



U.S. Department
of Transportation

**Federal Aviation
Administration**

July 18, 2013

Eastern Region
Regional Counsel
Telephone: 718 553-3269
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1 Aviation Plaza
Jamaica, NY 11434

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Case Manager
Office of Administrative Law Judges
National Transportation Safety Board
490 L'Enfant Plaza East, S.W.
Room 4704
Washington, D. C. 20594

Dear Sir or Madam:

Administrator v. Raphael Pirker
NTSB Docket No. CP-217


Enclosed herewith are an executed original and one (1) copy of the Administrator's Order of Assessment dated June 27, 2013, assessing a civil penalty against the above-named Respondent.

The Order of Assessment is being filed as the Administrator's Complaint for affirmation of the Order in accordance with §821.54-57 of the Board's Rules of Practice. We request the hearing be held in the Richmond, VA area.

This is to certify that on this day a copy of the foregoing Administrator's Order of Assessment was served on Brendan M. Schulman, Esq., Attorney for Respondent, by forwarding a copy thereof by Certified Mail Return Receipt Requested to said attorney at Kramer Levin Naftalis & Frankel, LLP, 1177 Avenue of the Americas, New York NY 10036, which is the last known address of said Attorney.

Alfred R. Johnson, Jr.
Regional Counsel

By:


Brendan A. Kelly
Attorney

Enclosures



"ADMINISTRATOR'S COMPLAINT"

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1 Aviation Plaza
Jamaica, NY 11434

JUN 27 2013

FEDERAL EXPRESS, REGISTERED MAIL - RETURN RECEIPT REQUESTED, AND
ELECTRONIC MAIL

Raphael Pirker
Melchutistrasse 47
8304 Zurich
Switzerland

Docket No. 2012EA210009

ORDER OF ASSESSMENT

On April 13, 2012, you were advised through a Notice of Proposed Assessment that the FAA proposed to assess a civil penalty in the amount of \$10,000.

After consideration of all the available information, it appears that:

1. On or about October 17, 2011, you were the pilot in command of a Ritewing Zephyr powered glider aircraft in the vicinity of the University of Virginia (UVA), Charlottesville, Virginia.
2. The aircraft referenced above is an Unmanned Aircraft System (UAS).
3. At all times relevant herein you did not possess a Federal Aviation Administration pilot certificate.
4. The aircraft referenced above contained a camera mounted on the aircraft which sent real time video to you on the ground.
5. You operated the flight referenced above for compensation.
6. Specifically, you were being paid by Lewis Communications to supply aerial photographs and video of the UVA campus and medical center.
7. You deliberately operated the above-described aircraft at extremely low altitudes over vehicles, buildings, people, streets, and structures.

8. Specifically, you operated the above-described aircraft at altitudes of approximately 10 feet to approximately 400 feet over the University of Virginia in a careless or reckless manner so as to endanger the life or property of another.
9. For example, you deliberately operated the above-described aircraft in the following manner:
 - a. You operated the aircraft directly towards an individual standing on a UVA sidewalk causing the individual to take immediate evasive maneuvers so as to avoid being struck by your aircraft.
 - b. You operated the aircraft through a UVA tunnel containing moving vehicles.
 - c. You operated the aircraft under a crane.
 - d. You operated the aircraft below tree top level over a tree lined walkway.
 - e. You operated the aircraft within approximately 15 feet of a UVA statue.
 - f. You operated the aircraft within approximately 50 feet of railway tracks.
 - g. You operated the aircraft within approximately 50 feet of numerous individuals.
 - h. You operated the aircraft within approximately 20 feet of a UVA active street containing numerous pedestrians and cars.
 - i. You operated the aircraft within approximately 25 feet of numerous UVA buildings.
 - j. You operated the aircraft on at least three occasions under an elevated pedestrian walkway and above an active street.
 - k. You operated the aircraft directly towards a two story UVA building below rooftop level and made an abrupt climb in order to avoid hitting the building.
 - l. You operated the aircraft within approximately 100 feet of an active heliport at UVA.
10. Additionally, in a careless or reckless manner so as to endanger the life or property of another, you operated the above-described aircraft at altitudes between 10 and 1500 feet AGL when you failed to take precautions to prevent collision hazards with other aircraft that may have been flying within the vicinity of your aircraft.
11. By reason of the above, you operated an aircraft in a careless or reckless manner so as to endanger the life or property of another.

By reason of the foregoing, you violated the following section(s) of the Federal Aviation Regulations:


- a. Section 91.13(a), which states that no person may operate an aircraft in a careless or reckless manner so as to endanger the life or property of another.

NOW THEREFORE, IT IS ORDERED, pursuant to 49 U.S.C. §§46301(a)(1) and (d)(2) and 46301(a)(5), that you be and hereby are assessed a civil penalty in the amount of \$10,000.

You may pay the penalty amount by submitting a certified check or money order payable to the "Federal Aviation Administration" to the Office of Accounting, 1 Aviation Plaza, Jamaica, NY 11434. **In the alternative, you may pay your civil penalty with a credit card over the Internet. To pay electronically, visit the web site at <http://div.dot.gov/fea.htm> and click on "Civil Fines and Penalty Payments" which will bring you to the "FAA Civil Penalty Payments Eastern Region" page. You must then complete the requested information and click "submit" to pay by credit card.**

If you do not request a hearing before the National Transportation Safety Board within twenty (20) days after you receive this Order, the amount of debt assessed in this Order constitutes a legally collectible debt owed to the United States. You will not have a right to seek review within the Federal Aviation Administration of the validity and/or amount of this debt. If this debt is not paid in full within thirty (30) days of your receipt of this Order, the debt is considered delinquent. For delinquent debts, federal regulation (49 C.F.R. §89.23) requires us to charge interest, from the date this Order is issued, at a fixed annual rate of 5% along with an administrative charge of \$12.00 per month, representing our costs of administrative collection. Furthermore, if the full amount assessed is not paid in full within 120 days of your receipt of this Order, we are required to assess an additional penalty at an annual rate of 6%, accruing from the date of delinquency. Delinquent debts may be reported to consumer reporting agencies or commercial credit bureaus, which could adversely affect your credit rating. Nonpayment of this debt may ultimately result in a referral to a collection agency, the Internal Revenue Service, the United States Department of Justice or, if applicable, to a Federal Agency for offset of debt against Federal pay.

Alfred R. Johnson, Jr.
Regional Counsel

By: 
Brendan A. Kelly
Supervisory Attorney

APPEAL

You may appeal from this Order within twenty (20) days from the date it is served, JUN 27 2013, by filing a Notice of Appeal with the Office of Administrative Law Judges, National Transportation Safety Board, Suite 5531, Fifth Floor, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20594, (202) 314-6150.

Part 821 of the Board's Rules of Practice (49 C.F.R. Part 821) applies to such an appeal. An original and four (4) copies of your appeal must be filed with the National Transportation Safety Board (NTSB) along with proof of service of the notice of appeal on the Administrator. The Administrator must be served by providing a copy of your notice of appeal to the Office of the Regional Counsel at the address noted in the foregoing Order.

The filing of a timely appeal with the NTSB stays the effectiveness of this Order during the pendency of that appeal before the NTSB.

If you appeal to the NTSB, a copy of this Order will be filed with the NTSB and this Order will become the Administrator's Complaint in this proceeding.

If you do not appeal, you must pay the assessed civil penalty.

cc: AFS-760