



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

Office of the Chief Counsel

Aviation Litigation Division
Southwest Team
10101 Hillwood Parkway
Fort Worth, TX 76177

FEDEX – OVERNIGHT DELIVERY
U.S. CERTIFIED MAIL, RETURN-RECEIPT REQUESTED
and FIRST-CLASS MAIL

December 21, 2023

[REDACTED]

RE: [REDACTED], Case No. 2 [REDACTED]

EMERGENCY ORDER OF REVOCATION

Under 49 U.S.C. §46105(c), the Administrator has determined that an emergency exists related to safety in air commerce and that immediate action is required to revoke any airman certificate issued under part 61 and any unexpired airman medical certificate you hold. The reasons for this determination are set forth in the paragraph below entitled “Determination of Emergency.” This Order reflects the terms and conditions of the agreement reached by the parties.

Based on an investigation and all evidence presently before the Administrator, the Administrator finds that:

1. You hold:
 - a. A commercial pilot certificate (No. [REDACTED]) issued under 14 C.F.R. part 61;
 - b. A flight instructor certificate (No. [REDACTED]) issued under 14 C.F.R. part 61; and
 - c. An airman medical certificate issued on [REDACTED] under 14 C.F.R. part 67.
2. At all times mentioned herein, you were employed as a flight crewmember for [REDACTED]
3. [REDACTED] is a 14 C.F.R. part 119 certificate holder authorized to conduct operations under 14 C.F.R. part 121.
4. As a flight crewmember for [REDACTED] you performed safety-sensitive functions as specified in 14 C.F.R. § 120.7(n) and were subject to drug testing under 14 C.F.R. part 120, subpart E.

5. On November 8, 2023, [REDACTED] directed you to submit to a random drug test required under [REDACTED] FAA Drug and Alcohol Testing Program and 14 C.F.R. part 120.
6. [REDACTED] Medical Review Officer (MRO) verified the drug test referenced in paragraph 5, above, as positive for marijuana.
7. Marijuana is a prohibited drug as specified in 14 C.F.R. § 120.7(k) and 49 C.F.R. § 40.85.
8. You performed a safety-sensitive function as a flight crewmember for [REDACTED] while a prohibited drug as specified in 14 C.F.R. § 120.7(k) was in your system.

By reason of the foregoing, you violated 14 C.F.R. § 120.33(b), which states that no individual may perform for a certificate holder or an operator, either directly or by contract, any function listed in 14 C.F.R. part 120, subpart E, while that individual has a prohibited drug, as specified in 14 C.F.R. § 120.7(k) and 49 C.F.R. § 40.85, in his or her system. Accordingly, the Administrator finds that you lack the qualifications necessary to hold any certificate issued under 14 C.F.R. part 61. In addition, you lack the qualifications to hold any class of airman medical certificate under the medical standards in 14 C.F.R. §§ 67.107(b)(2), 67.207(b)(2) and 67.307(b)(2), which preclude medical certification of an airman who has received a verified positive drug test result, within the preceding two years.

The Administrator, therefore, has determined that safety in air commerce or air transportation and the public interest require the revocation of the above-mentioned certificates. The Administrator further finds that an emergency requiring immediate action exists with respect to safety in air commerce or air transportation. Accordingly, this Order is effective immediately.

IT IS THEREFORE ORDERED, pursuant to the Administrator's authority under 49 USC §§ 44709 and 46105(c), that:

- 1) Effective immediately, your commercial pilot certificate (No. [REDACTED]), flight instructor certificate (No. 3 [REDACTED]), any other airman certificate issued to you under part 61, and all unexpired airman medical certificates held by you, including the airman medical certificate issued to you on [REDACTED] are hereby revoked, and
- 2) You must immediately surrender the above-referenced certificate(s) by mail or delivery to [REDACTED], Aviation Litigation Division, Southwest Team, 10101 Hillwood Parkway, Fort Worth, TX 76177; and
- 3) No application for a new airman certificate issued under part 61 shall be accepted from you, nor shall any such certificate be issued to you for a period of one year from the date of service of this Order.

If you fail to surrender your certificate(s) immediately, you will be subject to further legal enforcement action, including a civil penalty of up to \$1,771.00 a day for each day you fail to surrender each certificate.

DETERMINATION OF EMERGENCY

Under 49 U.S.C. §46105(c), the Administrator has determined that an emergency exists related to safety in air commerce. This determination is based on your lack of qualifications to hold any certificate issued under 14 C.F.R. part 61 or any airman medical certificate.

You hold commercial pilot certificate no. [REDACTED], flight instructor certificate no. [REDACTED], and an airman medical certificate issued to you on [REDACTED]. On [REDACTED], you performed a safety-sensitive function as a flight crewmember for [REDACTED] while a prohibited drug as specified in 14 C.F.R. § 120.7(k) was in your system, as evidenced by a verified positive result on a drug test required under [REDACTED]'s FAA Drug and Alcohol Testing Program and 14 C.F.R. part 120.

The FAA adopted the drug and alcohol testing regulations under which you were required to submit to random drug testing in the interest of aviation safety. Aviation safety depends on, among other things, the willingness of certificate holders to perform safety-sensitive functions in compliance with regulatory requirements. Performing a safety-sensitive function with a prohibited drug in your system undermines aviation safety and betrays the public trust. Under FAA Order 2150.3C, Chapter 9, paragraph 8 and Figure 9-5(12) (pages 12-15), revocation of your commercial pilot certificate, flight instructor certificate, and any other certificate issued under 14 C.F.R. part 61, is appropriate. In addition, your drug test result establishes that you do not meet the standards in 14 C.F.R. §§ 67.107(b)(2), 67.207(b)(2), and 67.307(b)(2) to hold any class of airman medical certificate. These findings necessitate the Administrator's declaration of an emergency related to safety in air commerce.

In conclusion, the Administrator has determined that under the criteria set forth at FAA Order 2150.3C, Chapter 7, page 3, Chapter 8, pages 11, and Chapter 9, page 15, emergency action is warranted based on your conduct as alleged in this Order that demonstrates you presently lack the degree of care, judgment, and responsibility required of a certificate holder. The Administrator, therefore, finds in accordance with 49 U.S.C. § 46105(c) and the aforementioned FAA Order 2150.3C guidance that the exercise of the privileges of your certificates while any proceedings related to the issuance of this Order are pending is contrary to the interest of safety in air commerce. FAA Order 2150.3C is available at www.faa.gov, and can be accessed using the search term "2150.3C".

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