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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 JOHN ZAPPIA, 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 Thursday, November 20, 1997 at 2:30 p.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. 20554-2000

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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5

I N D E X

6

7 WITNESS PAGE

8

9 JOHN ZAPPIA

10 By Capt. Ivey 4

11 By Mr. McGill 34

12 By Mr. Smith 38

13 By Mr. Mamo 40

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18 E X H I B I T S

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20 NUMBER FOR IDENTIFICATION IN EVIDENCE

21

22 (None)

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P R O C E E D I N G S

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(Time Noted: 2:30 p.m.)

9

MR. BENZON: Sir, would you raise your right

10 hand?

11 Whereupon,

12

JOHN ZAPPIA,

13 was called as a witness and, having been first duly

14 sworn, was examined and testified on his oath, as

15 follows:

16

MR. BENZON: Thank you. Have a seat.

17

EXAMINATION

18

BY CAPTAIN IVEY:

19

Q. Mr. Zappia, if you would, please state your

20 name and your place of business, your position and the

21 location of that business for the record?

22

A. My name is Mr. John Zappia. My position is

23 Chief Operating Officer of Fine Airlines Services,

24 Inc., and the location of the business is 4600 N.W.

1 36th Street.

2 Q. And as the position you've just described,
3 how long have you been into that position?

4 A. I've been in that position for only a few
5 months.

6 Q. And prior to that?

7 A. Prior to that, I was Senior ~~Vice~~ President
8 of Maintenance and Operations.

9 Q. And with that lead in, could you give us the
10 description of your own personal qualifications,
11 including any ratings that you might have?

12 A. Currently, the licenses that I hold are an
13 A&P license, an FCC license, and a radar endorsement
14 attached to the FCC license. It's a Class 2 radio
15 telephone.

16 Basic background?

17 Q. Yes, sir, please?

18 A. George T. Baker Aviation School, graduated
19 in '71. A&P license issued at that time. Worked in
20 the accessory business for a while. Got out of the
21 accessory business. Accessory overhaul as a mechanic.
22 Managed a shop for Marco Island Airways for
23 Martin 404s overhauling accessories. Went from there
24 in the late 70s to Airlift International.

1 Worked at Airlift International as an
2 avionics technician for two years. Worked at Air
3 Florida for about a year and a half, again on the
4 avionics technician side.

5 And then went and became the Director of
6 Maintenance with Agro Air. And that was about fifteen
7 years ago, and Agro Air -- was working for Frank and
8 Barry Fine.

9 And then from that, managing a repair
10 station, purchased DC-8s and worked with the company
11 since then.

12 Q. You mentioned Agro Air. Could you give me a
13 little history of the company and its evolution?

14 Is Agro Air almost the starting point?

15 A. Yeah, Agro Air could be the starting point.
16 Agro Air, at the time, was a company that owned a
17 couple of airplanes. When I came with them, they had
18 two Boeing 720s, and they had just purchased their
19 first DC8.

20 And through the years, Agro Air -- a few
21 years after I started with them, we formed a 145 repair
22 station to do maintenance on the DC8s that Agro Air
23 owned.

24 Agro Air was also a leasing company that

1 leased these airplanes and maintained them. And it was
2 a unique situation because we provided aircraft
3 maintenance and insurance on our lease arrangements.

4 And we did that for quite a few years with a
5 fleet that grew up to maybe eight airplanes or so. I
6 don't remember the exact numbers in time.

7 And then, that evolved into the formation of
8 Fine Air as a 121 air carrier. Agro Air remained a 145
9 repair station.

10 Approximately a year ago, we moved
11 maintenance facilities from a single bay hanger on the
12 south side of the airport -- I mean on the north side
13 of the air -- south side, correct -- south side of the
14 airport to a three bay maintenance facility, which is
15 currently the old Eastern main base overhaul.

16 And in moving, we also changed the name to
17 Fine Air Repair Center, as far as the 145 certificate.

18 Q. And as far as the various relationships
19 between Fine Air, Fine Airlines Repair Station which
20 you've just described, and the Miami Jet Repair
21 Station, could you tell me how these three work in
22 concert or separately?

23 A. Basically, they work in concert, especially
24 when you look at the fact that -- and I'm going to say

1 primarily all.

2 And when I say primarily all, it's like 99.9
3 percent of all the work that is done by Miami Jet are
4 the engine overhaul shop, which is the engine overhaul
5 shop for all of the engines owned -- operated by Fine
6 Air, and all the engines owned by Agro Air.

7 Agro Air is the owners of the aircraft, and
8 those aircraft are leased to Fine Air, as far as the
9 operation goes.

10 Fine Air Repair Center, the 145 repair
11 center, is the entity which does all of the work for
12 Fine Air in regards to checks and maintenance from B
13 check and above.

14 Q. You mentioned the Agro Air evolving into the
15 Fine Airlines repair station, but Agro Air is still, in
16 and of itself, an identity?

17 A. No, it is not.

18 Agro Air, as far as a repair station goes.
19 Agro Air, basically, when we moved into the new hanger,
20 we just changed the name from Agro Air to Fine Air
21 Repair Center.

22 Agro Air, separate entity, is the company
23 that actually owns the airplanes.

24 Q. That's why it's still in existence today,

1 because it owns the aircraft?

2 A. Correct.

3 Q. I talked with Captain South earlier about
4 the aircraft interchange agreements that you have. In
5 particular, the one with ABX as it relates to their DC8
6 airplanes.

7 Could you expand upon that for me as to how
8 that interchange works and how it is utilized as it is
9 reflected on the ops specs?

10 A. The interchange agreement works in a fashion
11 to where we have several Airborne airplanes listed in
12 the interchange agreement that Fine Air is qualified
13 and authorized to use, providing that the interchange
14 is executed as documented in this agreement.

15 It has locations where it has to happen and
16 how the execution has to take place, as far as Fine Air
17 taking operational control over the aircraft.

18 At which time Fine Air's crews would be the
19 ones who would operate the airplanes on whatever routes
20 and destinations Fine Air determines them to go on, and
21 all of the maintenance and maintenance support would be
22 provided by Airborne.

23 Q. Do you foresee any time in the future, Fine
24 Air crews flying ABX aircraft under this interchange?

1 A. Yes. We've looked at it a couple of times.
2 We've run some test runs.

3 That's the reason why there's also an
4 Airborne wet lease, because originally we ran some --
5 we were talking about doing some service between
6 Atlanta and San Juan.

7 Airborne has a certain amount of capacity on
8 certain days, being especially the off days, being
9 their Sundays and days that they don't normally
10 operate.

11 And really, the only problems we got into as
12 far as the actual utilization of the aircraft was
13 logistics and cost, based on the fact of where their
14 airplanes start and where our operation starts.

15 They really don't have any capacity right
16 out of Miami. So we did do some wet leases with
17 Airborne to where they operate a few flights where we
18 looked at the economics of it.

19 But yes, I can foresee in the future, Fine
20 Air operating some Airborne aircraft.

21 Q. Is there a plan in the future to incorporate
22 Stage 3 requirements into Fine Air's DC8s?

23 A. Currently, Fine Air is a party in a joint
24 venture with Quiet Nacelle, forming Quiet Technologies

1 Venture.

2 Quiet Technologies Venture currently, right
3 now today, holds an STC for a Stage 3 DC8. It is
4 applicable, primarily, for the DC8-51 series aircraft
5 due to the weight.

6 We currently have one airplane, which is in
7 experimental configuration right now, being -- going
8 through the final noise testing, changing out strictly
9 the tail pipe and adding a little more sound absorption
10 material to get the weights brought up to the heavy
11 weight equipment.

12 And we're hoping and expecting to have that
13 STC for full weight DC8-55 and 61s early next year. We
14 already have a production that's already in
15 production as far as the fan reversers.

16 We also -- part of this STC will change out
17 some of the problematic components on the aircraft,
18 like the thrust reversal system, with a newer designed
19 system, and that's being built over in England.

20 And I believe we've already got somewhere
21 between seven or eight ships that's already produced
22 and in-house, just waiting for final approval.

23 Q. Has there ever been any association, Fine
24 Air, Agro Air, or any of the other companies that you

1 have just mentioned, any relationship with Aeromar as a
2 company, other than just business relationship, freight
3 forwarding cargo to you?

4 A. Currently or in the past?

5 Q. Either.

6 A. I guess to clarify that the easiest way, in
7 the past, in I guess about '84, '85, there was a
8 relationship to where at that time, Aeromar C por A was
9 a 129 operator, operating between Miami and the
10 Dominican Republic.

11 Agro Air leased them aircraft, maintenance
12 and insurance. At that time, Aeromar operated the
13 airplane, with their crews, back and forth from the
14 Dominican Republic.

15 The FAA and Agro Air, the owner of the
16 aircraft, entered into an agreement back at that time,
17 to establish continuity of maintenance for the
18 aircraft.

19 I was listed in regards to the FAA as the
20 Director of Maintenance for Aeromar Airlines in regards
21 to the airplanes listed on their U.S. ops specs.

22 So therefore, the FAA had a single contact
23 point to deal with in regards to maintenance on this
24 aircraft.

1 That relationship was severed back in '86 or
2 so and until then -- between then and I believe
3 somewhere in '93 or '94, I know that Fine Air and
4 Aeromar Airlines entered into a joint venture.

5 Q. Do you know what that joint venture dealt
6 with?

7 A. Basically, from my knowledge, it's a joint
8 venture that just deals with operations and the
9 movement of cargo and the use of the Fine Air airplanes
10 between Miami and the Dominican Republic.

11 Q. In review of the Securities and Exchange
12 Commission Form S-1 document, prior to the initial
13 public offering of your stock, under management, and I
14 point out J. Frank Fine, who is the Chairman of the
15 Board, was from 1985 to 1988, President North America
16 and General Manager of Aeromar C por A, a Dominican all
17 cargo carrier (Aeromar), from 1978 to 1985.

18 That was excerpted in part, although those
19 dates don't quite correspond, but he was the President
20 and General Manager of Aeromar.

21 A. Ex --

22 Q. President North American and General Manager
23 of Aeromar.

24 A. Exactly. And when you see that North

1 America, that title, I believe that was more of
2 like a general sales agent taking care of the cargo and
3 the operation out of Miami.

4 He oversaw a lot of the movement of that
5 process. And that's the reason why it was listed that
6 way.

7 Q. And then, as you stated, that you had been
8 the point of contact as the Director of Maintenance
9 there under Aeromar from 3/84 up until I think you just
10 testified around '87 or '86, somewhere in that
11 neighborhood.

12 A. Yeah, and that was -- and again, I would
13 like to clarify that that was strictly for the aircraft
14 that were owned by Agro Air that were on the ops specs
15 between Miami and the Dominican Republic.

16 I don't know if Aeromar was operating other
17 aircraft out of the Dominican Republic that I had
18 nothing to do with, so it was strictly for that one
19 purpose.

20 Q. Yes. And a Mr. Terrance T. Sullivan, who
21 has served as the company's Chief Financial Officer
22 from May '93 to May '94, Mr. Sullivan served as
23 controller of Aeromar.

24 Those were just two of the officers,

1 including yourself, who is also listed under the
2 management of Fine Air that have had a past association
3 with Aeromar.

4 You were talking about the Agro Air aircraft
5 and Aeromar. At some point you seemed to be familiar,
6 very much so, with Aeromar.

7 At what point did they lose their 129
8 certification?

9 A. I really don't have any idea. Like I say,
10 my involvement with Aeromar is very remote. I mean the
11 involvement that I had primarily at the time which,
12 again, you know, back in '84 -- '83, '84, somewhere in
13 that area which was, you know, more than twelve years
14 ago, was strictly from a maintenance function of the
15 airline, which -- of the -- you know, of the aircraft,
16 which I did the maintenance on, and that was about it.

17 Q. Since Fine Airlines received its certificate
18 and began operating, did Aeromar at any time during
19 that period, back to 1992 -- is that correct?

20 A. '92, '93.

21 Q. Thank you.

22 They have not had aircraft to operate, have
23 they, in --

24 A. I don't know. Like I say, in the U.S., no.

1 I don't know if they operated anything down in the
2 Dominican Republic.

3 Q. Yes. So all the relationships that have
4 been with Fine Air and Aeromar since Fine Air's
5 inception, has been as a freight forwarder?

6 A. Whatever you want to list them as. We
7 provide them aircraft.

8 Q. Has there been members or employees of Fine
9 Air that have gone over to Aeromar to go to work?

10 A. I don't normally keep track of employees on
11 where they go after they leave me.

12 Q. All right. That's fair.

13 Prior to the accident, was there ever any
14 Fine Air employees, from your viewpoint, that were
15 charged with the responsibility of overseeing Aeromar
16 loading on Fine Air airplanes?

17 A. You would -- the flight crew would be in the
18 Dominican Republic.

19 Q. So out stations, they would indeed be
20 monitoring an Aeromar load?

21 A. That's correct.

22 Q. In the case of monitoring a load,
23 specifically at an out station, if you're indeed doing
24 that, then as a pallet comes on board, a flight crew

1 member designated, perhaps a Flight Engineer or
2 whomever, could indeed see as a pallet slides in that
3 the locks are placed on that individual pallet
4 subsequent to the next one coming down the road.

5 So you'd have an opportunity there to really
6 verify pallet lock activation on an out station.

7 Would that be true?

8 A. That -- I don't think that I could truly
9 answer that question, based on that, because of the --
10 the reality of the industry, a lot of carriers use
11 load masters, I've heard the term used here, cargo
12 loading supervisors.

13 There's a lot of different processes.
14 Flight crews oversee the loading of the aircraft prior
15 to the accident, and probably in a lot of cases, after
16 the accident.

17 If you were to go and witness a cargo load
18 master do his job or perform his function, in a lot of
19 cases, in a DC8 especially, a narrow bodied aircraft,
20 you would find this individual downstairs ensuring that
21 the pallet weights are properly there, and aligning the
22 pallets to go into the airplane, but not necessarily
23 always going to that detail of ensuring that the locks
24 are up on the aircraft.

1 And I feel that that's a hard question for
2 me to answer, in regards to saying well, would the crew
3 actually go back and look at the pallet locks going up.

4 I don't believe there was any detailed
5 instructions or that the industry had detailed
6 instructions in a lot of cases for a lot of carriers,
7 to say this function, take it all the way to this.

8 You know, to observe and oversee the loading
9 of the aircraft is a broad term.

10 Q. And I think you brought up a good point.

11 That in terms of a load master or anyone from
12 that standpoint in a wide bodied aircraft, there's
13 often times an aisle that's actually built down, that
14 the load master can walk back and look as he
15 transverses all the way to the rear of the airplane.

16 A. Well, that's true. And plus --

17 Q. Unlike that in a DC8, you don't have that
18 capability if you have a full pallet or even in a
19 containerized system, where it occupies the majority of
20 the space.

21 A. This is true, but even on the wide bodied
22 aircraft, in a lot of cases they have, you know, a lot
23 of carriers will use a load master for a wide bodied
24 aircraft.

1 And if you want to go look at the details of
2 that, that load master really becomes a cargo loading
3 systems operator, because like your seven fours or your
4 automated loading systems, it has a very unique
5 function of how the aircraft is loaded, and you must be
6 trained and knowledgeable on how to do that.

7 And do those people actually, physically go
8 back and watch the locks go up? I don't know.
9 That's a question that I guess the NTSB needs to ask
10 the industry.

11 Q. So it could be, whether you had a load
12 master, whether you had a flight crew member, or
13 whether you had a loading supervisor from a contract
14 carrier, based upon where he is in the aircraft or
15 outside the aircraft, it could ultimately result in a
16 position of trust that these locks are indeed
17 installed?

18 A. I believe that's the way it has been in this
19 industry for a long time.

20 Q. Absent someone crawling back through this
21 thing to verify, which I think, as you and I would
22 agree --

23 A. That is a highly improbable situation.

24 Q. That's exactly right.

1 Have there been reports that you're aware of
2 that have indicated locking problems, either from your
3 vendors, your freight forwarders, if you will, as
4 relayed by flight crew members in the past?

5 Has there been any indication to you that
6 that has been a problem prior to the accident?

7 A. No.

8 Q. Has there been very many indicators of any
9 kind brought to your attention, that delves into --
10 you've heard in prior testimony, the pitch ups, the CG
11 problems that could relate to cargo shifts as a result
12 of this, not especially bear traps, but cargo shifts?

13 Has there been any indicators at all to you
14 that pilots have let you know about those kinds of
15 problems?

16 A. No.

17 Q. Has there been any kind of feedback through
18 industry channels relating to these kinds of problems
19 with other operators?

20 A. Prior or since the accident?

21 Q. Prior.

22 A. Prior to the accident?

23 Q. Yes.

24 A. I -- you know, I was only aware of the few

1 problems, which I'm sure you guys investigated, on
2 aircraft that had these kind of problems years back.

3 I think there was a couple of incidents that
4 happened due to load shift or cargo shifting, certain
5 types of aircraft in the industry, and just through the
6 general reading magazines, you're looking at stuff.

7 That would be the only interaction I've had
8 with that.

9 Q. Is there any industry group like ATA or any
10 of these that represent totally 121 supplemental
11 carriers where there's an opportunity to have a forum
12 or meetings on a yearly basis, or biannual basis to get
13 together and discuss operations that are common to the
14 members that present -- you know, that go to these
15 meetings?

16 A. I'm sure -- there's a lot of seminars on a
17 lot of different issues regarding 121 air carriers,
18 everything from -- you know, like the Boeing structural
19 conference.

20 I mean there's a whole gamut of them, and
21 I'm sure that with some research you could find
22 probably the best forum to do that.

23 I'm not knowledgeable of one per se that
24 you're definitively talking about, but I'm sure there

1 will be some conduit to make that happen.

2 Q. To turn now post accident, what kind of
3 changes or indicators have you seen regarding the
4 weight and balance locks, other operators and their
5 discussions?

6 A. Well, you know, I've had discussions with
7 several other operators that have said oh, yeah, we've
8 had this or we've had that to where, you know, now
9 they're telling after the fact that, you know, we've
10 had these kinds of problems and, you know, including
11 some of the more refined.

12 And I would rather not name them, but I
13 would say some of the elite, more refined operators
14 that have a massive infrastructure.

15 But I think that the whole industry has
16 opened their eyes to a problem, and I know that here in
17 Miami and a lot of some of the other areas and the
18 people that I talk to, they're -- let's put it this
19 way.

20 There is a huge shortage right now in the
21 industry of pallets and that's obtainable from the
22 manufacturers. It seems like nobody can find them now.

23 Before there was always pallets and that's
24 on the shelf, so I don't know if that gives you some

1 indication that there is a big change going on.

2 Q. Would you attribute that change to increased
3 FAA awareness or carrier awareness, as a result of your
4 crash, and their individual idea to change what's
5 presently on the floor?

6 A. I would say the first two are correct. And
7 I would, as far as -- I would say that the issuance of
8 that handbook bulletin and getting the FAA out there
9 doing some ramp inspections and focusing in that area,
10 which hasn't really happened in the past, has probably
11 promoted a lot of the changes that are happening out
12 there.

13 Q. You mentioned pallets and netting.
14 What percentage of the pallets and netting
15 have you changed at Fine Air?

16 A. We've changed a pretty good percentage.
17 We've also -- you know, a lot of them are just -- I
18 don't know what the actual percentage is.

19 You know, some have been changed out,
20 repaired. You know, we were sitting there, we had
21 sixty-five days or so to think about it, so we had some
22 time to work on it.

23 I'm sure, you know, a lot of the other
24 carriers had to do that in a different basis, as they

1 were still operating, but we had the time to go through
2 and do a lot of repairs and do a lot of the rest of
3 that stuff.

4 Q. And you mentioned that other carriers had
5 started discussing things that have happened to them or
6 are ongoing, perhaps.

7 Has this been through the grapevine or is
8 there some formal mechanism where 121 supplementals are
9 able to gather together and share information?

10 A. Well, I mean, you know, aviation is a small
11 industry and everybody talks. And I happen to be
12 involved with an organization here in Miami called the
13 Miami Maintenance Management Council, which I'm
14 President of.

15 And it's an organization that's been around
16 for a while, and we get together and discuss issues
17 that are common to everybody.

18 And there was a lot of carriers looking for
19 guidance, as far as what are certain manuals supposed
20 to look like, and what is -- what is considered to be
21 acceptable practice to handle certain areas that really
22 haven't been truly defined.

23 As even the FAA has said, the guidance
24 wasn't really out there on what kind of repairs could

1 be done to nets, or what level of inspection needs to
2 be done to certain areas within the airplane.

3 Q. Given that lack of guidance and
4 surveillance, if you will, from the FAA, do you feel
5 like that after the accident, that you have been
6 unfairly targeted by the FAA?

7 A. I wouldn't say that I've been unfairly
8 targeted. I would say that I have had to reach a level
9 that is probably one of the higher levels in the
10 industry of how cargo gets handled, and the zero
11 tolerance factor where now it has to be looked at to
12 where there's got to be some guidance.

13 You know, pallet weight. I weighed it and
14 it's 2,500 pounds. I weigh it again, it's 2,505. It's
15 five pounds off. Is that acceptable?

16 What is the limitations for that? What kind
17 of deviation can you have?

18 And these are the problems that we're
19 dealing with right now and the FAA says, well, you
20 know, that's a good question.

21 Where do you go to find that guidance and,
22 you know, we're being faced with those factors right
23 now. So all I can do is say, okay, there can't be any
24 deviation until we can figure out how that works.

1 So I don't say that it's the FAA's problem,
2 I say it's our problem. It's -- the whole industry has
3 to really look at it and try to get some definition out
4 there.

5 And hopefully, this report that's supposed
6 to come out from these handbook bulletins will help
7 give more information on what needs to happen.

8 Q. Do you feel like although you've not been in
9 the position that long, but have been the recipient of
10 the numerous investigations or inspections, I should
11 say, that have been conducted on Fine Air, do you feel
12 like that's an excessive number for one airline over
13 the same time period that I've discussed in earlier
14 testimony?

15 A. I feel like we've had our share of
16 inspections.

17 Q. Do you think they've been fair?

18 A. I think that -- I would say yes, they have
19 been fair.

20 I do want to clarify that, you know, this
21 -- these reports that come out, due to my experience in
22 dealing with these types of inspections, you know, I --
23 the inspection teams come in and they are with you for
24 a short period of time.

1 They spend some time going through your
2 manuals trying to get an idea on how you do business,
3 and then they go out and inspect you to those manuals.

4 And when they do, I know that the Board was
5 very interested in why is it that the team comes in,
6 writes the reports, walks away and leaves it to the PMI
7 and POI.

8 And as was demonstrated in this meeting over
9 the last couple of days, the PMI and POI, along with
10 Richard and some other testimony, you know, some of
11 these RASIP findings that you brought up, you know,
12 four or five issues, and all of them were not true, not
13 found to be true findings.

14 This is normal within these types of
15 inspections because the team does what they're supposed
16 to do. They report what they found.

17 This crew member doesn't have IOE. Oh,
18 yeah, but you didn't look at the rest of this file.
19 That question didn't come up.

20 And in reality, the team that comes in can't
21 ask every question. Nor can all the information be
22 provided at the time.

23 Report 90-1, or whatever it is, it's not
24 there. Okay? Is it a safety of flight, is it a big

1 problem?

2 The report was used to substantiation, to
3 get the original manual approved. Well, the original
4 manual's approved. Well, can you go back and recreate
5 the report?

6 Hey, guys, that's what you've got to do.
7 You go back, you recreate it. Hey, there it is. So
8 you can see how, through these inspections, that
9 happened.

10 I feel that the inspections are necessary,
11 that they perform a certain function within the
12 industry. It's another method of guidance, it's a
13 method of -- I think it's a method of leveling the
14 playing field.

15 If you're always inspected by one certain
16 FSDO, there's other FSDOs out there that may do things
17 in a different way.

18 And I think that by having different FSDO
19 members from across the nation come in and inspect you
20 to a different level, it just levels everything out.

21 But yeah, we have had a few inspections.

22 Q. You've asked the question of several of the
23 witnesses, and now we'll reverse that on you.

24 You mentioned or asked the question

1 regarding the amount of time in which they receive the
2 report versus the time in which you received the
3 report.

4 Can you explain to me what the differences
5 are from your perspective?

6 A. The differences between the different
7 inspections that I've been through?

8 Q. No, the time receipt of these RASIPs and
9 NASIPs. You were asking when each one of these
10 inspectors had received the report and, number two, or
11 maybe number one I should ask is how long after the
12 inspection did you receive the report?

13 A. I want to take the opportunity to clarify
14 both sides.

15 My NASIP inspection, it took approximately
16 sixty-five days. On the RASIP inspection, it took
17 about a week after I had decided to ground the fleet,
18 which was about two weeks after the report was actually
19 generated.

20 In the case of the difference between the
21 two reports, the report coming from the NASIP
22 inspection when received, and if you wanted to sit down
23 and make a comparison between the two reports, you'll
24 find the NASIP report is factual and very clean.

1 It takes some time to go through and I know
2 you can tell by looking at it that FAA Legal spent some
3 time with these things, make sure the right regulation
4 and the right process and, you know, is that truly a
5 violation or is it a -- and that's where they put the
6 categories on it or whatever happens.

7 The RASIP report came back a lot quicker
8 than normal process that it takes, and that's the
9 reason why I was just curious what process did it go
10 through.

11 Did it go through the full process that all
12 the standard RASIP and NASIP reports go through? I was
13 just looking to see if it did that.

14 Q. Well, you mentioned the RASIP report was
15 received two weeks after your voluntary grounding.

16 A. That's correct.

17 Q. This voluntary grounding, what was that
18 based upon?

19 A. Based upon the fact that the FAA felt that
20 we had -- we did not have operational control over our
21 cargo, and our cargo loading and handling.

22 Q. Was it that you had also been provided
23 either advance information as it relates to the RASIP,
24 even though you didn't have in final copy, if you will,

1 the RASIP report?

2 A. No.

3 Q. It was just based on discussions with the
4 local FSDO or was it with Region?

5 A. It was with the local FSDO and legal
6 counsel.

7 Q. FAA legal counsel?

8 A. Yes, sir.

9 Q. And I'm sure with yours as well.

10 A. And it was based on the outbreaking of the -
11 -

12 Q. RASIP team?

13 A. -- RASIP team.

14 Q. Since the accident, I'm sure you've had an
15 opportunity to, in sixty-eight days --

16 A. I've had a lot of time.

17 Q. -- to review lots of things as it pertains
18 to your company, but perhaps also, as it relates to the
19 accident.

20 And without trying to get into what your
21 opinion of what caused this accident is, are there
22 things that you personally have noticed that have been
23 changed in your company that perhaps have been either
24 given short shrift or we, as investigators, have not

1 looked at, and made mention of more critical issues?

2 Do you feel like we've done an adequate job
3 of looking at the issues as it relates to Fine Air in
4 that accident?

5 A. I think the NTSB did an excellent job. I
6 think that they came in, they were expeditious, they
7 were very, very thorough.

8 The follow up, I think, was handled very
9 professionally with a minimal tasking of the airline,
10 as far as -- and I appreciate that -- as far as the
11 resources and the manpower that was made available, and
12 I think it was very, very thorough.

13 I don't know of anything ~~that~~ wasn't really
14 looked at.

15 Q. Do you feel like -- and again, the other
16 part of that question was, have you made some changes
17 in spite of either our lack of oversight in particular
18 areas?

19 Have you also discovered things during the
20 course of your own personal investigation of what
21 happened within your airline and made changes that
22 we're not aware of?

23 A. Yes, absolutely. And one of them that's
24 been rolling around the table all day, and it's a

1 standing joke.

2 We know when this deposition is almost over
3 for each individual, when you bring up the Safety
4 Officer. The Safety Officer has been realigned and
5 redefined.

6 Unfortunately, if you look at 119, it
7 doesn't give a whole lot of guidance on his duties and
8 responsibilities.

9 We have now -- we're in the process of
10 implementing a system for the Safety Officer, who will
11 truly control the auditing of the whole airline,
12 maintenance and operations.

13 And we're also redefining his exact duties
14 and roles and who he is going to be. We're making some
15 changes there, so that he has one primary
16 responsibility, that and portions and has direct input
17 into the training.

18 So that the person who is auditing and can
19 use the people doing the training to audit, will also
20 be the one teaching, so they can actually test the
21 people on site.

22 And I found that if there's one correction,
23 when you train somebody, you better figure out how to
24 continually test them and make sure that they can

1 maintain that level after they've left school or left
2 the training process for a while, so you can determine
3 how often you do have to train them.

4 Q. Yes.

5 A. Some people may require more recurrent
6 training.

7 Q. Your perspective of the FAA since the
8 accident, have you seen a way in which they have
9 changed their way of doing business with you?

10 A. By mass.

11 (Laughter.)

12 Q. Well, hopefully, the masses have diminished
13 somewhat, but --

14 A. Not really. It's -- no, I've always had a
15 pretty good working relationship with the FAA. You
16 know, it's always been a very -- we always define why
17 things need to happen and we always manage to come to
18 terms on what's the best route to take and how to do
19 it, and I think it's pretty much stayed that way.

20 I don't see any big change in the way that
21 the FAA and I interact. It's just that we're
22 interacting with a lot of different people, and newer
23 people and, you know, it takes a while for any
24 relationship to build as far as just knowledge.

1 So seeking where the knowledge lies in
2 certain areas is always a part of making that
3 communication happen.

4 CAPTAIN IVEY: Mr. Zappia, thank you for your
5 comments. I have no further questions.

6 THE WITNESS: Okay.

7 EXAMINATION

8 BY MR. MCGILL:

9 Q. Good afternoon, Mr. Zappia.

10 Well, since you've already discussed the
11 Director of Safety, I'm merely --

12 (Laughter.)

13 A. I had to get him cleared up. I mean nobody
14 really knows what he's doing.

15 Q. I don't have anything else to talk about.

16 Where is the physical location of the Quite
17 Nacelle with the company?

18 A. Quiet Nacelle? They actually have two
19 offices. They have -- they actually have a 145 repair
20 station as Quiet Nacelle, where they -- they recently
21 just got done doing some hush kit work on the KC135.

22 They retrofitted and got an STC for the --
23 whatever that airplane is for the big radar on it, but
24 AWAKS or whatever. But they have a location where

1 their 145 is located, and that is at Opa-lacka Airport.

2 Then they've got another location that is on
3 54th Street and somewhere around 79th Avenue, where
4 they do some of their manufacturing work.

5 Q. Are you or any other top executives with
6 Fine Air, are you associated with that 145?

7 A. I personally am not. I don't know what --
8 like I said, I know that the Fines, Mr. Frank and Barry
9 Fine personally, not as Fine Air -- I'm not really sure
10 about that either.

11 I know somehow there's some kind of joint
12 venture between them, but that's above my level. I
13 provide them some support every once in a while,
14 equipment or that kind of thing, and also support the
15 aircraft that's the test bed for the Stage 3 Hush Kit
16 Project.

17 Q. Are there any other FAA certificates that
18 you or Mr. Fine are associated with, that you know?

19 A. My A&P license.

20 Q. No, sir, certification --

21 A. No, not that I know.

22 Q. -- for the 145 or --

23 In the testimony, we've heard of Mr. Raoul
24 Batista was being in charge of the loading.

1 Was that a correct statement?

2 A. I don't believe so. Mr. Batista is one
3 person that is a cargo loading supervisor that works on
4 the ramp.

5 The actual gentleman that oversees all of
6 the ramp loading and unloading process is a man by the
7 name of Frank Accetuli.

8 Raoul Batista is one of his managers that
9 happened to be on duty the day that Aircraft 27 was
10 loaded.

11 Q. Okay. So if aircraft that are loaded here
12 in Miami right now, it would still be the pilot's
13 responsibility to ensure that this loading is --

14 A. No, that's no longer the case.

15 Q. Okay. It was prior then to the accident?

16 A. It wasn't even the case prior to the
17 accident.

18 Q. Do you know of any other -- of another air
19 carrier or air carriers that have signed interchange
20 agreements that would allow Stage 3 aircraft to be
21 listed on their D85 in order to comply with the Part 91
22 noise requirements?

23 A. That issue seems to come up a lot, and I
24 would just like to try to help clarify that a little

1 bit.

2 I believe that that whole process was done
3 with the explicit guidance and approval of the offices
4 required to oversee that function. And if you want to
5 go back into The Federal Register it was all listed
6 there.

7 It's a process to where the
8 environmentalists decided to use the operations
9 specifications as a controlling way to determine Stage
10 3 compliance, and it became a big issue within the
11 regulatory side of the how, saying well, how is this
12 going.

13 And there are several offices involved with
14 this because it's not just Flight Standards. It goes
15 into all these other offices.

16 And I know that this interchange agreement
17 and this process has gone all the way to the highest
18 offices. I know Mr. Bill Albee is the one who makes
19 the final decisions on noise compliance or he's
20 responsible for that office.

21 And all of those people and all those
22 entities are totally aware of this interchange
23 agreement, exactly how it works, what the function of
24 it is, and they've all bought off on it.

1 And as their inspectors inspect these areas,
2 Fine Air has had to create a whole lot of new standards
3 that are not normal in the industry.

4 The definition of operational control, does operational
5 control start when the package comes off of the truck,
6 or does it start when the package goes on the pallet,
7 or does it start when the pallet gets weighted? We
8 have to clarify and define that.

9 I don't think this has been defined in this
10 industry before. Based on that fact, Fine Air was --
11 Fine Air did put some very, very stringent policies and
12 procedures into place, in order to totally define these
13 areas.

14 The process is very complete, it's very
15 defined, and it is all approved in our manuals.
16 Maintaining it is very complex, and I think that
17 somewhere down the road, the industry itself and the
18 regulatory agencies need to clearly define what are the
19 requirements that need to be made in order to not have
20 it to where --

21 You know, a zero tolerance is not going to
22 work for the whole industry. I don't think it can be
23 maintained.

24 Fortunately for us, in the small nucleus we

1 operate in, we can do that on a short term basis or
2 even a long term basis, until we can define how this
3 process really needs to take place.

4 MR. SOUTH: Thank you. I have no further
5 questions.

6 MR. BENZON: FAA?

7 MR. MANNO: Yeah, I have a couple of
8 questions.

9 EXAMINATION

10 BY MR. MANNO:

11 Q. Mr. Zappia, with the Fine Air loading, what
12 qualifications or training do they receive?

13 A. They receive -- pre accident or post
14 accident?

15 Q. Pre accident?

16 A. Pre accident they receive training. They
17 receive HAZMAT training and cargo loading training. We
18 conducted some of that in January. That was all
19 documented and they get that through a -- that's a
20 formal classroom training.

21 And then underneath the supervisors, it was
22 all on-the-job type training.

23 Q. Would you expect, if they observed the
24 problem with the cargo equipment or a loading problem,

1 would you expect that they would have corrected it at
2 that time?

3 A. Absolutely.

4 Q. Would they notify management?

5 A. It would depend on the nature of the problem
6 and the exact magnitude of it.

7 Q. You've heard testimony that the RASIPs, the
8 prior RASIPs, and NASIPs and OSIPs did not detect any
9 problem with Fine Air as far as loading problems or
10 weight and balance problems.

11 Were you aware of any problems --

12 A. I've been --

13 Q. -- with the company?

14 A. I've been in this cargo industry for fifteen
15 years, and I've sat here on the ramp and we've worked
16 with a lot of other carriers.

17 And I feel that one of the reasons why there
18 were no problems detected is because we were pretty
19 much doing it like everybody else was doing it.

20 Q. Do you think there was a change as far as
21 the personnel or was there a change, turnover between
22 the last inspections, the last NASIPs and RASIPs
23 between the accident time, as far as your cargo loading
24 permit, was there people?

1 A. No. I mean it's an area to where, at the
2 lowest level -- and when I say the lowest level, I'm
3 talking about the guys that actually palletize this
4 stuff in the warehouse -- you know, you get a fair
5 amount of turnover in some of those areas.

6 As far as cargo loading supervisors and some
7 of the guys on the ramp, the turnover isn't that great.
8 And I would say it wouldn't be any large percentage.

9 MR. MANNO: That's it. Thank you.

10 THE WITNESS: That's it?

11 MR. BENZON: Do you have any questions of
12 John?

13 MR. POLANCO: No, I don't have any
14 questions.

15 MR. BENZON: Okay. Thank you.

16 (Whereupon, at 3:15 p.m., the
17 deposition was concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
) SS.:
COUNTY OF BROWARD)

I, EDNA HOLLANDER, Court Reporter/Notary Public in and for the State of Florida at Large, do hereby certify that I was authorized to and did report the foregoing deposition of JOHN ZAPPIA, a witness herein; that the foregoing pages numbered 1 through 42, 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 thereof.

Witness my hand and seal this 28th day of

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November, 1997, in the City of Boca Raton, County of
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Edna Hollander