

From: Mark and Barbara Fetherolf
To: Whom it may concern
Date: January 26, 2004

Re: The Crash of Swissair 111 – Evidence of Bribery, Regulatory Violations and Negligence

Our sixteen-year-old daughter Tara died in the crash of Swissair 111 in September of 1998. Despite substantial evidence that the actions of now-defunct companies, Interactive Flight Technologies (IFT), Santa Barbara Aerospace (SBA) and D.H. Blair and Co., contributed directly to the crash, which resulted the death of 229 people, no criminal investigation of the companies' actions was ever conducted.

Santa Barbara Aerospace was designated by the FAA to certify the design and safety of major aircraft modifications. In this capacity, it certified the design of an in-flight entertainment system developed by IFT and installed on Swissair 111. According to the Transportation Safety Board of Canada's Final Investigative Report [1], the system's wiring was likely associated with the initiation of the fire that caused the crash, and the system was connected to aircraft power in such a way that was not compatible with ... the MD-11 aircraft.

Early last year, USA Today [2] reported that Santa Barbara Aerospace: (1) Was hired to do the certification after another engineer, Edward Mlynarczyk, who said that the system was unsuitable for aircraft use, terminated his contract after refusing a bribe offered by IFT's investment banker, D.H. Blair and; (2) violated or circumvented numerous FAA regulations in the certification process; and (3) had a history of similar practices. Several years later, D.H. Blair and 13 former employees were found guilty of defrauding investors in 15 IPOs — including IFT's — through stock-price manipulation.

There is abundant evidence that IFT and SBA deliberately circumvented the regulatory process. The FAA conducted a "Special Certification Review" [3] of SBA and its work on the IFT entertainment system. The report identified numerous deficiencies in SBA's practices and in the FAA's "Supplemental Type Certification" processes. SBA was found to have violated no FAA regulations but "surrendered" its status as a "Designated Alteration Station" and the Supplemental Type Certificate for IFT's entertainment system. For SBA, giving up its DAS status was the equivalent of corporate suicide. It is hard to imagine why it would do so voluntarily having violated no regulations.

USA Today [ibid] reported, "A month after SBA began certifying the entertainment systems on Swissair jets, the FAA's Western Pacific region ... suspended SBA's operating certificate, according to FAA documents. The suspension should have halted SBA's operations, but the company continued to work on the Swissair project. [Five days later] the FAA's regional legal office abruptly reversed itself, saying it had suspended SBA "by mistake" and restored its certificate, according to a Dec. 31 letter. FAA attorney Sam Frazer, who signed the letter, said the case against SBA was dropped because the inspector involved in the case had retired." FOIA requests for documents pertaining to the suspension have been refused. The FAA's review of SBA is a whitewash of serious irregularities on the part of both SBA and FAA regulators.

It is an egregious miscarriage of justice that no law enforcement authority has even investigated the circumstances of this massive and tragic loss of life. The factual basis outlined here for such an investigation is barely the tip of the iceberg. We have followed the investigation of the crash for years, hoping that as the facts emerged, there would be an appropriate response.

But rather, we have been repeatedly shocked and dismayed. Some of the highlights include:

- Learning that the TSB of Canada is legally prohibited from cooperating with law enforcement authorities, even when clear evidence of criminal activity is uncovered in their investigation.

- Having to make FOIA requests (to the FAA) to obtain documents pertaining to the certification of the entertainment system, and frequently having them refused.
- Being told by representatives of both the GAO and Inspector General of the Department of Transportation's office that investigations are in process, but as months become years, no action is taken.

It is unfathomable that the body readily available evidence has completely escaped consideration of any kind. If the appropriate authorities have indeed reviewed it, and "prosecutorial discretion" has been exercised in a considered decision to close the books on Swissair 111, we believe that we, the families of victims, deserve at least an explanation. On the other hand, if the whole affair has been unceremoniously swept under the proverbial rug, without proper consideration, we deserve to know why. The crash of Swissair 111 was not a natural disaster. It was the direct result of the action (and inaction) of individuals who made a handsome profit. Sandbagging for five years and then citing statutes of limitations is grotesquely inadequate. If there will be no justice for the victims, then at least let the truth be told.

We respectfully request your assistance in bringing this matter to the attention of the proper authorities and in obtaining an appropriate response.

##

Mark and Barbara Fetherolf
Parents of Tara Fetherolf

100 North Ocean Boulevard
Ft. Lauderdale, FL 33308
954-555-1234
[Redacted]

www.swissair111.org

[1] Aviation Investigation Report, In-Flight Fire Leading to Collision with Water, Swissair Transport Limited, McDonnell Douglas MD-11 HB-IWF, Peggy's Cove, Nova Scotia 5 nm SW, 2 September 1998, **Report Number A98H0003**

<http://www.tsb.gc.ca/en/reports/air/1998/a98h0003/a98h0003.asp>

[2] USA TODAY Doomed plane's gaming system exposes holes in FAA oversight By Gary Stoller, 2/16/2003

http://www.usatoday.com/money/biztravel/2003-02-16-swissair-investigation_x.htm

[3] FAA Special Certification Review Team Report on Santa Barbara Aerospace and Swissair MD-11 IFE System

<http://www.swissair111.org/sbaReport.pdf>

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

Don Young
Chairman

James L. Oberstar
Ranking Democratic Member

February 23, 2004

Lloyd A. Jones, Chief of Staff
Elizabeth Meglison, Chief Counsel

David Heymsfeld, Democratic Chief of Staff

Mark and Barbara Fetherolf
[REDACTED]
[REDACTED]

Dear Mr. And Mrs. Fetherolf:

Thank you for writing to me about the 1998 crash of the Swissair 111 flight. I am so sorry that your daughter was one of those who died in the crash.

I contacted the Office of Inspector General at the U.S. Department of Transportation to determine what, if any, action that office has taken concerning the issues you have raised. I was advised that the Office of Inspector General has assigned investigative personnel to review the facts and circumstances surrounding the certification of the in-flight entertainment system by Santa Barbara Aerospace (SBA), including FAA's oversight of SBA.

SBA filed for bankruptcy in 1999 and is no longer in business. However, the Office of Inspector General is attempting to identify individual FAA certificate holders who were involved in the certification and installation of the in-flight entertainment system to determine whether there remain any individuals who should be subject to enforcement action.

I also contacted the General Accounting Office (GAO). GAO informed me that it is not investigating the Swissair crash. However, it has an on-going review that is looking at the strengths and weaknesses of FAA's use of designees. That review will be completed later this year. I have asked them to send a copy of the report to you when it's available.

Finally, I have written to the FAA and asked them to respond directly to the serious allegations in your letter.

Thank you for bringing these issues to my attention. I hope this information is helpful, and I look forward to seeing the FAA's response to your concerns. If you have any more questions or need anything else, please don't hesitate to contact me again.

Sincerely,


John F. Mica

Chairman

Subcommittee on Aviation

MARK AND BARBARA FETHEROLF

[REDACTED]

[REDACTED]

March 26, 2004

Congressman E. Clay Shaw Jr.
222 Lakeview Avenue
Suite 162
West Palm Beach, FL 33401

Dear Congressman Shaw:

Attached please find correspondence with Congressman John L. Mica and James W. Whitlow, Deputy Chief Council of the FAA.

Mr. Whitlow's response to Congressman Mica's inquiry is unacceptable and frustrating, as explained in the attached letter to Congressman Mica.

We have urged Congressman Mica to use the powers of the Aviation Subcommittee to demand substantive answers to our inquiries and request that you encourage him to do so.

Sincere regards,

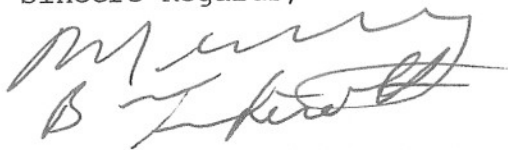
Mark and Barbara Fetherolf

enclosures

MARK AND BARBARA FETHEROLF



Sincere Regards,



Mark and Barbara Fetherolf

Cc: Representative E. Clay Shaw Jr.
Enclosure

MARK AND BARBARA FETHEROLF

[REDACTED]

[REDACTED]

March 24, 2004

Representative John L. Mica
Chairman, Subcommittee on Aviation
U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

Dear Representative Mica:

In response to your inquiry on our behalf, we received the attached letter from Deputy Chief Counsel James W. Whitlow of the FAA.

I sorry to say that Mr. Whitlow's letter is anything but satisfactory. Frankly, it raises more questions than it answers. He states effectively that USA Today had it wrong, and the FAA's actions were proper. But he fails to answer the obvious questions:

- Why was SBA's DAS status suspended?
- Why was SBA's DAS status subsequently reinstated?
- Why was the determination that there was "insufficient evidence" to suspend SBA's status made after the suspension rather than before?

Associates or our have requested this information under FOIA and been refused.

The FAA conducted a review of SBA's certification of IFT's entertainment system. The published report makes no mention of this suspension or subsequent reinstatement.

We understand that there may be issues of confidentiality involved which preclude the disclosure of this information to the public, although we cannot help but resent the view that our status, as parents of a child lost in the crash of Swissair 111, is no different than that of the public in general. Nonetheless, if it is not possible for us to be fully appraised of the facts of this matter, we urge you to use the powers of the committee make the appropriate inquiries.



U.S. Department
of Transportation
**Federal Aviation
Administration**

800 Independence Ave., S.W.
Washington, D.C. 20591

MAR 12 2004

Mr. and Mrs. Mark Fetherolf
[REDACTED]
[REDACTED]

Dear Mr. and Mrs. Fetherolf

Chairman John L. Mica has asked the Federal Aviation Administration (FAA) to respond to your letter of January 26 regarding the crash of SwissAir Flight 111.

To this day, I remember being dismayed when I read the USA Today story that appeared to intimate that one of the FAA's attorneys had withdrawn an enforcement action simply "because the inspector involved in the case had retired." I knew that was not an accurate explanation of what had happened, but I also knew that, because of restrictions on what information can be disclosed about internal agency enforcement deliberations, FAA would not be in a position to defend the attorney's decision. I feared then that the story could cause additional pain to the relatives of the victims of SwissAir, who might be led to believe that the FAA had irresponsibly failed to act.

The FAA's decision not to pursue the enforcement action against Santa Barbara Aerospace was based on the conclusion that the agency lacked sufficient evidence at that time to sustain our burden of proof before the National Transportation Safety Board. Assessing whether sufficient evidence existed to support the enforcement action was a judgment that the FAA attorney had a statutory obligation to make, and he made the best call he could based on the evidence available to him at the time. I sincerely apologize if the USA Today story gave you the impression that the determination was reached cavalierly, based on nothing more than the fact that "the inspector involved in the case had retired." That certainly was not the case. Please be assured that the decision not to pursue an enforcement action against Santa Barbara Aerospace was made with due consideration for FAA's responsibility to the traveling public to maintain the highest levels of safety in civil aviation.

Sincerely,

James W. Whitlow
Deputy Chief Counsel

cc: Chairman Mica

U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

Don Young
Chairman

James L. Oberstar
Ranking Democratic Member

February 23, 2004

Lloyd A. Jones, Chief of Staff
Elizabeth Megginson, Chief Counsel

David Heymsfeld, Democratic Chief of Staff

Mark and Barbara Fetherolf
[REDACTED]
[REDACTED]

Dear Mr. And Mrs. Fetherolf:

Thank you for writing to me about the 1998 crash of the Swissair 111 flight. I am so sorry that your daughter was one of those who died in the crash.

I contacted the Office of Inspector General at the U.S. Department of Transportation to determine what, if any, action that office has taken concerning the issues you have raised. I was advised that the Office of Inspector General has assigned investigative personnel to review the facts and circumstances surrounding the certification of the in-flight entertainment system by Santa Barbara Aerospace (SBA), including FAA's oversight of SBA.

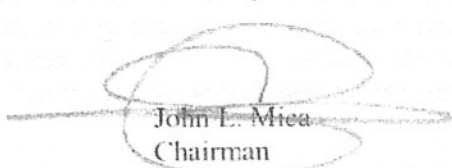
SBA filed for bankruptcy in 1999 and is no longer in business. However, the Office of Inspector General is attempting to identify individual FAA certificate holders who were involved in the certification and installation of the in-flight entertainment system to determine whether there remain any individuals who should be subject to enforcement action.

I also contacted the General Accounting Office (GAO). GAO informed me that it is not investigating the Swissair crash. However, it has an on-going review that is looking at the strengths and weaknesses of FAA's use of designees. That review will be completed later this year. I have asked them to send a copy of the report to you when it's available.

Finally, I have written to the FAA and asked them to respond directly to the serious allegations in your letter.

Thank you for bringing these issues to my attention. I hope this information is helpful, and I look forward to seeing the FAA's response to your concerns. If you have any more questions or need anything else, please don't hesitate to contact me again.

Sincerely,


John L. Mica
Chairman

Subcommittee on Aviation

MARK AND BARBARA FETHEROLF



March 12, 2004

Dear Representative Shaw:

Thank you for your response to our letter regarding the crash of Swissair 111 and for your letter to Mr. Sabatini.

We would like to reiterate two specific items from our earlier letter and pose several specific questions in the hope that these items will be addressed in Mr. Sabatini's response:

(1) "Early last year, USA Today [2] reported that Santa Barbara Aerospace: (1) Was hired to do the certification after another engineer, Edward Mlynarczyk, who said that the system was unsuitable for aircraft use, terminated his contract after refusing a bribe offered by IFT's investment banker, D.H. Blair and..."

Has Mr. Mlynarczyk been interviewed? If so, do the interviews confirm the USA Today story?

(2) "A month after SBA began certifying the entertainment systems on Swissair jets, the FAA's Western Pacific region ... suspended SBA's operating certificate, according to FAA documents. The suspension should have halted SBA's operations, but the company continued to work on the Swissair project. [Five days later] the FAA's regional legal office abruptly reversed itself, saying it had suspended SBA "by mistake" and restored its certificate, according to a Dec. 31 letter. FAA attorney Sam Frazer, who signed the letter, said the case against SBA was dropped "because the inspector involved in the case had retired."

What were the actual circumstances of the suspension and reinstatement of SBA's DAS status?

Sincere regards,

Mark and Barbara Fetherolf

E. CLAY SHAW, JR.
22ND DISTRICT, FLORIDA



Congress of the United States
House of Representatives
Washington, DC 20515-0922

February 26, 2004

COMMITTEE:
WAYS AND MEANS
SUBCOMMITTEES:
CHAIRMAN
SOCIAL SECURITY
TRADE
CHAIRMAN
FLORIDA CONGRESSIONAL DELEGATION

2408 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3026

DISTRICT OFFICES:
BROWARD COUNTY
1512 EAST BROWARD BOULEVARD
SUITE 101
FORT LAUDERDALE, FL 33301
(954) 522-1800

PALM BEACH COUNTY
222 LAKEVIEW AVENUE, #225
WEST PALM BEACH, FL 33401
(561) 832-3007

WEB SITE
www.house.gov/shaw

Mr. Nicolas Sabatini
Association Administrator for Regulation and Certification (AVR-1)
Federal Aviation Administration
800 Independence Avenue, SW
Washington, D.C. 20591

Dear Mr. Sabatini:

Enclosed, please find a letter from my constituents, Mark and Barbara Fetherolf. Mr. and Mrs. Fetherolf's daughter, Tara, was killed in the crash of Swissair 111 in September of 1998.

The Fetherolfs have written to me to request information about the investigations into the crash of Swissair 111. Please review the Fetherolf's letter and respond to me with the information they are requesting about the investigations into the crash.

Thank you in advance for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Clay", with a long horizontal stroke extending to the right.

E. Clay Shaw, Jr.
Member of Congress

ECS:tg
Enclosure

E. CLAY SHAW, JR.
22ND DISTRICT, FLORIDA

COMMITTEE:

WAYS AND MEANS

SUBCOMMITTEES:

CHAIRMAN
SOCIAL SECURITY

TRADE

CHAIRMAN
FLORIDA CONGRESSIONAL DELEGATION



Congress of the United States
House of Representatives

Washington, DC 20515-0922

February 26, 2004

2408 RAYBURN HOUSE OFFICE
WASHINGTON, DC 205
(202) 225-3026

DISTRICT OFFICES:
BROWARD COUNTY
1512 EAST BROWARD BOUL
SUITE 101
FORT LAUDERDALE, FL 33
(954) 522-1800

PALM BEACH COUNTY
222 LAKEVIEW AVENUE, #
WEST PALM BEACH, FL 33
(561) 832-3007

WEB SITE
www.house.gov/shaw

Mr. and Mrs. Mark Fetherolf

Dear Mr. and Mrs. Fetherolf:

Thank you for contacting me to request information about the investigations into the crash of Swissair 111 in September of 1998.

First, I am very sorry to hear about the death of your daughter, Tara. The crash of Swissair 111 was a tragic event. I hope I am able to assist you in obtaining information about the ongoing investigations into the crash.

Enclosed, please find my letter to Mr. Nicolas Sabatini, Associate Administrator for Regulations and Certification for the Federal Aviation Administration (FAA). In my letter, I request that the Federal Aviation Administration (FAA) respond to me with the information you are requesting about the investigations into the crash. Please be assured that I will contact you when I receive a response from FAA.

Again, thank you for contacting me.

Sincerely,

E. Clay Shaw, Jr.
Member of Congress

R-FL

ECS:tg
Enclosure

MARK AND BARBARA FETHEROLF



March 26, 2004

Congressman E. Clay Shaw Jr.
222 Lakeview Avenue
Suite 162
West Palm Beach, FL 33401

Dear Congressman Shaw:

Attached please find correspondence with Congressman John L. Mica and James W. Whitlow, Deputy Chief Council of the FAA.

Mr. Whitlow's response to Congressman Mica's inquiry is unacceptable and frustrating, as explained in the attached letter to Congressman Mica.

We have urged Congressman Mica to use the powers of the Aviation Subcommittee to demand substantive answers to our inquiries and request that you encourage him to do so.

Sincere regards,



Mark and Barbara Fetherolf

enclosures