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Duncan Aviation Rolls with the Recession and Readies for Recovery

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- Protect Your FBO Investment; Know Your Rights
- The K.I.S.S. Method of GA Facility Security
- Charter Company vs. the IRS: Can Operators Win This Battle?
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Protect Your FBO Investment; Know Your Rights

By Leonard Kirsch and Mike France

When their operations are threatened, FBO owners and operators have many legal rights and remedies and several means to protect these rights and seek these remedies. FBO owners that fully understand their rights can better protect their investments, serve their customers, and protect the flying public.

13

Duncan Aviation Rolls with the Recession and Readies for Recovery

By Paul Seidenman and David J. Spanovich

Originally founded at Omaha's Eppley Field in 1956, Duncan Aviation, headquartered in Lincoln, Nebr., grew to become one of the country's premier turbine aircraft maintenance and service companies. This article discusses the company and the volatile economic times with company Chairman Todd Duncan.

19

The K.I.S.S. Method of GA Facility Security

By Lindsey C. McFarren

Even in this difficult economy, a business case can be made to justify the cost of security measures. GA security doesn't have to be complicated or expensive to be effective. This article focuses on FBOs and airports but also includes guidance for aircraft operators. All solutions discussed abide by the K.I.S.S. theory: Keep It Simple, Stupid!

27

Charter Company vs. the IRS: Can Operators Win This Battle?

By Nel Stubbs

An industry tax expert takes a look at the application of Federal Excise Taxes to the aviation industry and the IRS enforcement of these taxes. She explains how with the proper assistance and preparation, charter companies can convince the IRS that owner flights and management fees are not subject to these taxes.

36

President's Message | By James K. Coyne

7

Inside Washington | By Eric R. Byer

9

Your Rights When the FAA Comes Knocking | By Paul A. Lange

24

NATA Event Calendar

30

Charter Marketing Requires Recessionary Rethinking

By Paul Seidenman and David J. Spanovich

31

NATA Safety 1st News

41

2009 Commercial Operators Tax Seminar

42

NATA Compliance Services

47

Advertiser Index

48

New NATA Members

50

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70 Years of Change— and Much More to Come

By James K. Coyne

Anniversaries are very special opportunities: a chance to reflect on past achievement, a time to give thanks for good fortune and great friends, and an occasion for thoughtful analysis of a past span of time that can help us uncover lessons about the future. As NATA celebrates our 70th year of service in 2010, we should do all three.

Back in 1940 at NATA's inaugural meeting in Kansas City, private aviation businesses in America were under unprecedented attack from all sides. The White House and the U.S. Army were making plans to ban all private aviation for the duration of "the national emergency" and abolish the popular Civilian Pilot Training Program. The Battle of Britain brought news reports of unbelievable terror in the skies over London. Ferry flights were being organized to send newly built warplanes from the U.S. to England, and many in Congress felt that only Uncle Sam should be allowed to fly in American airspace.

The public, though fascinated with aviation, was very apprehensive about air safety, inflamed by nearly hysterical coverage of aviation disasters in the press. A DC-3 accident in a Virginia thunderstorm that summer was the worst air disaster in U.S. history up to that point (the 25 fatalities included a U.S. Senator), and Americans expected to read about a deadly plane crash almost every day in the pages of their local papers.

Though war preparations were boosting federal spending, the unemployment rate was still over 14 percent, tax rates had climbed to record highs, and business investment and consumer purchasing power remained depressed. While some economists hoped that the depression was coming to an end, most businesses were still losing money. It was hardly the right time, those early NATA members felt, for the federal government to force them to close their doors.

NATA was formed late that year to literally save

the concept of a private aviation industry. In much of the world, aviation had already been nationalized. Many governments had decided to operate a monopolistic "national flag" airline and found it easy to ban or constrain private aviation. As the world

was headed toward global war, the task of preserving private aviation in American was not going to be easy.

Had it been up to the political elite in Washington, D.C., the federal bureaucracy, or the media in the big eastern cities, Uncle Sam would have commandeered the skies. Fortunately, NATA members had a network of supporters across the country, especially in rural states in the Midwest and South. They established a Washington office and began connecting the political dots needed to save an industry. Within six months, the Army reversed course and hundreds of small airports sprang up across the land—and each of them fostered and supported essential aviation businesses like they still do today.

The leaders, like Bill Ong who helped win that first battle, have all passed on, but we still need men and women with the same dedication to our industry to fight the battles to come. Fortunately, over the years, NATA was blessed with visionaries who knew that the sky has no real limits. Thanks to them, private aviation in America is the finest in



Continued on page 10



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When Charter Safety Becomes Politicized

By Eric R. Byer

In recent months, there has been a misguided sense of panic in some entities within the federal government and the mainstream media about Part 135 on-demand air charter safety. The commotion started when the Department of Transportation's Inspector General (DOT IG) issued a report titled "On-Demand Operators Have Less Stringent Safety Requirements and Oversight than Large Commercial Carriers." Sadly, the title alone has led some members of Congress and federal regulators to translate "less stringent" into "less safe" and incorporate that into political speeches and statements, frightening the flying public and instilling a sense that charter is indeed unsafe.

But anyone taking the time to actually read the report would find a number of flaws with it, outside of the title. First, the DOT IG's office is far outside its area of expertise in evaluating safety oversight. That job is for the National Transportation Safety Board (NTSB) and the Federal Aviation Administration (FAA). The purpose of the DOT IG is to "promote effectiveness and head off, or stop, waste, fraud and abuse in departmental programs." The NTSB was established to investigate accidents and produce recommendations as to how to improve air safety. The FAA's responsibility is to act on these recommendations. Nonetheless the chairmen of the U.S. House of Representatives Committee on Transportation and

Infrastructure and the Subcommittee on Aviation asked the DOT IG to conduct this review.

The fact that the report fails to highlight many of the shortcomings of some Part 121 carriers that have been flying aircraft with serious structural integrity problems and makes broad unexplained generalizations about 135, while making post-accident regulatory suggestions that are not deemed necessary by the NTSB, clearly demonstrates the DOT IG's inability to review and report from a broad overview on FAA oversight.

The report set off media speculation questioning the Part 135 industry's safety record, as seen in recent articles published in *USA Today* as well as local news outlets in the New York City metropolitan area, which has only muddied the facts about Part 135 safety.

The True Picture

NATA and the Air Charter Safety Foundation (ACSF) have been busy with the challenging task of setting the record straight with Capitol Hill, the DOT, the FAA, the NTSB, and the media. One of the great unknowns to the flying public is the vast diversity of operations that take place under Part 135 rules. Many are familiar with business, leisure, or cargo charters, but there is so much more. From EMS helicopter and fixed-wing flights to oil rig operations in the Gulf of Mexico and from air tour operations in the Grand Canyon or NYC to flights



in Alaska, the Part 135 operating community flies almost anywhere and at practically a moment's notice, frequently to some place the crew has never before been. These levels of diversity and unpredictability are not present at the airlines, which is why they are a wholly unsuitable measuring stick to use for our industry. Yet when you compare the regulations of Part 121 and Part 135, you find very little difference. Most differences are to account for the smaller aircraft typically flown (you sure don't see many pistons flying 121 these days!) and the varied types of operations. When considering the vast array of locations, with their associated higher risk factors, into which Part 135 operators fly, it is not surprising that accidents and incidents are marginally higher.

Continued on page 10

President's Message

Continued from page 7

the world, with levels of performance, accessibility, affordability, and safety that literally no one back in 1940 could ever have imagined.

But here we are about to enter an equally daunting period in aviation. 2010 has many of the same perilous elements that NATA's founders had to confront: a weak economy, the prospect of new taxes, irrational global threats, demands for more federal control, and media mavens who argue that more regulations mean more safety, that small planes are not as worthy as airliners, and that rural America is just "flyover" country that doesn't deserve its little airports.

But we also have problems that no one might have foreseen in 1940. Business use of aviation, for example, was only an embryonic idea at a time when few companies dreamed of the expansive reach that aviation could one day provide. Who could have imagined that the business airplane would one day be slandered as a populist target by the class warriors of the 21st century? Or consider the public terrorism fears since 9/11 that have blos-

somed into an unimaginable web of security regulations. Putting armed guards onto private planes as they fly into Washington with distinguished American VIPs as the only passengers seems too bizarre even to be imagined, but not too bizarre for security "professionals" who know the political benefits of carefully managed fear mongering.

The obvious lesson to take as we celebrate NATA's 70th birthday is that we are all deeply indebted to those who worked on our behalf for all these years. Because of their efforts, thousands of profitable, job-producing member companies serve every corner of America. Over those 70 years those companies have created the finest transportation system known to man, and over the next 70 years it will grow and change in ways none of us can possibly predict.

One thing is sure, though: We need to work together to succeed, we need to confront every challenge with energy, confidence, and imagination, and we will need to keep fighting for at least another 70 years.

Inside Washington

Continued from page 9

Of course, there is always room for improvement. We should never accept our safety record as the inevitable outcome of our operational environment, and most operators don't. This industry continuously strives toward safety improvements that can positively impact our accident and incident rates. The fact that the accident rate is not more than marginally higher is because of the outstanding efforts the vast majority of the community continues to make to raise the safety bar in spite of the lack of resources and support the FAA provides and the agency's inattentive oversight to the bottom dwellers of the industry. And these bottom dwellers do exist, whether they be illegal operators that pose as having a Part 135 certificate when they don't or operators that do have a certificate but are willing to overlook regulatory requirements or sacrifice safety for revenue.

To be sure, the only way to keep this and future "studies" of Part 135 from leading to draconian congressional or FAA action is if the industry is motivated to engage actively in safety improvement. The following are just a few steps that should be put in motion to understand our industry's risks better, educate consumers, and improve safety.

1. The FAA should issue proposed rulemaking to adopt the numerous changes proposed in 2005 by the Part 135/125 Aviation Rulemaking Committee.
2. The FAA should make it easier for the industry and the public to know if an entity is certificated and what aircraft they are authorized to operate.
3. The FAA, NTSB, and industry must get their arms around a better data-collection process for the Part 135 community, thereby allowing for more thorough analysis of where safety

issues exist.

4. Stop talking about Safety Management Systems (SMS) and actually implement them. Every operator should begin the process to establish SMS now. The ACSF has several educational resources freely available at www.acsf.aero/sms.
5. Require the FAA to dedicate the appropriate manpower within the field so operators receive the guidance and oversight needed, and at the same time, establish as a priority the detection and elimination of illegal activity.

I sincerely hope we can squelch the rhetoric, get back to a clear understanding about Part 135 safety and the legitimate issues that do exist, and stop focusing on the blame game that runs rampant in this town. The industry deserves better, and so does the flying public.

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Protect Your FBO Investment; Know Your Rights

By Leonard Kirsch, Esq., and Mike France

Owning and operating an FBO can often leave a person feeling alone on an island left to fend for themselves against threats to the viability of their operation. These threats can come from local government or even airport management. FBO owners and operators must understand that they have many legal rights and remedies and several means to protect these rights and seek these remedies. FBO owners that fully understand their rights can better protect their investments, ensure their customers receive quality services at reasonable rates, and protect the flying public.

The FBO Lease

The FBO lease provides FBOs with a first level of protection from unfair and improper demands, unexpected costs and fees, and interference with day-to-day business activities. Because leases are both contracts and grants of real property rights, an FBO lease provides FBO owners both contract and property rights. These rights allow FBOs to seek enforcement of written terms and conditions and, where there is ambiguity, to obtain state court interpretations of these ambiguous terms and conditions in accordance with common law (legal principles based on precedent set by prior court cases) methods of interpreting contracts.

The main difference between a lease and a contract is that a lease grants exclusive possession to the tenant and provides certain property rights that protect a tenant's financial investment. Under common law property law, a party cannot lose its rights

in property without compensation. For example, if an FBO's property interest is condemned or if its property is otherwise taken, the airport sponsor must compensate the owner.

Key provisions of an FBO lease that owners should be aware of include:

1. Term of the lease,
2. Provisions for extending the term (often tied to investment of additional capital into the facility),
3. Rent,
4. Provisions for rent increases,
 - a. Usually the most preferential method involves 5-year incremental increases based on appraisals of similar airport properties,
 - b. The least preferential is often an annual CPI increase that over time results in a compound increase in rental rates,
5. Aeronautical services the FBO is required and entitled to provide,
6. Future capital investment requirements,
7. Rights to assign the lease or sublease the property, and
8. Insurance and indemnification requirements.

No matter the airport, FBO leases are usually similar in form. Some are more comprehensive and more favorable to the airport sponsor, others are shorter and clearer, and some are fairer to the FBO owner. When first entering into or negotiating an extension of an FBO lease, remember that the lease is always negotiable. The most effective way to negotiate favorable changes is to educate the airport sponsor about terms and conditions offered by

Continued on page 14

Protect Your FBO Investment

Continued from page 13

other airports, especially nearby airports (because airports compete for revenues and passengers).

Minimum Standards

Occasionally an FBO may be threatened by the appearance of on-airport or through-the-fence operators that are allowed by the airport sponsor to provide similar services without being required to meet the same standards as the existing FBOs. Standards that new operators may not be required to meet can include similar investments in facilities or land lease and service quality or availability. FBOs can receive a measure of protection from this type of activity by enforcement of an airport's minimum standards.

The FAA, in Advisory Circular (AC) No. 150/5190-7, dated August 28, 2006, suggests that airport sponsors establish reasonable minimum standards that are relevant to their proposed aeronautical activity

Many airport sponsors include their minimum standards in their FBO leases. While minimum standards implemented in this manner can be effective, they also render the airport sponsor vulnerable to the challenges of prospective aeronautical service providers on the grounds that the minimum standards are too restrictive.

with the goal of protecting the level and quality of services offered to the public. The FAA points out that once the airport sponsor has established minimum standards, it should apply them objectively and uniformly to all similarly situated on-airport aeronautical service providers and notes that the failure to do so may result in a violation of the prohibition against exclusive rights and/or a finding of unjust economic discrimination for imposing unreasonable terms and conditions for airport use.

The FAA objective in recommending the development of minimum standards is to promote safety, protect airport users from unlicensed and unauthorized products and services, maintain and enhance the availability of adequate services for all airport users, promote the orderly development of airport land, and ensure efficiency of operations.

FBOs wishing to begin operations at an airport also receive protection from the effective use of minimum standards. Any use of minimum standards to protect the interests of an individual busi-

ness operation (such as existing service provider) may be interpreted as the grant of an exclusive right, therefore a potential violation of the airport sponsor's grant assurances and the FAA's policy on exclusive rights. The FAA's position is that "when the airport sponsor imposes reasonable and not unjustly discriminatory minimum standards for airport operations through the use of reasonable minimum standards, the FAA generally will not find the airport sponsor in violation of the federal obligations."

Many airport sponsors include their minimum standards in their FBO leases. While minimum standards implemented in this manner can be effective, they also render the airport sponsor vulnerable to the challenges of prospective aeronautical service providers on the grounds that the minimum standards are too restrictive. For this reason, the FAA encourages airport sponsors to update and publish their minimum standards periodically.

Grant/Sponsor Assurances

The least known but perhaps strongest protection for FBOs is found in the Grant/Sponsor Assurances. The intent of Congress in passing the first enabling legislation governing airport funding in 1938 (and in adopting revised statutory methods in 1958 and again in 1982) was to improve safety and efficiency by, among other things, promoting competition among aeronautical users.

The statutory law behind the assurances is contained primarily in Section 511 (a) of the Airport and Airway Improvement Act of 1982, 49 USC 47107 (a), also referred to as Section 308 (a) of the Federal Aviation Act of 1982. The key language is, "The Secretary of Transportation may approve a project grant only if the Secretary receives written assurances...that (1) the airport will be available for public use on reasonable conditions without unjust discrimination and... (4) a person providing, or intending to provide, aeronautical services to the public will not be given an exclusive right to use the airport...."

In order to promote competition, the FAA requires airports receiving federal funds to agree to these "grant" or "sponsor assurances," which, among other things, prohibit any party from obtaining or maintaining an exclusive right to perform services at an airport and require sponsors (airports) to not unjustly discriminate against aeronautical users of an airport.

Regarding exclusive rights, the assurances require

Continued on page 16

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Protect Your FBO Investment

Continued from page 14

the airport sponsor to, “permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

1. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
2. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.

It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to, charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, parts, and any other activities including the sale of aircraft which, because of their direct relationship to the operation of aircraft, can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.”

The assurances also require airport sponsors to practice economic nondiscrimination:

“In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:

1. Furnish services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

Each fixed-based operator at the airport shall be

subject to the same rates, fees, rentals, and charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities....

The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport....”

FAA Publications

Perhaps the most useful guide to understanding the Assurances is the “Airports Compliance Manual,” revised this year and published by the FAA under Order 5190.6B. The manual contains guidance for FAA inspectors on compliance with sponsor assurances and can be an excellent tool for FBO owners in determining if airport actions comply with the assurances.

In January 2007, the FAA published AC 150/5190-6, providing additional guidance on exclusive rights. This AC provides basic information pertaining to the FAA’s prohibition on the granting of exclusive rights at federally obligated airports. The prohibition on the granting of exclusive rights is one of the obligations assumed by the airport sponsors of public airports that have accepted federal assistance, either in the form of grants or property conveyances. This AC provides guidance on how an airport sponsor can comply with the statutory prohibition on the granting of exclusive rights.

Too Many FBOs?

Efforts to persuade an airport sponsor to deny entry to a new FBO competitor begin and usually end with an economic argument based on fuel volumes. While Section 23 of the FAA’s Sponsor Assurances prohibits the grant of an exclusive right, the prohibition does not apply if both of the following conditions apply:

1. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
2. It would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and the airport.

A recent NATA article, “How Many FBOs Are Enough?” discusses guidelines for evaluating airport competition. The article states, “(T)he FAA is often quoted as saying, ‘Every FBO has the right to go broke.’” This does not imply that the airport sponsor must lease land and/or approve improvements to an FBO that will, based upon the sponsor’s due

diligence analysis, most likely be unsuccessful, as in being unable to fulfill the company's lease obligations. (For a copy of the full article, send an email to lkirsch@mklawny.com.)

The airport sponsor may also deny FBO status to aspiring entrants for reasons of safety and efficiency. A denial decided on safety issues must be based on evidence demonstrating that airport safety will be compromised if the applicant is allowed to engage in the proposed aeronautical activity. But the FAA is the final authority in determining what, in fact, constitutes a compromise of safety.

An airport sponsor can also deny FBO status to an additional company if there is insufficient space at an airport. However, the incumbent FBO may expand as needed, even if its growth ultimately results in the occupancy of all available space. But an exclusive rights violation can occur through the use of leases where, for example, all the available airport land and/or facilities suitable for aeronautical activities are leased to a single aeronautical service provider who cannot put it into productive use within a reasonable period, thereby denying other qualified parties the opportunity to compete to be an aeronautical service provider at the airport.

Part 13 and Part 16 Complaints

In addition to relying on state rather than federal courts to enforce contract and property rights contained in an FBO lease, the Part 13 and Part 16 processes provide the means to challenge an airport sponsor on issues arising out of the Sponsor Assurances (as well as certain other regulatory issues).


If the airport sponsor refuses to resolve an issue to a party's satisfaction, the next step is to seek assistance from a regional airport certification and compliance inspector at an FAA Regional Office.


The next step in the administrative process is for the aggrieved party to file a Part 13 complaint. The complaint can be in the form of a letter to the Airport Certification and Compliance Inspector or Regional FAA Director. The airport sponsor is then given 30 days to file a written answer. At this point, the regional office may seek legal clarification from the local FAA counsel or, more likely, the FAA counsel in Washington, D.C. Meetings and hearings are sometimes set, and the local office, if unable to negotiate a compromise, may issue an informal decision. Such Part 13 decisions may be issued in either letter or case decision format.

Part 13 decisions are only advisory because there is no penalty if a party refuses to follow the decision. The non-prevailing party in such administra-

tive actions does not have a judicial right to appeal the Part 13 decision but does have the option of filing a formal request for redress in the form of a complaint under 14 CFR 16, aka a Part 16 complaint.

A Part 16 complaint is filed with the FAA offices in Washington D.C. If the complaint is not dismissed for procedural or jurisdictional reasons, a hearing officer (usually an attorney from the FAA) is appointed. Hearings may be held, or upon agreement of the parties, the matter can be decided based on papers submitted by each side. An enforceable decision is usually rendered within 120 days. The decision in a Part 16 complaint may be appealed to the assistant administrator of the FAA, who then issues a final order. Finally, the non-prevailing party may appeal the final order to the local U.S. Circuit Court of Appeals.

It is important for FBO operators to remember that they are not alone in fighting to maintain their operations. A wealth of resources and options are available when threats appear. All FBO operators are encouraged to realize and understand their rights when dealing with an airport sponsor. 



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Duncan Aviation Rolls with the Recession and Readies for Recovery



By Paul Seidenman and David J. Spanovich

When Todd Duncan assumed the chairmanship of Duncan Aviation from his father, Robert Duncan, in 2007, aircraft OEMs had huge order backlogs, and a pre-owned, low-time business aircraft, in decent shape, was scarce. For Duncan Aviation, one of the country's premier turbine aircraft maintenance and service companies, times were never better. But within a year of becoming chairman, all of that would change as the global economy cratered, and aircraft sales plunged across the board. For the Lincoln, Nebr.-headquartered company, that meant fewer people booking new interiors and heavy inspections as aircraft were either flown less or simply parked.

"In 2009, we are projecting sales of \$327 million, a nearly 25 percent drop from the \$415 million we generated in 2008," said Duncan, who at 43 is one of the youngest chief executives of a major U.S.-based aviation company. "Consequently, in March of this year, we made the painful decision to lay off people for the first time in our 53-year history." That resulted in the elimination of 306 jobs as well as a company-wide cutback in hours and pay and the temporary suspension of the company's con-

tribution to its 401K plan. At the same time, plans to open a large, new operation in Utah at Provo Municipal Airport were scaled back.

Until the current recession, Duncan Aviation had a long history of carefully measured and well-calibrated development, even through past economic downturns. Originally founded as a Beechcraft distributorship at Omaha's Eppley Field in 1956, the company initially opened its doors as Robert Graf, Inc. As Duncan explained, Robert Graf was the major shareholder, with Carl Lang and Donald Duncan (Todd's grandfather) each holding a minority interest. By the early 1960s, however, Donald Duncan became the principal owner with the retirement of Robert Graf and the death of Carl Lang. In 1963, Donald Duncan moved the company, now Duncan Aviation, to Lincoln Municipal Airport.

"The airport authority wanted to grow the general aviation side of the airport and offered excellent incentives for building and leasing," Duncan said.

Duncan Aviation, which has remained under continuous family ownership throughout its history, grew to become a multi-location firm, focusing exclusively on a broad spectrum of business jets (from entry-level light models, up through medium

Continued on page 20

Duncan Aviation

Continued from page 19

and large cabin equipment) as well as turboprops. Despite its Beechcraft distributorship roots, the company does no piston aircraft work.

Lincoln remains the company's largest location, offering customers a complete menu of services, from line maintenance through major airframe inspections, modifications, and completions as well as avionics installations, component overhauls, and depot-level engine inspections. The work is carried out in a hangar complex of more than 430,000 square feet. Of the company's 1,839-person workforce, Lincoln's share is 1,184.

Well-known for its high quality workmanship and dedicated staff, the facility has been voted the "Number One U.S. Maintenance Shop" by readers of *Professional Pilot Magazine* in the publication's annual PRASE (Preferences Regarding Aviation Services and Equipment) survey for the past 22 years. The same survey has also named it the number one avionics shop in the United States annually since 1985.

In 1998, Duncan Aviation acquired Michigan-based Kal-Aero, an FBO and turbine aircraft maintenance company located at Battle Creek's W. K. Kellogg Field. The Kal-Aero acquisition included a smaller facility at Kalamazoo-Battle Creek International Airport. The two combined locations now employ 540 people, with most of the aircraft maintenance and servicing carried out in a 325,000-square-foot facility at W. K. Kellogg Field.

"Battle Creek has most of the same capabilities that we have at Lincoln, although we tend to do a little more Gulfstream work there," Duncan said.

All three locations include AvFuel-branded FBOs operated by Duncan Aviation. In 2008, the company's combined fuel sales were 5,228,298 gallons, which included 313,741 gallons of avgas and 4,915,557 gallons of jet fuel.

"The jet fuel includes a small percentage sold as into-plane air carrier fueling at both Lincoln and Kalamazoo," Duncan said. He stressed that while



the three FBOs serve based and transient aircraft, maintenance has always been Duncan Aviation's mainstay business, accounting for 96 percent of the company's revenues for the past two years and projected to be about the same for 2009.

"Lincoln, Battle Creek, and Kalamazoo are small communities where there is not a lot of demand for FBO services," he said. "We inherited the FBO at Kalamazoo when we purchased Kal-Aero, and we continue to offer fuel and hangar space there. But when you look at the FBOs at Battle Creek and Lincoln, their main business is to support our maintenance operations." He added that Duncan Aviation is NATA Safety 1st line certified at all of its locations.

Along with the two nose-to-tail service centers and the Kalamazoo FBO, Duncan Aviation maintains 23 satellite locations throughout the country that specialize mainly in avionics and line service. Each is staffed by airframe and powerplant mechanics. Another seven locations serve as bases for quick-response teams specializing in 24/7, on-call AOG services with a focus on engines and auxiliary power units service. The satellite locations and the quick-response teams account for another 115 employees.

Factory authorizations for Duncan Aviation's heavy maintenance operations read like a *Who's Who* of high-end aerospace companies. Currently, they include Cessna Citation (Models 500, 550, 560, 650, and 680), Bombardier Challenger 300 and 600 Series, all models of Learjets, and all members of the Dassault Falcon Jet and Hawker Beechcraft's





Hawker families. The company is also Embraer factory authorized for its Legacy business jet line. Engine factory authorizations include Honeywell, General Electric, Pratt & Whitney, and Williams International. In avionics, Duncan Aviation is an authorized Honeywell, Rockwell Collins, and Universal dealer.

More recently, Embraer's new line of Phenom 100 and 300 very light business jets have been added to Duncan Aviation's factory repair approval. In fact, the Lincoln facility just completed the exterior striping for the first Phenom 100 to go into service in the U.S. Duncan said that as part of the company's strategy to build its business around jets, the new very light, entry-level models present an opportunity.

"My father just purchased a Citation Mustang, and I might even consider a type rating on that aircraft," he said. "The Mustang and the Phenom families are tremendous aircraft, and we are very excited about those products." Duncan is a licensed pilot and currently flies a Beechcraft Bonanza and a King Air C90.

In October 2008, Duncan Aviation's management announced its decision to expand the company's operations geographically by developing a new maintenance facility at the Provo Municipal Airport. The company's original plans for Provo called for the construction of a new \$56-million, 360,000-square-foot service complex to be developed in three phases and employing up to as many as 650 people over a 10- to 15-year period. As with

the Lincoln and Battle Creek facilities, the capabilities were to include all levels of airframe and engine inspections and service as well as avionics, exterior painting, and interior completions. But by February 2009, the company decided to pursue a less ambitious short-term plan.

"Given the economy, we opted for a plan B, which delayed building a new service center from scratch," Duncan said. "Instead, we'll begin by leasing an existing, 15,000-square-foot hangar from Million Air Provo, which we expect to occupy by the third quarter of 2010 with 24 employees."

Duncan said that under the revised plan, the Provo location will provide small to medium airframe inspections, engine support, and avionics service. "Hopefully within 10 years, we'll have the kind of facility, employing several hundred people, which we originally planned," he said. "But even under our revised plan, Provo will still allow us to expand our customer base and will put us in a better position to support the maintenance and repair authorization agreements we have with Bombardier and Embraer by servicing their products in the far western U.S."

For right now, the company is positioning itself for an eventual recovery through an aggressive, multi-pronged stabilization process. One of the measures taken in that respect was to address employee concerns, especially in the wake of the past-year's layoffs.

"We are now providing weekly updates, which we post on our Intranet site and email to our staff, about our sales and deliveries," Duncan said. "Prior to the layoffs, this information was published in our monthly newsletter."

Duncan stated that with respect to staffing, he is confident that the company is correctly sized at this time. "We were very careful to ensure that our best and greatest technical expertise was retained, and as a result I think we will be able to come out of

Continued on page 22



Duncan Aviation

Continued from page 21

this recession stronger and better positioned than many of our competitors.”

To develop the company’s technical expertise even more, technicians are being cross-trained in different skill areas more extensively. “We are trying to give more of our employees the skills to go to and from different areas, such as shop training, installations, and completions,” he said. “The result is that we have been able to perform more work with less staff, increase productivity, and still maintain our high quality of workmanship.”

Duncan Aviation has also hired a production process analyst who has evaluated processes and helped to implement methods to make increased gains in both production and quality. “Our manager of business processes and continuous improvement has been focused on changing the (company) culture in terms of the way we look at opportunities for efficiency gains,” Duncan said. “We are concentrating on all levels of the organization to identify waste and take the necessary steps to eliminate it.”

One step implemented has been the establishment of continuous-improvement teams in all of the shops, each comprised of a cross section of technicians, management, and support personnel. “Ideas for improvement come from our team members who do the work daily,” Duncan said. “History has shown that this is the only way to create effective and meaningful change.”

Duncan cited a paint department technician whose suggestion enabled the elimination of some steps in the painting process while drastically re-

ducing the need for rework by the detailing team. “In addition, members of our airframe team, in both Lincoln and Battle Creek, worked together to build standard tool kits and parts kits for the Falcon 2000 winglet modifications,” he said. “We are among the first maintenance and modification companies to install the winglets, which were developed by Aviation Partners. These kits have helped to reduce the time it takes our technicians to accomplish this task, which subsequently reduces the downtime for our customers.”

In general, Duncan is optimistic that there may be some signs of economic recovery. “Since the beginning of August, we have managed to come back to about 90 to 95 percent of our production work (capacity) at both Lincoln and Battle Creek,” he said. “Until a full economic recovery happens, we expect to see a fluctuating percentage for production, up some weeks and down others.”

Duncan has seen some modification businesses returning. “In addition to the Falcon 2000 winglet installations, we are seeing increased demand for the installation of Aircell broadband communications systems,” he said. “There has also been some increased activity in our installations shop, particularly involving avionics upgrades, including WAAS (Wide Area Augmentation Systems) installations and retrofits under our Glass Box Project, which offers the latest technology glass cockpit upgrade solutions for legacy aircraft.”

Nonetheless, Duncan said that engine work is still somewhat weak and that the backlog of work

orders are still not where they were the previous year. In fact, Duncan described that broader aircraft maintenance market as a “good news/bad news” situation.

“Between now and the end of the year, I think it will be very spotty, with some weeks being better than others, although there are at least some signs of stability,” he said. “We are no longer seeing the tremendous falloff in flight hours, and there seems to be some activity in the used market since we are seeing an increase in our pre-buy inspections. When you couple that to the fact that people are holding onto their aircraft longer, that’s a positive sign for anybody in the MRO



(maintenance, repair, and overhaul) business.”

The positive trends, Duncan said, have prompted the company to recall some of its recently laid-off employees. “To date, we have been able to bring back only a handful of people, at least on a part-time or contract basis,” he said. “We are also considering some for jobs at the new Provo facility if they want them.”

Always known for its reputation for individually focused customer service, Duncan Aviation has pursued a policy aimed at using customer feedback to get a sense of where the market is going. Starting two years ago, the company began hosting dinners for customers every two weeks at restaurants in Lincoln and Battle Creek, attended by senior management team members.

“Many of our customers will bring in their aircraft and be on-site for weeks at a time until the job is done,” Duncan said. “By getting them together with us, they get the opportunity to meet other operators and to learn from each other. In addition, it gives us an opportunity to pick up some industry intelligence.”

Duncan Aviation also has a formal customer advisory board comprised of 12 individuals, mostly chief pilots or maintenance directors, mostly from small corporate flight departments. Each member makes a two-year commitment to serve on the board, which meets once every six months.

Duncan explained that about 80 percent of the company’s revenue comes from flight departments averaging one or two aircraft. The company’s largest single customer, fractional ownership provider NetJets, now accounts for 15 to 20 percent of the company’s revenue. “Our relationship with NetJets goes back some 10 years and involves mostly refurbishments and some heavy maintenance, specifically on their Citations, Falcons, and Hawkers,” Duncan said. “We have partnered with them and our other customers to offer a high-value service, which is why the vast majority of our business is a repeat class of trade.”

Duncan Aviation is also involved in business jet sales and acquisitions through JetResources,

its wholly owned aircraft brokerage subsidiary.

Duncan Aviation also holds a Part 135 charter certificate, under which it is currently operating five owned or managed jets, specifically Learjet 35s and Cessna Citation IIIs. A founding member of NATA’s Air Charter Safety Foundation, as well as an NATA Board of Directors member, Duncan said that his company’s charter operation will adopt the NATA Safety Management System in 2010.

Going forward, Duncan said that as more business aircraft are delivered outside the U.S., the international market, which now accounts for about 25 percent of the company’s business, will become increasingly important. “Most of that business is coming from Canada and Mexico, but we are starting to see some business from Western Europe and South America,” he said.

He also stressed that Duncan Aviation will remain an independent, family-owned company. “Being family owned and independent will encourage us to be more conservative in our business approach and to constantly look for ways to do better,” he said. “We will continue to invest in the company and train people.”

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Your Rights When the FAA Comes Knocking

By Paul A. Lange

Editor's note: This is part two of a two-part article on dealing with FAA inspections. Part one appeared in the 3rd quarter edition of *Aviation Business Journal*.

Practical Advice

What can you do to help yourself during an FAA investigation? Some suggestions follow.

Sign-in Sheet

First, have a sign-in sheet that visitors to your premises are required to sign, including the date and time of their visit as well as the time that the visitor leaves your premises. In other words, use the same type of sign-in sheet that you're required to sign when you visit an FAA facility. Use it for all visitors, FAA included. This allows you to keep track of which FAA inspector is on your premises, how often, and for how long.

Designated Management Representatives

Next, it's rather clear that if you don't speak to an inspector who comes knocking, you're virtually guaranteed trouble. This is notwithstanding that there's no specific requirement in the FARs for you to speak to such an inspector. The way to address inspector inquiries, however, is to have a designated management representative and/or counsel available to answer inspectors' questions on behalf of the company and to be present during interviews of employees. This allows you to provide correct and consistent responses.

Designated Administrative Representative, Stamp Your Documents As Confidential, and Most Importantly, Keep Copies

You should also have an administrative person assigned and available to be responsive to all the inspectors' needs while on site—most especially to gather documents requested and to make copies of what is requested. That person should also be charged with making a copy for the company of anything that the inspectors take away with them. All documents that leave the premises should be

marked with a rubber or digital stamp, or an adhesive backed label, created in advance stating the following: "Privileged and Confidential: Not to be disclosed to anyone other than FAA personnel without written permission of XYZ Company." What if the inspectors bring their own scanners? Keep track of everything that they are looking at and everything that they are scanning. Keep a log. Send a letter immediately following the inspection confirming what they scanned when they were at your premises. Specifically identify each document and ask if they scanned anything in addition to what you identify. Remind them that you view these documents as privileged and confidential, and that they should not be disclosed to anyone outside the FAA without the company's express written permission.

Video and Audio Recording

Can you record an FAA inspection using video, audio, or both? There's nothing in the FARs precluding it. Should you? That's a more difficult question. And the answer is, it depends. "On what," you say? First, let's start with video recording of your premises generally. Many states have laws governing employer's conduct when it comes to video recording. As a general matter, these laws preclude video recording of private areas such as bathrooms, locker rooms, and designated employee break areas. While video surveillance in public areas is generally permissible, notice is typically required in the form of signs or a signed acknowledgement from everyone on the premises that they are aware surveillance is taking place. Repair stations that perform a mix of military and civilian work often have surveillance systems on site and use them as a matter of course for security purposes. FAA inspectors routinely show up for inspections of these facilities, are recorded on video, and the surveillance is typically not an issue in those circumstances.

What happens, however, if your premises are not


as secure as a military contractor and you have no day-to-day need for video surveillance? Can you follow the inspectors around with a video camera and also record everything that they discuss? That's a tricky one. Engaging in such activity is not going to endear you to anyone at the FAA—neither the folks performing the inspection on site nor FAA management. If you choose this course, you need to have a very good reason for doing so. You must also make the conscious decision that having video and audio evidence of inspectors' conduct outweighs the risk of antagonizing the FAA. If you antagonize the FAA, you risk that they will exercise their discretion in a manner that is wholly contrary to your interests.

Should you decide that it's worth the risk, you're likely already experiencing problems and expecting more problems in short order. In that case, be prepared and have your counsel briefed and available—preferably in person, on site—but at the very least available by phone during the inspection. When gearing up for this battle, expect that the FAA inspectors will be consulting their own lawyers and using everything in their arsenal to stop you from recording their activities. There are no hard and fast rules here, but expect that the inspectors will tell you that you're impeding and interfering with their investigation. And if you don't stop, they will have no choice but to consider your business in noncompliance with the FARs until you can demonstrate that it is. Depending on the circumstances, the FAA might figuratively blink and allow their activities to be recorded. If not, you should expect an emergency suspension or revocation of the company's certificate within the next few days. In that case, plan for your business to be shut down completely and immediately whenever the emergency order is delivered.

There are cases where following the inspector around with a video camera may well be warranted notwithstanding these risks. When you encounter the FAA's latest rogue inspector and he or she has made the destruction of you and your company their sole mission in life, behaving badly and unprofessionally in the process, that's a good reason to seriously consider video and audio recording of the inspection. Before doing so, however, and if time permits, you should consider raising the issue in an appropriate fashion with FAA management, possibly through the FAA's Customer Service Initiative (CSI). Though time consuming and often without timely feedback from FAA management, CSI has the benefit of alerting FAA management to their rogue employee prior to you starting a war. Having said that, there have been circumstances

where video surveillance of an inspector's improper and unprofessional behavior has actually accelerated the pace of resolving the problem—and in fact provided FAA management the evidence that they needed to properly discipline the inspector.

Conclusion

Whether you're a pilot who is the recipient of a random ramp check or a large air carrier or a repair station facing what you believe to be the next Spanish Inquisition, there are some basic rules to keep in mind during any FAA inspection. Be eminently polite. Be truthful and honest. Be concise in your answers. Don't volunteer information. And by all means, protect the integrity of your data by knowing exactly what the FAA is taking away with them and stamping each of those records as confidential to make your privacy interests known. 

Paul A. Lange is an attorney practicing in the areas of aviation regulatory matters and related commercial litigation. He is a member of NATA's Air Charter Committee and can be reached at pal@lopal.com.



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The K.I.S.S. Method of GA Facility Security

By Lindsey C. McFarren

General aviation security was a hot topic for a while last winter when the TSA published its proposed rule for the Large Aircraft Security Program. Thousands of industry and public comments and days of public hearings later, the agency is back at the drawing board re-evaluating its proposal. Did you breathe a sigh of relief and go back to business as usual? Why wait for the federal government to mandate GA security? Even in this difficult economy, a business case can be made to justify the cost of security measures. Just like building construction or the pre-owned aircraft market, there are deals to be had for those who are willing to part with a few shekels. And get this: GA security doesn't have to be complicated or expensive to be effective! Most discussions of facility security are targeted at FBOs and airports. This article will focus not just on FBOs and airports but will also include guidance for aircraft operators. More importantly, this article will prescribe only solutions that abide by the K.I.S.S. theory: Keep It Simple, Stupid!

GA security is often a misunderstood and unnecessarily complicated issue. Even federally regulated GA businesses tend to misunderstand GA security. As a safety and security consultant, I regularly conduct audits and assessments for aircraft operators. Most safety audits for aircraft operators, such as the International Standard for Business Aircraft Operations and the Air Charter Safety Foundation Industry Audit Standard, include a security section. When I get to this security section during an audit and start asking questions about an operator's security program, most charter operators respond with, "Yes, we have a security program. We have a Twelve-Five Standard Security Program." Right, that's a start. That's like saying, "We have a safety program. We follow Part 135." Just like Part 135 is *minimum* standard for safety, the Twelve-Five program should be considered the minimum standard for security. Many measures of the Twelve-Five program really apply only to specific flights—only charter flights in aircraft over 12,500 pounds maximum takeoff weight. What do these operators do for overall facility security? Many do little beyond locking office doors and a few file cabinets. So where do

these operators and other GA businesses even start with facility security?

When I was the assistant general manager of general aviation programs at the TSA, GA operators, FBOs, and airports frequently lamented to me, "GA security is a hard nut to crack." No it's not. People *make* GA security hard. When it comes to security for our industry, I subscribe to the K.I.S.S. theory. And in this financial environment, "simple" and "inexpensive" can be synonymous. So let's get started!

Step One: Vulnerability and Threat Assessment

The first step to any good GA security program is to determine the specific needs of the particular operator, FBO, or airport. You can't develop a reasonable program without knowing the current vulnerabilities of your operation. The first step to developing a solid program is a vulnerability assessment. Take a look at the following two airports. Do you think they have the same vulnerabilities and risks? A little context will help you decide.

The first is Van Nuys Airport, just north of Los Angeles, Calif. The second is Yoder Airport, sitting literally in the backyard of my hometown, a small town in northeastern Ohio. Van Nuys sees thousands of flights a year in aircraft ranging from Piper Cubs to BBJs. In fact, Van Nuys hosts almost as many operations in a single day as Yoder Airport does in an entire year! Yoder Airport is the home of about 20 aircraft—10 ultralights and 13 or so single-engine piston aircraft—and the happy recipient of many flights each year in aircraft ranging from ultralights to Piper Cubs. It might see an occasional transient Cessna 152 if a local is practicing short/soft field landings and takeoffs (with permission, of course; it is a private field). Common sense based solely on these few details dictates that these two fields face extremely different vulnerabilities, but a detailed assessment of your particular facility is crucial.

The vulnerabilities of a particular airport or operation depend on many variables: type of aircraft flown, population size of nearby cities, powerplants

Continued on page 28

or military facilities close by, and many others. The TSA is working on an airport vulnerability assessment that should debut sometime this year. Use that assessment, the vulnerability assessment in the TSA's "Security Guidelines for General Aviation Airports" published in 2004, or a third-party security consultant to conduct an objective assessment relevant to your operation.

The threats to your business might not be a major terrorist plot. One small, rural GA airport reports spending hundreds of dollars every year replacing lenses on runway lights. The local kids steal them to use as beer coasters. Small GA aircraft in Belmar, N.J., were victims of vandalism, including paint jobs ruined by spray-painted sad faces and parts pulled off by trucks, in July 2008. These incidents aren't so nefarious as to affect national security, but they do cost our industry, both in funds for repairs and replacements and in overall public perception. Look at the unique threats to your operation and the costs associated with the consequences.

Cost to perform your own security assessment: time, ranging from a few hours to a few days, depending on the depth of your assessment and complexity of your operations. Consulting rates range widely, but be sure to use a consultant that specializes in GA security and has experience in the unique characteristics and needs of our industry.

Step Two: Gap Analysis

Take a look at the security measures currently in place at your facility. At the very least, you probably lock the office and hangar doors at night and hopefully control the keys to each entrance. If you have a Twelve-Five program, you probably conduct background checks on most of your employees. Compare your current security measures, however humble, to industry best practices outlined by NATA, the National Business Aviation Association, the TSA, and other groups. Look closely at the security measures that could apply to your facility based on the results of the vulnerability assessment in step one.

Cost to perform your own gap analysis: again, your expense here is time. Take the time to research industry best practices, attend a seminar, or talk with security experts. Better yet, have members of your staff pitch in on this section. Form a security team and ask each member to research a particular security plan or set of published guidelines. Bringing your team in early will help with the overall buy-in on the security plan and serve as a great training opportunity for your staff.

Step Three: Develop and Implement a Security Plan

Repeat after me: "A GA security plan must be reasonable, scalable, and customized for each operation." Don't get carried away here. Consider the two airports we discussed earlier. Van Nuys Airport is a virtual fortress of fencing, key-carded gates, and cameras. Yoder Airport could probably get by with locking aircraft doors, maybe splurging on throttle locks for those single-engine pistons, and keeping a large dog. (Yoder is an unlikely scene for a major terrorist event, but it is in a small town. Small-town kids get bored, and bored kids do dumb things.) By considering a facility security plan without the limitations of regulation, you have the luxury of flexibility. Don't waste time developing a security plan that won't work for your operation. It will become yet another binder on your bookshelf.

Here are some very basic measures, following our K.I.S.S. theory, that will improve the security of just about any GA facility. If any of these would work for your operation and are appropriate based on your vulnerability assessment, implement them now!

- **Employee badges.** Assuming you aren't in a TSA-designated Security Identification Display Area, this badge can be made of plain card stock on your own printer. It doesn't need to be fancy; it just needs to designate those who may enter sensitive areas like hangars and workrooms and those who must stay in lobbies or other common areas.
- **Visitor sign-in, badges, and escorting.** Require each non-employee to sign in upon entering your building and issue the guest a badge. The idea is simply to identify individuals that must stay in common areas or be escorted. Staff members must be instructed to challenge any individuals not wearing a visitor badge and also any badged individuals who have entered sensitive areas. And keep in mind that any policy that is not strictly followed is a waste of the paper it is written on. If you implement a visitor sign-in policy, your spouse, important clients, and the vending machine representative must sign in and get a badge *each time* they visit.
- **Key control.** How many people have keys to your offices, hangars, and other facilities? When an individual resigns or otherwise leaves the company, are the doors re-keyed? At the very least, are the individual's keys collected before their departure?
- **Basic security training.** Training for your staff

members doesn't need to be complicated or expensive. If funds permit, send select members of your staff to security training sessions conducted by aviation trade associations or commercial training providers. Then have those individuals share their new knowledge with other team members. If training funds are tight, contact a GA security expert and ask for on-site security training. This is perhaps the easiest and least expensive option for training your entire staff in a relatively short time. For charter operators, although your pilots probably undergo security training specific to the Twelve-Five program or other government-required program, you should still require them to complete a basic facility security training course.

These are just a few of the security initiatives that could be included in your security plan. Remember to keep your plan reasonable, scalable, and customized to your operation. An "off-the-shelf" plan is not likely to be an efficient and effective solution.

Making a Business Case for Security

In this economy, presenting your boss, tenants, or clients with fees for a new initiative is not high on most people's list of exciting things to do. How do you make a business case for security? Bob Jandebour, president and CEO of Navigance Technologies Group, a security systems integrator that focuses on developing and implementing technology solutions for GA security, believes solutions such as web-based camera and recording systems can be beneficial in many ways. "The right security solution can help mitigate the risk of aircraft damage or theft, reduce worker's compensation claims, provide a marketing advantage over GA businesses that do not have systems, and also provide operational benefits," he said.

Chantilly Air, a mid-sized charter operator and maintenance facility in Manassas, Va., recently opened a new hangar and office facility with a very sophisticated security system. Chief Operations Officer Tim Sullivan explained the rationale behind the decision to install this system. "Chantilly Air places a high value on security," he said. "We have an obligation to protect our clients' assets, and we take that obligation very seriously. Our system cost in excess of \$100,000, but we feel it is worth every penny when compared to the value of the aircraft we are trusted to manage and maintain."

Even the most basic security system, like visitor sign-in processes and controlled access to offices and hangars, can help ensure the security of your

employees and valuable records. You probably have a security system for your computers and servers to protect your employees' and clients' confidential information. Do you exercise equally prudent measures with your paper records? The loss or theft of employee information like social security numbers can have time-consuming and costly consequences for both your company and your employees. Loss or theft of confidential client information can be a devastating blow to your company's reputation.

Funding Implementation

Maybe GA security isn't as difficult to achieve as some people think, but in this economy most people ask, "How am I going to pay for this?" If you followed the K.I.S.S. theory, how much money is this program really going to cost? You can print up visitor badges and a sign-in sheet for about \$5. (I'm even including the cost of a few badge clips or magnets.) Re-keying doors after an employee leaves the company will cost you a little more, though far less than the aggravation of damage to your facility or loss of important records at the hands of a disgruntled former employee.

If you want (or your vulnerabilities demand) to invest in a sophisticated system, there could be several options for funding. First, look for grants or other public money. Be creative here. Although the TSA doesn't yet have a grant program like the Airport Improvement Program (AIP), some states have funds available to GA operators for improving security. Give your state aviation authority a call and explain your desire to increase security at your facility. If your state doesn't have an established funding mechanism, perhaps the state aviation authority would consider partnering with you on a pilot project, making you a guinea pig for GA security in your state. Is your airport owned or managed by a county or other municipality? Contact the appropriate representative, explain your desire to be a responsible member of the GA industry, and inquire about maintenance or upkeep funds that might be used for security initiatives.

Speaking of AIP, might your security project also improve safety at your airport? Lighting, fencing, and some other measures can serve double duty, and your airport might be able to use FAA funds to implement them.

Next, give your insurance agents a call, both the folks who cover your facility and those who cover your owned or managed aircraft. See if they will help fund security improvements to your facility

Continued on page 30


GA Facility Security

Continued from page 29

and/or aircraft or if they will give you a discount for implementing specific security measures. Even my car insurance company gives me a discount for having that annoying, omnipresent theft alarm. And call me crazy, but \$60 or so for a throttle lock seems like a pretty sound investment for even the smallest of piston aircraft. More sophisticated locking mechanisms are available for jet aircraft, including systems that track when an aircraft door was opened and who opened it, for a higher price, and even these fancy systems cost a tiny fraction of the overall value of the aircraft. For aircraft security, as with facility security, be sure to consider your vulnerabilities. An aircraft with frequent flights to high-risk areas, like parts of Africa or the Middle East, could call for a more sophisticated system, while an aircraft that seldom leaves the U.S. and parks at secure facilities might need only a basic deterrent. You could see premium discounts or other underwriting benefits for implementing these or other measures.

Finally, consider sharing your system with your clients or tenants. Jandebeur believes sharing the system with all users, including tenants, transients, and others, is the best way to achieve a sound but cost-effective program. Jandebeur's Navigance

recently launched TenantShare, an initiative that allows tenants to access features of their FBO or airport's video surveillance program and benefit from viewing live camera feeds of their aircraft from the internet or PDA phone. Jandebeur said there are several ways to fund this type of system at a fraction of the cost of purchasing separate systems. "An airport or FBO can pass on all or a portion of the cost through options like hangar lease fees, fuel flowage fees, or even a small security fee to transient aircraft and make it affordable for everyone," he said. Regardless of the fee structure, sharing the cost of security with all users could be the most efficient means of achieving an effective GA security solution.

Adequate protection for your employees and physical assets doesn't have to be expensive. Assess your vulnerabilities. Compare your current security measures to industry best practices. Develop a reasonable, scalable, and customizable security plan unique to your company's vulnerabilities and operations. And remember, K.I.S.S. 

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NATA 2010 Events and Seminar Schedule

As of September 17

January

- 25-26: FBO Leadership Conference, San Antonio, Tex. (preceding NBAA's Schedulers & Dispatchers)

March

NATA Spring Training Week Seminars at the Aviation Industry Expo (AIE), Las Vegas, Nev.

- 15: Environmental Compliance Seminar
- 15-17: FBO Success Seminar
- 15-16: Line Service Supervisor Training (LSST) Seminar
- 17: NATA Safety 1st Trainer Seminar

April

- 21: NATA Annual Meeting of Members and Election of Officers, Alexandria, Va.
- 21: NATA Day on The Hill, Washington, D.C.
- 20-22: Spring Committee Meetings, Alexandria, Va.

May

- 19-20: Line Service Supervisor Training (LSST) Seminar, Windsor Locks, Conn.

June

- 7-9: Air Charter Summit, Dulles, Va.

September

- TBD: Commercial Operator Tax Seminar

October

- 18: Fall Committee Meetings, Atlanta, Ga. (preceding NBAA's convention)

November

- 4-5: Aviation Business Roundtable, Washington, D.C.

2010 Air Charter Safety Foundation Event

- March 2-3: ACSF Symposium, Dulles, Va.



Charter Marketing Requires Recessionary Rethinking

By Paul Seidenman and David J. Spanovich

The aircraft charter industry is in a tailspin, thanks mostly to the worst recession in recent memory and to some extent to a media-driven image of business jets as another example of corporate hubris. The industry, in fact, has seen operations drop off significantly. Citing FAA statistics, Brian Foley, president of Sparta, N.J.-based aviation consulting firm Brian Foley Associates, reported that charter operations in March 2009 were down 35 percent in the U.S., compared to March of last year. During the same period, all business jet operations fell by 28 percent.

“Regionally, there were big swings in this (charter) number with some operators being down 20 percent or less while others claimed to have been down as much as 80 percent,” Foley said.

Scott Ashton, vice president, business development for Gama Aviation, a large aircraft management firm and charter operator based in Stratford, Conn., described the current situation as “a perfect storm.”

“The main difference in the drop in demand for air charter in this recession compared to previous economic downturns was the speed at which the falloff happened,” he said. “It was absolutely breathtaking.”

The tempest that has devastated charter, Ashton explained, really began with the huge spike in fuel costs in mid-2008, as charter quotes increased and began to impact the more price-sensitive segments of the market. “Then, just as fuel decreased, the credit market began to dry up, which hit the economy full force,” he said. “That cut travel all across the board, especially as road shows—a major source of demand for charter—dried up. Along with this, there was the [unfavorable] public perception about using private aircraft, which made a lot of people pull back.”

The industry may, in fact, have unwittingly played a role in fostering that perception. Ashton pointed out that when the economy was still doing well in the 2006-2007 timeframe, aircraft charter was generally marketed as a high-end, luxury service.

“What we forgot was that, first and foremost, general aviation is a business tool,” he said. “It’s not about some CEO flying some place to play golf; it’s about a CEO going out to meet with bankers and customers and being more productive than he would be using other modes of transportation. It’s the productivity aspect of general aviation that we

Continued on page 32

Charter Marketing

Continued from page 31

have to stress to our customers.”

Given the current state of the charter industry, there are operators who believe that it may be time to reassess traditional marketing practices and seriously consider new approaches to pricing. In both respects, those contacted for this story agreed that it will no longer be business as usual, even after the worst of the recession has passed.

“Right now, we are trying to understand the current dynamics of the charter market,” said Bill Mayo, president and CEO of Mayo Aviation, an aircraft management, charter, and repair firm in Englewood, Colo. “To do that, we expect to implement a survey this year aimed at prospective customers to determine two things. How has the economy impacted their decision-making process regarding the use of charter? Also, are we asking the right questions and solving the right problems in terms of their travel needs? Once we find this out, we’ll be in a better position to tailor our marketing so that it will stimulate business based on the customer’s perceptions and expectations of service, pricing, and overall value.”

Mayo said this initiative was prompted by a recognition that traditional marketing methods are no longer working. “Under the old models, we made a lot of assumptions based on what we, as a charter provider, thought would be important to the customer,” he said. “We never did ask the customer, ‘What do you think is important?’ Today, we have to focus on that.”

Given the state of the economy, charter operators are also finding that expanding their market to reach the new user is essential, but it is no easy task. “Attracting new customers to charter has always been a challenging proposition,” said Kenny Hepner, vice president, flight operations for Million Air Salt Lake City, which has 11 aircraft on its Part 135 certificate. “You begin by asking, ‘How do you market a product that only a very small percentage of the population and businesses can afford and justify?’”

Hepner, who is also chairman of the NATA Air Charter Committee, said that traditional forms of advertising have not worked. “Instead, we are finding that word of mouth is our best form of advertising,” he said. “To facilitate that, we try to participate in community events and use those events to educate the public and, most especially, specific target groups, some of which have never used charter.”

For example, Million Air Salt Lake City has participated in local Chamber of Commerce events and hosted charitable functions at its facilities. “The people who come to these events get to see what



we do, and while I realize that they don’t sign up for charter trips as they leave to go home, at least they know that [charter] exists and there is someone they can call,” he said. “We want them to see our aircraft, talk to our pilots and the people in our charter department to see what we can offer that the airlines can’t.”

Jim Hopkins, vice president, logistics for Landmark Aviation in Winston-Salem, N.C., reported that the Houston, Tex.,-based FBO, aircraft management, and charter company relies heavily on direct contact with current and prospective customers via phone and personal visits.

“Personal, direct contact is one of the most effective marketing tools in this business,” he said. “We emphasize that we are offering a greater value due to the economy of scale and efficiency, for any given trip. Today, that is far more important than telling customers that you are offering the latest model aircraft. Using this approach, we’ve seen an increase in business, especially from our current customers whose travel had been in a cut-back mode.”

Andy Schweickert, director of marketing for DB Aviation in Waukegan, Ill., said that when reaching out to potential clients, becoming familiar with their travel planning and requirements is important. “Then determine if your available fleet is not only located close to where the customers are, but is appropriate to the missions they fly,” he said.

Schweickert, whose firm operates an FBO and a repair station and has some 30 managed aircraft on



its charter certificate, reported that the company is also concentrating its marketing resources on what he called “brand reinforcement.”

“We define our brand as a super regional, as opposed to a national operator,” he said. “On that basis, we are targeting individuals and businesses near where our planes are based that we believe can afford to charter. That includes new people as well as our existing customers. Right now, our bases are in Northern California, Illinois, Texas, Minnesota, and Indiana.”

Craig Zirzow, vice president, business development of Sunset Aviation LLC, a start-up charter and management firm based in Petaluma, Calif., also sees some definite advantages with a more regionally focused brand development plan. “As a company just starting out under the current economic conditions, we believe it is more practical to be a regional provider, although in a better economy, we might have pursued a national focus initially,” he said.

Concentrating on a regional market, with a heavy emphasis on frequent, personal contact will help the new company “better understand the specific needs of its clients,” and build stronger relationships, Zirzow said. “And as you and your charter customers get to know each other, it’s more likely they will call you when they are ready to acquire an aircraft and need a management company. Historically, this is a relationship-building business,” he said.

With two aircraft currently under management,

Sunset Aviation LLC’s primary market region is Northern California. However, Zirzow noted that other regions could be added as the fleet, which is expected to reach 20 aircraft this year, expands.

According to aviation consultant Brian Foley, marketing targeted to a specific region will also give the charter provider a better understanding of customer mission profiles.

“Charter is a good mix of personal and business use, and varies greatly by region,” he said. “As an example, financial institutions are heavy users of charter in the Northeast U.S., especially for IPO road shows. But providers in California may have customers chartering for more personal use, such as trips to Mexico, the Nevada gambling areas, and the Rocky Mountain ski resorts.”

Along with marketing the product, charter operators are rethinking their pricing structure. Holly Whitaker, president of Exclusive Air, a charter broker based in Nashua, N.H., has noted a tendency in operators toward greater flexibility when generating quotes. “They are definitely pricing more competitively, looking more closely at their estimated fuel costs, ramp fees, and other expenses,” she said. “That puts them in a better position to generate an invoice that will more closely reflect what it is costing them to provide the service, rather than estimating on the basis of an arbitrary number, which more operators tended to do at one time.”

Sunset Aviation LLC’s Craig Zirzow agrees. He said that the industry will have to adopt a new, more simplified pricing model. “It’s not only the economy, but the success of fractional ownership plans and jet card programs that are pushing us in this direction,” he said. “Traditionally in charter, there are basic hourly costs along with a tremendous number of other line item charges that go on the final invoice. This is where the jet card plans have an advantage because their pricing model is much more simplified. To be more competitive with them and fractional ownership, we have to reduce the (total) number of line items and include more of the remaining ones within a simple, basic price package. That will be more effective in bringing in new customers, especially those who have never considered charter before.”

Jason Salzwedel, charter department supervisor for Cutter Aviation in Phoenix, Ariz., confirmed that the charter market is extremely price-driven. “Today, everyone wants a quote based on a one-way trip,” he said. “Before, they were more willing to pay for roundtrips, including repositioning fees, the cost for overnighting, and other minimum charges,

Continued on page 34

Charter Marketing

Continued from page 33

but that is no longer true. As a result, we are trying to market our charter services to reflect the new pricing trends by dropping some fees. However, if we can't make money on the trip, we won't fly it."

Salzwedel said charter customers are also doing an extensive amount of price-based shopping for every trip, and in many cases that means the trip will go to the lowest bidder.

"If asked, we will take the time to explain to a customer how we arrived at the quote," he said. "One thing I think the industry needs to do is to make people aware of the fact that a charter provider is more than just pilots, airplanes, and fuel. There are people working behind the scenes that keep the operation going. All of this is figured into the price and has to be explained to customers so they will understand it."

Beware of Below-Cost Pricing

For Cheli Morrison, director of charter for Bridgeford Flying Services in Napa, Calif., the major hot-button issue with charter pricing concerns operators who fly their aircraft below cost just to keep them active. "We will not fly our aircraft for the cost of the fuel, and the industry just can't go on doing this," she stressed.

The primary danger with that, said Morrison, whose operation includes nine aircraft, is that customers will begin to take below-cost pricing for granted. "When the economy begins to recover and there is an increase in demand, customers who have gotten used to paying very little for charter will, once again, be charged for repositioning and dead legs," she said. "When that happens, they will walk away, and many providers who are now selling trips for less than cost will go out of business. That's why it's all a matter of educating the customer."

Part of the education process, Morrison said, involves talking with customers about the services available and, where possible, presenting opportunities for them to use those services for a reasonable one-time quote at a specified time.

"Let's say I have a customer who [regularly] flies to Los Angeles from the [San Francisco] Bay Area," she said. "I might phone that customer and tell him that I have an airplane in Los Angeles that will be flying empty back to Napa. If this customer plans to be in Los Angeles on that date, I can offer the use of the aircraft at a very reasonable rate. We make money, and the user can take advantage of a price deal."

But Morrison was quick to note that when doing

similar deals, informing the customer that this is a special price is imperative. "Let them know that this is not the kind of thing you will do every day, unless the opportunity is there to do it," she said. "I can tell you we are doing this type of marketing a lot more aggressively than we used to."

Landmark Aviation's Jim Hopkins said that companies that are able to offer lower-cost flying options are in the best position to weather the current recession and prosper beyond that. But that capability depends largely on what's on the operator's certificate.

"If your fleet is heavily weighted to larger jets, the demand for those aircraft has not returned, as yet," he said. "On the other hand, if you have lighter jet models, then you will see some upturn in the demand. That's why our charter numbers are beginning to return to more normal levels, because we have such a diversified fleet, especially in terms of light jets and turboprops."

Pricing Pressures Will Linger

Keith Dickerson, president and director of operations of Addison, Tex.-based North Dallas Aviation, which has five aircraft on its charter certificate, warned that the industry may still face pricing pressures even after demand has returned. "There are a lot of aircraft for sale, and the fact is that many owners are putting them onto operators' charter certificates, so they will generate some revenue," he said. "This will increase competition even after demand returns because there will be a lot of capacity out there."

Dickerson said that charter operators are increasingly turning to high-tech marketing methods to increase competitiveness. "More people today are using the internet to shop for charter, and as a result, this is where more of the new customer base will come from," he said. "As operators, we have found that internet-based sites are now far more effective than print ads, which I believe will decline in importance as a way to reach charter customers."

Million Air Salt Lake City's Kenny Hepner said that the web should be part of what he called a "hybrid" solution to marketing in the current economy. "With a hybrid approach, you have to look at both traditional chartering, which is where an end user talks with a provider—directly or through a broker—along with web-based systems that are essentially providing real-time information concerning what aircraft are available and where they will fly return legs," he said.

According to Hepner, four websites are now

available, including Legfind.com (www.legfind.com), CharterX (charterX.com) and Avinode (www.avinode.com). The fourth site is offered exclusively to NBAA members as part of the organization's Air Mail Forum (see: www.nbaa.org/airmail/help/), which includes brokers and operators and is designed to help charter operators fill empty legs.

"The Air Mail Forum is becoming the Craigslist of the charter market," Hepner said. "It's a game-changer and is becoming a valuable industry tool. In our charter department, it has become paramount because we know, in real time, when a request comes in and we can submit a quote. The web is where brokers and operators are rapidly migrating to today."

Start-up company Sunset Aviation LLC is designing its website with that in mind, according to Craig Zirzow. "We are planning to integrate new technology tools to help people book one-way charters and offer special pricing on specific aircraft," he said.

Brokers Can Broaden the Customer Base

Along with maximizing internet resources, charter operators are not overlooking brokers to broaden their customer base. "The economy has made the broker community fiercely competitive, and is encouraging more of them to work with operators," said Rich Brennan, vice president, sales for Kinston, N.C.-based Segrave Aviation. "Now six or seven brokers call in to get a quote for a trip at any given time. When the economy was doing better, we might have gotten inquires from one or two."

Brennan noted that Segrave Aviation works mostly as a wholesaler to charter brokers, which he explained enables his firm to offer point-to-point pricing for the end user, saving customers the cost of repositioning legs. "Point-to-point pricing is not just the future," he said. "It's here now."

Brennan said that brokers are helping the charter industry by focusing on people who are looking to exit fractional plans and those involved with jet card programs.

"I think that many people are learning that it's more expensive to use an aircraft under a fractional plan than on an ad hoc charter basis and that, often, charter quotes under jet cards can be more costly than those outside of those programs, especially on long cross-country trips," he said. "Those are market areas that are opening opportunities that we can take advantage of through our brokers."

Bridgeford Flying Services' Cheli Morrison reported that her company is working with seven or eight different brokers and a couple of jet card plans. "Brokers are very important, because many

have much larger advertising and promotional budgets," she said. "Their marketing efforts will reach potential clients that we have not, including those who are just starting to realize that charter could be a better value for them. I'm really piggybacking on their efforts."

Keith Dickerson at North Dallas Aviation, on the other hand, said that while brokers are an important part of the marketing mix, the retail market still matters. In his case, about 20 percent of his sales are through brokers.

"In mid-2008, about 40 percent of our business came from brokers, and 60 percent was retail, so we are seeing a shift in the market," he explained. "While brokers are important and do a good job, this shows that it is still essential to cultivate the retail market. Many customers who start out with brokers, will eventually work directly with the charter provider. Today, you have a more savvy group of consumers, and they have seen that they can deal directly with an operator, especially one that has provided them with good service."

Cutter Aviation's Jason Salzwedel noted a similar trend. "About 65 to 75 percent of the bookings we get from our website advertising comes from brokers, which is down from a good 90 percent before the economy melted down," he said. "I think we can attribute this to the fact that we are getting a lot of retail customers from people who used other operators that are no longer in business because of the economy."

He said that some of the customers, however, are coming in due to the fact that Cutter Aviation is a large FBO chain serving the Southwest region. "FBOs have always been a convenient form of referral to charter," he said.

The charter industry may have reached a bottoming out point in the May/June 2009 time frame, if predictions by Brian Foley turn out to be right. "It will stabilize there for awhile and then experience a weak recovery during the second half of this year," he said. "A more sustainable increase will not be realized until mid-2010. The charter companies were the first to be affected by the business aviation slowdown and hopefully will be first to recover as business flying starts to increase."

But that recovery will be pushed along if the industry becomes more creative. "We are on the road more than ever today, getting out in front of our clients as well as new prospects," said Gama Aviation's Scott Ashton. "The industry as a whole needs to do this and move forward, especially when it comes to offering new kinds of products to get people interested in charter again." 

Charter Company vs. the IRS: Can Operators Win This Battle?

Internal
Revenue
Service
Building

By Nel Stubbs

For several years, many seminars and presentations have been given on the application of the Federal Excise Taxes (FET) and the enforcement of these taxes by the Internal Revenue Service (IRS). The IRS has always taken an interest in the application of the FET to general aviation because it has felt for many years that there is a high degree of noncompliance within the air charter/business aviation community. The reason for this is that IRS agents do not necessarily understand the operation of the industry; in fact, in many instances, they do not see any difference between an aircraft being operated under FAR Part 91 and one operated under FAR Part 135. In the past, the audits have focused on how the commercial FET applies to Part 91 operations, the correct application of FET exemptions, and the application of the commercial FET to fractional programs and aircraft.

However, in the past 18 to 24 months, the IRS has sent out several letters to charter operators that state that the commercial FET applies to the management fee that is paid by aircraft owners to the certificate holders for managing their aircraft. The IRS is saying that if the aircraft is placed on a 135 certificate, the owner has given up all control

of the aircraft, including possession, command, and control.

To understand the logic or lack thereof, understanding where this came from might help. In the 1990s, there were several IRS Technical Advice Memorandums (TAM) and Private Letter Rulings regarding the application of the commercial FET to owner aircraft operated under another's Part 135 certificate. Although they cannot be used or cited as precedent, they do give us the best sense of the IRS's view on these issues. Following are a couple and how the IRS ruled.

IRS Technical Advice Memorandum 934300

In this case, an aircraft charter company (Charter Company) owns, leases, and operates aircraft under FAR Part 135 (commercial transportation for FAA and IRS purposes). Company A, under an agreement with the Charter Company, operates an aircraft owned by Company A. The agreement stipulates that the Charter Company, under its Air Taxi Certificate, will operate and maintain Company A's aircraft and provide pilots, fuel, and insurance for the aircraft. Company A will pay for all costs attributable to the operation of the aircraft for its

use. This includes salaries and standby charges for the pilots and all expenses for fuel, insurance, and overnight fees, as incurred.

Under Charter Company's aircraft insurance policy, Company A is the designated payee on all hull loss settlement payments for Company A's aircraft. Also under the agreement, Company A has the right to replace any of the certified pilots and to direct such pilots as to when and where to fly, subject to safety considerations. The Charter Company then has the option to use Company A's aircraft for charter service to unrelated third parties, provided such charters *do not* infringe on Company A's right to the use of Company A's aircraft.

The IRS determined that Company A has retained possession, command, and control of its aircraft and that the Charter Company is not required to collect the commercial FET on the payments made by Company A for the flights it provides to the personnel of Company A on Company A's aircraft.

IRS Technical Advice Memorandum 9404007

A Charter Corporation operates an aircraft charter/maintenance company. It entered into separate written agreements with X, Y, and Z companies to operate and manage an aircraft owned by each entity. In general, the contractors provide that the Charter Corporation act as the managing agent for the owner of the aircraft with respect to the charter and other rental of the aircraft. Pursuant to each agreement, the Charter Corporation has the exclusive right to rent, charter, and schedule the aircraft and has full operational control over the aircraft. The Charter Corporation agrees to maintain the aircraft and arrange for pilots and other ancillary personnel and is responsible, at its own expense, for the salaries of the pilots used in connection with the charter of the aircraft.

Each owner appoints the Charter Corporation as its agent in connection with the payment of the cost and expenses of operating and maintaining the aircraft. Each owner agrees to maintain insurance, at its own expense, with respect to the aircraft. In the event that the amount of cost and expenses reasonably incurred in connection with the management and operation of an aircraft exceeds the rental revenue for a particular month, the owner agrees to pay the Charter Corporation such excess. The Charter Corporation receives as compensation for its services a percentage of the gross revenue derived from the chartering of the aircraft.

Pursuant to the terms of the agreement, each

aircraft owner is entitled to use its aircraft provided that the aircraft has not been scheduled for hire by the taxpayer.

The IRS determined in this case that the commercial federal excise tax applied to the amounts paid by the owner to the Charter Corporation for flights flown on their own aircraft.

So what is the difference between these two scenarios? Well, two things really stand out. One, although all three contracts provide that the Charter Corporation acts as managing agent for the owner with respect to the charter of the owner's aircraft, the owners have given the Charter Corporation not only all rights to charter the aircraft, but also full operational control over the aircraft whether the air transportation is provided via charter to a third party or to an owner. Two, an owner is entitled to be transported in its own aircraft, but only if the aircraft has not been scheduled for hire by the taxpayer.

Therefore, although the owners own the aircraft, those owners have yielded possession, command, and control of the respective aircraft by virtue of their relinquishing virtually all decision making with regard to the operation and maintenance of the aircraft, whether under charter or in regard to the providing of air transportation to the owner. Even though the owners bear the risk of loss when expenses exceed rental revenue, the fact that the owners carry this potential burden does not alter the conclusion as to who has possession, command, and control of the aircraft.

In addition to the above IRS rulings, there have been several rulings regarding fractional ownership, and in all of them the IRS has determined that the owners have relinquished possession, command, and control of their aircraft. Therefore, the commercial FET is due on the hourly fee that is paid by the owner for the use of an aircraft, and in the case of all the TAMs and PLRs, the IRS said that the commercial FET was due on the management fee.

IRS Technical Advice Memorandum 200425048

Fractional ownership is a relatively newer concept where registered co-owners of an aircraft employ a management company to manage the aircraft and allow the management company to dry lease exchange the aircraft among its fleet of aircraft. When owners purchase an interest in an aircraft, they are guaranteed a set number of hours of flight time per year based on the ownership interest. Under this

Continued on page 38

Charter vs. the IRS

Continued from page 37

arrangement, the management company establishes the suitability requirements for the pilots and, in most instances, supplies pilots and pays their salaries. The owner can provide his or her own pilots, however, with 24-hours notice. If an aircraft in which an owner has an interest is not available for the owner's use at a particular time, under the dry lease exchange agreement, the management company will provide another aircraft from the program. Under the management agreement, if no program aircraft are available, the management company will provide an aircraft from its charter fleet.

Under this management agreement, the owners are charged an hourly rate based on actual usage. The hourly rate is set in accordance with the costs

of operating the aircraft and is adjusted to reflect changes in costs (variable rate fee). Owners are also charged a monthly management fee, which covers the fixed costs of maintaining, servicing and repairing, overhauling, and storing the aircraft (monthly management fee). In addition, the owners are, when necessary, charged additional charges, such as costs of complying with any airworthiness directives or new FAA requirements, air space fees, or costs of flight phone use that are either included in the Variable Rate Fee or billed separately to the owners (additional charges).

Also under the management agreement, flight hours are allocated among the aircraft owners. In addition, the charter management company must provide professionally trained and qualified pilots, hangar space, general storage space, tie-down as required, normal in-flight catering, and flight planning and weather services. Finally under the management agreement, an owner's interest in an aircraft is transferable, but only to someone willing to enter into all of the foregoing agreements.

Under these circumstances, even though the owners are the title-holders of the aircraft, the IRS has determined that the owners have relinquished possession, command, and control of their respective aircraft to the management company that provides the air transportation

Given all the circumstances, including the pre-conditioned mutual agreements and the respective responsibilities of the parties, the IRS concluded that the aircraft owners, although they are titleholders to the aircraft, have relinquished possession, command, and control of their respective aircraft to the management company, who provides air transportation for hire.

Therefore the IRS concluded that the amounts paid for taxable transportation provided by the management company include the monthly management fee and the variable rate/hourly fee, as well as any additional fees paid to the management company.

In 2008 the IRS released its "Air Transportation Excise Tax - Audit Technique Guide," which is intended to help IRS auditors understand what to look for when auditing management companies, charter-management companies, flight departments, etc.

This brings us to some audits of some charter-management companies and what the IRS is looking for, what they are seeing, and why it may be confusing.

- The IRS is trying to assess the commercial FET on the management fees.
- The IRS has a difficult time understanding how



pilots can be on the payroll of the charter-management company but the owner retains operational control and possession, command, and control.

- The IRS thinks that operational control is the same as possession, command, and control.
- The IRS thinks that fractional management companies and traditional charter-management companies are the same. (A traditional charter management company is a company that manages, maintains, may provide pilot services for the owner, and places the owner's aircraft on its charter certificate to generate revenue for the owner.)
- The IRS thinks that there are only two ways that the aircraft can be managed.

If you receive a letter from the IRS that challenges how you have been collecting commercial FET, what strategies should you employ? First and foremost, I would not try to do this on your own. As the charter-management company, you are emotionally involved in your operation, and it is best to have someone who can talk to the IRS without getting emotional and who understands all the issues and the ins and outs. Also when talking to the IRS you must remember that you are talking to the IRS and not the FAA as the IRS does not consider the FAA's definition of commercial determinative in deciding which tax applies.

Once you have identified this person, you should find out from the IRS what exactly they are looking for and start pulling information together. If the IRS determines that the commercial FET is due on your management fees, be sure to understand why they think this and then start pointing out things like the following:

1. You are not a fractional program. Explain why it is not a fractional program. Steer the auditor away from any comparison to a fractional program.
2. The similarities between an in-house flight department and an external flight department.
3. When the aircraft goes onto the certificate the owner retains possession, command, and control and how this is done.
4. Refer to Revenue Ruling 58-215 and TAM 9343002.

There are procedures that the IRS must follow in conducting an audit. Importantly, you have the right to demand that your rights be explained to you. Some of your other rights are:

1. The right to meet with the auditors' supervisor and to have the things explained to you,

2. The right to have the examination process and your appeal rights explained to you,
3. The right to have any proposed adjustment explained to you,
4. The right to request an informal conference with the examiner's supervisor,
5. The right to have representation,
6. The right to claim additional credits not taken on the original return,
7. The right to request technical advice from the Office of Chief Counsel,
8. The right not to be subjected to unnecessary examinations,
9. The right to request an appeals conference,
10. The right to propose a settlement to the Appeals Officer,
11. The right to file a claim,
12. The right to petition the U.S. Court of Claims or the U.S. Appeals Court, and
13. The right to negotiate a payment schedule with the Collection Division.

It may seem impossible to fight back against the IRS and win, but with the proper assistance and preparation you can convince the IRS that owner flights and management fees are not subject to the commercial FET. In just the past year, I have worked with two charter management companies who successfully defended their business against preliminary IRS decisions that tried to impose the commercial FET to owner operations and the management fees. The best advice is to identify those with IRS excise tax expertise who can assist you in structuring your agreements to ensure clarity between charter and management activities and who you can count on for aid in the event of an audit. ■

Nel Stubbs is a co-owner with the aviation-consulting firm of Conklin and de Decker and specializes in consulting on aviation tax issues (federal, state, and local) associated with the ownership and operation of corporate aircraft. She also assists aircraft owners with cost and financial analysis of various aircraft operations and the structuring of aircraft ownership. Stubbs is a member of the NBAA Associate Member Advisory Council, the NATA Air Charter Committee, and the National Aircraft Finance Association board. Prior to joining Conklin & de Decker, she worked for the National Business Aviation Association. She has a Bachelor of Arts in Mathematics from California State University San Bernardino and her Master's in Aeronautical Science/Aircraft Operations from Embry-Riddle Aeronautical University. She can be reached at nel@conklindd.com.

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Aircraft Ground Service Online Provides the Latest Aircraft Details

NATA's Safety 1st has rolled out phase two of the PLST Online. The popular Aircraft Ground Service Guide has been updated and expanded to include vital ground servicing details on the general aviation aircraft that visit your ramps. The best part is that these details are available 24/7 online and will include the most up-to-date specifications along with pictures and videos of critical refueling and towing details.

The login page features aircraft manufacturer links to aircraft details and a robust search feature. More than 60 aircraft manufacturers with nearly 250 different models of aircraft are included.

NATA's Aircraft Ground Service Online (AGSO) has been released but the work continues as information is added. In particular, refueling panels and towing videos/pictures will be uploaded until the job is complete (if ever, as NATA plans to continually add aircraft when they become certified).

The AGSO will be available to NATA members who sell fuel and/or participate in NATA's Safety 1st PLST Online. Eligible NATA members will receive notice by email and our newsletters. If you are not sure you have access, contact safety1st@nata.aero or (703) 845-9000 to ensure you have access to the most up-to-date aircraft details possible.

The AGSO includes the following information on each aircraft:

- Fuel type and capacity (gallons, pounds, and liters)
- Oil type and capacity
- Engine(s) type and quantity
- Aircraft external dimensions such as wingspan, length, and height (for parking and hangar stacking purposes)
- Ground power details



- Aircraft take-off and landing weights
- Aircraft performance details such as maximum cruise, ceiling and range
- Aircraft seating capacity
- Line drawings that include servicing points and vital aircraft dimensions
- Towing details that include disconnect as well as connection instructions
- Towing information in pdf format for reference and printing
- Towing videos with specifics on disconnect/connect procedures
- Refueling details including explicit pictures and videos of fueling panels and other pertinent data
- Lavatory servicing information
- Oxygen servicing details and procedures
- Special notes and information to be used for future member experience details

Safety 1st News continued on page 43

Highlights from the 2009 Commercial Operators Tax Seminar

NATA and Conklin & deDecker co-hosted the 2009 Commercial Operators Tax Seminar in San Antonio, Tex., in September. The seminar covered operators' tax issues as well as several regulatory issues. For those who missed the seminar, here are a few highlights.

Attorneys Lori Edwards of Jackson and Wade and Eileen Gleimer of Crowell and Moring outlined critical issues to consider while negotiating contracts between aircraft owners and charter or management companies. They also discussed the ongoing tax implications (and complications) of operational control for aircraft owners who place their aircraft on

Part 135 certificates for charter use.

Edwards explained the application of and exceptions to passive activity loss with regards to an aircraft owner's taxes. Aircraft owners frequently misunderstand this crucial tax consideration.

Tax expert Nel Stubbs of Conklin & deDecker explained current Federal Excise Tax (FET) requirements. Several concerns regarding emergency medical services, which may be exempt from FET, and air ambulance flights, of which only the medical services if listed separately on invoices may be exempt from FET, were raised by participants and addressed by Stubbs.

Stubbs also discussed the tax implications of personal or enter-

tainment use of an aircraft and outlined IRS fringe benefit rules.

Stubbs' final presentation explained the incredible differences among state tax requirements, including aircraft registration fees, personal property taxes, fuel taxes, operating fees, and sales/use taxes. Maintenance activity is exempt from sales taxes in some states. Stubbs emphasized that each state has different fees or taxes associated with aviation. Don't get caught up by one of the "gotcha" states!

Conklin & deDecker's Brandon Battles discussed operating costs, particularly the important differences between the costs of operating Part 91 versus Part 135. Critical differences are training and maintenance costs. Many air-

Little Lessons Learned (with Big Impact!)

Attendees of this year's Commercial Operators Tax Seminar took home several lessons, and here are a few quick nuggets for those unable to attend:

- 1.** Do not assume *anything* about the needs or desires of an aircraft owner! Review all terms up front and involve legal counsel as appropriate. According to the experts at the seminar, too many charter operators and aircraft owners use "standard" contracts or even—believe it—handshake deals, and then end up arguing about details of the contract months or years into the relationship. Early and frank discussion at the beginning of the relationship will provide a much better chance for an amicable and successful outcome.
- 2.** An agreement isn't an agreement if it is one-sided. One speaker said that as a charter operator you are likely to have to concede on some of your desires for a given management contract. If the charter operator or management company is
- 3.** Tax planning is best done *before* the purchase of an aircraft. Worrying about tax implications after a purchase is very ineffective and could lead to significant tax liability. If you're helping an individual or company locate and purchase an aircraft, encourage them to discuss the purchase with a tax expert before signing on the line.
- 4.** IRS audits will happen. The audit will generally be of information many quarters (or years) ago. Having detailed records of flights, number of passengers, and other relevant information will help your case in an audit. Don't rely on your memory of an individual flight from several months or years ago. In the words of one seminar speaker, "He who has the most paperwork wins."

craft owners are surprised to learn that in addition to the costs of initial conformance to the Part 135 certificate requirements, keeping an aircraft on certificate requires additional pilot training and often a more in-depth maintenance program. Battles emphasized the responsibility charter companies have to share this information with their aircraft owners and educate potential clients on these issues.

NATA's Jacqueline Rosser told attendees about the current status of fuel fraud taxes and the negative impact on the Airport and Airway Trust Fund of commercial operators' failure to file for refunds. Did you know that 2.5 cents for every gallon of jet fuel you use might be going to the Highway Trust Fund? Our industry could be funding hundreds of highway projects nationwide!


Rosser also discussed interna-

tional user fees assessed by Customs and Border Protection and Animal and Plant Health Inspection Services. The application of these fees is dependent on type of flight (passenger or cargo), destination or origination of flight, and several other variables. Attendees were surprised to learn there is no statute of limitations on the failure to file and pay these fees. In fact, the federal agencies imposing these fees have been known to read industry publications, talk with other federal agencies, and scan FAA databases to focus investigations and determine the need for audits, fines, and penalties.

Tobias Kleitman of TVPX 1031 Exchange Co. outlined the 1031 Exchange allowances when replacing a business asset like an aircraft with a similar type of asset (for example, upgrading from one aircraft to another). Income tax that could arise from the sale of

your Cessna Caravan, assuming it was acquired and used as business property, may be deferred if a replacement asset (say a Citation X) is identified within 45 days of the sale of the first asset. It is similar to avoiding negative tax implications upon the sale of a home.

The federal government gives you time to apply that income to the purchase of a new home within a set time frame before you are assessed a tax on the income.

Attendees found this to be a highly educational, and occasionally even entertaining, two-day event. If you were unable to attend, watch the calendar for next year's seminar. Also keep an eye out for next quarter's *Aviation Business Journal*, where I'll discuss in detail one exciting issue from this event: the ongoing and growing concerns of aircraft brokering. 

Safety 1st News


Continued from page 41

What's New with PLST Online?

NATA wants to make the job of company trainers easier so that they spend less time managing student training online and more time out on their line.

Trainers can view students' training and see what is happening at a glance. NATA made changes to student training and have included terminology along with color coding to draw attention to training status as follows:

Student Status Key	Student Status Key Definitions
Certified	Student has been certified and certificates have been shipped to you
Training	Student is currently training and/or has been assigned curriculum
Recertify	Student will need to recertify in 30 days or less
Expired	Student's certification has expired
Applied	Trainer applied for student certification
Unassigned	Student has not been assigned curriculum for training
Lapsed	Student assignment /curriculum or access to PLST Online training modules has expired

Talk with your trainers and ask them what they think. Please let NATA know how they are doing by contacting safety1st@nata.aero or (703) 845-9000. 

NATA'S 2010

Spring Training Week

March 15-17, 2010 Las Vegas

The National Air Transportation Association (NATA) is pleased to host our second annual Spring Training Week in conjunction with the Aviation Industry Expo. This year's Spring Training consists of several major league seminars designed to answer questions about the business climate, advance the skills of FBO owners, general managers, line service specialists and supervisors as well as enhance the success of their operation in any economic environment.

NATA's Spring Training Week provides the business skills and conditioning necessary for improved performance in 2010 and for years to come. Attendees will discover:

■ What's next...

NATA assembled an all-star team of dynamic speakers, industry experts and talented panelists to help attendees understand what lies ahead for the aviation industry.

■ What should be done now to prepare for what is next...

Continuing education, skills training, networking and fresh ideas are the most effective tools for preparing aviation professionals of all levels for what the future holds.

■ What can be done to ensure long-term success...

Cultivating success depends on many factors including fostering a dedicated and highly skilled staff, ensuring compliance with regulations, nurturing a fully integrated safety culture, and securing a clearly defined game plan to keep ground operations on the path to continual prosperity.

FBO Success Seminar

Running and managing a fixed base operation is a very demanding job. It not only requires a strong business sense, it also requires motivated and loyal employees, targeted marketing and creative negotiating skills.

This seminar has been designed to help you with almost every conceivable situation in the day-to-day business of running a successful FBO, from developing a favorable lease with an airport authority to understanding and working with your fuel supplier; from decreasing credit card interest rate charges to lowering insurance premiums; and from dealing with FAA and EPA issues to building long-term profitable customer relationships.

Seminar Benefits:

- Save money without cutting corners
- Lower your insurance premiums
- Improve operational efficiency
- Foster FBO profitability
- Increase the intrinsic value of your FBO
- Meet your short- and long-term financial goals

Topics:

- A Strategic Overview Of The Seminar: FBO Success.
- Operating Your FBO Business In Tough Times
- Decrease Credit Card Interest Rates And Lower Insurance Premiums
- Winning With Third-Party Fuel Providers
- Stay On-Time And Within Budget On Building Projects
- Developing A Favorable Lease With Your Airport Authority And Positioning For Merger, Sale Or Acquisition
- Optimize Operations And Prepare For Contingencies
- Selecting And Developing Top Employees
- Make Fractional Aircraft Programs Your Ally
- Round Table Discussion: Best Practices
- Building Long-Term Profitable Customer Relationships
 - Part I: Making The Customer Your Best Friend
 - Part II: Marketing And Communications For Any Size FBO
- Strengthen Your Fuel Supplier Relationship

Featured Speakers:

John L. Enticknap, Aviation Business Strategies Group

Dan Maddox, Aviation Business Strategies Group

Ron R. Jackson, The Jackson Group

Leonard Kirsch, Esq., McBreen & Kopko



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NATA Spring Training Week prepares you to:

• **create a winning game plan**

• **cover all your bases**

• **knock customer service out of the park**

NATA Safety 1st Trainer Seminar (Train The Trainer)

One hallmark of the best FBOs is the professionalism of the line service specialists on the ramp. A key component of ramp safety, security and efficiency is the guidance provided by designated FBO line service trainers. NATA's newly updated Safety 1st Trainer Seminar delivers the in-depth instruction necessary to make these employees more effective line service supervisors and teachers.

In the seminar, trainers will learn how to engage a variety of students, increase learning retention, effectively present lesson plans, identify student verbal and nonverbal cues as well as many other skills.

The seminar also includes instruction on the industry's premier program for initial and recurrent training of line service specialists – known as PLST or Professional Line Service Training.

Seminar Benefits

- Return eager to implement proven PLST Online training tips and techniques to make your FBO better and safer
- Strengthen your training skills
- Realize the benefits of a highly organized and coordinated training process
- Participate in peer networking opportunities

Topics

- Structuring A Training Program
- Keys To Successful Training
- How To Properly Prepare
- Varying Teaching Techniques
- Energizing The Learning Environment
- Recognizing And Utilizing Resources
- Staying Consistent And Keeping It Simple

Featured Speakers

Walter Chartrand, AirBP Aviation Services
Amy Koranda, NATA
Mike France, NATA

Environmental Compliance Seminar

The NATA Environmental Compliance Seminar for Aviation Facilities is the only event that focuses solely on environmental compliance issues confronting FBOs and general aviation airports. With mounting pressure from the media, the federal government and the public at-large, this seminar is designed to ensure that FBOs and general aviation airports are complying with environmental mandates that affect their daily operations.

Seminar Benefits

- Increase awareness of all applicable regulations
- Ensure compliance with new environmental mandates
- Avoid costly errors and negative press
- Discuss best management practices
- Review procedures, equipment and requirements

Topics

- Spill Prevention, Control And Countermeasures (SPCC) Regulations And The New Parts That Will Take Effect On November 10, 2010
- Storm Water Permitting And Storm Water Pollution Prevention Plans
- Newly Proposed EPA De-Icing Requirements
- Waste Issues (hazardous waste, universal waste, waste oil and waste fuel)
- Underground Storage Tanks
- EU Emission Trading Scheme – Current Requirements In Europe And What To Expect In The Future For The U.S.

Featured Speaker

George S. Gamble, PE,
2G Environmental, LLC

Line Service Supervisor Training Seminar (LSST)

Build Career Knowledge, Confidence and Success

This seminar, specifically designed for line service supervisors, provides the training you need to become more proficient in supervising staff, motivating others, communicating and coaching a team. This high-impact, high-energy seminar includes guided group debates, role playing, interactive games and various case studies designed to take you to a new level of leadership. You will also take part in self-assessments to explore your strengths and weaknesses and their effect on your management style.

Seminar Benefits

- Share your challenges and successes with colleagues
- Discover your strengths and weaknesses through self-assessments
- Learn to promote safety and synergy through teamwork
- Instill a culture based on trust, partnership and respect
- Analyze the technical information crucial to performing your job
- Make your FBO more efficient by learning how to engage and motivate your staff

Topics

- Attendee Self Assessments
- Creating A Healthy Safety Culture
- Leadership and Supervisor Essentials
- Legal Compliance As A Leader
- Employee Engagement / Effective Communication
- Line Service Supervisor Technical Review
- Simple Steps To Ensure Top-Notch Customer Service

Featured Speakers (speakers subject to change)

Todd Dewett, Ph.D., Wright State University
Reed Fuller, Ascent Aviation Group
Walter Chartrand, AirBP Aviation Services
Mario Martinez, Ph.D., ServiceElements
Amy Koranda, NATA
Mike France, NATA
Leonard Kirsch, Esq., McBreen & Kopko
Bill Pomeroy, MoneyWise Solutions

FAA-Approved 14 CFR 139.321 Fire Safety Training included with seminar

To find out more about NATA's Spring Training Week seminars and activities, visit www.nata.aero, www.twitter.com/nataaero, or search for National Air Transportation Association on Facebook.





NATA's Sustaining Members

These special members have made a commitment to help develop programs and initiatives throughout the year. This membership class includes participation, sponsorship and recognition in all major NATA events and publications.

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Phillips 66 Aviation

Sabre Flight Explorer

Signature Flight Support

Universal Weather and Aviation, Inc.

USAIG

Founded in 1940, the National Air Transportation Association aggressively promotes aviation safety and the success of aviation service businesses through its advocacy efforts before government, the media and the public, and by providing valuable programs and forums to further its members' prosperity.



NATA Compliance Services Is Your Drug Testing Ally

By Colin Bane

An FAA audit of your company's drug testing procedures can be an untidy reality of doing business in aviation, but it doesn't have to be a nightmare. The FAA and U.S. Department of Transportation drug and alcohol regulations help ensure safety and security for all, and NATA Compliance Services can be an important ally in making sure you're following the letter of the law and protecting your own business.

NATA Compliance Services provides a one-stop shop for FAA security compliance, from employee background checks and TSA fingerprint processing and collecting to security badging, online record-keeping, flight school training, and employee programs for security and training.

NATA Compliance Services also offers a full complement of DOT-compliant drug testing and program services, including both DOT and non-DOT employee testing, on-site services for reasonable suspicion and post-accident/incident testing, drug and alcohol history checks, random testing program management, and employee and supervisory training in drug programs.

"We keep track of all the new regulations that come out and notify all our customers to make sure that they are aware of any changes," said Judy Boyle, manager of NATA Compliance Services' drug programs. "For instance, the new regulation that took effect August 31 requires all follow-up tests or return-to-duty tests be done under direct observation. That means that another individual of the same sex has to be in the room with the donor while they are providing the specimen."

The \$49.50-per-test cost to NATA members using Compliance Services includes drug and alcohol test equipment, collection site and laboratory costs, medical review officer costs, and results reporting.

"We set up our clients with a laboratory and a lab account, we set up all their collection sites, we set them up with a medical review officer, we provide our clients with a random selection list, and we provide a substance abuse referral service," Boyle said. "When you are testing under DOT, anyone who tests positive or refuses to test has to go through a DOT-certified substance abuse program before they're allowed to return back to their positions."

Random testing management fees (\$2 per month, per employee) cover a C/TPA program manager, mandatory reporting requirements, annual plan review, and audit assistance if a program is flagged for audit inspection. The audit assistance is proving to be the most popular offering.

In one recent testimonial, a customer wrote, "Upon being notified of an audit, I immediately contacted NATA Compliance. Their knowledge and patience in planning for every aspect of the audit was reassuring, and the audit went fine because they had us 100 percent prepared. In the week before the audit, I spoke to customer service several times and they were knowledgeable, courteous,

"It's just a fact of doing business in this industry: Any one of our clients that has a DOT testing program could be inspected at any time by the FAA."

**— Judy Boyle
NATA Compliance Services**

and professional in every way. The service that this company has received from NATA has been flawless, and I would recommend this program to any operator. Before joining with NATA Compliance Services, I was told by several aviation industry contacts that they were the organization that set the highest standard. My experience with them has validated that."

A drug program audit can be overwhelming—and potentially catastrophic—without proper preparation.

"It's just a fact of doing business in this industry: Any one of our clients that has a DOT testing program could be inspected at any time by the FAA," Boyle said. "So in the event of an audit, we do an audit preparation with our clients, go over the checklist provided to them by the FAA inspector,

Continued on page 48

NATA Compliance Services

Continued from page 47

and make sure that all of their files are in order and they are ready for their inspection. We find that our clients find that very valuable. We explain to them exactly what the inspectors are looking for, make sure that they have all the right paperwork, and make sure they understand the regulations behind the paperwork.”

The drug program training includes materials (booklets, videos, and web-based guides) for the required employee and supervisory training. In instances where a member has questions or issues not clearly addressed in the regulations, NATA Compliance Services works with the FAA Drug Abatement Division in Washington, D.C., to provide clarity and answers.

“We go over and above the standard third-party administrator (TPA) requirements,” Boyle said.

“Standard TPAs, their role is typically to just set up a laboratory, set up the MRO, and provide random selection lists, and that’s as far as they go. We go the next step, and we talk to our clients to ensure that all requirements are being followed, everything from how they registered the program with the FAA to how to respond after an inspection and how to prepare drafts for the MIS reports. So really we are more than just a TPA. Like our banner says, we’re ‘one source, one stop, one solution.’ Our clients are able to get all their compliance needs taken care of with one vendor.”

For more on NATA Compliance Services and its drug and alcohol compliance programs, visit www.natacs.aero.

Advertiser Index

Air BP Aviation Services	Back cover
Air-Sur, Inc.	Inside front cover
Avfuel Corporation	3
Chevron Global Aviation	Inside back cover
ExxonMobil Aviation	4
Fltplan.com	26
Horizon Business Concepts	23
KaiserAir	25
McBreen & Kopco	49
Midcoast Aviation	8
NATA Sustaining Members	46
NetJets	11
Phillips 66 Aviation	12
R. Dixon Speas Associates	17
Sabre Flight Explorer	6
Signature Flight Support	40
Universal Weather & Aviation	18
USAIG	15

PAC Contributions Make a Difference in Washington

Being politically active in Washington, D.C., is a challenge for many aviation businesses. You own or operate full-time businesses, and your time is limited. However, when an important issue arises that requires legislative action, many of you find the time to take action because you have a cause. Whether in Washington or in your own hometown, you need to reach out.

Each spring, NATA holds a Day on the Hill event where approximately 80 association members meet with members of the U.S. House of Representatives and the U.S. Senate and their staff to discuss important issues facing the industry, such as final passage of FAA reauthorization and the Large Aircraft Security Program. These face-to-face meetings are an important educational exercise to ensure that we reach as many elected officials as possible to make our position known on important issues facing our industry. NATA encourages all members to participate in NATA's Day on the Hill; however, this educational exercise can also be accomplished by meeting with your representatives and their staff in their district offices.


While this is not an election year, representatives and senators are gearing up for the 2010 elections. With so much at stake politically for our country and our industry, it is important that we do what we can to ensure that our nation's policymakers support the general aviation industry. For this effort, NATA established NATAPAC.

As the name indicates, a political action committee, or PAC, is a group organized to elect candidates running for government office who support issues important to that group. Trade associations, corporations, unions, and other entities organize PACs to generate funds from their members or employees enabling them to contribute to these candidates' campaigns. NATA's PAC, known as NATAPAC, was established to contribute to candidates who support the general aviation industry and the issues it faces.

PACs are not without controversy. Some believe PACs corrupt politicians by bringing outside money into the political arena to buy favors from politicians. Regardless of one's opinion about PACs, the fact is that they are actively used by a number of lobbying entities in Washington. They are valuable tools to help ensure supportive politicians remain in office. Contributing to a PAC is just one

way to make a difference with policymakers. Others include writing to your members of Congress on issues important to you. When Congress is not in session, your representative and senators are usually at home visiting with constituents. This is a great time to schedule an appointment at their offices or invite them to your operation for a tour and a discussion of issues.

To learn more about NATAPAC or to make a contribution, visit www.nata.aero/natapac.

IMPORTANT NOTE: Federal law requires all PAC donations to be **personal contributions only**. **Company/corporate contributions are prohibited.** Do not use company or corporate checks to make donations. PAC donations are not tax deductible. 

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