

May 15, 2009

## GWBAA Holds Third Annual Safety Standdown

### Captain Al Haynes Addresses Audience at NTSB Training Academy

GWBAA held its Third Annual Safety Standdown on May 7 at the National Transportation Safety Board (NTSB) Training Center in Ashburn, VA. The attendees included pilots, maintenance technicians and other representatives from corporate flight departments and aviation support businesses in the Washington, DC metropolitan area and from areas throughout the country.

Doug Carr, Vice President of Safety for the National Business Aviation Association (NBAA), gave the opening remarks and was followed by Jim Burin, director of technical programs for the Flight Safety Foundation, who spoke about today's aviation safety challenges.

"A safety culture is the single most important item for any aviation operation and the one item that you can't buy," said Burin. "It must be supported by senior management."



GWBAA Operations and Safety Chair Jim Lumley;  
United Flight 232 Captain Alfred Haynes; and  
GWBAA President Paige Kroner

This year's event included three breakout sessions. Bob Hobbi, owner of ServiceElements, spoke about achieving superior levels of customer service for FBOs, charter operators and flight departments. John Rahilly, principal of Rahilly Aviation Associates, gave a presentation on how to obtain the best price and highest quality service when having an aircraft serviced. Additionally, the NTSB's Dr. Paul Schuda gave attendees a tour of the reconstructed portion of the fuselage of TWA Flight 800 and explained how the accident aircraft was reconstructed.

Captain Alfred Haynes, of United Airlines Flight 232, was the keynote speaker. In 1989 Haynes and his crew crash landed a crippled DC-10-10 in Sioux City, Iowa with no hydraulics. Although there were 111 fatalities, there were also 184 survivors. During his presentation, which included the video of the accident together with ATC recordings, Haynes credited Crew Resource Management (CRM) with limiting the number of fatalities and praised everyone involved in the accident: pilots, flight attendants, maintenance personnel, air traffic controllers and especially the Sioux City emergency response crews who responded to the accident.

In lieu of an honorarium to Haynes, GWBAA has donated \$2500 to the Al Haynes Scholarship Foundation, which is used to assist aviations students at Aims Community College.

“This year’s Safety Stand-Down built on the success of our last two stand-downs and was an unqualified success,” said Paige Kroner, president of GWBAA. “My thanks to all of our sponsors, speakers and volunteers who contributed to that success.”

This year’s sponsors included Bombardier, Dassault Falcon, Gulfstream, Satcom Direct, Welsch Aviation, Sharp Details, FlightSafety, NBAA, Signature Flight Support, Universal Weather & Aviation and Landmark Aviation. The stand-down is eligible for credit towards NBAA's Certified Aviation Manager (CAM) qualification.

GWBAA also thanks ARINC, Air Routing, AvCard, Hawker Beechcraft, and Jeppesen for donating prizes to our drawing. If you haven’t already, please give us your feedback, and we look forward to seeing you next year.

## TSA Announces Additional DCA Gateway Airports

Readers of GWBAA News will recall that TSA allows business aviation operators to operate flights to/from Ronald Reagan Washington National Airport on a highly restricted basis, pursuant to the DCA Access Standard Security Program (DASSP). One of the requirements is that the flight must depart from a designated gateway airport. Effective April 15, the following new locations are gateways for the DASSP: Landmark Aviation at Los Angeles International Airport (LAX); Wiggins Airways at Manchester Airport (MHT); and Signature Flight Support at Long Beach Airport (LGB). This brings the total number of DASSP gateways to 26. For more information about DASSP, please visit <http://www.nbaa.org/ops/security/programs/dassp>.

## Regional News Round-Up

State and local officials are seeking to establish a training program for aircraft maintenance technicians at **Hagerstown Regional Airport**. According to the *Herald-Mail*, the airport is in talks with the Pittsburgh Institute of Aeronautics.

**Stafford Regional Airport** is negotiating three new leases for corporate aircraft, according to the *Stafford County Sun*. In March, the Stafford County Board of Supervisors reduced the property tax on aircraft from \$3 to 10¢ per \$100 of assessed value. Ed Wallis, Airport Manager, told the Sun that the tax reduction “is a step in the right direction in getting the airport to be a self-sustaining entity.”



Tim Deike, Director of **Leesburg Executive Airport**, told *Leesburg Today* that he and the town police department were concerned about litter that had been found on the airport taxiway, apparently left behind by trespassers. Deike stated that there had been no damage to airport property or aircraft, but that extra staff hours had been required to collect the debris. In other Leesburg news, Ritz Camera terminated its presence at the airport in April, according to the *Loudoun Times*. In 2008, Ritz completed a 25,000 square foot hangar at the airport; RZF Aviation, the entity created to run the hangar and which has a 40-year lease for the facility, is now looking for new tenants.



Starting in May, an asphalt replacement project will be under way at **Winchester Regional Airport**. Airport Manager Renny Manuel told the *Northern Virginia Daily* that the work will be completed in stages around three rows of "T" hangars. While the repaving is in process, aircraft in hangars not facing construction in progress will be required to be towed to the runway rather than taxiing to avoid disrupting the work. Tie-downs also will be available for aircraft affected by the construction.

A plane caught fire shortly after landing at **Frederick Municipal Airport** on April 22; the pilot was not reported to be injured. On April 24, a Cessna strayed into the ADIZ and was escorted to **Maryland Airport** by two Coast Guard helicopters and two USAF F-16s. As always, fly safely!

## **GUEST VIEWPOINT:**

### ***Aircraft Management Companies and Other Service Providers: Managing Debt from Aircraft Owners***

*GWBAA is pleased to present the following discussion from Brendan Collins of GKG Law, P.C. Brendan Collins is a litigator with expertise in bankruptcy and transportation-related matters. Mr. Collins was a trial lawyer for more than 10 years with the U.S. Department of Justice specializing in bankruptcy and interstate commerce. He represented the United States' interest in numerous bankruptcies involving billions of dollars worth of claims, including airline bankruptcies such as US Air and Aloha Airlines.*

As we have seen, owners of corporate aircraft are not immune from economic hardships. As a result, in today's economic environment it is more important than ever for those providing aviation services or products -- such as aircraft management companies, fuel providers, and parts and labor providers -- to recognize that even seemingly stable, long-standing customers may face financial burdens that create insolvency or necessitate their filing for bankruptcy. While there may be nothing that one can do to prevent a customer's reorganization or liquidation in bankruptcy, there are important steps that you can take to minimize the risk that you experience significant financial losses as a result of such an insolvency.

One obvious concern is when your customer fails to pay its bills. What steps can be taken to maximize your ability to

recover unpaid invoices? Also problematic are attempts by a debtor or its bankruptcy trustee to recover payments made to you during the "preference period" (*i.e.*, 90 days prior to the bankruptcy filing). This article illustrates some steps that you can take to minimize or eliminate those risks.

The simplest way to avoid becoming a creditor in a bankruptcy action is not to provide goods or services to a customer without having been paid in advance or without having a pre-funded retainer in place. Of course, in many instances, this may be an impractical way to do business. Nonetheless, more and more companies are opting to take this route. By doing so, there will be no outstanding claims in the event the owner of an aircraft to whom you have provided goods or services files for bankruptcy.

If payment is made at the time of or before providing the goods or services at issue, no creditor relationship exists and the payments are not made on account of a pre-existing debt owed before the payment was made. Thus, advance payments also should be immune from attempts by debtors or bankruptcy trustees to recovering payments made within the preference period.

More commonly, goods or services are provided on credit or advance retainers are insufficient to reimburse for the aviation services or products provided. In the event of bankruptcy filing, general unsecured creditors often recover only a small percentage of the amount owed by the debtor. Accordingly, steps should be taken to attempt to "secure" your claim so as to provide priority over the claims of other creditors.

Ordinarily in a bankruptcy proceeding, the automatic stay prevents a secured creditor from repossessing the debtor's collateral. Chapter 11 carves out an exception for secured creditors with a security interest in aircraft, aircraft engines and spare parts. This article does not address the scope of that exception.

By the enactment of the Federal Aviation Act, Congress established a single national filing system for the recordation of documents evidencing title and security interests in civil aircraft. The Code of Federal Regulations provide that all notices of liens, including mechanic's liens against aircraft, engines and spare parts are conveyances subject to mandatory FAA recording requirements. In promulgating these filing requirements, however, Congress did not override state laws that would otherwise govern priorities *between* perfected security interests.

Thus, in determining the validity of a security interest, one must look not only to

federal law but also to state law to ensure compliance with statutes governing such a creditor's rights. Some states provide that a mechanic's lien securing the value of material and labor used to enhance or restore property is invalid unless it is filed with the FAA, as well as in some cases, the clerk of the county where the aircraft was located when the labor, services, fuel or material was provided. Other states, however, have statutes that require that the person providing repair or maintenance services retain possession of the aircraft or spare parts in order to perfect its lien. Under those statutes, possession of the goods perfects the lien, rather than a written document.

The FAA has determined that it will not accept filing of a mechanic's lien from states where possession of the aircraft or spare parts perfects the lien. Most importantly, close attention must be paid to FAA and state law requirements in order to ensure one maximizes the ability to recover in the event of insolvency. State laws may be traps for the unwary. Among the issues that one must assess are whether the mechanic must retain continuous possession of the aircraft in order to maintain the validity of the lien and whether the consent of the owner of the aircraft is required before a mechanic can establish a lien against the property.

State statutes differ as to the type of services that may be subject to a mechanic's lien. State laws and courts interpreting those laws have differed as to the extent to which a mechanic's lien may apply to various services provided by aviation service providers. There is virtual unanimity that liens cover repairs for aircraft and/or engines. Differences arise, however, as to whether liens properly may attach to money owed for fuel purchased on credit or for similar supplies. While some courts have held that such liens are valid, other courts have ruled that fuel, oil and oxygen

provided by an aviation center are not "materials" under statutes creating liens in favor of those who furnish materials for aircraft.

Before filing a lien or taking possession of a customer's assets, consideration must be given as to the effect it will have on your relationship with that customer. Filing a lien could trigger a default in an aircraft owner's loan documents. This could lead to a management company being terminated or the aircraft owner utilizing another vendor for fuel or future repairs. Under certain circumstances, however, such steps must be taken in order to protect your interests.

A lien may not force the owner of an aircraft to pay you until the aircraft is sold, but in the event of a bankruptcy filing, a properly recorded lien may be the difference between having your claim paid in full and only receiving pennies on the dollar.

Many critical steps can be taken to limit exposure and maximize recovery by aircraft management companies or those providing fuel and/or parts and labor for aircraft. If you are interested, GKG Law attorneys can assist with these planning alternatives. Please feel free to contact Brendan Collins by telephone at 202/342-6793 or by email at [bcollins@gkglaw.com](mailto:bcollins@gkglaw.com).

## Upcoming Aviation Events

- **May 18-20:** American Association of Airport Executives Transportation Security Clearinghouse Workshop and Employee Credentialing and Access Control Conference. For more information, please visit <http://events.aaae.org/sites/090503/>.
- **May 26:** Aero Club luncheon featuring Joe Lombardo, Executive Vice President, General Dynamics Aerospace Group, at the Capital Hilton. For more information, please visit <http://www.aeroclub.org/luncheons.htm>.
- **May 26-28:** ATW Eco-Aviation Conference at the Marriott Metro Center. For more information, visit <http://www.atwonline.com/events/ecoAviationConference09.html>.
- **May 28:** The National Aeronautical Association will present the 2008 Collier Trophy to the Commercial Aviation Safety Team at a black tie event at the Crystal Gateway Marriott. For information, visit <http://www.naa.aero/html/events/index.cfm?cmsid=106>.
- **June 2:** Committee for Dulles luncheon featuring Sharon Bulova, Chairman, Fairfax County Board of Supervisors, at the Crowne Plaza Dulles (note the new date and location). For information, visit [http://www.committeefordulles.org/current\\_lunch.html](http://www.committeefordulles.org/current_lunch.html).
- **June 4:** Aviation Week will host the Business Aviation Security Forum at the DOME Theater in Arlington, Virginia. For more information, please visit <http://www.aviationweek.com/events/current/bas/index.htm>.
- **June 6-9:** The Airport Minority Advisory Council will hold its 2009 Airport Business Diversity Conference at the Baltimore Marriott Waterfront. For more details, please visit <http://amac-org.com/annualconference.html>.
- **June 8:** Greater Washington Aviation Open at the Lansdowne Resort (rescheduled from May 4). For more information, please visit <http://www.gwao.org>.

- **June 8-10:** NATA Air Charter Summit at the Westfields Marriott Washington Dulles. For more information, visit <http://www.nata.aero/Event.aspx?page=1259&sectionid=553>.
  - **June 9-11:** NATA FBO Leadership Conference at the Westfields Marriott Washington Dulles. Visit <http://www.nata.aero/Event.aspx?page=1260&sectionid=553> for more information.
  - **June 11:** Baltimore-Washington Air Cargo Association golf outing at The Woodlands golf course in Windsor Mill, MD. For more information, please visit <http://www.bwaca.com/Golf/2009%20BWACA%20Golf%20Outing%20Flyer.pdf>.
  - **June 13-14:** Ocean City air show, featuring the USAF Thunderbirds. For more information, please visit <http://www.ocairshow.com>.
  - **July 13-14:** American Association of Airport Executives and Airport Legislative 2009 Summer Legislative Issues Conference at the Renaissance Mayflower Hotel. For more information, please visit <http://events.aaae.org/sites/090709/>.
  - **June 23:** International Aviation Club luncheon featuring Roy Kienitz, DOT Under Secretary for Policy, at the Grand Hyatt. For more information, please visit <http://www.iacwashington.org>.
  - **July 27-29:** FAA, American Association of Airport Executives, and U.S. Contract Tower Association annual workshop on the FAA Contract Tower Program at the Westin City Center. For information, please visit <http://events.aaae.org/sites/090708/index.cfm>.
  - **August 24-26:** Airport Council International-North America public safety and security conference at the Ritz Carlton Pentagon City. For more information, please visit <http://www.aci-na.org/conferences/detail?eventId=149>.
  - **September 9-11:** Sixth Annual FAA International Safety Forum at the Omni Shoreham. For information, visit [http://www.faa.gov/news/conferences\\_events/2009safetyforum](http://www.faa.gov/news/conferences_events/2009safetyforum).
- **September 29:** Fifth annual GWBAA golf tournament at the Herndon Centennial golf course. More details will be posted shortly.
- **October 3:** Wings, Wheels and Ducks at the Stafford Regional Airport, from 10am until 4pm. For more information, please visit <http://www.staffordrotary.org>.
  - **October 10:** 10th annual Culpeper Air Fest, from 10am until 4pm. For information, visit <http://web.culpepercounty.gov/CountyGovernment/Airport/tabid/108/ModuleID/800/ItemID/7/mctl/EventDetails/Default.aspx?selecteddate=10/10/2009>.
  - **October 20-22:** NBAA's 62nd annual meeting and convention in Orlando, Florida. For more information, please visit <http://www.nbaa.org/events/amc/2009/>.
  - **November 1:** 32nd Gaithersburg Transportation Show at the Montgomery County Fairgrounds. For more information, please visit <http://www.gserr.com/shows.htm>.

- **November 2-5:** Air Traffic Control Association 53rd annual conference at the Marriott Wardman Park. For information, visit <http://www.atca.org/annualconference.aspx>.
- **December 3:** Airport Council International-North America international aviation issues seminar at the Fairfax Embassy Row. For more information, please visit <http://www.aci-na.org/conferences/detail?eventId=153>.

## GWBAA Offers Online Benefits

We continue to add member information for GWBAA's electronic membership directory – <http://www.gwbaa.com/directory.html>. This service is available to GWBAA members at no cost. Please contact Jol Silversmith ([jasilversmith@zsrlaw.com](mailto:jasilversmith@zsrlaw.com)) if you want to post your company's information.

## GWBAA Contacts

GWBAA President Paige Kroner of Chantilly Air ([paigekroner@chantillyair.com](mailto:paigekroner@chantillyair.com)) and GWBAA Secretary Jol Silversmith of Zuckert, Scoutt & Rasenberger, LLP ([jasilversmith@zsrlaw.com](mailto:jasilversmith@zsrlaw.com)) write and edit GWBAA News. GWBAA's success and ability to make a difference depends on the breadth of its support and your participation – so please send any ideas or comments for future newsletters, or for GWBAA, in general, to Paige or Jol, or any of the following people:

Jim Garland, Treasurer: [jgarland@sharpdetails.com](mailto:jgarland@sharpdetails.com)

Bob Rockwood, Membership Chair: [racersblue@earthlink.net](mailto:racersblue@earthlink.net)

Jim Lumley, Operations, Safety and Security Chair: [jpilot3@aol.com](mailto:jpilot3@aol.com)

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