

AEROBEARINGS WINS APPEAL

Questions remain for repair stations and technicians

STORY BY LINDSEY MCFARREN

In March 2018, the Federal Aviation Administration issued an emergency revocation of the Part 145 repair station certificate of Kornitzky Group LLC, doing business as AeroBearings LLC,

following a May 2017 inspection. As *Avionics News* reported in its June 2019 issue, completion of forms 8130-3 were at the center of the case, and the FAA claimed AeroBearings falsified the forms by omitting certain information. The FAA also alleged AeroBearings did not use appropriate technical data.

AeroBearings held FAA Air Agency Certificate No. 8AZR921B for aeronautical anti-friction bearings used in turbine engines, auxiliary power units, rotorcraft drive systems, and accessory applications.

AeroBearings appealed the case to an administrative law judge who overturned the FAA's revocation. The FAA appealed the ALJ's decision, and the case went to the National Transportation Safety Board for review. In a 2-1 vote, the Board upheld the FAA's revocation.

The NTSB's majority position enthusiastically considered the AeroBearings case "an excellent opportunity to expressly expand the Board's 'willful disregard' standard ... to mechanic intentional falsification cases."

Then-Board Chairman Robert Sumwalt dissented



in part with the majority's position, pointing to the commonly accepted three-prong standard for determining intentional falsification. The third prong – knowledge of falsity of the fact – was not proven at any point in the case. Further, Sumwalt disagreed with expanding the “willful disregard” standard and cautioned about setting a dangerous precedent.

In July, the U.S Court of Appeals for the District of Columbia overturned the Board's decision regarding intentional falsification, but upheld part of the decision related to appropriate technical data.

The decision states, “We uphold the Board's determination concerning Kornitzky Group's performance of maintenance without the appropriate technical data. But we set aside the Board's intentional-falsification charge because the Board departed from its own precedents when considering whether Kornitzky Group had acted

with the requisite knowledge. We thus vacate the Board's revocation of Kornitzky Group's air agency certificate.”

Primarily, the appeals court agreed with Sumwalt's position about falsification – that falsification must be intentional and known to be false.

Typically, an omission in a maintenance record could be considered falsification only if the mechanic had intent to falsify the record.

While the court's decision essentially reinstates the three-prong standard for determining intentional falsification, it leaves questions as to what must be documented on form 8130-3 by a repair station. An authorized release certificate is not intended to be a full documentation of work performed; it is meant to demonstrate work is complete and the item is airworthy.

Repair stations and their technicians should stay tuned for more potential fallout from the AeroBearings case. □

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