I'd like to start by asking you to describe
4 for me your duties of your job, and to tell us where
5 you work and who you work for, and your location?

6 A. Okay. I'm an Aviation Safety Inspector with
7 the specialty of operations, assigned at the Miami
8 Flight Standards Office.

9 My responsibilities are within the area of
10 certification -- excuse me, of management of the
11 airline from the FAA's responsibility. Certificate
12 management is what we call it.

13 I'm the principal operations inspector
14 assigned to that certificate, among one other
15 certificate.

16 Q. And the duties that entail a principal
17 operations inspector, could you describe those for me
18 just to lay a --

19 A. Yes. And a very basic explanation would be
20 our responsibility is to work with the company from the
21 regulatory aspect, and primary -- seek compliance.

22 Q. And if you would give me ~~our~~ your qualifications
23 to meet the job?

24 A. Okay. Number one, I am an operations

1 inspector, which is a basic requirement.

2 I attended basic indoc with the FAA in
3 roughly 1980, and I was selected for the position based
4 on my experience, my resumes and so forth, within the
5 FAA.

6 I was selected by the manager of Miami
7 Flight Standards, Michael Thomas, and I've had now
8 thirty -- coming up December 2nd will be thirty-two
9 years of Federal service.

10 Q. All right. Could you give me your
11 description of flying time, ratings, background in
12 aviation?

13 A. Yes, sir. I have approximately 6,000 hours
14 of flying time recorded.

15 I'm certain that there's more than that,
16 because once I received an airline transport pilot's
17 rating, I just did no longer log flight time.

18 My qualifications, aircraft qualifications,
19 currently are Boeing 727, and I have a rating also in
20 the DC10, the Lockheed L1049, which is a prop job from
21 way back when.

22 And I have experience in military aircraft,
23 DC121 radar type Pic ship aircraft, and C123 cargo
24 aircraft, and of course, military Air Force T37, T38

1 and T41.

2 Q. You mentioned that you provide certificate
3 management for Fine Air, and you mentioned another.

4 Are there other companies in which you have
5 oversight?

6 A. I have another company that I'm assigned to,
7 Fun Air, a Part 125 operator at Fort Lauderdale.

8 Q. And those are the only two?

9 A. Those are the only two at this time.

10 Q. Fun Air, what type aircraft are they?

11 A. 727, sir.

12 Q. Just one, or --

13 A. One, one, corporate configuration.

14 Q. I see. And Fine Air's operation is?

15 A. DC8, cargo.

16 Q. Do you have an assistant that works with you
17 in the oversight of these two airlines, or are you the
18 only principal?

19 A. I am the principal operations inspector, of
20 one of three on a team that has certificate management
21 responsibility.

22 We have a principal maintenance inspector,
23 and a PMI. I do not have an operations assistant
24 assigned to me currently. That has been in the

1 process, and I believe will be in the future, but at
2 this time I do not have.

3 Q. Have you ever needed to have an assistant,
4 from time to time, in the oversight of these two
5 carriers?

6 A. Most assuredly.

7 Q. And you do provide requests for assistance
8 in the operational area, or would you also provide it
9 in the maintenance area, or would that be left up to
10 the individual PMI?

11 A. That would be left up to the individual PMI,
12 but yes, there is assistance required in various times.
13

14 In fact, I should re-qualify that by saying
15 all the time there is assistance required, and I
16 believe the office has recognized that need.

17 Q. The distribution of your time as far as
18 oversight is concerned with the two airlines, the Part
19 125, and then the Fine Airlines supplemental operation,
20 could you give me an idea, describe how you break your
21 time up between these two airlines?

22 A. Yes, sir. I spend probably ninety nine
23 percent of my time with Fine Airlines. Fine Airlines
24 is the larger operation, more aircraft, and

1 necessitates more of my time.

2 However, it should be stated for the record
3 that there are work programs established within the FAA
4 for each of the certificates.

5 And based on our inspections, based on what
6 the FAA may find when they have a RASIP or a NASIP or
7 an office visit, we'll adjust our work program
8 accordingly to accommodate the necessity.

9 Q. Can you give me an idea of your progression
10 through the FAA up to your current status?

11 A. Yes. I entered the FAA, I believe it was
12 early 1980. In 1980 -- as an -- it was at that time an
13 ACI position, an air carrier inspector position, and I
14 was assigned to the Miami Air Carrier District Office.

15 My primary responsibilities for the first
16 three years were airman certification, certifying new
17 pilots, ATP certification, and working with check
18 airmen and so forth on the Eastern Airlines
19 certificate, PanAm certificate.

20 Later on Air Florida certificate. We had
21 National Airlines at that time, so it was a multitude
22 of aircraft and companies.

23 In 1983, I bid and was selected, as an air
24 crew program manager, which was at that time a test

1 program on the Eastern Airlines certificate.

2 The duties associated with the air crew
3 program manager were exclusive to a type aircraft. In
4 this case it was the Boeing 727 type aircraft.

5 There my responsibility was basically
6 anything in the operations field related to that Boeing
7 727, or to an air crew member, was my responsibility.

8 I stayed with that certificate, of course,
9 until the airline went out of business. And then I was
10 assigned to a supervisory position of the geographic
11 unit in Miami Flight Standards District Office where I
12 had, I believe it was eight people, plus a clerical,
13 working with me and for me, with primary
14 responsibilities of the unit.

15 Again airmen certification, and geographic
16 surveillance of the operators flying into Miami. That
17 responsibility was later changed to -- there was a
18 division of responsibility from geographic for who
19 handled South America responsibility, or Central
20 America responsibility to the Miami geographic area.

21 We went through a stage of down-sizing a few
22 years ago in the Federal Government. I'm sure you're
23 all aware of that, and that time I was removed from my
24 supervisory position, and placed into the Quality

1 Assurance Branch within our office.

2 And remained there for a period of months,
3 and then was assigned as principal operations of Fine
4 Airlines, and that was in January, I believe, of 1996.

5 I've been in that position to the present
6 time.

7 Q. You mentioned the down-sizing, you were
8 assigned the POI.

9 Is this normally something that would be bid
10 or selected, or you would have a choice?

11 Can you elaborate on your assignment to this
12 POI position?

13 A. Yes. What has happened within the agency is
14 we've, of course, had a lot of attrition, without
15 hiring on my operation side.

16 It's put management in the position where
17 their available resources, qualified resources, has
18 been limited. Based on that, in this particular case,
19 I was assigned to the position. There was not a bid.

20 The assignment was based on grade and experience,
21 as the manager saw it. Because of my grade in the
22 Civil Service System at that time, rather than have me
23 downgraded, or they're going through a RIF, or any such
24 thing in the organization, those -- the humanitarian

1 side of the house, I guess would say, tried to put us
2 into positions in which we were qualified for.

3 His feeling was I was qualified for that
4 position.

5 Q. And did you agree with that?

6 A. I agree that I meet the basic qualifications
7 for the job, yes, sir.

8 Q. Looking through your training history, I see
9 that you have gone through 727 inspector pilot and
10 flight engineer recurrent qualification, and you've
11 maintained that, it appears.

12 Had there ever been any suggestion by upper
13 management for you to either participate or attend DC8
14 training to either, number one, get a type rating, or
15 to have outside training, so that you'd be familiar
16 with the DC8 as it relates to the oversight of Fine
17 Air?

18 A. We have been met with budgetary restraints
19 and scheduling of courses such as this, or --
20 something that may take up to a year in advance to get
21 training in that particular aircraft.

22 There has been talk of that, my being type
23 rated in the DC8 since I've been in the position, but
24 it has just not been -- it has not come about.

1 I must also, just as a matter of setting the
2 record straight, would say that, you know, when I moved
3 into the supervisory position, there was school
4 provided immediately for that.

5 Q. Whenever you made a request for additional
6 help from the operational standpoint, are DC8 rated
7 people, or DC8 qualified people, assigned to help you
8 as a matter of course, or has that ever happened in
9 general?

10 A. I wouldn't say it's as a matter of course.
11 It's a matter of availability again at the particular
12 point in time.

13 We were down to, I believe, one inspector in
14 our office who was DC8 qualified. He, in fact, lost
15 his medical for a period of time, and could not perform
16 certain functions as required by our handbook.

17 We have subsequently added another inspector
18 who was hired, I'm going to say a year ago, who had a
19 previous qualification in a DC8. His availability is
20 now there.

21 Excuse me, I did forget one other -- there
22 is another individual in the office who has a DC8
23 rating, so we're up to -- we're back at two people now,
24 qualified on the DC8, that I can call on, but it

1 depends on where they're working, and what their job
2 functions are at that time, as to their availability to
3 help me.

4 Q. Are they POIs for other airlines, or --

5 A. One of them is, yes.

6 Q. Okay. You mentioned in January you took
7 over the Fine Air certificate in January 1996.

8 Could you describe for us the state of the
9 airline as you inherited the job?

10 A. My perception was one of an extremely
11 difficult task ahead, but that was a perception based
12 on where the corporate structure -- where the company
13 was at previously.

14 Previously, it had been a 129 operator, and
15 the FAA had had difficulties, not that I'm really aware
16 of as far as close to, I didn't have any direct contact
17 with the airlines.

18 So I don't know what exactly those were, but
19 there was a perception that it was going to be a
20 difficult job to handle.

21 Once I moved into the position and started
22 working with the people in that corporate structure, I
23 found that people had been replaced within the company,
24 in the corporate ladder.

1 And with people changing, here was -- the
2 working conditions were not at all what I perceived to
3 be.

4 I found that the company was much easier to
5 work with than I had anticipated. That we were able to
6 work on a professional level, that we were able to
7 schedule both scheduled meetings and have impromptu
8 meetings every few days, as necessary, as I saw fit, or
9 as the company saw fit.

10 And we were able to work on a lot of things
11 in which I felt I was able to seek compliance.

12 Q. In terms of your ninety-nine percent
13 devotion to Fine Air, can you characterize the
14 percentage of time that you spend on the ramp, doing
15 actual surveillance, participating in training programs
16 in the company, so to speak, as opposed to in the FSDO?

17 A. Yes, I can. In fact, the best way I think
18 to describe that is again, going back to our program
19 tracking and resource system, our PTRS System, in which
20 we were required -- it's a program that's evolved over
21 the years, in which the FAA, being very task oriented,
22 attempts to document everything that they do.

23 By doing that we have a method of retrieving
24 the number of inspections that had been performed and

1 what was accomplished.

2 As an example, in 1996, which was the first
3 year I was assigned, calendar year, 1996, I performed -
4 - I had a work program already prepared for me by a
5 previous POI when I moved into this assignment.

6 I was able to complete that work program and
7 accomplish other surveillance items for a total of
8 about seventy-nine, I believe it was, surveillance
9 inspections during that year with Fine Airlines.

10 And roughly three times that number, two
11 times that number, 250 approximately other items, which
12 would be administrative items, or review of the
13 manuals, or observing check airmen and simulators, or
14 approving check airmen, or other job functions.

15 Now, of the surveillance items accomplished
16 in 1996, there were only a few ramp inspections
17 scheduled and performed, a limited number, as well as
18 enroute inspections.

19 That was the plan that was inherited, and
20 that's kind of the way it -- that's just the way it
21 fell out.

22 Of course, again, during that time period, I
23 was in the learning stages, and was spending an awful
24 lot of time on these other duties.

1 In 1997 we've been able to accomplish in the
2 office, operations side, I believe it's twice as many
3 surveillance items, and about five times as many non
4 surveillance items.

5 So the work program, even though the work
6 program was established and increased, based on
7 previous activity, or inspections performed within the
8 company, or outside inspections performed on the
9 company, meaning other FAA departments, the work
10 program was adjusted and we've increased the amount of
11 surveillance at least twofold, at least twofold.

12 I believe the numbers will show that we --
13 in this -- in 1997, conducted about eighty ramp
14 inspections, compared to the previous year of, you
15 know, half a dozen, or three or four or five, whatever
16 that number was.

17 Q. On ramp inspections, can you specifically
18 remember watching an entire loading operation occurring
19 on the ramp, including the inspection of the airplane
20 prior to loading, and verification of everything that
21 went on from start to finish?

22 A. No, I do not recall that at all.

23 Q. Would that be under your purview, or would
24 that typically fall under the PMI, or would a PAI, even

1 for that matter, participate in something like that?

2 A. There's a cross over of responsibility.

3 Equipment on the aircraft and so forth is
4 normally a PMIs responsibility, but that would involve
5 the -- you know, the rails. It would resolve the
6 rollers, the tie down devices, you know, and so forth.

7 So he would be looking primarily at that.

8 And, of course, because when he would see that there
9 would be cargo loaded, perhaps on the pallet, that
10 would go on there also, he would pay attention to it.

11 I, on the operations side, generally would
12 not be watching the whole loading process. I would
13 look at the general condition, an overview of the
14 palletized cargo in this case, but be more concerned
15 about the operational aspect of it, the pilot's
16 qualifications and the conditions of the aircraft.

17 So it would be more likely at that moment in
18 time for me to show up unannounced, to walk out on to
19 the ramp, to see the crew already at the aircraft.

20 The cargo may have already been loaded at the
21 aircraft. It depends on that point in time when I was
22 there.

23 And my -- I would go to the cockpit and
24 ascertain that the crews were properly qualified for

1 the flight that they were going to go on.

2 If there happened to be any opportunity to
3 look at the logbook without causing any delay for them,
4 I could do that.

5 I could also look at the performance data
6 that they had prepared, based on time, again, but
7 generally, I was not there to look at the loading
8 process.

9 Q. Since you've been the POI of Fine Air
10 there's been numerous inspections conducted there, is
11 that fair to say?

12 A. Yes.

13 Q. There was, prior to your taking the
14 position, an initial DOD inspection that was conducted
15 in 1994.

16 I don't know that you're familiar
17 necessarily with what occurred in that particular
18 inspection, but to help us understand inspections and
19 findings and follow up from the FAA standpoint, what
20 I'd like for you to do is to explain for me how a DOD
21 inspection, whatever their findings are, are reflected
22 to the POI, or to the FAA, similarly for a RASIP and a
23 NASIP.

24 It may all be the same, and if it is, just

1 enlighten me, if you would?

2 A. Yes, sir, that was before my time.

3 However, I think I can give you a generalized statement
4 that any inspection that is performed by an entity on
5 our aircraft -- our aircraft -- on the company's
6 aircraft, would eventually come through the FAA system
7 for us to look at for review.

8 If I recall, and this would be hearsay,
9 strictly hearsay, I believe that there was some
10 difficulty experienced by the company in that DOD
11 inspection.

12 And I believe what it was, was a lack of
13 crew resource management, or one of the items at any
14 rate. That's the one that comes to mind.

15 And at that time, you know, crew resource
16 management was not regulatory, it was not something
17 that the FAA required, and the company was not doing
18 it.

19 Now, I can say that to my amazement, to my
20 surprise is probably a better word, when I began in '96
21 working with the company, the company was very proud of
22 their crew resource management, and they did have a
23 program in place.

24 I believe it was brought upon by that

1 inspection.

2 Q. They failed the DOD inspection, and then of
3 course, in the end of '96 was the follow up inspection
4 on the DOD, of which you were the POI.

5 Do you recall what the results were of that
6 particular inspection?

7 A. I believe the results of the inspection were
8 satisfactory, but I don't remember any details of that
9 inspection.

10 Q. The DOD then allowed them to, in the future,
11 conduct DOD flights?

12 A. Yes.

13 Q. Based upon that inspection?

14 A. Yes.

15 Q. As far as the airline's concerned, what
16 would you say prior to the accident, were your biggest
17 concerns?

18 A. My biggest concern has always been where my
19 specialty lies, and that's air crew qualification, air
20 crew training.

21 Numerous inspections has been spent to
22 ensure that we were prepared. We jointly accompany --
23 and the FAA -- for any inspection that would come in on
24 air crew training.

1 That was based primarily on other
2 inspections that had been conducted in the Miami area,
3 and NASIP inspections throughout the country.

4 It seemed that each airline would have
5 difficulty in some respect in air crew training, it
6 being a large area, and an important area.

7 So my concentration was primarily there, in
8 both attending and monitoring classes, in recommending
9 changes to training manuals, to ensuring that the check
10 airmen were properly trained, and that we were all on
11 the same page, if you will.

12 I have a philosophy of being very fair -- I
13 believe being very fair and consistent. I want to
14 treat everybody the same, so check airmen meetings, one
15 of the first things I asked for was that those check
16 airmen in place, and I be allowed to have a meeting to
17 discuss the FAA's responsibility, because they are
18 conducting FAA business when they do those check air --
19 those check rides.

20 I felt very, very strongly that if the
21 pilots were properly trained, and properly managed
22 their crew and their available resources, that the
23 company could do -- would not only do very, very well
24 in any inspection, by any inspector, by any DOT, or Air

1 Force military inspector, by anyone that was to take a
2 look at them.

3 So my concentration, sir, was primarily in
4 that area.

5 Q. In terms of the airline and its weight and
6 balance load control, this particular area, did you
7 spend much time in the flight following department, if
8 you will, to monitor load manifest, load control?

9 A. I didn't spend a lot of time in flight
10 control. I didn't have any known reason to be spending
11 a lot of time there. Those were items that would be on
12 our work program to do, but it would be a periodic
13 State inspection.

14 And at that, it would be a spot inspection.
15 It wouldn't be a matter of spending hours in there and
16 following the entire paperwork process from the
17 beginning through the end.

18 I had no indicators that there was any kind
19 of a problem in either preparing weight and balance, or
20 in the loading.

21 Q. Just -- and I realize you don't have it in
22 front of you, but in the original '94 DOD inspection,
23 there were discrepancies noted in four of six load
24 manifest packages. That was in the unsuccessful DOD

1 inspection.

2 A. Yeah, I don't recall.

3 Q. And, of course, that was before your watch.

4 And again, I'm just highlighting issues here.

5 A. Certainly.

6 Q. And the load manifest for the DOD inspection
7 concluded in `96, in December of `96. They checked six
8 packages of flight documentation, noted discrepancy on
9 three of those.

10 And, of course, the NASIP had weight and
11 balance findings, and I guess my -- on the Executive
12 Summary of the NASIP that was concluded in April of
13 `97, they mentioned that the main concerns for the air
14 carrier were identified in the areas of flight
15 operations training, three engine ferry authorization,
16 maintenance program and weight and balance.

17 I will also say that these areas of concern
18 are known to the airline and corrected easily.

19 The RASIP that was recently concluded found
20 weight and balance problems, too. I don't have that in
21 front of me right at the moment, but when you have
22 these inspections and you see recurring themes, is
23 there a mechanism inside the FAA to trigger additional
24 focus in areas in where there's recurring problems?

1 A. The program tracking and recording system
2 should show documentation of such items. If an
3 inspector goes out and he finds difficulty in any one
4 of those particular areas, it would be recorded there.
5 So that would be a trigger to me.

6 If we could go back to the '94 report,
7 again, it wasn't on my watch, but I -- but -- well, any
8 of those inspections that you've mentioned, you -- I
9 would like to make it as clear as I can that a weight
10 and balance problem, until the accident, may have been
11 a minor mistake made on a form that may not have
12 affected the CG of the aircraft at all.

13 But if it was found, it is documented as
14 such, and it becomes a finding. It may also be
15 associated with another finding.

16 For example, if there is a MEL item on the
17 aircraft, the item has been deferred, or the crew needs
18 to make adjustments to their performance sheet, based
19 on that MEL item, an item inop. In other words,
20 requiring a penalty.

21 If that's not applied to the weight and
22 balance, that becomes both a finding of the MEL, proper
23 use of the MEL, as well as a finding on the weight and
24 balance, so it's -- you need to read the specific

1 finding thoroughly to really determine if it is, in
2 fact, a problem area, or systemic problem throughout.

3 And, you know, we attempt to do that very
4 closely.

5 I will add at this time that I just
6 recently, yesterday, completed reading the NASIP
7 report. I received it -- RASIP report. I received it
8 on Thursday, last week.

9 And I was not very, very happy ~~at~~ what I
10 read. It's a serious report.

11 Q. You just received the latest RASIP here this
12 past week?

13 A. Yes.

14 Q. Your unhappiness, can you expand upon that?

15 A. Well, it's just terribly disappointing to me
16 that there were problems there that had not previously
17 been identified.

18 You know, I do feel responsible, as
19 principal operations inspector, for ensuring safety. I
20 feel that that is my job, and I attempt to do that
21 diligently.

22 If there is a problem in performance in
23 planning, as an example, or in computing the weight and
24 balance, then it's a training problem, and it's a

1 problem that again is back in my area of concern.

2 It's something that needs to be resolved,
3 and in reading this RASIP, we had problems there. We
4 had problems that had not been identified to me, and
5 now they have been, and they will most certainly be
6 corrected.

7 Q. What do you think of the difference between
8 the NASIP in the spring, and suddenly this RASIP after
9 the accident?

10 Do you see a contrast or a difference there
11 Could you elaborate on the two?

12 A. Yes, sir, I can. The results of the RASIP -
13 - the National Inspection, the NASIP, concluded with an
14 awful lot, in my mind, administrative findings.
15 There were considerable findings that had to do with
16 one manual saying one thing, and another manual saying
17 another, not in the direction, or in the manner in
18 which they needed to accomplish its jobs, or the test,
19 but it may be something as simple as a misspelled word.

20

21 An example would be in the operations ops
22 specs, we jointly, the company and I, the Director of
23 Operations, changed a particular page, I don't know how
24 many times, trying to get Stewart Aviation spelled

1 properly.

2 Stewart Aviation provides the data for Fine
3 Airlines in the performance and planning manuals,
4 airport runway analysis manuals.

5 And in one place we had it spelled -- and
6 again, I say we, because the ops specs are something
7 the FAA prepare, and we prepare it based on what the
8 company provides us. However, we could not spell
9 Stewart Aviation properly.

10 When you find things like that in a manual -
11 - and during an inspection it is wrong. If you find it
12 in an ops spec, it is wrong. It's a matter of a
13 legality at that point.

14 It is a finding, and it must be documented,
15 but it's certainly nothing of a serious nature.

16 There were multiple findings in that NASIP
17 report that are justified. They're justified. They
18 are errors that need to be corrected, but there was --
19 these were not safety issues.

20 The RASIP report, as I started reading that
21 last Thursday, and we have the supporting documentation
22 for all these findings, but I'm reading what's
23 documented in the PTRS .

24 And it's very serious, because we're talking

1 about specific areas that were looked into that are
2 safety related. It's not just a matter of complying
3 with regulation. It's a safety issue.

4 Q. As a result of the RASIP we all know that
5 the airline was shut down for a period of time.

6 I'm sure you were involved heavily in the
7 ongoing process of getting the airline back into the
8 sky, is that true?

9 A. Initially, initially I was not. There was a
10 period of time, only days, in which there was a team
11 being selected for the recertification.

12 Excuse me, let's change that word to
13 reexamination of Fine Airlines.

14 There was -- it was undetermined whether the
15 principals would be on that team or not. Management
16 did decide within a few days, that yes, principals
17 would be on that team.

18 So for the next period of several days I was
19 directly involved in it. Then I was allowed to
20 continue a scheduled vacation that had been scheduled
21 last January, and so I was not around for the
22 conclusion of the reexamination of Fine.

23 In fact, I will say that I am still reading
24 these manuals, still adjusting -- readjusting to the

1 changes that have been in there. I am very happy with
2 what I see.

3 Those inspectors who spent a lot of hours
4 working with the company, and the company was very
5 accommodating to get things in more detail, more
6 specific, to spell duties, to define responsibilities.

7 They've done that now in the corrections in
8 their manuals, things that will make the airline not
9 only safer, but run smoother.

10 Q. Frequently, I've looked through all the
11 various inspections on a historical basis, and there's
12 constantly changes in manuals that needed to be made,
13 not just entitled by name changes in position and such,
14 but a continuous updating of the manuals.

15 A. Yes, sir.

16 Q. One of the areas that you may be familiar
17 with is the new loading form that has come out from
18 Fine Air, as opposed to the one in existence at the
19 time of the accident.

20 Can you share with me your thoughts on how
21 this evolved, and why, or what the differences are in
22 those weight and balance forms?

23 A. Well, for one thing, during the
24 reexamination, there were a lot of other sets of eyes

1 looking at the manual, what was already in print, and
2 how the company operated.

3 And once you have that availability of
4 resources you have a lot of new ideas and new concepts,
5 and better ways, based on their experience, of doing
6 things.

7 This change that was undergoing, being
8 undertaken at that time, resulted in numerous changes
9 to manuals, those forms being part of the change.

10 For example, Revision 51, I think it was
11 changed with the company at least four or five times,
12 just one particular revision.

13 Each of these forms that was implemented
14 assigns responsibility, something that wasn't there
15 before. The form as designed now is you can track who
16 did what, and who's responsible for what.

17 Previous to the accident, you know, we had
18 crew members responsibility for the loading. The
19 captain is always responsible for the loading, and it
20 just wasn't enough.

21 It's obvious that it wasn't enough. And now
22 we have accountability. Now we have traceability.

23 Q. Speaking of loading, did any of your
24 responsibilities include the oversight of Aeromar

1 Airlines, or any of the freight forwarders?

2 A. No, it did not.

3 Q. To your knowledge, does anybody in the FAA
4 have a responsibility, or in your unit, or at your
5 particular level, have any responsibility to provide
6 oversight to any of the freight forwarders at the
7 airport?

8 A. We did not.

9 Q. Since the accident, have you had to
10 participate at all in, or will you be participating in
11 the surveillance of freight forwarders?

12 Is that part of the new responsibility?

13 A. We had a sixty day special inspection that
14 was generated by a handbook change to the inspector's
15 handbook, of which it would include the loading of
16 cargo, and the handling.

17 And there were items on there that were
18 required to be reviewed. A minimum, I believe, of
19 three inspections was required with each operator.

20 In order to accomplish those tasks, by that
21 newly generated PTRS form, it included looking at the
22 loading of the freight forwarders.

23 So even though this was for a sixty day
24 period, and a different PTRS code than we normally

1 would use for a ramp inspection, I believe it will be
2 something that will be now continued within the agency.

3

4 It gives the inspector a lot more guidance
5 in how to conduct a ramp inspection of cargo aircraft.

6 Q. Did you feel like that prior to this
7 accident that the definition for inspection on cargo
8 loading was deficient?

9 Did you feel like that the guidance wasn't
10 there for you or your PMI, or PAI, to really have good
11 understanding of what to look for in terms of the
12 loading of an aircraft?

13 A. The guidance was not there, sir. It is now.
14 The guidance was not there.

15 Does that answer your question?

16 Q. Yes.

17 A. I lost my line of thinking there for a
18 minute.

19 Q. That was fine.

20 In terms of the weight forms, back in April
21 1996, you actually wrote a letter to Captain South,
22 stating in terms of operational control, specifically
23 load manifest, that load sheets for 50 and 60 series
24 aircraft are different, with more reference lines on

1 the 60 series form.

2 The company reportedly proposed a redesign
3 of this form until automation of weight and balance.
4 Has this action been taken? And this was --

5 A. Your question again is?

6 Q. My question is, is it looks to me like
7 you've actually identified back in 1996 that there was
8 some sort of a weight and balance problem on the load
9 sheets, and you actually asked the question.

10 A. Yes, sir.

11 Q. And since the accident there's been a
12 significant change in the load sheets.

13 A. Yes, sir.

14 Q. Do you know how these load sheets evolved?

15 Obviously, when you inherited the watch,
16 they had something in existence, and I don't expect you
17 to have gone through and researched the whole form.

18 But since this form has now significantly
19 changed, and even you made the comment that there were
20 different reference lines on the sheets, which would
21 indicate you'd looked at them.

22 Can you explain to me the difference, and
23 what has changed in these load sheets, and why?

24 A. I wish I could recall but, sir, I don't

1 recall the specific for the -- that may have been
2 following one of the inspections. I don't absolutely
3 recall the specific.

4 I do know there's a statement in here that
5 you just read that was suspending an automated weight
6 belt, something like that?

7 (Whereupon, Mr. Ivey hands a
8 document to the witness.)

9 A. Thank you, sir.

10 The statement I'm referring to is the
11 company reportedly proposes redesign of this form until
12 automation of the weight and balance.

13 The automated weight and balance is still
14 not in place.

15 Q. Okay.

16 A. But the specific -- the specific difference
17 between the 50 form and the 60 form at that time, I do
18 not recall. I can only guess, and I'd rather not do
19 that.

20 I think this may have been in response to an
21 inspection, in which there was something identified on
22 a load manifest.

23 Q. That's fair. That's fair.

24 (Whereupon, Mr. Zappia points

1 to a document.)

2 THE WITNESS: Ah, thank you, sir. That's
3 what it says, January, DOD survey report. I even
4 titled it.

5 BY CAPTAIN IVEY:

6 Q. You mentioned Stewart Aviation, and the
7 performance data, the runway analysis data that's
8 provided by that company.

9 There had been a series of fines, or
10 enforcement actions, I should say -- let me correct
11 myself -- there were to be levied against twenty-nine
12 of the Fine Air pilots as a result of DC8 operation
13 above 8,000 feet, is that correct?

14 A. That is correct.

15 Q. Can you tell me how that has been resolved,
16 if it has?

17 A. My understanding, that is that there are no
18 -- will be no enforcement actions taken against those
19 pilots, as agreed upon in the consent agreement,
20 following the reexamination of Fine Airlines.

21 Q. And that consent agreement, did you have
22 participation in the construction of that consent
23 agreement?

24 A. No, sir, I did not.

1 Correction. We -- when -- not the final
2 product at all. That took place at Atlanta, and there
3 was -- that was done at a level much higher than I.
4 Again, I believe company people were involved in that
5 also.

6 However, there were inputs that we made in
7 the office about things that we needed to do during the
8 reexamination process that we wanted the company to
9 correct, or to improve upon, is probably a better word,
10 during this process.

11 So I did participate in it at that level.

12 Q. Part of the consent agreement includes a
13 review and revise as necessary, cargo handling system
14 and procedures that will ensure accuracy of cargo
15 weights, restraint and loading for all flights, a
16 training program for cargo handlers, and review and
17 revise, as necessary, crew member flight follower
18 training to include cargo and handling.

19 A. Yes, sir.

20 Q. These were all areas. Did you make any
21 suggestions for the consent agreement that you saw
22 incorporated into the agreement itself?

23 A. If I were to look at the consent agreement
24 again, I could probably pick out specific areas, yes,

1 that I had input to, direct input to. One of the areas
2 were on performance, cargo loading, cargo handling.

3 Again, they were things that were generated
4 by other people looking at the process, and looking at
5 what they had seen, and having better ways of doing
6 business, but yes, I had input to all of that.

7 Q. As you mentioned, the twenty-nine pilots, it
8 appeared the action against them was incorporated, or
9 taken away as a result of the consent agreement.

10 Were you aware of the various enforcement actions
11 that included fines against Fine Air?

12 A. Yes, I was.

13 Q. Would it be your opinion that perhaps all of
14 these that went away also were incorporated in the
15 consent agreement?

16 A. Yes.

17 Q. From your standpoint as a POI, and having
18 been in the FAA now for -- how many years did you say,
19 almost thirty?

20 A. Seventeen years in the FAA.

21 Q. Seventeen?

22 A. Yes, sir.

23 Q. Would you say that this was an unusual
24 number of fines in size and number for an airline,

1 having been in this business seventeen years?

2 Have you got anything to compare that to,
3 either in discussions with other POIs or other
4 operators down here, or just looking at those numbers,
5 they seem fairly significant to me in size?

6 A. Excuse me, sir. Are you talking about
7 quantity, total numbers of violations?

8 Is that what we're --

9 Q. Quantity and the initial assessment?

10 A. Or the dollar assessment?

11 Q. Both?

12 A. Okay.

13 Q. Is that an unusual amount of dollar
14 assessments for fines?

15 A. I don't remember what the dollar assessment
16 was at all. These violations were filed by FSDO 23,
17 and even though I did have copies of them, I don't
18 recall the dollar amount assessment.

19 I do -- I will add, as I'm on record in this
20 previously, that I didn't believe it was fair to the
21 pilots to have violations fined against them for
22 following company policies, and/or practices or
23 procedures.

24 Q. And these fines were really coming out of

1 FSDO 23, is that correct?

2 A. That is correct.

3 Q. The International Flight Office?

4 A. That is correct.

5 Q. Can you describe the relationship between
6 FSDO 23 and FSDO 19, your FSDO?

7 A. It's competitive.

8 Q. Do they have the same area of
9 responsibility, or --

10 A. No.

11 Q. Why?

12 A. Well, one thing that should be explained,
13 and I thought I touched on that earlier, is that FSDO
14 23 now has geographic responsibility for Central and
15 South America. So -- and this was brought upon
16 primarily again by a limited -- budget restraints.

17 These people, in doing their business --
18 these U.S. inspectors, FA inspectors, have frequent
19 travel to Central and South America locations to work
20 with their representatives down there.

21 So it was thought that since they're already
22 there, and expending funds, U.S. funds, why not have
23 them have the geographic responsibility for inspecting
24 the U.S. airlines that go in there. I believe it was a

1 wonderful plan.

2 Q. Have they conducted on the geographic
3 inspections in South America, for example, or even in
4 the Caribbean -- or yes, Caribbean?

5 A. I believe it is the Caribbean also, yes.

6 Q. Have they ever given you any feedback as a
7 result of their inspections of Fine Airlines, and
8 loading at foreign stations?

9 A. I do not recall of any feedback on loading
10 at foreign stations.

11 Q. What do you think of the consent agreement?

12 A. I don't have anything to compare it to. In
13 all my time in the FAA, I've never been involved in a
14 consent agreement. I don't really know how to answer
15 that question, as to how I think -- what I think about
16 it.

17 Q. In terms of the loading -- I'm bouncing
18 around a little bit here.

19 A. Okay.

20 Q. And I apologize for that. Back to Fine
21 Airlines and their loading operation.

22 Can you define for me what operational
23 control should entail for the airline as it relates to
24 loading an aircraft?

1 A. This is being redefined as we speak.
2 Operational control by FAR has nothing to do with
3 loading an aircraft. It has to do with the dispatching
4 of an aircraft, of flight following of an aircraft, to
5 points of destination and return, by definition.

6 However, as we are here today, this is being
7 redefined by the FAA to include the operator, in
8 exercising operational control, will include such
9 things as cargo loading and handling.

10 I believe that the handbook bulletin that we
11 received is the beginning of that change in definition,
12 or perhaps I should say mode of operation.

13 Operational control will ~~alw~~ays stay with
14 the airline. That's -- the airline has that
15 responsibility for all aspects, but it was not defined
16 by regulation.

17 Q. Do you get involved in the wet lease
18 agreements that Fine Air has generated?

19 A. Yes.

20 Q. In what capacity?

21 A. The handbook requires that the wet leases,
22 if there is a wet lease that it be reviewed by the
23 principal operations inspector and operational control
24 be determined.

1 Then that recommendation goes to our Legal
2 for review of the lease agreement.

3 Q. It's Legal here in Miami?

4 A. The Legal is in Region, Atlanta. We have an
5 office, also inspectors, in Orlando.

6 Q. Has it always been that way?

7 A. I cannot comment on always been that way. I
8 do not know. Since my time as a principal inspector
9 it's been that way.

10 Q. You mentioned operational control, and as a
11 result of the NASIP, I believe, they had to add an
12 addendum to the wet lease agreement?

13 A. Yes, sir.

14 Q. And that dealt with Aeromar?

15 A. Yes, sir.

16 Q. And it's indeterminate status, to say my
17 words, of whether or not they were allowed to engage in
18 common carriage. And I believe the addendum may have
19 been provided as a result of that NASIP finding.

20 Do you have any knowledge of Aeromar and its
21 problems, as discovered by the NASIP report, as far as
22 common carriage is concerned?

23 That particular issue, can you --

24 A. I was not aware that the NASIP had problems

1 with Aeromar. The NASIP was of Fine Airlines.

2 Q. Yes.

3 A. I'm missing something here. Excuse me.

4 Q. I think in that, in the NASIP they made the
5 comment that Aeromar was --

6 A. Oh.

7 Q. -- under FAR 119.53, there is no indication
8 within --

9 A. Right.

10 Q. -- the lease that Aeromar is certificated to
11 engage in common carriage.

12 A. Right. Correct. I am familiar with that.
13 What happened was 119 became effective, I
14 believe it was 20 March -- 20 March of this year, I
15 believe it was effective.

16 The leases that Fine Airlines had at that
17 time with these other foreign airlines were all two
18 year leases. Every lease is two years. And the
19 Aeromar lease was expiring May 1st, or something like
20 that.

21 Regardless, regardless of the date, the exact
22 date, FAR 119 came into effect in the middle of those
23 leases. The leases were already in existence.

24 I personally felt, from my standpoint any

1 way, as the principal, you know, how can you -- how can
2 the regulation change the lease?

3 I mean, the lease is in effect, but to
4 comply with the findings, the company provided
5 addendums to the existing leases, Aeromar included,
6 that they felt was -- would put them in compliance with
7 119.53(c), I believe it is.

8 Q. All right. And in the lease, it stated that
9 Aeromar is to provide fuel, loading and unloading at
10 all stops, in part.

11 And then on the addendum that we were just
12 discussing, operational control, and these are
13 excerpted comments I'm making, that Fine Air shall
14 provide -- servicing of the aircraft shall be done at
15 the supervision of Fine's employees.

16 Now servicing can mean several things, but
17 what is your interpretation of how this airplane, from
18 a freight forwarder delivering the freight, how should
19 this control and management of the loading be done?

20 Who should be doing the supervising?

21 A. Fine Airlines.

22 Q. Not necessarily the loading, but the
23 supervising of the loading, is that fair?

24 A. Fine Airlines. In my opinion, and I believe

1 it's stated in the lease, that Fine Airlines would have
2 operational control.

3 And again, that meant to me that they were
4 supervising all areas of that operation.

5 Q. All right. Have you had any discussions
6 with people that don't believe that that's the way that
7 it should flow from the standpoint of operational
8 control?

9 In other words, some people may disagree
10 with you, and say, well, I think if the loaders are
11 going to load their freight, then they should be in
12 charge of the loading?

13 It may be Fine Air's airplane, but if you're
14 going to load it, you're going to be responsible for
15 it.

16 Has there been any discussions like that
17 come about?

18 A. I don't recall any discussions on that
19 particular subject where anyone was in disagreement
20 with whose responsibility it was.

21 Q. Since the accident, we had on the same day
22 two bulletins come out. We had the special emphasis
23 that was on September the 5th of '97, and it was a
24 special emphasis surveillance of Part 121 air carrier

1 cargo loading procedures, which was a Flight Standards
2 handbook bulletin.

3 A. Yes.

4 Q. And the second one was acceptable means of
5 maintaining cargo containers, pallets and netting
6 installed on transport category aircraft. That was a
7 Flight Standards information bulletin.

8 Are you aware of both of those?

9 A. Yes.

10 Q. Has it changed your way of having to do
11 business in terms of your surveillance as a POI?

12 A. Most definitely.

13 Q. And what are the highlights from your
14 standpoint?

15 A. Well, it has not changed who is ultimately
16 responsible. The responsibility still lies with the
17 operator, but it has changed how we look at the
18 operator, and their conduct of business.

19 It has changed how we do our business on
20 those individual inspections. We now have the guidance
21 necessary to make determination as to what's acceptable
22 or satisfactory, and what is not.

23 That was not available to us as inspectors
24 in the past.

1 Q. In fact, I think on the special emphasis
2 surveillance, there were to be two forms completed, and
3 have you conducted those inspections?

4 A. Those inspections were conducted on the
5 airline, but not by myself. Another operations
6 inspector noticed that there are two forms, and one's
7 an airworthiness form, and one's an operations form.

8 Q. I had not noticed that, but do you feel like
9 this is an improvement over the surveillance of air --

10 A. Most definitely.

11 Q. -- cargo operators?

12 A. Most definitely. I feel real strongly about
13 that particular area since the accident. There was an
14 area there that we did not have the guidance necessary
15 for us to use.

16 Now, some inspectors, based on their past
17 experience, have the experience to walk up and say,
18 this cookie sheet, this pallet, as I would call it,
19 they will call it a cookie sheet, you know, this is an
20 unacceptable pallet, and they could explain why it was
21 an unacceptable pallet.

22 A lot of other inspectors cannot do that.
23 They have not been trained in that area, or the
24 guidance was not provided to them. Now it's available

1 throughout the FAA.

2 Q. But prior to this accident it was not?

3 A. It was -- that type of information, that
4 specific information, was not available for our
5 inspectors to use.

6 Since that time, we've also locally
7 conducted training of our inspectors. And it's again,
8 a matter of cross talk, and using those who are
9 qualified, or have had experience in those specific
10 areas to train other inspectors, myself included, by
11 the way, on what to look for.

12 Q. So you've been through that training, or you
13 --

14 A. I have had training, yes, conducted by a DC8
15 qualified inspector in our office. He developed an OJT
16 program, if you will, to give us some training on
17 palletization, what to look for.

18 Q. That's been post accident?

19 A. Post accident.

20 Q. And is that just an in-house thing that was
21 generated by an individual here, or has that been
22 brought down from Region?

23 A. I believe -- I have not had any dealings in
24 this specific area, other than to be a student, but I

1 believe that information has been passed up through our
2 chain of command.

3 I may be mistaken there, but I seem to
4 recall overhearing that a lot of the things that we
5 have suggested, meaning our office, are in this
6 handbook bulletin, or the checklist that's now provided
7 to the inspectors.

8 Now, whether that's true or not, again, it's
9 hearsay on my part.

10 CAPTAIN IVEY: We've been going about an
11 hour and five. Would you like to --

12 MR. BENZON: How much longer do you think
13 you're going to need this gentleman?

14 CAPTAIN IVEY: Not much longer. Actually, I
15 can probably push right on through here, and it
16 shouldn't take but just a few more minutes.

17 MR. BENZON: Okay, I'm not trying to push
18 you or anything, --

19 CAPTAIN IVEY: No.

20 MR. BENZON: -- so why don't you continue.

21 THE WITNESS: I feel fine.

22 MR. BENZON: Press on.

23 BY CAPTAIN IVEY:

24 Q. So there's been training that has evolved

1 since the accident to include the identification of
2 pallet deficiencies, rollers, just the whole line
3 operation, if you will?

4 A. Yes, sir. How we are to identify a proper
5 palletized cargo load from the acceptability of the
6 pallet to the tie downs, what's acceptable to the
7 fasteners, what's acceptable to the securing in the
8 aircraft, what's acceptable -- a whole lot of
9 information.

10 And I might add that Fine has done a
11 commendable job, in my opinion, of preparing pallets
12 for their loads.

13 Not every one I see, but this last Saturday,
14 as an example, I saw an awful lot of loading going on
15 while I was out there, and I didn't watch the build up
16 of the pallets, but I checked each of the pallets.

17 Yesterday morning, again, at 4:30, I looked
18 at some pallets that were to be loaded on an aircraft.

19 They -- by their means of palletizing the cargo now
20 has improved, you know, tremendously. Their oversight
21 of that has improved tremendously.

22 It doesn't mean that everything is perfect,
23 or will remain perfect, but they have been doing a
24 commendable job, and inspectors, I think, are finding,

1 you know, a hundred percent improvement.

2 I hate to use that number, a hundred
3 percent, but -- because it infers something that I
4 don't mean to infer. There's been tremendous
5 improvement, and we now know what we're looking for.

6 We now know what needs to be done to make it
7 properly palletized and load it.

8 Q. Does part of the FAA inspection include
9 freight forwarders such as Aeromar now?

10 A. Today, no. I believe that bulletin will
11 probably be extended, which will take us back into
12 doing those things on a regular basis.

13 We've had considerable question in our
14 office about why this was only for a period of time.
15 You know, was it just a matter of accumulating data, a
16 data base, something to work with? You know, it's --
17 it's necessary.

18 We now know how necessary it is, so maybe
19 that's -- we're so close to it, we realize that, but I
20 would like to see that as a guide that we would use
21 consistently to conduct grafted sections of cargo
22 aircraft.

23 Q. You mentioned that you have been a student
24 in this program.

1 Was this specifically tailored for the DC8,
2 or is this all encompassing for cargo in general, all
3 types of aircraft?

4 A. The training that I was given was tailored
5 to DC8. We have other DC8 operators, but you can use
6 the same kind of training, and the same knowledge is
7 transferable to other aircraft.

8 You would need to know a little more about
9 the locking mechanisms perhaps, or the dimensions of a
10 1011 versus a DC8, but basically I believe this
11 training could be used anywhere, and by any inspector.

12 Q. Do you know who revised the load manifests
13 for Fine Air from the original one that was used during
14 the accident, and prior?

15 A. Yes. That -- that's the load sheet. When
16 you say load manifest, it's confusing to me.

17 Q. I mis-spoke. The load sheet is exactly what
18 I'm talking about.

19 A. Okay. The particular individual is the
20 question, if I heard you correct. I believe I do know.

21 Q. In other words, it's an evolutionary
22 in-house change, as opposed to using a -- from your --

23 A. From my perspective?

24 Q. Yes.

1 A. Yes, sir.

2 Q. In other words, the company themselves, when
3 they create a load sheet for weight and balance
4 purposes, they create it within their own shop?

5 A. Yes.

6 Q. Or at least in Fine Air's case. Let's use
7 this as an example.

8 A. I believe that's correct, yes.

9 Q. You don't know that there's a commercial
10 outfit that provides this data?

11 And you mentioned the Stewart Aviation, which
12 does the runway analysis. Just from your standpoint,
13 do you have any idea whether there's a company out
14 there that provides this for carriers, or whether it
15 might have provided it for Fine Air, or was it done in-
16 house?

17 A. I know that the larger of those two forms
18 was the changes were instituted by Fine Airlines.

19 Now whether they actually printed the form
20 in-house, or if they had data provided by someone else
21 to print on that form, that I really don't know.

22 It stands to reason that the -- I believe
23 that the form would have been sent out for printing.

24 Q. Sure, I understand.

1 But have you looked at the form since they -

2 -

3 A. Yes, I have.

4 Q. Have you noticed significant differences in
5 the forms?

6 A. Yes, I've noticed several differences in the
7 forms. Some of them we're still talking about.

8 Q. And can you enumerate for me, or elaborate?

9 A. Well, may I see a form?

10 Q. Sure.

11 (Whereupon, Captain Ivey hands
12 a document to the witness.)

13 A. The reason for this change was --

14 Q. Mr. Drayer, if I may, just to identify the
15 forms for the record --

16 A. Okay.

17 Q. -- if you don't mind.

18 A. Okay. Well, we have a Fine Airline load
19 sheet, DC8-61. There are two separate forms, one being
20 smaller than the other. The revision date on the
21 larger form is 10/3/97. The revision date on the
22 previous form is March 11, '94.

23 The first -- and the obvious difference is
24 its size. It's easy to read. It's easier to see

1 things on it. These being the same aircraft -- these
2 two being the same aircraft, it's not readily
3 noticeable what the change would be, but there are
4 different series aircraft,.

5 And so what Fine Airlines did was
6 standardize the forms. All -- not all just the same
7 size, but the same format on each of the forms for the
8 various series aircraft.

9 The thing that's not as noticeable to
10 someone who's not qualified in the DC8, or doesn't
11 spend a lot of time on this, is a zero fuel weight
12 reference line, I believe I can call it.

13 And if I'm technically wrong on the terms, I
14 apologize. Again, that's -- I'm not an engineer.

15 But Fine Airlines was notified, I understand
16 was notified, that there may be a problem, or they were
17 talking to Douglas -- again, this is hearsay -- about
18 what could be wrong in these forms.

19 And the result of conversations elsewhere
20 was me receiving a call from the DO, saying that we
21 have found a problem on our load sheets.

22 Our problem is identified in the area of --
23 and you'll have to excuse me again if I call it this
24 basic reference line -- and that they needed to correct

1 this information, and I heartily agree.

2 If it was known to be an error, a mistake,
3 whether it was to the plus or the minus sign, it didn't
4 matter. If the error was there, it needed to be
5 corrected on their paperwork, so I gave them the
6 authority, at that time, to make that correction that
7 was necessary.

8 I wanted to review the form, but make the
9 correction, and to ensure that no aircraft was
10 dispatched without using this new information.

11 Now, that change in the line is very hard to
12 see, you know. I mean, I do have my glasses on, but
13 it's hard to see the difference.

14 And what I understand this reference line
15 did was shift the CG a percentage. The exact
16 percentage, I don't recall, but it shifted it, I
17 understand, more to the -- I may be corrected several
18 times on this -- I think more inside the envelope than
19 outside the envelope, the envelope being the limits of
20 the CG that's allowed for the aircraft.

21 The company was very pro active in this. It
22 created a problem for them on the very first flight.
23 There was an inspector there, an FAA inspector with a
24 pilot who had not yet digested the word of we have a

1 new form, and this is how it's used, etcetera and
2 etcetera.

3 I understand from this inspector that he
4 filled out both forms. He wasn't sure which way to go
5 with it, and there was an insignificant difference.

6 It was negligible, but he wanted to make sure
7 that he was satisfying the inspector who was
8 questioning about which form do we use. The company, I
9 guess, had not been able to disseminate the word yet to
10 everybody.

11 This transpired over a matter of hours
12 between our office and the operator. That's about all
13 I can say about the form.

14 (Whereupon, the witness returned
15 the document to Mr. Ivey.)

16 CAPTAIN IVEY: Thank you. I think I'll pass
17 for now. Mr. Drayer. I appreciate all your comments.

18 THE WITNESS: Thank you, sir.

19 MR. BENZON: Okay, folks, why don't we take
20 ten minutes, and come back at twenty-five minutes to
21 the hour, and sir, you're still up at bat here for a
22 while.

23 THE WITNESS: Okay.

24 (Whereupon, at 9:20 a.m., a

1 recess was taken, to reconvene at
2 9:30 a.m.)

3 MR. BENZON: Okay, we're back on the record.

4

5 As I described before, now we're going to go
6 around to the rest of the folks at the table for follow
7 up questions.

8 And for you folks who haven't been to one of
9 our public hearings, or any depositions before, don't
10 hide your lights under bushels. If you have any
11 questions that you need clarification on, or would like
12 a subject brought up, please don't hesitate to ask.

13 Okay, we'll start with Frank.

14 Do you have anything you need to talk about
15 here?

16 MR. MCGILL: Well, I'll just go over a
17 couple of things here, Mr. Drayer, just to clarify a
18 few things in my old mind here.

19

20

21 EXAMINATION

22 BY MR. MCGILL:

23 Q. When you were assigned to Fine Air
24 initially, they were already operating, had some degree

1 of status.

2 Did you find anything right off the bat that
3 you didn't like, and have you made changes along the
4 way?

5 A. I don't believe there was anything I found
6 immediately that I did not like, and yes, there has
7 been changes all the way.

8 Q. So every time you do find something that
9 you're able to -- some degree of concern -- you're able
10 to make a change without any problems, and Fine Air has
11 made that change?

12 A. I wouldn't say that there's never any
13 problems. There will be discussion, and there will be
14 a conclusion, but generally speaking, yes.

15 Q. Prior to the accident, I know you stated
16 indirectly, but were you aware of any loading problems?

17 A. Prior to the accident I was aware of one
18 situation that involved what was determined to be a
19 loading problem for the use of -- in my PTRS, I believe
20 I put a load shift problem -- one.

21 Q. Then I'll go back. Kind of like I say, when
22 you find any type of problem, you're able to address
23 that problem, and it was taken care of?

24 A. This particular problem involved an

1 anonymous document. We didn't know where it had come
2 from, and I believe the results of that produced the
3 information that I had asked for.

4 Q. How many enroute inspections do you normally
5 perform for Fine Air a year?

6 A. That depends on the work program, and each
7 year now there's -- there are more planned. However,
8 what is necessarily planned may not be specifically
9 what I accomplish, personally accomplish.

10 I prefer someone doing enroute inspections
11 that is type qualified on the aircraft, from an
12 operations standpoint, of course, I'm speaking.

13 Q. Therefore, you really haven't done any
14 enroutes?

15 A. No, that's not true. I have, but that
16 number, I cannot give you. I do not have that. That
17 would be available in the PTR system though.

18 Q. Okay. And because you have already stated
19 that you norm -- previously to the advent of the last
20 two letters of documentation that's come from the FAA
21 guidance, you probably wouldn't have gotten into 97.12
22 and 97.21.

23 You wouldn't have gotten into the loading
24 arena any way, is that correct?

1 A. What is 97.12 and 97.21?

2 Q. Well, the bulletins that were --

3 A. Oh, I understand.

4 Q. -- for the handbook --

5 A. I understand.

6 Q. -- bulletins.

7 A. That is correct. I probably would not have
8 gotten into that detail.

9 Q. During a line check, normally you speak to
10 the flight crew. Have they ever -- and this is where,
11 if you say you're not doing too many of them, normally
12 the inspectors would talk to the flight crew, and they
13 would maybe give them something.

14 Hey, we are having a few loading problems
15 here and there, hooks or weights, or whatever, but it
16 would be addressed right there.

17 But you -- the other geographic inspectors,
18 or whoever did the line checks, none of this was ever
19 sent to you when they would do a line check, or --

20 A. No, the documentation accomplished in a line
21 check may be different than an enroute inspection, sir.

22

23 You know, what is actually being
24 accomplished there is like there are different items

1 that need to be accomplished on those different type
2 inspections.

3 The results of those inspections, depended
4 upon what was the purpose, would be reported to me, and
5 through the program tracking and reporting system.

6 Q. Okay, now that you mentioned line checks, we
7 are specifically talking -- I had talked about enroute
8 checks, but you brought up line checks.

9 For captain line checks initial, are you
10 present for those line checks?

11 A. Once again, are you referring to initial
12 operating experience?

13 Q. Yes, initial operating experience, line
14 checks.

15 A. Okay, okay. No, I am not.

16 Q. So it would be some other person that's type
17 rated in the DC8 that would do that?

18 A. Yes, yes. Actually, by regulation, you
19 wouldn't have to be type rated to do the enroute check.

20 It could be any operations inspector who has a turbo
21 jet rating could do that IOE -- initial IOE check.

22 Q. Would you like to do more enroute checks?

23 Do you think it's needed, and did you ever feel
24 that --

1 A. As I stated earlier, we direct our
2 inspections as to where the point of the problems are
3 highlighted, or emphasized.

4 We, because of the limited resources that we
5 have operated with, the funding restraints that we have
6 had, we have to continually adjust our work program to
7 where those areas of concern may be.

8 The answer to your question is yes, I would
9 like to do more.

10 Q. That is strictly a management resource
11 determination?

12 A. Yes, yes.

13 Q. Whether or not you did more or less?

14 A. Yes. But I might add, is it necessary? I
15 cannot say that it is necessary.

16 Q. I keep thinking about the loading at various
17 out stations in different countries, who's observing
18 how this loading is done, and what type of training are
19 those loaders getting.

20 Maybe the line checks -- I don't know this,
21 and perhaps you could help us -- but maybe more
22 surveillance in that degree would find some of these
23 problems.

24 A. Yes. I understand now. Certainly more

1 surveillance, but a line check is not -- the purpose of
2 a line check, or initial operating experience, or an
3 enroute inspection, would not be for the purpose of
4 observing cargo. It may be something that's
5 accomplished along with that.

6 What we really are talking about, I believe,
7 is having a person in place to check that function,
8 because an inspector could enroute on another aircraft,
9 another company, and still end up going over to Fine's
10 facility, or a provider, and watch the loading of
11 Fine's aircraft when they come in.

12 So it would not be necessary to enroute on
13 Fine Airlines, is what I'm saying.

14 Q. Okay. The training, you said, previous to
15 the accident, they work off of a pallet net system
16 versus say a ULTR container system with other airlines.
17

18 Are there other airlines in the Miami FSDO
19 that work under the same pallet and net, say Arrow or
20 Southern Air or other people that -- do you ever get --
21 is there any guidance from the FSDO helping you, how
22 the different carriers are handling this cargo?

23 A. May we start over again with that question,
24 please?

1 Which part of it would you like me to
2 answer?

3 Q. Okay. Well, let's -- I don't know. I was
4 just trying to get a feel, because I'm not really
5 understanding how specifically Fine Air -- there was
6 very little surveillance, obviously, for the loading
7 portion, and guidance from the FAA, and that's whatever
8 -- for whatever reason.

9 And now with better direction, I think it
10 will be more focused. But there are other carriers
11 that do the same type of loading.

12 So my question was, is there inner relations
13 from a POI or a PMI, from a carrier that works a
14 similar type of loading configuration?

15 Do you share any type of problems, or do you
16 ever communicate? Is there --

17 A. I'm having -- I'm sorry, sir, I'm having
18 difficulty with the question.

19 If we could break it down, I think I can say
20 yes, there is an interchange of information with POIs.

21
22 Obviously, after this accident, there is
23 more focus and more being transmitted from one POI to
24 the next about loading, cargo loading, or surveillance

1 of cargo loading.

2 Q. Has Arrow Air had any problems, or do you
3 know if Arrow Air, or of any other carrier in the FSDO,
4 having similar problems that Fine Air had?

5 A. I do not surveil those other operators.
6 Geographic inspectors surveil those operators.
7 However, I can say that prior to the accident, just
8 prior, just days prior to the accident, I believe it
9 was two, the FSDO had started a campaign in the
10 geographic unit, of surveilling all the cargo loading
11 and handling.

12 Q. If some other -- in the FSDO, another
13 problem with some other carrier were recognized, would
14 that information be necessarily transferred to you as a
15 POI of say Fine Air?

16 A. If there were a problem of a serious nature,
17 yes it would be transmitted. It would be made
18 available to everyone throughout the agency.

19 And internally, if we recognize a problem,
20 then we notify the other principals so that they may be
21 working on the same area, or looking into preventing a
22 reoccurrence of the same problem, and back in the
23 company that they're responsible for.

24 Q. Thank you. Looking at -- and you probably

1 can look at it here -- looking at say A29, I was just
2 curious, on the aircraft models of the 62 and the 63
3 series from the interchange agreement with ABX Air --
4 and noticing that the aircraft on the D85, the 11
5 aircraft, I believe it is, that's listed on the D85,
6 what specifically -- tell me what the D85 actually
7 does.

8 Those aircraft, what does that mean, the
9 aircraft that are listed on the D85?

10 A. Section D85 of the ops specs is a section I
11 normally do not deal with. It's a maintenance, an
12 airworthiness function.

13 Q. Okay. Once the aircraft are listed in here,
14 we're saying that Fine Air could fly in the 62 and the
15 63 series airplane?

16 A. This is the interchange agreement we're
17 talking about?

18 Q. Yes. Yes, sir.

19 A. Okay. If possible, I'd like to defer this
20 portion of the question on the interchange agreements
21 to the other principal, Mark Mazor, because he's been
22 involved in the interchange agreement since its
23 conception.

24 I don't want to say something that may

1 misinform or mislead.

2 Q. Okay, then the only other -- let's just take
3 any aircraft that's added to the ops specs,
4 specifically in the D85, there would be for the pilot
5 group, a differences section that would differentiate
6 between the types of airplanes?

7 A. Yes, sir.

8 Q. I never did really -- I didn't look very
9 closely, but I never did really see in the flight ops
10 manuals, any differences sections describing aircraft
11 that were deepest cockpits and different type -- the
12 differences of a 62 and 63 versus the standard series
13 50.

14 A. Differences Training was in there, and it
15 still is today. It's been expended upon. In their
16 ground, DC8 ground training flight manual, as well as
17 there are AOMs available, depending on the type
18 aircraft, but there was a Differences program in place.
19

20 The Differences program had initially
21 received approval, initial approval, by the previous
22 principal inspector.

23 Q. Okay, is it in there now?

24 A. Yes, it is.

1 Q. Okay. When we reviewed from a maintenance
2 perspective, a ninety day review of the accident
3 aircraft, we noticed in the log books, and maybe I will
4 have this right here, and perhaps you've already looked
5 at that.

6 There were several write-ups that came over
7 and over, just on this one airplane, this is all we did
8 for ninety days. We had six write-ups just on the
9 Number 4 engine, for reduced thrust, holding the
10 temperature limits, and we had cargo door problems,
11 eleven of those.

12 Seven write-ups on the ground spoilers, and
13 so forth. Sixteen of them on thrust reversers and so
14 forth.

15 Part of your duties, do you normally, when
16 you look at the logbooks, of the pilot write-ups, or
17 any -- or do you ever --

18 A. Well, these discrepancies that are listed
19 fall under the purview of the principal maintenance
20 inspector.

21 Q. Okay. I was just asking, do you ever get to
22 talk to the pilots about any of their write-ups, or
23 have they noted anything to you like that?

24 A. When I board the aircraft, either during an

1 enroute inspection, or a ramp inspection, and without
2 interrupting duties, most certainly do, and look for
3 items.

4 If there is any discussion that is prompted
5 by myself or the crews, we'll certainly respond. But
6 once again, this particular area here is a maintenance
7 function that I would not be dealing with.

8 Q. Also looking at -- we looked at over, I
9 think it's 117 write-ups in that period of time, for
10 that ninety day logbook. Every write-up of any --
11 that we used the word significant discrepancy, every
12 one of them was written up back at the Miami base.
13 None of them was written up at an out station.

14 It just seems a little unusual that every
15 write up is always done back in Miami, on the return
16 lag, and obviously then you don't look at the logbook,
17 so you don't have any --

18 A. No, that's not true. I do look at the
19 logbooks when I am -- when I'm there performing another
20 inspection and function. If it will not interfere with
21 the crew duties, I do look at the logbook, but --

22 Q. You don't think that's unusual, to have
23 every write-up written back in Miami?

24 A. Do I think it's unusual to have every write-

1 up entered in Miami? Yes, I think that's unusual.

2 Q. On one of the items of the RASIP
3 inspection, they noticed that -- and I don't have it
4 right here, but you've probably read it -- that one of
5 the captains came off of the aircraft and found
6 numerous problems.

7 He wrote it into the logbook, and they
8 actually did not complete the flight. But a previous
9 transit check had been done, and even though I'm
10 approaching all of this from a maintenance perspective
11 -- I know that, Mr. Drayer -- I was just curious,
12 communications with pilots, with Fine Air, they never
13 talk about any of the maintenance problems as is on
14 some of the aircrafts?

15 A. I'm certain they do talk about the
16 maintenance problems that are on the aircraft.

17 Q. But not to you?

18 A. But maintenance problems that are on the
19 aircraft have not been directed to me as principal
20 operations inspector.

21 Q. Okay. Do you deal with the Director of
22 Safety in any capacity with Fine Air?

23 A. Most of my dealings with the person who is
24 named as Director of Safety have been on issues other

1 than safety issues. They've been also on another job
2 function that he performs.

3 Most of my dealings with the company are
4 through the Director of Operations. Most of my
5 correspondence, you will find, is through the Director
6 of Operations.

7 I don't believe there has been any -- yes,
8 there was an area way back -- way back -- over a year
9 ago, where we discussed ramp conditions, parking
10 conditions, and the ramp was sinking in under the
11 weight of the aircraft.

12 We talked about that from a safety aspect,
13 but that's all that I can recall.

14 MR. MCGILL: Okay. Well, thank you very
15 much, Mr. Drayer.

16 I don't have any more questions.

17 THE WITNESS: Thank you, sir.

18 MR. BENZON: Okay, I've just got a couple
19 here.

20 EXAMINATION

21 BY MR. BENZON:

22 Q. Do you think the manning in FSDO 19 is
23 adequate to do the job?

24 A. Today, yes.

1 Q. How about before the accident?

2 A. I think the manning has increased. In
3 operations, I know it has increased over the hire --
4 the last hiring in the last two years.

5 We're at a level right now where people are
6 just now getting qualified.

7 Q. Do you think over a year is too long for a
8 new POI to wait around for a qualification class in an
9 airplane that you're expected to surveil?

10 A. It's a personal opinion, sir. It's strictly
11 that. There will be people who will say that it's not
12 necessary that a principal be type rated in that
13 aircraft, and that's inherent in the FAA.

14 And particular, if you're in a large company
15 that has multiple type aircraft, there is no way the
16 FAA could ever afford to send a principal operations
17 inspector to be type qualified on each of those
18 aircrafts.

19 I, from my standpoint, I think that it would
20 be a help. It would definitely help the principal.
21 The answer, is over a year -- I can't really answer
22 that.

23 Q. Okay. Do you have any extra duties at FSDO
24 19, over and above your POI duties?

1 A. Yes, sir. There's duties, telephone
2 standby. We used to call it accident/incident
3 investigation.

4 Since the number of people have increased
5 within the office, this duty is rotated, and it comes
6 around less frequently now than it did before, but yes,
7 there's another duty.

8 There's a duty to handle, as a principal
9 inspector, walk in traffic, meaning anyone coming to
10 the FAA with any type of operational problem, or
11 anything dealing with the operations aspect would be
12 directed to that specialty.

13 We have an awful lot of walk in traffic in
14 Miami from foreign pilots. So yes, there is another
15 duty. Two come to mind.

16 Q. We have that same problem.

17 Can you characterize the percentage of time
18 you spent on these extra duties, as opposed to your
19 main job?

20 A. The extra time spent is -- again, it's very
21 small, and it's becoming less and less because there
22 are more people into the office becoming qualified.

23 Q. Since you've joined FSDO 19 have you been to
24 any training that really you felt was not directly

1 related to your job?

2 A. We've had training a few years ago in team
3 building that I didn't think was necessary for an
4 inspector to do his job. Again, personal opinion.

5 Q. Sure. You mentioned several times that PTRS
6 plan. I'm not quite sure of the phrase that you used.

7 But is there any way that you on your own
8 can modify this plan, either to lessen or increase
9 inspection frequencies perhaps, or is the plan from on
10 high, and you can't do anything about it?

11 A. The plan is something that's generated
12 locally for each inspector, and it's generated with the
13 supervisor, the individual and the supervisor.
14 And we prepare a planned activity for the upcoming
15 year. This is done in exchange of the fiscal year.

16 And normally, at that time ~~is~~ when the
17 supervisor and the inspector, not just the principal,
18 but the inspector will sit down, and they'll go through
19 where they believe the emphasis should be directed.

20 Q. Okay. You mentioned that you didn't get to
21 look at the RASIP report until last Thursday. And my
22 copy is dated October 27th, 1997, which is maybe three
23 weeks before last Thursday, two or three weeks.

24 Would it be unusual for you not to see a

1 RASIP report for two to three weeks after it comes in?

2 A. Well, first of all, sir, you must understand
3 that the report leaves here with the inspection team.

4 And then it goes through the Region to the
5 Division Manager and so forth, before the final report
6 is completed, and then comes back to the office. That
7 will take a period of time.

8 Then you have to consider also, as the
9 inspector, are you there when it comes in, or are you
10 TDY, or are you on other duties, or vacation, for that
11 matter.

12 So it's not normally a long delay between
13 the accomplishment or completion of the inspection
14 back. And we do have an out briefing following each
15 inspection that gives a generalization of the results
16 of the inspection.

17 Q. Okay. You indicated a little bit of
18 surprise at the results of the RASIP after the
19 accident.

20 Do you agree with all the findings in there?
21 And I'll give you a chance to look at it, if you need
22 to.

23 A. No, I don't agree with all the findings in
24 it. And, in fact, just as recently as yesterday, some

1 of those findings were discussed.

2 Q. Can you elaborate a little?

3 A. Well, for example, the report will list a
4 particular pilot of Fine Airlines as being dis --
5 unqualified, that he flew X number of hours
6 unqualified, that he had not accomplished initial
7 operating experience.

8 There's about four findings, three or four
9 findings, for this one particular pilot. And what I
10 disagree with is that particular problem, there were
11 other circumstances that led to this pilot to be
12 considered unqualified, reexamined by the FA, and
13 placed back in service by the operator.

14 He had accomplished his initial operating
15 experience. He had done it previously to this
16 reexamination process. The finding would infer that he
17 has never had it.

18 The finding will infer that he flew
19 illegally for X number of hours in a period of time
20 because he was not properly qualified. That's not
21 true. He had gone through a re examination process.

22 Generally, that's the tone of what I would
23 disagree with in the report.

24 Q. Okay. Last one.

1 You mentioned that there was some
2 competitiveness between FSDO 23 and FSDO 19, and then
3 everybody else blew it off.

4 Can you elaborate on that one a little bit
5 for me?

6 A. I think it's only natural within any
7 organization of people, that you want to have the best
8 office there is, that you want to perform the best, and
9 that forms a competition, if you will.

10 And that's my own word that I apply to this.
11 I think that that particular office is -- has a
12 certain motivation, and I believe that we have a
13 certain motivation, and it lends itself to a
14 competitiveness in doing our job, nothing more than that.

15 Q. No quotas involved or anything?

16 A. No, none at all.

17 MR. BENZON: Okay. That's all I have.

18 Ron.

19 MR. SCHLEEDE: Thank you.

20 I've got just a few areas also, and I hope
21 they're not totally redundant.

22 EXAMINATION

23 BY MR. SCHLEEDE:

24 Q. Could you characterize -- I believe you may

1 have, but I missed it, the cooperation that you
2 received from Fine Air Management?

3 Could you characterize it for us both -- if
4 it changed before and after the accident?

5 A. I believe the cooperation has been there all
6 along. I believe that anything that the FAA asks for,
7 the company will do.

8 Q. Have there ever been any occasions where
9 you've tried to get something done and had a pretty
10 strong disagreement with the company?

11 A. Well, just by the nature of the business, by
12 the nature of the business, there's going to be that.
13 I mean, we're in the enforcement business, the
14 regulatory business, I should say.

15 And any time that there is anything
16 accomplished that may require more cost, more man hours
17 relating to costs, more involvement, it's subject to a
18 conflict, but I have not experienced that working with
19 Fine Airlines.

20 Q. In the past, the Safety Board has been
21 involved in some cases where the goals of a principal
22 inspector have been -- that weren't being accepted by a
23 company, and the principal was overruled by higher
24 authority, perhaps at the Regional level.

1 Has that ever happened to you?

2 A. No, I'm not aware of that happening at all.

3 Q. Okay. How is your performance evaluated as
4 -- how is your effectiveness as an inspector evaluated?

5 A. Currently for the employees, there is not a
6 performance appraisal, if that's what you're getting
7 at.

8 Q. Well, that's part of it. There's no annual
9 performance appraisal?

10 A. Currently there is not.

11 Q. And when you say currently, can you
12 elaborate on that?

13 A. There's not a lot that I can elaborate on,
14 except that since there is a past organization, a union
15 within the FAA now, there's union representation.

16 This has been something they have been
17 working on with management, I understand, for a period
18 of I don't know, two years, but there is not an
19 evaluation performance appraisal at this point.

20 Q. And when's the last time you received one?

21 A. I believe two years ago I received a
22 performance evaluation appraisal. In fact, it was over
23 two years ago, I believe. I believe two years ago.

24 Q. So there is no formal process, but back to

1 my original question.

2 How is your performance or your
3 effectiveness as a principal inspector, evaluated by
4 the FAA, by your supervisor?

5 A. If -- today if the supervisor feels that you
6 are not working up to whatever that standard level is,
7 he would counsel you on that, and then whatever action
8 is appropriate.

9 Q. Have you received any counselling as a
10 result of events related to the accident this past
11 August?

12 A. Well, I think I'd have to say at this point
13 that anything that would be dealing with the
14 performance appraisal is really something that's in my
15 personnel file, and on advice of counsel, if I comment
16 on that, I may be -- it may be against the Privacy Act,
17 so I don't believe I can really comment on that.

18 Q. Is there a national program, similar to the
19 NASIP, that looks at the effectiveness of your office,
20 of the FSDO?

21 A. I do not know.

22 Q. Have you ever experienced a team coming in?

23 A. There are office evaluations, yes, sir.

24 Q. Okay. Do you recall the last time there was

1 an office evaluation?

2 A. Well, yeah, we had an office evaluation, I
3 don't know, a year ago. I may be way off on the dates
4 on this, because I don't actually recall, but that
5 again is an evaluation of a level of supervision that
6 I'm not in.

7 Q. So you've not interfaced with any national
8 team or group that comes in regarding the office
9 evaluation?

10 A. I probably have in my history in the FAA. I
11 just don't have any recollection of what the specific
12 purpose of that team was, or any given time.
13 I do know, yes, there are office evaluations.

14 Q. And do you recall ever receiving feedback
15 about the results of the office evaluation?

16 A. Oh, yes, yes. There is -- following -- an
17 office evaluation is normally dealing with
18 administrative -- an administrative process, if you
19 will.

20 So if someone is coming in and they're
21 inspecting the files, they will expect to see things
22 filed in a governmental way, a governmental filing
23 system. There is an order for everything, as you're
24 well aware.

1 And so there will be critique of the office
2 in the form of the errors in this file, or these labels
3 were not proper, etcetera. Yes, there's always some
4 report.

5 Q. I'd like to shift for a moment here to when
6 you explained to Captain Ivey your background and your
7 assignment as a POI, you mentioned that -- I wrote it
8 down in quotes, and I apologize if I misquote it.

9 You were assigned as the POI, and that you
10 felt, in answer to one question, you were basically
11 qualified for the job. And I wanted to follow up on
12 what you -- you seemed to infer something.

13 You said you were basically qualified when
14 you took over as POI.

15 A. Well, the intent is not to infer anything.

16 Q. Okay.

17 A. The point, I think that needs to be made, or
18 should be addressed, is really my basic indoctrination
19 is what would qualify me for that position, okay? That
20 basic indoctrination was 1980. There have been changes
21 in the FAA since then.

22 Q. And so you didn't go through a re-indoc?

23 A. No, I did not.

24 Q. Okay. Do you know how many DC8 operators

1 are overseen by your office?

2 A. If I said it would only be a guess. I know
3 of -- I know Arrow is.

4 Q. Okay. And --

5 A. I'd have to look at the certificates to
6 answer that.

7 Q. I would just, in relation to the questions
8 and answers about the availability of DC8 qualified
9 inspectors, do you believe that you have enough in your
10 office?

11 A. We never have enough, sir.

12 Q. Okay.

13 A. In any specialty.

14 Q. Well, you've said in your testimony, that
15 certain things depend on availability of these folks.

16 Does it hamper you significantly to conduct
17 your job effectively, not having available DC8 experts?

18 A. Not so much hamper my job as it does the
19 operation of the company. The company may be
20 conducting training, initial pilot training, initial
21 flight engineer training, or whatever.

22 That's a job function of the FAA, is that
23 certification of the pilot. If the office does not
24 have the availability of an inspector to conduct that

1 certification, it hampers the operator in getting
2 certificated people.

3 And like anybody in the industry that's been
4 faced with this same situation at one time or other,
5 it's always useful to have someone qualified to help a
6 principal on a particular project.

7 But more importantly, it's necessary for the
8 company to function.

9 Q. Thank you. Another subject.

10 The DOD NASIP and RASIP findings, are those
11 findings typically entered into the PTRS System for
12 tracking?

13 A. Yes, sir.

14 Q. Okay, so not only your routine surveillance
15 on your programs that you do, also the findings are put
16 in there for resolution or --

17 A. Yes, sir.

18 Q. -- for future --

19 A. Yes, sir.

20 Q. I know Mr. Benzon asked you a couple
21 questions about the August 20th RASIP report, which is
22 dated 10/27/97, and you said there was an out briefing.

23 Did you attend the out briefing?

24 A. Of the RASIP?

1 Q. Yes?

2 A. No, sir, I was not here.

3 Q. Okay. Did you know about the findings prior
4 to reading the RASIP?

5 Had someone, anyone, briefed you on the
6 findings?

7 A. Well, yes, sir. I knew that the findings
8 resulted in the company electing to shut down to
9 correct problems that had been identified, but the
10 specifics of those findings, I had not seen.

11 And as you read the report, or as I read the
12 report, that's what I mean I was surprised at what I
13 was finding in the findings, because the company has
14 worked very hard, in my belief, to correct things, to
15 make things better all along.

16 And how could -- you know, how could these
17 findings be there, but they were. But how could they
18 be there? So it was a surprise to me.

19 Q. Do you feel, as the principal operations
20 inspector, that there should have been more interaction
21 with you directly, and the RASIP team, and the
22 completion of the report and the findings?

23 A. Well, I was available for the first part of
24 the inspection, so there could have been.

1 However, as recently as yesterday, I was
2 informed that there were other investigations that were
3 being conducted at the same time, so my participation
4 in the RASIP was negligible.

5 I was informed of things, some areas, as we
6 were going along. And then, again, I was absent for a
7 period of time in there, about two weeks I was absent.

8 Q. That was on leave?

9 A. Yes.

10 Q. What were these other investigations that
11 you referred to?

12 A. I really don't know. I think the manager
13 could probably address that subject.

14 Q. Okay. The other subject, referring to the
15 consent agreement. You had mentioned that your office,
16 and you and the other inspectors, made inputs to it.

17 Were you satisfied with the final result in
18 the consent agreement, of the items in the consent
19 agreement?

20 A. Well, that question was asked of me a while
21 ago, and I really don't know how to answer that
22 question. I mean, because I don't know what is meant
23 by satisfied with.

24 Do you mean --

1 Q. Okay, let me -- I'm sorry, let me clarify.
2 You said you made inputs. Were you inputs
3 accepted?

4 A. Oh, yes, yes.

5 Q. Okay. So there were no inputs that you
6 suggested that were just ignored, or --

7 A. No, the wordings may have changed on inputs,
8 but the essence was still there.

9 Q. Okay. I need to go back to the first area
10 here.

11 Now, you said that regarding whether or not
12 you have been critiqued or criticized, or counselled
13 regarding your performance, and you said that on advice
14 of counsel you aren't able to discuss that.

15 Is this FAA counsel or personal counsel?

16 A. FAA counsel.

17 Q. Okay. Could you elaborate just a little bit
18 on that, the exact reason why you can't discuss that?

19 A. I don't believe I can any more than I've
20 already said. I was advised that anything that is
21 contained within our personnel file is subject to -- I
22 may use the wrong terms here, excuse me, because I am
23 not an attorney, but I want to say the Freedom of
24 Information Act.

1 I hope -- hopefully that is correct, because
2 that's what I was understood, or that's what I heard,
3 when I was told.

4 So that to discuss anything that may be
5 contained in this individual folder for any of the
6 inspectors is acknowledging that you can go ahead and
7 do that, that we don't mind people looking at it, and
8 advice of counsel says no.

9 Q. Okay, but as far as any oral discussions,
10 nothing in your file -- if you had a critique or
11 debriefings regarding your performance from your
12 supervisor?

13 I'm not talking about your personnel file,
14 but --

15 A. I wouldn't -- I do not recall any critique
16 as far -- I'm using the wrong word, excuse me. Let me
17 collect my thoughts here.

18 Annually, we go through a list of job
19 functions or things that the principals are assigned to
20 do, and should have had training for, or should know.

21 That could be considered, I guess, a
22 critique. I don't believe I can say any more.

23 Q. Well, we've got several other witnesses from
24 the FAA, but I just wanted, since you're a principal

1 inspector, this issue has arisen before in other cases,
2 where -- we have NASIP program to inspect airlines to
3 understand their -- determine their compliance and
4 their attitude to compliance with the regulations.

5 What we're also trying to understand is how
6 the FAA looks at its own people for their
7 effectiveness, and that's --

8 A. I understand, sir.

9 Q. If you've got anything to elaborate on, just
10 --

11 A. I just -- all I can suggest is that perhaps
12 you need to talk to the supervisor and management level
13 on this subject.

14 MR. SCHLEEDE: Thank you very much.

15 MR. BENZON: Okay, thank you very much.

16 Now, we will go to the parties.

17 Mr. Zappia?

18 MR. ZAPPIA: First?

19 MR. BENZON: Do you want to go last?

20 MR. ZAPPIA: Yeah, I'd rather go last.

21 MR. BENZON: Okay, Joe?

22 MR. MANNO: I have no questions at this
23 time.

24 MR. POLANCO: I don't have any at this time.

1 MR. BENZON: Okay, you're last.

2 MR. ZAPPPIA: I only have a few questions.

3 EXAMINATION

4 BY MR. ZAPPPIA:

5 Q. In the beginning of your statement, you were
6 talking about your assignment with Fine Air. And you
7 alluded to the fact that Fine Air -- you referenced a
8 129 operator.

9 Fine Air was never a 121 operator, and I
10 didn't know where you got that reference from. Is that
11 from knowledge, or through hearsay, or is that factual?

12 A. I'm glad that point is brought up, because
13 it must be corrected.

14 Q. Okay.

15 A. I'm talking about -- I was thinking Agro
16 Air.

17 Q. Okay, and Agro Air was not a 129 operator
18 either.

19 A. My understanding was that they were. I
20 don't know. I'm sorry.

21 Q. Okay, but it was not based on any fact that
22 you know of?

23 A. No, no.

24 Q. Okay. The other question, I was curious.

1 Is it common, based on your experience, when an airline
2 and the principal inspectors have an opportunity to
3 evaluate a RASIP inspection, that inspection, the
4 findings, are they sometimes shown to be incorrect,
5 once the principal and the operator sit down and
6 discuss these findings?

7 A. Yes.

8 Q. Do you know if Fine Air was provided with a
9 copy of the RASIP report before it voluntarily ceased
10 operations?

11 A. No, I do not know. I was not here at that
12 point.

13 Q. Do you know if Fine Air has a copy of the
14 RASIP report that you received Thursday, I think you
15 said, or last week, the copy of the report dated
16 October 27th?

17 A. The report that I'm referring to is the
18 RASIP inspection. I don't recall the exact date on
19 that, but the information I'm referring to is the
20 information that was added into the PTRS System.

21 You would probably not have that. What you
22 would have is just the finding. You would have that
23 report, and I believe we have documentation from Mark
24 Mazor, saying you were provided that.

1 Q. There's a subject of date. I'm looking rfo
2 -- the report was provided to Fine Air just prior to
3 going before the consent agreement, but this --

4 A. I wasn't here. I don't know.

5 Q. -- report that was talked about today, that
6 you just received, is that a similar report, the same
7 report, or is that just a further elaboration of the
8 original report?

9 A. It's -- I do not know. I have to assume -
10 - I believe that it is an elaboration, because of the
11 specific detail.

12 Q. Did you receive a copy of the first report
13 that came out just prior to Fine Air entering into the
14 consent agreement?

15 A. No, I was not here.

16 MR. ZAPPPIA: Okay. I have no other
17 questions.

18 MR. BENZON: Anybody else at the table?

19 (No response.)

20 MR. BENZON: Thank you very much.

21 You're excused, but don't leave town for a
22 little while.

23 Thank you, sir.

24 THE WITNESS: Okay.

1 (Whereupon, at 10:20 a.m., the
 2 deposition was concluded.)
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 4
 5
 6

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
) SS.:
 COUNTY OF PALM BEACH)

I, EDNA HOLLANDER, Court Reporter/Notary Public in
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 certify that I was authorized to and did report the
 foregoing deposition of WAYNE DRAYER, a witness herein;
 that the foregoing pages numbered 1 through 98,
 inclusive, constitute a true and accurate record
 thereof.

I further certify that I am not of counsel; I am
 not related to nor employed by an attorney to this
 action; I am not financially interested in the outcome
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