



October 13, 2016

Via email
Jim Silliman
Investigator-in-Charge
National Transportation Safety Board
490 L'Enfant Plaza, SW
Washington, DC 20594

RE: Execuflight, INC. Party Submission regarding N237WR
Date of Accident: November 10, 2015
NTSB Investigation Number: CEN16MA036

Dear Mr. Silliman:

Please let this letter provide our comments and response following our review of the NTSB Human Performance factual report dated September 22, 2016. We appreciate the opportunity to submit these comments in our common pursuit of aviation safety.

I. INTRODUCTION

On November 10, 2015, about 1453 eastern standard time (EST) (1953Z), Execuflight flight 1526, a British Aerospace HS 125-700A, N237WR, while on approach to landing at Akron Fulton International Airport (AKR) impacted a 4-plex apartment building in Akron, Ohio. The Captain, First Officer, and seven passengers died; no ground injuries were reported. The airplane was destroyed by the crash and a post-crash fire. The airplane was registered to Rais Group International NC INC. and operated by Execuflight under the provisions of Title 14 *Code of Federal Regulations (CFR)* Part 135 as an on-demand charter flight. Instrument meteorological conditions prevailed, and an instrument flight rules (IFR) flight plan was filed. The flight departed from Dayton-Wright Brothers Airport (MGY), Dayton, Ohio, about 1413 EST and was destined for AKR.

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II. SUMMARY

- There is an insufficient factual basis for the NTSB suggested finding on page 4 of the Human Performance factual report that the First Officer was not in compliance with the consecutive rest requirements in FAR 135.267(d) for one flight on November 8, 2015. Specifically, the NTSB chart suggests that at the time of that particular flight completion, the First Officer had seven hours and forty five minutes of consecutive rest in the preceding 24 hours instead of the mandated ten hours.
- It is undisputed the accident crew was in compliance with crew flight time limitations.
- It is undisputed the accident crew was in compliance with crew rest requirements for the twenty-four hour period preceding the accident.
- There is no analytical basis to demonstrate the suggested rest time discrepancy two days before the accident flight had any causal relationship to the accident.

III. SUBSTANTIVE COMMENTS TO THE HUMAN PERFORMANCE FACTUAL REPORT

A. NTSB Calculation and Assumptions regarding First Officer's Compliance with Rest and Flight Time Requirements

Page 4 of the Human Performance Factual Report contains Table 2 which shows the NTSB's suggested findings as to the First Officer's duty and rest times for each flight for the time period November 7, 2015 through November 10, 2015. Specifically, the entry for one trip on November 8, 2015 (from MMY to MIA) suggests the First Officer was not in compliance with the consecutive rest requirements of FAR 135.267(d). The chart suggests that in the twenty-four hours preceding that flight completion the First Officer's schedule showed only seven-hours and forty-five minutes (07:45) of consecutive rest. The NTSB's interpretation of FAR 135.267(d) is that the First Officer is required to have at ten (10:00) of consecutive rest in the twenty-four hours preceding completion of a Part 135 flight. Execuflight, Inc. disagrees with both the accuracy and relevance of any finding that the First Officer failed to meet the crew rest requirement for the flight on November 8, 2015.



The NTSB appears to propose the chart as an “actual” **duty** and rest time for the First Officer. If the NTSB is going to perform an analytical exercise and calculate “actual” **duty** and rest times, Execuflight, Inc. respectfully suggests that the NTSB consider and recite all available information, as opposed to relying and citing only select information from one source while ignoring other source information.

Execuflight, Inc. has provided the NTSB with sworn testimony and documentation to show that Execuflight, Inc. notified the First Officer that adding the November 8, 2015 MMY to MIA route to his schedule could interfere with the First Officer’s required rest. In addition, Execuflight, Inc. President Daniel Lewkowicz, testified that he personally called and spoke with the First Officer, and that the First Officer understood he was not to report on duty for his November 7, 2015 flight from TEB-FXE until shortly before the scheduled departure so as to maximize his consecutive rest before that departure. The Captain was available to do the pre-flight preparations so the First Officer could maximize rest time before that departure.

On August 4, 2016 Execuflight, Inc. President Danny Lewkowicz sent Jim Silliman, NTSB investigator-in-charge, an email clarifying that the First Officer started duty time on November 7, 2015 at 17:15 (not 15:00 as proposed by the NTSB) for the TEB-FXE flight. The information in the August 4, 2016 email was based upon statements and information provided by Donnie Shackelford, the Execuflight Captain for the TEB-FXE flight. Before Execuflight, Inc. submitted the August 4, 2016 email, Donnie Shackelford was asked to review the email to ensure its accuracy and provide his comments, if any. Donnie Shackelford specifically acknowledged via text that he “Got the email” and offered no comments or corrections. At no time did Donnie Shackelford dispute the contents of the email or request it be changed.

Donnie Shackelford also served as an Execuflight, Inc. Party Representative during the NTSB investigation for the Operational Factors Group. In this capacity he was present and allowed to participate during several NTSB interviews with current and former Execuflight, Inc. employees. At no time during any of these proceedings did Mr. Shackelford criticize Execuflight, Inc. operations or suggest Execuflight, Inc. was influencing his participation in the investigation.

However, in late August, 2016, Execuflight, Inc. terminated Donnie Shackelford as an employee. Following his termination, Donnie Shackelford contacted the NTSB (on his own accord) and thereafter made a series of false, inconsistent and critical statements in which he attempted to attack the credibility of Execuflight, Inc. and distance himself from the August 4, 2016 email. For the first time, Mr. Shackelford also claimed that the First Officer reported for duty on November 7, 2015 at 14:00 – thereby resulting in an inadequate rest period. Execuflight, Inc. respectfully submits that Mr. Shackelford’s previous statements and prior affirmation of the August 4, 2016 email, his previous lack of criticism on Execuflight, Inc. operations, and whatever motives he may have to damage Execuflight, Inc. following



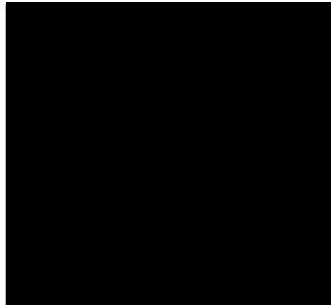
his termination, are all more than sufficient reasons for the NTSB not to rely upon his second inconsistent version of events and utilize that account as what occurred.

Execuflight, INC. also disputes the relevance of a suggested finding that the First Officer failed to comply with the consecutive rest requirements of FAR 135.267 for a single flight on November 8, 2015 – two days before the accident flight. Even if the First Officer had obtained ten consecutive hours (10:00) of rest in the 24 hour period before the November 8, 2015 flight, as opposed to the seven-hours and forty-five minutes (07:45) as calculated by the NTSB, there is no analytical or qualitative basis to demonstrate how that would or did materially alter the performance capabilities of the First Officer on the accident flight two days later. This is particularly true as it is undisputed the accident crew was in compliance with crew rest requirements for the twenty-four hour period preceding the accident flight.

IV. CONCLUDING REMARKS

We thank the NTSB for its work and our opportunity to contribute to this investigation.

Very truly yours,



Danny Lewkowicz
President
Execuflight, Inc