

No. 07-005213-CV

GABRIELLA ROBINSON, Individually)	IN THE 181 st DISTRICT COURT
and as Independent Administrator of the)	
Estate of GARY ROBINSON,)	
)	
Plaintiff,)	
)	
v.)	IN AND FOR TRAVIS COUNTY
)	
FLIGHTWORTHY AIRCRAFT)	
COMPANY, INC.,)	
)	
Defendant.)	STATE OF LONE STAR

Prepared by:

**Marvin W. Jones
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Amarillo, TX 79101**

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This case file was commissioned by the Texas Young Lawyers Association and was prepared by Marvin W. Jones for the 2008 National Trial Competition.

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STATEMENT OF THE CASE

Gabriella Robinson, Individually and as Independent Administrator of the Estate of Gary Robinson, ("Mrs. Robinson") has filed a Complaint against Flightworthy Aircraft Company, Inc. ("Flightworthy"), incorporated in and with its principal place of business in the State of Lone Star. The Complaint alleges that Gary Robinson was flying an aircraft manufactured by Flightworthy, a Twin Series model, on January 15, 2005. He took off from a runway at Smallville Airport on his way home to his wife, Mrs. Robinson, who lived in Armadillo, Travis County, State of Lone Star. Almost immediately after takeoff, the airplane Gary Robinson was piloting crashed near the runway. Mrs. Robinson alleges that Flightworthy designed, manufactured, and marketed the airplane in a manner that was the producing cause of Gary Robinson's death; namely that an automatic auxiliary fuel pump switch malfunctioned and flooded the right engine of the twin engine plane, thereby causing the right engine to fail. Mrs. Robinson alleges that the resulting torque from the left engine, which was unbalanced by the failed right engine, forced the airplane over onto its back and then nose down into the ground. Gary Robinson died in the accident. Mrs. Robinson alleges that she has been damaged as a result of Flightworthy's conduct, including medical and funeral expenses, lost support and services, and mental anguish.

Flightworthy filed an Answer denying the allegations of the Complaint and raising the affirmative defenses of Gary Robinson's negligence in failing to control the airplane in the event of an engine failure and his intentional act of suicide.

STIPULATIONS REGARDING EVIDENTIARY MATTERS

Procedural Matters

1. Federal Rules of Civil Procedure and Federal Rules of Evidence apply.
2. This case shall be tried on liability only. Should the plaintiff prevail on

liability, the question of damages shall be heard by the jury with additional evidence and additional jury instructions at a later date.

3. All witnesses called to testify who have in depositions identified the parties, other individuals, or tangible evidence can, if asked, identify the same at trial.

4. Each witness who gave a deposition did agree under oath at the outset of his/her deposition to give a full and complete description of the material events that occurred and to correct the deposition for inaccuracies and completeness before signing the deposition.

5. All depositions were signed under oath.

6. For this competition, no team is permitted to attempt to impeach a witness by questioning the witness or arguing to the jury that a signature appearing on the deposition does not comport with signatures or initials located on an exhibit.

7. Other than what is supplied in the problem itself, there is nothing exceptional or unusual about the background information of any of the witnesses that would bolster or detract from their credibility.

8. This competition does not permit a listed witness, while testifying, to "invent" an individual not mentioned in this problem and have testimony or evidence offered to the court or jury from that "invented" individual.

9. "Beyond the record" shall not be entertained as an objection. Rather, teams shall use cross-examination as to inferences from material facts pursuant to National Rules VII(4)(C) and (D) and VIII(5). Any party wishing to file a complaint concerning a violation of this rule shall use the procedure found in rule VIII(3).

10. Each party must call the two witnesses listed as that party's witnesses on the witness list.

11. All exhibits in the file are authentic. In addition, each exhibit contained in the

file is the original of that document unless otherwise noted on the exhibit or as established by the evidence.

12. It is stipulated that no one shall attempt to contact the problem drafter, Marvin W. Jones, about this problem. Contact with the competition officials concerning this problem must be pursuant to the rules of the competition.

13. 2008 should be the current year in which this case comes to trial.

14. Presentation and argument on pretrial motions shall be limited to a total time of sixteen minutes divided equally between the parties as follows: (1) the plaintiff shall have four minutes to present any pretrial motion(s); (2) the defendant shall have four minutes to respond to the plaintiff's motion(s); (3) the defendant shall have four minutes to present any pretrial motion(s); and (4) the plaintiff shall have four minutes to respond to the defendant's motion(s).

15. This competition does permit teams to argue additional case law and other relevant authority to support the team's argument on motions and evidentiary issues. However, no changes are permitted to the provided jury instructions, or the substantive law stated below.

Substantive Matters

1. Flightworthy does not contest that the district court has subject matter jurisdiction of the dispute, and stipulates that Plaintiff has standing in all capacities.

2. Motions to dismiss the complaint and motions for summary judgment have been denied by the trial court, and no further motions to dismiss or for summary judgment shall be argued or heard by the trial judge.

3. The State of Lone Star is a comparative negligence state. The jury shall apportion the percentage of negligence, if any, to the plaintiff and the defendant.

4. In the case of *E. Dando v. Lemonheads*, 193 Lone Star 3d 415 (Lone Star 2003), the Lone Star Supreme Court held that a decedent's suicide breaks the causal chain in a products liability case, and that it therefore serves as a complete defense to a case based on a design, manufacturing or marketing defect.

5. Lone Star Civil Practice Code § 1033.01 provides that "a claimant may not recover damages under any theory of tort liability if his percentage of responsibility is greater than 50 percent."

6. Lone Star Civil Practice Code § 280.05 states that "In a products liability action in which a claimant alleges a design, manufacturing and/or marketing defect, the burden is on the claimant to prove by a preponderance of the evidence that such defect(s) was a producing cause of the personal injury, property damage, or death for which the claimant seeks recovery."

7. Lone Star Civil Practice Code § 17.011 states that "A person is liable for damages arising from an injury that causes an individual's death if the injury was caused by the person's or his agent's or servant's wrongful act, neglect, carelessness, unskillfulness, or default."

8. Lone Star Civil Practice Code § 17.012 states that "A personal injury action survives to and in favor of the heirs, legal representatives, and estate of the injured person."

9. In Rufus Pennington's deposition, he references an article in Flyboy magazine. His reference is to Exhibit 1.

WITNESS LIST

Witnesses for the Plaintiff:

1. Gabriella Robinson - Witness*
2. Rufus Pennington - Witness**

Witnesses for the Defendant:

1. Tracy Leduc - Witness*
2. Dusty Stockard - Witness***

Each Team must call witnesses 1 and 2 listed on its respective witness list.

* This person must be a female.

** This person must be a male.

*** This person may be either a male or female.

**GABRIELLA ROBINSON, Individually
and as Independent Administrator
of the Estate GARY ROBINSON,**

Plaintiff,

v.

**FLIGHTWORTHY AIRCRAFT
COMPANY, INC.**

Defendant.

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IN THE 181st DISTRICT COURT

IN AND FOR TRAVIS COUNTY

STATE OF LONE STAR

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE COURT:

COMES NOW, Plaintiff Gabriella Robinson, Individually and as Independent Administrator of the Estate of Gary Robinson, and files this Original Complaint against Flightworthy Aircraft Company, Inc.

I.

GENERAL ALLEGATIONS

1. This is an action for damages within the jurisdictional limits of this Court.
2. Gabriella Robinson has been a resident of Travis County since 1973 and Gary Robinson had been a resident of Travis County from 1970 to the date of his death on January 15, 2005.
3. Flightworthy Aircraft Company, Inc. is a domestic corporation registered to do business and is doing business in the State of Lone Star.
4. The accident that is the subject of Plaintiff's Original Complaint occurred in Travis County, State of Lone Star.

5. On January 15, 2005, Mr. Robinson piloted his plane that crashed upon take-off. The plane in question was manufactured by Defendant.
6. Mr. Robinson died as a result of injuries sustained in the January 15, 2005, crash.
7. Gabriella Robinson was the wife of Gary Robinson at the time of his death and is the duly qualified Independent Administrator of his Estate.

II.

COUNT 1 – PRODUCTS LIABILITY

8. Gabriella Robinson incorporates by reference the allegations of paragraphs 1 through 7 as if fully restated herein.
9. On January 15, 2005, Gary Robinson piloted his airplane at the airport in Smallville, Travis County, Lone Star.
10. During take-off, the right engine of the airplane failed. The failure of the engine caused the plane to roll and dive. Due to the roll and dive of the plane, the plane crashed.
11. Upon information and belief, the right engine failed because a faulty switch caused the auxiliary fuel pump to pour fuel into the engine when the engine driven pump was operating. As a result, the engine flooded and stalled.
12. The faulty switch was a manufacturing and/or design defect that made the aircraft unreasonably dangerous. The dangers of the defect exceeded that which would be contemplated by an ordinary person with knowledge common to pilots.
13. In addition, there was a marketing defect at the time the aircraft left the possession of Defendant because defendant failed to give adequate warnings of

the potential dangers known to Defendant or that should have been known to Defendant.

14. As a consequence and proximate result of the previously referenced defects, Gabriella Robinson in her individual and representative capacities has suffered grievous damages. Gabriella Robinson in her individual and representative capacities has suffered damages including but not limited to: funeral expenses, lost support and services, and mental anguish that will be suffered for a long time into the future, if not for the balance of Mrs. Robinson's natural life.

III.

JURY DEMAND

15. Gabriella Robinson hereby requests trial by jury.

IV.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff Gabriella Robinson, Individually and as the Independent Administrator of the Estate of Gary Robinson requests that the Defendant be cited to answer and appear, and that upon final hearing, she have judgment for damages, exemplary damages, pre-judgment and post judgment interest as allowed by law, costs of suit and such other and further relief, at law or in equity, to which she may be justly entitled.

Respectfully Submitted,

CHEAP & LUCKY, P.C.
83 Pauper's Parkway
P.O. Box 1001
Armadillo, Lone Star 72115-1001
(800) 525-6161
(512) 467-1455

By: C. E. Rhodes
C.E. Rhodes
State Bar No. 018569784

GABRIELLA ROBINSON, Individually § IN THE 181st DISTRICT COURT
and as Independent Administrator §
of the Estate GARY ROBINSON, §
§
Plaintiff, §
§
v. § IN AND FOR TRAVIS COUNTY
§
FLIGHTWORTHY AIRCRAFT §
COMPANY, INC. §
§
Defendant. § STATE OF LONE STAR
§

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE COURT:

COMES NOW, Flightworthy Aircraft Company, Inc. by and through its undersigned counsel and files Defendant's Original Answer.

I.
ANSWER

Defendant generally denies the allegations made by Plaintiff and specifically responds to Plaintiff's Original Complaint as follows:

1. Defendant admits the allegations in paragraph 1 for jurisdictional purposes only.
2. Defendant admits that Gary Robinson died on January 15, 2005. Defendant is without knowledge of the remaining allegations in paragraph 2 and therefore denies same.
3. Defendant admits the allegations in paragraph 3.
4. Defendant admits the allegations in paragraph 4.
5. Defendant admits the allegations in paragraph 5.
6. Defendant admits the allegations in paragraph 6.

7. Defendant admits the allegations in paragraph 7.
8. Defendant realleges its answers to paragraphs 1 through 7 as if fully set forth herein.
9. Defendant admits the allegations in paragraph 9.
10. Defendant denies the allegations in paragraph 10.
11. Defendant denies the allegations in paragraph 11.
12. Defendant denies the allegations in paragraph 12.
13. Defendant denies the allegations in paragraph 13.
14. Defendant denies the allegations in paragraph 14.

II.
AFFIRMATIVE DEFENSES


15. Without waiver of the foregoing, but in addition thereto, Defendant affirmatively pleads that the crash was not caused by the failure of the engine but instead was proximately caused by the negligence of Gary Robinson.
16. Alternatively and without waiver of the foregoing, but in addition thereto, Defendant affirmatively pleads that the crash in question was proximately caused by the intentional act of suicide by Gary Robinson.

III.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant requests that upon final trial it have judgment, that Plaintiff take nothing by her suit, that Defendant be discharged from any and all liability, that Defendant recover court costs and for such other and further relief, at law or in equity, general or special, to which it may show itself justly entitled.

Respectfully Submitted,

IVORY & TOWER L.L.C.
701 S. Mopac, Suite 6700
Armadillo Petroleum Building
P.O. Box 1411
Armadillo, Lone Star 72105-1411
(512) 424-4411
(512) 424-4422 FAX

By: 
David Courreges
State Bar No. 260587269

CERTIFICATE OF SERVICE

I hereby certify that true and correct copy of Defendant's Original Answer has been served by U.S. Mail to C.E. Rhodes, PO Box 1001, Armadillo, Lone Star, 72115-1001 on this 16th day of August, 2005.

By: 
David Courreges

DEPOSITION OF GABRIELLA ROBINSON
11-12-2005

1

1 GABRIELLA ROBINSON,

2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 Q: Tell us your name.

5 A: Gabriella Robinson. My friends call me "G."

6 Q: Where do you live Mrs. Robinson?

7 A: 1201 Garrison Road, Armadillo, Lone Star.

8 Q: Were you married to Gary Robinson?

9 A: Yes, we were married 30 years before his death.

10 Q: How did you meet Gary?

11 A: I was originally hired as a teller in his bank. After I had worked there for
12 awhile, he started inviting me into his office to talk. We would have tea and cookies and
13 discuss banking stuff.

14 Q: When did Gary die?

15 A: January 15, 2005.

16 Q: How did he die?

17 A: His airplane crashed on take-off as he was leaving Smallville to come
18 home.

19 Q: Before his death, what did your husband do for a living?

20 A: He owned the Armadillo State Bank, which was the largest bank here in
21 Armadillo, and he was the President, Chief Executive Officer and Chief Financial Officer
22 of that bank.

23 Q: Was your husband active in professional associations?

1 A: Oh yes, he held several state wide offices in the Lone Star Banker's
2 Association and was currently serving as President of the Armadillo Banker's
3 Association.

4 Q: Was Gary also involved in community and civic affairs?

5 A: Yes he was very involved in our church, where he was a Deacon. He was
6 also involved in the Armadillo Chamber of Commerce and was serving as President of
7 the Armadillo Opera Company Board of Directors at the time of his death. He was
8 extremely proud of his bank, which is the largest in Armadillo, and he was extremely
9 proud of his position in the community.

10 Q: Did you ever get involved in any of the bank's affairs?

11 A: Oh no, I left all of that to Gary.

12 Q: Did Gary ever talk to you about what was going on down at the bank just
13 before his death?

14 A: Oh, he said that the Bank Regulators had been in the bank for a couple of
15 weeks. That wasn't unusual. They were in the bank all the time.

16 Q: Did he tell you what they were doing in the bank during the last couple of
17 weeks of his life?

18 A: He said they were looking at the loans he had made during the past 5
19 years, particularly in the technology startup sector. He said that he was not concerned
20 about them being in the bank and was not concerned about what they would find because
21 he was so squeaky clean.

22 Q: After Gary's death, did you learn anything surprising about his bank?

23 A: Well, yes. I learned that a lot of the loans that have been made in the last

1 few years were made on very poor collateral and had subsequently gone bad. About 4
2 months after his death, the Bank Regulators actually closed the bank down and declared
3 it insolvent.

4 Q: Did that surprise you?

5 A: Very much so. Gary always told me that the bank was very, very sound
6 and all the loans he made would pass muster with the Bank Regulators. I really think the
7 bank was solvent and that the loans were good loans, and I blame the failure on that Bank
8 Regulator woman, Tracy Leduc.

9 Q: Why do you blame Tracy Leduc for the failure of the bank?

10 A: I had learned in the months prior to his death that Gary was having an
11 affair with Tracy Leduc. This had apparently gone on for several months, and a couple of
12 weeks prior to his death, Gary told her that it was over, that he couldn't go on with the
13 affair. Gary said she became very agitated about that and said she would destroy him.

14 Q: You've told us that your husband died in an airplane crash. Was he a
15 pilot?

16 A: Yes he had been a pilot for about 5 years. He really loved flying that
17 airplane.

18 Q: Did you ever fly with him?

19 A: No, I don't like to fly and I never went anywhere with him in the airplane.

20 Q: Do you know if Gary was instrument rated?

21 A: I don't think so, but he was a very good pilot.

22 Q: How did you learn of your husband's accident?

1 A: The sheriff, Andy Little, came to the house and told me there had been an
2 accident.

3 Q: Was anyone there at the house with you?

4 A: Yes, Rufus Pennington was there.

5 Q: Who is Rufus Pennington?

6 A: He is a mechanic, an aircraft mechanic, who worked on Gary's airplane a
7 lot.

8 Q: Did you ever socialize with Mr. Pennington?

9 A: Yes, we were all good friends.

10 Q: Have you seen Mr. Pennington since Gary's death?

11 A: Well, several months after Gary died, we went to dinner a couple of times.
12 Just dinner as friends, you know.

13 Q: Were you aware that Gary was going to be flying the day of the accident?

14 A: Yes, I knew he was going to Smallville. And, when he left Smallville, he
15 called me from the airport.

16 Q: Did you actually talk to him during that call?

17 A: No, but I heard the answering machine come on, and I heard him say that
18 he loved me and he would be taking off from the Smallville airport in a few minutes.

19 Q: Do you still have the message on your answering machine?

20 A: I don't know.

21 Q: Did your deceased husband subscribe to any aviation related magazines?

22 A: Yes, he subscribed to a journal of aviation engineering called Flyboy.

1 He really enjoyed the articles. He would sit in his big easy chair most every night and
2 read that magazine over and over.

3 Q: Did Gary ever talk to you about what he had read in Flyboy?

4 A: No, he said it was all very technical and boring.

5 Q: What is Exhibit 1?

6 A: It is a copy of the June 2004 Flyboy magazine. I found this in his desk
7 drawer at the office after the accident.

8 Q: Were there any other Flyboy magazines in that desk drawer?

9 A: Yes, there were copies of all the 2003 and 2004 editions of the magazine.

10

11

12

Gabriella Robinson
GABRIELLA ROBINSON

13

14

12/28/05
Date

15

16

1 RUFUS PENNINGTON,

2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 Q: Can you tell us your name?

5 A: My name is Rufus Pennington.

6 Q: Where do you live Mr. Pennington?

7 A: I live here in Armadillo, at 1515 Airport Way.

8 Q: Do you live near the airport?

9 A: I actually live in the back of my business out at the airport.

10 Q: What do you do for a living?

11 A: I am an aircraft mechanic.

12 Q: Tell us about your education and training to be an aircraft mechanic.

13 A: When I was a kid, I hung around the airport a lot and watched other people
14 working on airplanes. I thought that was pretty fascinating, so I decided I would try to do
15 that myself. After I graduated from high school in 2000, I went to the Sam Daniel's
16 Night School of Aviation Repair here in Armadillo, where I graduated in 2001.

17 Q: Is the Sam Daniel's Night School of Aviation Repair a certified school in
18 terms of aircraft maintenance and mechanical work?

19 A: Sure.

20 Q: Do you hold yourself out as an expert in aircraft engine design and
21 maintenance?

22 A: I know as much as the next guy.

23 Q: Did you know Gary Robinson?

1 A: Yes. I worked on Gary's airplane on several occasions, including about
2 one week before the crash.

3 Q: What was it that you did to Mr. Robinson's plane a week before the crash?

4 A: I changed out some hoses on the right engine because they were showing
5 signs of cracking and wear.

6 Q: Did you do anything to the engine driven fuel pump, the auxiliary fuel
7 pump or the automatic fuel pump switch the week before the crash?

8 A: No, I didn't tinker with any of that, although I was tempted to because of
9 that article in Flyboy magazine.

10 Q: What article was that?

11 A: There was an article about 2 or 3 plane crashes of models similar to Mr.
12 Robinson's that were apparently caused by flooding of the right engine on takeoff.

13 Q: According to the article, what caused the flooding?

14 A: It's like this. That particular manufacturer puts an automatic fuel pump
15 switch in their airplanes. If the engine driven fuel pump is working fine, the switch does
16 nothing. If the engine driven fuel pump fails, then the automatic switch turns on the
17 auxiliary fuel pump so that the engine will not die from lack of fuel. According to the
18 article, the switch would sometimes activate when it wasn't supposed to. If that
19 happened, both the engine driven pump and the auxiliary pump would be working at the
20 same time, and the engine would flood. Too much fuel, you know.

21 Q: Is Flyboy magazine a source of information that people like yourself rely
22 on in terms of the technical information contained in it?

1 A: Yes, it is actually a journal of aviation engineering. And the photos are
2 good, too.

3 Q: Based on your own experience and education, what would happen if one
4 of the engines on a twin engine plane flooded on takeoff?

5 A: The remaining engine, if left running, would be exerting a lot of torque
6 and would tend to flip the plane over on its back if the pilot did not immediately throttle
7 back on the remaining engine.

8 Q: Were the crashes reported in the article the same model of airplane that
9 Mr. Robinson was flying when he was killed?

10 A: Not exactly, but they had the same switch, the same automatic switch.

11 Q: Did you ever talk to Mr. Robinson about the article you read in Flyboy?

12 A: Oh yes, Gary was a subscriber to that magazine and I frequently saw him
13 looking at the pictures in it and sometimes he read the articles too, I think.

14 Q: Did you talk about this particular article?

15 A: Yes, he said it was pretty interesting that you could have that kind of
16 problem from an automatic switch. He also asked if you could have the same problem if
17 you deliberately switched the manual auxiliary pump switch so that the pump came on
18 when it shouldn't.

19 Q: What did you tell him about the manual switch?

20 A: I told him not to be messing with that manual switch on takeoff, because if
21 you accidentally hit it and the auxiliary fuel pump came on while the engine driven pump
22 was working, it would flood the engine and you would crash.

23 Q: Did you look at the airplane after it crashed up in Smallville?

DEPOSITION OF RUFUS PENNINGTON

1-2-2006

4

1 A: Yes, I went up there to look at the airplane and see what I could determine
2 might have been the cause of the crash.

3 Q: What did you observe about the airplane at the crash sight?

4 A: The airplane was about fifty feet to the side of the runway and was
5 completely nose down in the ground.

6 Q: Did you come to any conclusion about the cause of the crash?

7 A: Yes, in my opinion the auxiliary fuel pump switch failed and the right
8 engine flooded and quit. When that happened, the torque from the left engine, which was
9 still running, twisted the airplane over onto its back and then it went nose down and hit
10 the ground.

11 Q: Did you see any evidence to tell you whether the right engine was running
12 at the time that it hit the ground?

13 A: No, but I heard from the NTSB investigator that the propeller on the right
14 engine was pushed back against the engine housing in a very straight sort of way. The
15 propeller of the left engine was twisted into a corkscrew, which indicates that it was
16 running when it hit the ground. The right engine obviously wasn't running or it's
17 propeller would be twisted up in the same way.

18 Q: Did you look at the manual switches for the auxiliary fuel pumps?

19 A: Yeah, I looked in the cockpit and saw that the manual switch for the right
20 engine auxiliary pump was in the on position, but I figured that with all the things going
21 on just before the plane hit the ground, you really can't tell whether that switch was on or
22 off when the engine quit. Besides that, if the engine quit, Gary may have reached over
23 and hit the switch trying to get it to come back on.

JUSTICE COURT REPORTING

(555) 345-6788

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1 Q: Did you ever receive any kind of information from Flightworthy about this
2 auxillary fuel pump switch problem?

3 A: Yes, the day after the crash, I received a service bulletin about that.

4 Q: What is a service bulletin?

5 A: A service bulletin is what aircraft companies use to alert mechanics like
6 myself that there is some kind of problem that needs to be fixed in an airplane.

7 Q: In your business as an aviation mechanic, do you rely on service bulletins
8 for accurate information regarding airplane engines and systems?

9 A: Absolutely.

10 Q: Is Exhibit 5 an accurate copy of the service bulletin you received from
11 Flightworthy relating to the automatic fuel pump switch?

12 A: Yes it is.

13 Q: Did you rely on Exhibit 5 in formulating your opinions about this case?

14 A: Yes I did.

15 Q: What did this service bulletin say?

16 A: It said that the auxillary fuel pump switch had been known to fail by
17 turning the auxillary pump on when the engine driven pump was running, and if it
18 happened, it could flood the engine.

19 Q: Were you able to look at the automatic switch on Mr. Robinson's plane to
20 see what position it was in?

21 A: No, the airplane burned up too much to see that.

22 Q: Were you familiar with Mr. Robinson's abilities as a pilot?

23 A: Yes, I trained him myself.

1 Q: Was he instrument rated?

2 A: No, he was never interested in anything more than just flying. He told me
3 he wanted to get the minimum licensing needed to fly and that was it.

4 Q: Was he a good pilot?

5 A: Well, he could certainly take off and land.

6 Q: Do you know Mrs. Robinson?

7 A: Yes, I am familiar with her.

8 Q: Did you ever see her flying with Mr. Robinson?

9 A: No, the only woman I ever saw fly with him was that bank examiner,
10 Tracy LeDuc. She flew with him a lot.

11 Q: Were you at the Robinson residence the evening of the crash?

12 A: Yeah, I happened to be over at her house that evening. I was helping a
13 friend through a bad time. She had learned about Tracy LeDuc and her husband, and she
14 was working her way through that.

15 Q: What do you mean working her way through it?

16 A: Well, she said she had figured it out and had confronted Gary with it, and
17 he had promised to break off the relationship with Tracy. She was telling me that things
18 were better and that she thought Gary would be faithful in the future.

19 Q: Were you at the Robinson residence when Mr. Robinson called in before
20 taking off from Smallville at around 11:00 PM?

21 A: Yeah, I was still there then. She was really upset and we were in a deep
22 discussion, but the phone call came in over the answering machine. Gary told her
23 something about leaving Smallville.

DEPOSITION OF RUFUS PENNINGTON

1-2-2006

7

1 Q: Was that message saved on the machine?

2 A: I think she erased it.


3 Q: Were you present when the sheriff told Mrs. Robinson about the crash?

4 A: Yes, Gabriella was pretty shocked and said she was afraid he would do
5 something like this.

6 Q: Since the time of the crash, have you had any contact with Mrs. Robinson?

7 A: Well yes. She and I have been dating for the last several months.

8



9

RUFUS PENNINGTON

10

2/15/06

11

Date

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16

DEPOSITION OF TRACY LEDUC
10-31-2005

1

1 TRACY LEDUC,

2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 Q: State your name?

5 A: My name is Tracy Leduc.

6 Q: Ms. Leduc, where do you live?

7 A: I live over at 57 Hindsight Street in Armadillo.

8 Q: What do you do for a living, Ms. Leduc?

9 A: I am a state banking examiner, and I work for the Banking Commission of
10 the State of Lone Star.

11 Q: How long have you done that?

12 A: About two years.

13 Q: What is your educational background and training to hold that position?

14 A: I graduated from the University of Lone Star with a Bachelor's Degree in
15 Art History. There's not a lot of work in Armadillo for an art history major, so I went to
16 work for the State Banking Commission. They taught me how to look at loan records,
17 kind of an on-the-job training situation.

18 Q: What exactly are your job duties?

19 A: Well, I go into state regulated banks and I audit for irregularities in the
20 handling of loans.

21 Q: Were you familiar with the Armadillo State Bank in Armadillo?

22 A: Yes, I was very familiar with that bank. I was sent there on several
23 occasions to look at loan transactions. Mr. Robinson made a lot of technology startup

1 company loans, many of which were made with no down payment and financing 100
2 percent of the amount. A lot of these loans seemed to lack proper documentation, but I
3 would go into Mr. Robinson's office and ask him about them, and he would offer me tea
4 and cookies and explain away any concerns I had. We really got to be close friends after
5 a while.

6 Q: Was your relationship any more than just as banking regulator and owner
7 of a bank?

8 A: Yes, after I had gone to the bank several times, Mr. Robinson suggested
9 that we might want to go flying in his airplane. We went flying several times.

10 Q: Where would you go?

11 A: Oh, we would fly to various places, sometimes over to Smallville,
12 sometimes to New Deal.

13 Q: What would you do in these towns?

14 A: After the first couple of trips, we actually would go to a private place and
15 discuss banking affairs.

16 Q: Did your relationship with Mr. Robinson ever become anything other than
17 platonic?

18 A: Well, you might say we got pretty close. He was a very romantic guy.

19 Q: How long did this kind of relationship with Mr. Robinson continue?

20 A: Until about two weeks before his crash. He came in one day and said his
21 wife had found out about us and that he was going to have to break off the relationship.

22 Q: Did you continue to do work at the bank after that?

23 A: Yes, I continued to look at loan transactions in the two weeks prior to his

1 death. In fact, I found several transactions during those two weeks that were not properly
2 documented. The day before the plane crash, I told Mr. Robinson that I had discovered
3 that a lot of the transactions he had explained away over tea and cookies were extremely
4 questionable, and we were going to declare those loans as bad loans. I told him I was
5 going to have to call in the Federal Bureau of Investigation.

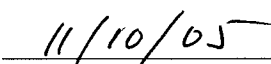
6 Q: How did he react to that?

7 A: He got very angry. He said that I was trying to ruin his bank and ruin his
8 reputation, that he had spent years building this bank and building his reputation and he
9 couldn't stand it if he lost both of them.

10 Q: After the crash, did you continue looking at the transactions at the bank?

11 A: Yes, in the weeks after Mr. Robinson's death, I discovered that a lot more
12 of the transactions were bad loans. We made the bank write them off, and that resulted in
13 the insolvency of the bank, and it closed its doors about two months after the crash. The
14 FBI is looking at a lot of the transactions, and I feel certain that some of the Vice-
15 Presidents are going to get indicted. If Mr. Robinson had lived, he would've gone
16 straight to jail.

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18 TRACY LEDUC

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20 Date

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DEPOSITION OF DUSTY STOCKARD
12-03-2005

1

DUSTY STOCKARD,

2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 Q: Tell us your full name and state your residence address, please.

5 A: My name is Dusty Stockard. I live at 2010 Flightworthy Drive over in
6 Planeview, here in Lone Star.

7 Q: What do you do for a living?

8 A: I'm an engineer and I work for Flightworthy Aircraft Company.

9 Q: What is your education and training to hold that position?

10 A: I have an engineering degree, aeronautical engineering, from Lone Star
11 Institute of Technology.

12 Q: When did you go to work for Flightworthy?

13 A: 15 years ago. During that time, I have worked primarily in the aircraft
14 engine division of the company.

15 Q: What kinds of things do you do on a daily basis?

16 A: I design stuff. For example, I design electronic parts and switches.

17 Q: Are you familiar with the Flightworthy airplane that was involved in the
18 crash with Mr. Robinson?

19 A: Yes, I am very familiar with that aircraft. I've done a lot of work on the
20 electronic controls for the engine. In fact, I designed the fuel pump switching electronics
21 for that plane.

22 Q: Are you familiar with the automatic auxiliary fuel pump switch that was
23 provided on that airplane when new?

1 A: Oh yes, that's my switch, I designed it.

2 Q: What was the purpose of that switch?

3 A: My switch is, well was, a safety feature. You see, these aircraft have
4 engine driven fuel pumps. The engine driven fuel pumps are very, very reliable. In the
5 very unlikely event that one of those engine driven fuel pumps would fail, we provide an
6 auxiliary fuel pump. The auxiliary fuel pump will run the engine just as well as the
7 engine driven pump, except that it's electric rather than engine driven.

8 Q: So tell us what the automatic auxiliary fuel pump switch does.

9 A: Well, in the unlikely event of an engine driven fuel pump failure, my
10 switch would cause the auxiliary fuel pump to automatically start, so that the pilot
11 wouldn't be having to figure out what happened and then scramble to find the right
12 switch. My switch added a layer of safety for the pilot. It was basically a fool-proof
13 system.

14 Q: What do you mean by fool-proof?

15 A: You know, something that even a fool couldn't screw up.

16 Q: Did you have anything to do with the investigation of the crash that is the
17 subject of this lawsuit?

18 A: Yes, I went to the scene the next day to do an investigation on behalf of
19 the company.

20 Q: Is that something you routinely do in your job?

21 A: No, I only get involved if there's some question of engine failure.

22 Q: What did you do in terms of an investigation?

23 A: I walked around the crash sight and looked at the airplane. It was nose

1 down about fifty feet to the right of the runway.

2 Q: Based on your investigation, did you reach an opinion as to what caused
3 the crash?

4 A: Yes, it was clearly a suicide.

5 Q: Why do you say that?

6 A: Well, everybody knew that Mr. Robinson's bank was in deep trouble and
7 in fact it failed shortly after the crash. People are being investigated, people may go to
8 jail. It could be that Mr. Robinson couldn't face losing his bank and his reputation and
9 his mistress all in the same year.

10 Q: Are there any other indications that this crash could have been the result of
11 suicide?

12 A: Yes, the plane was pretty burned up after the crash, but I found the right
13 manual auxiliary boost pump switch in the on position. This would indicate that the pilot
14 had got off the runway under full power, then deliberately switched on the auxiliary boost
15 pump, intentionally causing the engine to flood and die, which would result in the
16 airplane flipping over on its back because of the torque of the left engine.

17 Q: Is there any way the manual switch for the auxiliary fuel pump on the right
18 engine could have become switched to the on position as a result of the crash?

19 A: I guess so, it hit the ground that hard, all kinds of things fly around inside
20 an airplane. But it is mighty suspicious.

21 Q: Are you a pilot?

22 A: No, I never learned to fly those things.

23 Q: Did you look at the propellers of the airplane after the crash?

1 A: Yes, I did.

2 Q: Could you tell whether the right engine was running or not at the time of
3 impact?

4 A: Well, the propellers were folded back cleanly against the engine cowling,
5 on the right side, which made it look like it was not running. The left propeller was
6 corkscrewed and twisted, which is a clear indication that the engine was under full power.
7 My best guess is that the pilot cut the right engine deliberately and that's why it wasn't
8 running when it hit the ground.

9 Q: Are you familiar with service bulletins?

10 A: Yes, the company sends out service bulletins anytime there is some kind
11 of issue with an airplane that we think might cause safety concerns.

12 Q: Was there a service bulletin regarding the auxiliary boost pump switch on
13 this particular model?

14 A: Not on this specific model.

15 Q: Can you identify Exhibit 4?

16 A: Yeah, that's a draft of a service bulletin that ultimately went out regarding
17 the automatic switch.

18 Q: Was a service bulletin actually issued regarding the switch?

19 A: Yes, some of the naysayers in the company questioned my switch on
20 another model that uses the same engines and fuel pumps, and Exhibit 5 is the service
21 bulletin I wrote on that, which I think was totally unnecessary.

22 Q: Why do you think it was unnecessary?

23 A: Because my switch wouldn't fail.

1 Q: If your switch, were, for some reason, to fail, what would happen to the
2 engine on a plane like Mr. Robinson's?

3 A: Oh, if my switch were to fail, which is not possible, and it turned the
4 auxiliary pump on at the same time the engine driven pump was on, and it just happened
5 to be at takeoff, when you are under full power, full throttle, full rich on the mixture, then
6 the engine might die. But that shouldn't lead to a crash.

7 Q: Why not?

8 A: Because any pilot who had any sense at all would figure out that his right
9 engine had failed and would know that the left engine torque would put him on his back
10 real fast. In that situation, he's supposed to grab the left throttle and kill that engine off
11 and then glide into a landing.

12 Q: Wouldn't that require the pilot to make a landing without any power?

13 A: Yes, but it's doable, even in the dark. Instrument rated pilots have to
14 practice this maneuver all the time.

15 Q: Was there an investigative report on this crash.

16 A: Yes, Exhibit 3 is the official NTSB Report.

17 Q: Is it the responsibility of the NTSB to investigate accidents and issue
18 reports like Exhibit 3?

19 A: Yes.

20 Q: Is Exhibit 3 a true and accurate copy of the official NTSB Report on this
21 crash.

22 A: Yes.

23 Q: What does the NTSB Report conclude about the cause of the accident?

DEPOSITION OF DUSTY STOCKARD
12-03-2005

1 A: It concluded that the crash was pilot error and accidental.

2 Q: After you designed this particular switch, did Flightworthy manufacture
3 that at its plant in Planeview?

4 A: No, it was way too expensive for us to manufacture it ourselves here in the
5 states, so we outsourced it to North Korea.

6 Q: Are there airplane manufacturers in North Korea who are capable of
7 manufacturing this switch?

8 A: They are certainly capable of manufacturing it cheap.

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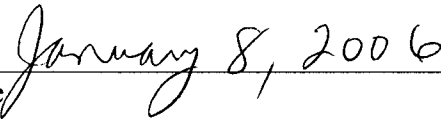
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DUSTY STOCKARD

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Date 

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PRELIMINARY JURY INSTRUCTIONS

You have now been sworn as the jury to try this case. This is a civil case involving a disputed claim or claims between the parties. Those claims and other matters will be explained to you later. By your verdict, you will decide the disputed issues of fact. I will decide the questions of law that arise during the trial, and before you retire to deliberate at the close of the trial, I will instruct you on the law that you are to follow and apply in reaching your verdict. It is your responsibility to determine the facts and to apply the law to those facts. Thus, the function of the jury and the function of the judge are well defined, and they do not overlap. This is one of the fundamental principles of our system of justice.

Before proceeding further, it will be helpful for you to understand how a trial is conducted. In a few moments, the attorneys for the parties will have an opportunity to make opening statements, in which they may explain to you the issues in the case and summarize the facts that they expect the evidence will show. Following the opening statements, witnesses will be called to testify under oath. They will be examined and cross-examined by the attorneys. Documents and other exhibits also may be received as evidence.

After all the evidence has been received, the attorneys will again have the opportunity to address you and to make their final arguments. The statements that the attorneys now make and the arguments that they later make are not to be considered by you either as evidence in the case or as your instruction on the law. Nevertheless, these statements and arguments are intended to help you properly understand the issues, the evidence, and the applicable law, so you should give them your close attention. Following the final arguments by the attorneys, I will instruct you on the law.

You should give careful attention to the testimony and other evidence as it is received and presented for your consideration, but you should not form or express any opinion about the case until you have received all the evidence, the arguments of the attorneys, and the instructions on the law from me. In other words, you should not form or express any opinion about the case until you retire to the jury room to consider your verdict.

The attorneys are trained in the rules of evidence and trial procedure, and it is their duty to make all objections they feel are proper. When a lawyer makes an objection, I will either overrule or sustain the objection. If I overrule an objection to a question, the witness will answer the question. If I sustain an objection, the witness will not answer, but you must not speculate on what might have happened or what the witness might have said had I permitted the witness to answer the question. You should not draw any inference from the question itself.

During the trial, it may be necessary for me to confer with the attorneys out of your hearing, talking about matters of law and other matters that require consideration by me alone. It is impossible for me to predict when such a conference may be required or how long it will last. When such conferences occur, they will be conducted so as to consume as little of your time as necessary for a fair and orderly trial of the case.

At this time, the attorneys for the parties will have an opportunity to make their opening statements, in which they may explain to you the issues in this case and give you a summary of the facts they expect the evidence will show.

FINAL JURY INSTRUCTIONS

Members of the jury, I shall now instruct you on the law that you must follow in reaching your verdict. It is your duty as jurors to decide the issues, and only those issues, that I submit for determination by your verdict. In reaching your verdict, you should consider and weigh the evidence, decide the disputed issues of fact, and apply the law on which I shall instruct you to the facts as you find them, from the evidence.

The evidence in this case consists of the sworn testimony of the witnesses, all exhibits received into evidence, and all facts that may be admitted or agreed to by the parties. In determining the facts, you may draw reasonable inferences from the evidence. You may make deductions and reach conclusions which reason and common sense lead you to draw from the facts shown by the evidence in this case, but you should not speculate on any matters outside the evidence.

In determining the believability of any witness and the weight to be given the testimony of any witness, you may properly consider the demeanor of the witness while testifying; the frankness or lack of frankness of the witness; the intelligence of the witness; any interest the witness may have in the outcome of the case; the means and opportunity the witness had to know the facts about which the witness testified; the ability of the witness to remember the matters about which the witness testified; and the reasonableness of the testimony of the witness, considered in the light of all the evidence in the case and in light of your own experience and common sense.

The issue for your determination on the claim of Gabriella Robinson, Individually and as Independent Administrator of the Estate of Gary Robinson, is whether Flightworthy Aircraft Company, Inc. created a design, manufacturing and/or

marketing defect that was a producing cause of Gary Robinson's death, and if so, whether such defect was a proximate cause of any damages to Mrs. Robinson.

"Producing cause" means that an event or occurrence was a substantial factor in bringing about an injury, without which an injury would not have occurred.

"Negligence" means failure to use ordinary care, that is, failing to do that which a person of ordinary prudence would have done under the same or similar circumstances or doing that which a person of ordinary prudence would not have done under the same or similar circumstances.

"Ordinary care" means that degree of care that would be used by a person of ordinary prudence under the same or similar circumstances.

"Proximate cause" means that cause which, in a natural and continuous sequence, produces an event, and without which cause such event would not have occurred. In order to be a proximate cause, the act or omission complained of must be such that a person using *ordinary care* would have foreseen that the event, or some similar event, might reasonably result therefrom. There may be more than one proximate cause of an event.

Answer "Yes" or "No" to all questions unless otherwise instructed. A "Yes" answer must be based on a preponderance of the evidence unless you are otherwise instructed. If you do not find that a preponderance of the evidence supports a "Yes" answer, then answer "No." The term "preponderance of the evidence" means the greater weight and degree of credible evidence admitted in this case. Whenever a question requires an answer other than "Yes" or "No," your answer must be based on a preponderance of the evidence unless you are otherwise instructed.

At this point in the trial, you, as jurors, are deciding if Flightworthy Aircraft Company, Inc. created a design, manufacturing and/or marketing defect that was a producing cause of injury to Gary Robinson, or if Gary Robinson's negligence or intentional act of suicide prevents liability against Flightworthy. If you find Flightworthy Aircraft Company, Inc. was at fault, you will hear additional argument from the attorneys and you will hear additional witnesses testify concerning damages. Your verdict must be based on the evidence that has been received and the law on which I have instructed you. In reaching your verdict, you are not to be swayed from the performance of your duty by prejudice, sympathy, or any other sentiment for or against any party. When you retire to the jury room, you should select one of your members to act as foreperson, to preside over your deliberations, and to sign your verdict. You will be given a verdict form, which I shall now read and explain to you.

(READ VERDICT FORM)

When you have agreed on your verdict, the foreperson, acting for the jury, should date and sign the verdict form and return it to the courtroom. You may now retire to consider your verdict.

GABRIELLA ROBINSON, Individually
and as Independent Administrator
of the Estate GARY ROBINSON,

Plaintiff,

v.

FLIGHTWORTHY AIRCRAFT
COMPANY, INC.

Defendant.

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IN THE 181st DISTRICT COURT

IN AND FOR TRAVIS COUNTY

STATE OF LONE STAR

JURY QUESTION NO. 1

Was there a design, manufacturing and/or marketing defect that was a producing cause of Gary Robinson's death?

Answer "yes" or "no."

JURY QUESTION NO. 2

Did the negligence, if any, of Gary Robinson proximately cause the occurrence in question?

Answer "yes" or "no."

If you have answered "Yes" to both Questions 1 and 2 for more than one of those named below, then answer the following question. Otherwise, do not answer the following question.

JURY QUESTION NO. 3

The percentages you find must total 100 percent. The percentages must be expressed in whole numbers. The causation attributable to any one named below is not necessarily measured by the number of acts or omissions found. The percentage attributable to any one need not be the same percentage attributed to that one in answering another question.

What percentage of the causation of the plane crash do you find to be attributable to each of those listed below?

- a. Flightworthy Aircraft Company, Inc. _____ %
- b. Gary Robinson _____ %
- Total 100%

If you have answered "No" to Question 2, then answer the following question. Otherwise, do not answer the following question.

JURY QUESTION NO. 4

Did Gary Robinson commit suicide?

Answer "yes" or "no."

EXHIBIT LIST

1. FlyBoy Magazine
2. Bank Examination Report
3. NTSB Accident Report
4. Flightworthy Service Bulletin—Draft 1A
5. Flightworthy Service Bulletin

FLYBOY

JOURNAL OF AVIATION ENGINEERING

VOL. 27 NO. 6

JUNE 2004

FLIGHTWORTHY
PLANES CONTINUE TO FALL
OUT OF THE SKY!!

FLIGHTWORTHY: FLIGHT WORTHY?

EXHIBIT 1

SEE OUR FOLDOUT! MISS JUNE
OUR FAVORITE DELTA AGENT

ALSO INSIDE:
CAN PENGUINS FLY?
OUR EXPERTS EXPLODE OLD MYTHS



FLIGHTWORTHY TRULY FLIGHT WORTHY?

by Mike "SkyKing" King

Despite a rash of crashes recently, Flightworthy Aircraft has again denied that its twin engine series has a problem with its automatic fuel switch device, found on several popular models. According to NTSB spokesman Douglass Farnsley, 17 Flightworthy twins have nosed into the terra firma on takeoff during the past 24 months, with 6 fatalities resulting from these "hard landings."

The controversy centers on a switch used exclusively on Flightworthy twin engined models. The switch is designed to relieve the pilot of the difficult task of figuring out why she is losing power at takeoff in the event of the failure of an engine driven fuel pump. "In the unlikely event that the flawless engine driven fuel pump should fail, this switch automatically causes the auxiliary fuel pump to activate, averting a potentially serious torquing situation," says Flightworthy spokesperson Dusty Stockard.

Critics note that the automatic switch itself may fail, either failing to work when needed or causing the auxiliary fuel pump to activate when the engine driven pump is working. This latter situation can cause the affected engine to flood. On takeoff, this flooding could cause the engine to lose power suddenly, resulting in an imbalance in torque due to the full power operation of the remaining engine. Unless immediately corrected, this situation could rapidly lead to the plane flipping over on its back and nose diving into the ground just to the side of the runway.

Flightworthy denies that it has actually seen any instances of the automatic switch failing, much less causing a crash on takeoff. While acknowledging that several of its models have crashed on takeoff since the switch was introduced, Flightworthy



NTSB Personnel Examine Flightworthy Crash. Pictured are Douglass Farnsley, Chief Inspector; Chris Jensen, Asst. to the Chief; Patty Kake, Press Liason; and John Ward, a general flunky trying to stay out of the way.

notes that each of the crashes has been attributed to pilot error. "These guys just need to learn how to fly a plane," according to Stockard. "No one is training on engine failure response these days. Loss of one or both engines should never keep a good pilot from landing safely."

NTSB spokesperson Farnsley questions Flightworthy's assessment of its accident rulings. "Sure we say pilot error in a lot of crashes," Farnsley notes. "There's a pilot involved in every crash, after all. We're just saying." Farnsley notes that the NTSB has never actually found evidence that failure of the Flightworthy switch has caused an accident. "The planes are usually too messed up to make that determination."

Stockard says Flightworthy has a spotless record of safety where properly trained and sober pilots react properly to minor inconveniences like engine failures. "You'd think some pilots are just bent on suicide, the way they get in these planes without knowing proper emergency techniques."

LONE STAR BANKING COMMISSION

REPORT OF BANK EXAMINATION

BANK EXAMINED: Armadillo State Bank
LOCATION: 539 Armadillo Drive, Armadillo
EXAMINER: Tracy Leduc
DATE: November 4, 2004
TYPE OF EXAM: Regular

ACTIVITIES:

Regular examination scheduled with Bank President Gary Robinson with usual notice of 1 week. Met with president of bank at beginning of exam to review scope and purpose. Requested list of outstanding loans and randomly selected 3 for review. Bank president was cooperative, offering private offsite space for Examiner's use and refreshments during stay at bank. After examination of 3 loan files selected, met with president to review loans and summarize findings. Concluded Bank in sound position with no questionable activities.

LOAN NO. 1: eBid, Inc.

Amt: \$1,450,000

Date of Original Loan: 3/9/2000

Purpose: Small business capitalization; tech sector business

Collateral: Stock in eBid, a web based auction site

Findings: Sound loan to small but rapidly growing business with strong capitalization and excellent cash flow; bank president explained moderate cash flow impingement as being related to effort to rapidly expand eBid to shut out upstart competitor named eBay, which I had never heard of.

LOAN NO. 2: Big Loan Specialties

Amt: \$15,000,000

Date of Original Loan: 5/3/2004

Purpose: Capitalization of mortgage loan entity specializing in residential real property loans with little or no downpayment

Collateral: Second lien positions on mortgaged residential property

Findings: Sound loan to secondary market lender specializing in loans for residential property, primarily to borrowers who lack liquidity for normal 10% down payment; bank president explained that loan was to bridge cash flow issues relating to cash intensive "subprime" lending practices of Big Loan Specialties, which he indicated would be highly favored in future

LOAN NO. 3: Enron

Amt: \$20,000,000

Date of Original Loan: 11/11/1997

Purpose: Loan to cover cash flow issues of large multinational natural resources trading company

Collateral: Personal guarantee of CEO of Enron, Ken Lay

Findings: Sound loan to large multinational natural gas trading company, well secured by personal guarantee of CEO of that entity; bank president explained that loan was non-performing, but was of no concern due to very favorable recent developments in Enron's portfolio; Robinson indicated that independent research regarding Enron would not be necessary due to strong financial statement of Lay

SIGNATURE OF EXAMINER:

Tracy Leduc

EXHIBIT 2

**NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C. 20594**

AIRCRAFT ACCIDENT REPORT

SYNOPSIS

About 11:00 p.m. CST on January 15, 2005, a Flightworthy Aircraft Company Twin 7 aircraft bearing Tail Number GR1967 crashed on takeoff at the airport at Smallville, Lone Star. The aircraft was not under control of any approach control tower, the airport being private and remote. The aircraft was being piloted by Gary Robinson of Armadillo, Lone Star. NTSB Investigator Douglass Farnsley went to the scene of this accidental crash on January 16, 2005, arriving at 9:41:24 a.m. CST. He found the aircraft 50 feet off of the right side of the Runway 23, in a nose down attitude. The aircraft was extensively damaged by the fire that resulted from the crash, and little could be ascertained from a close examination of the engines or the cockpit area. It appeared that some of the controls had become dislodged or modified as a result of the crash.

I examined the engines and propellers, which were slanted straight down into the dirt at the accident sight. The propeller on the right hand engine was folded straight back against the cowling of the engine, with no twisting or corkscrewing to indicate any kind of power on impact. The left propeller was twisted and corkscrewed, indicating the engine was under full power when it hit the ground. No cause was determined for the apparent failure of the right engine. Flightworthy Aircraft Company representative Dusty Stockard was present at the site of the crash, but said he had no opinions about the aircraft or the crash.

The aircraft had recently been serviced by Rufus Pennington, an aircraft mechanic. According to Pennington, his service of the aircraft included replacement of certain hoses on the right engine, and testing of the auxiliary fuel pumps on both engines. He has no records of the work performed, contrary to FAA regulations.

DETERMINATIONS

The National Transportation Safety Board determines that the probable cause the accident is engine failure of an undetermined cause, with pilot error being a contributing cause. Mr. Robinson should have immediately cut the power to the left engine when the right engine failed, which would have reduced the left engine torque that twisted the plane onto its back.

NATIONAL TRANSPORTATION SAFETY BOARD

By: Douglass Farnsley, Investigator
Dated: April 20, 2005

EXHIBIT 3

FLIGHTWORTHY AIRCRAFT COMPANY

SERVICE BULLETIN # 438762497394-A [DRAFT #1]

Date: 12-2-2004

Affected Aircraft: All Twin Series Flightworthy Aircraft Company Aircraft

Flightworthy is issuing this urgent Service Bulletin for the immediate recall and removal of the automatic auxiliary fuel pump switching mechanism on all Flightworthy Twin Series aircraft utilizing such switch. A number of fatal crashes have been attributed to failure of the automatic auxiliary fuel pump switch during takeoff, causing the auxiliary fuel pump to switch to the on position at the same time the engine driven fuel pump is providing fuel to the engine in question. This results in immediate flooding of the engine, which results in a total failure of the power plant. This failure of the power plant on takeoff may result in the aircraft immediately flipping on to its back due to the excessive torque of the remaining engine, which is no longer balanced by the failed engine. Although pilots should immediately counteract this out of balance torque situation by cutting power to the remaining engine, a failure or inability to do so promptly will result in the aircraft turning onto its back and crashing nose down.

Owners are advised to immediately contact a qualified aircraft mechanic to remove the automatic auxiliary fuel pump switches, leaving only the existing manual switches for the auxiliary pumps. A pilot should not fly the aircraft to the location of a mechanic, but should engage the services of a mechanic to come to the aircraft where it is currently parked.

Cleveland S. Flightworthy III

EXHIBIT 4

FLIGHTWORTHY AIRCRAFT COMPANY

SERVICE BULLETIN # 438762497394-B

Date: 1-12-2005

Affected Aircraft: Twin 8 and Twin 9 Series Flightworthy Aircraft Company Aircraft

Flightworthy is issuing this Service Bulletin as an advisory for Twin 8 and 9 Series Aircraft that utilize automatic auxiliary fuel pumps switching systems. This service bulletin is based on reports theorizing that the automatic auxiliary fuel pump switch may fail while the aircraft is operating such that the auxiliary fuel pump is inadvertently switched to the on position at the same time the engine driven fuel pump is providing a full load of fuel to the engine. Should this condition theoretically occur, in a worse case scenario, the engine affected might receive an overcharge of fuel, causing a diminution or cessation of performance with respect to that particular power plant. Should this occur, aircraft stability might, in some instances, become affected if proper pilot response is not promptly provided. If this condition occurs on takeoff, a diminution of performance of one engine could exacerbate the effects of torque from the remaining engine in the event of pilot error in failing to promptly correct the problem.

Owners are advised to take affected aircraft to a certified aircraft mechanic for removal of the automatic auxiliary fuel pump switch. After removal, the auxiliary fuel pumps will be controlled only by the existing manual switches.

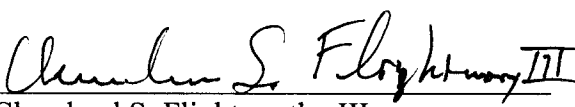

Cleveland S. Flightworthy III

EXHIBIT 5