

CIVIL AVIATION TRIBUNAL

BETWEEN:

Nabil Tamimi, Applicant

- and -

Minister of Transport, Respondent

LEGISLATION:

Aeronautics Act, R.S.C. 1985, c. A-2, as am., s. 7.3(1)(f)

Air Navigation Order No. 2, section 14(2)

Air Regulations, C.R.C. 1978, c. 2, as am., s. 828

Student Pilot Permit, Flying at night when not endorsed to do so, Willfully carrying passengers when not endorsed to do so, Alteration of Log Book Entries

Review Determination
John J. Eberhard, Q.C.

Decision: March 30, 1992

On each of the charges referred to above I confirm the Minister's allegation and increase the period of suspension imposed from 42 days to 90 days, suspension to commence on May 1st, 1992.

The Review Hearing on the above application was held at the Holiday Inn, Toronto Downtown - City Hall, Carlton Suite, 2nd Floor, 89 Chestnut Street, in the City of Toronto, Province of Ontario, on February 14, 1992; adjourned; and reconvened at 09:00 hours at the North York Memorial Community Hall, 5110 Yonge Street, Concourse Level, Committee Room No. 2, on March 11, 1992.

BACKGROUND

This Review Hearing arises at the request of the Applicant following a Notice of Suspension Pursuant to Section 6.9 of the Aeronautics Act. The Minister of Transport suspended the Canadian aviation document of the Applicant on the grounds that he contravened several sections of the Aeronautics Act. They are as follows:

Charge 1:

"*Aeronautics Act*, S. 7.3(1)(f), in that on or about the 29th day of July 1, 1990, you flew as pilot-in-command of a PA28 aeroplane registered C-FPVN and you carried a passenger on board."

Charge 2:

"*Air Regulations*, S. 828, in that the aircraft journey log for C-FPVN indicates that the entries on July 29th, 1990 and November 15th, 1990 have been altered."

Charge 3:

"The *Flight Crew Member Licences Privileges Order* (ANO IV, No. 2, S. 14(2)), in that on or about the 27th day of September, 1990, November 15th, 1990 and December 2nd, 1990, you as Pilot-in-command of a PA28 aeroplane registered C-FPVN flew at night. You do not hold a night rating."

On August 27, 1991, on the Application of Tamimi, he was granted a stay of suspension to be effective until the outcome of the Review Hearing.

EVIDENCE

At the outset, the Applicant raised the preliminary objection that:

"I have never flown that airplane before."

Naturally, if this were the case, it would give rise to a dismissal of the allegations against him. The Applicant was advised that this may very well be the nature of his defence and that he could raise it at the appropriate time. Nevertheless, the statement does have relevance to a procedural ruling which was made during the course of the Hearing on which this determination will comment below.

The first witness called by the Minister was **Shailesh R. Dubey**. This flight instructor with a class one rating and some 2,300 hours met the Applicant in May of 1991 as his instructor during the private pilot licensing process for the Applicant. On May 28, 1991, he travelled to Alberta with the Applicant, and purchased an aircraft, and flew it with the Applicant back to Toronto. The aircraft was registered C-FVFN. Tamimi flew the aircraft and logged the time as dual training.

Sometime between December 1990 and February 1991, Dubey requested that Tamimi provide him with copies of the aircraft journey log so that Dubey could update his own log book. He testified that he made copies of this log at Toronto Island Airport. Copies of the log were entered as Exhibit MA.

At the request of employees of Transport Canada (Regulatory Compliance) these logs were sent to Transport Canada on February 12, 1991. The witness testified that he at no time gave permission to the Applicant to fly with passengers or at night.

During the course of their acquaintance, Tamimi introduced to Dubey one Ms. Erin McMurren as the co-owner of the aircraft. Dubey saw Tamimi on June 13, 1990, with the subject aircraft at the Toronto Island airport ramp in front of Hangar Number 3. He observed the aircraft with its engine running and moving from the taxiway onto the ramp. He saw two people getting out of the aircraft, one of whom was the Applicant and the other McMurren.

Inspector Kathleen Richter is an Inspector from the Licensing Section of Transport Canada. She is qualified as an instructor and authorized by Transport Canada to issue student permits and certificates in the normal course of student-pilot licensing. She has considerable experience relating to the licensing of students, including the limitations imposed on student pilot permits.

In this regard, I am satisfied that a student pilot is one who is supervised on each flight by a supervising instructor, prohibited from carrying passengers without another licensed pilot on board and can fly only in day VFR conditions. The student pilot permit has these limitations printed on it.

From the records of Transport Canada, Richter testified that the Applicant was subject to the student pilot flying privileges during the course of his training. On July 27, 1990, the Applicant failed his flight test but was permitted to retry it. He successfully passed the flight test on July 30, 1990, at which time a temporary permit was given. On October 10, 1990, a permanent permit was recommended for issue by Transport Canada.

It should be noted that a temporary permit provides privileges for 180 days. When the private pilot document was issued, there was no night endorsement on it, and accordingly no evidence that the pilot was qualified to fly in night conditions. The Licence Validation Certificate showed the permit to be valid to February 1, 1992. Exhibit M-6 is a copy of the permanent private pilot licence issued, with the effective date being November 26, 1990.

Accordingly, Tamimi was licensed during the relevant time (from July 30, 1990) to carry passengers on day VFR flights only.

The following entries are found in the journey log filed by Dubey:

July 29, 1990 - a return flight from Toronto Island Airport to Muskoka with two persons on board (Tamimi and McMurren). Reference to the column signifying the person who makes the entry shows the pilot permit to be YZX359708.

September 27, 1990 - a flight from Quebec City to Toronto Island commencing at 15:40 and concluding at 20:15 (8:15 pm. local)

November 15, 1990 - a flight from Toronto Pearson to Toronto Island departing at 20:00 hours and landing at 20:10 (8:10 pm. local)

December 2, 1990 - a flight from St. Catherines to Toronto Island departing at 17:35 and arriving at 18:00 (6:00 pm. local)

Inspector Richter testified, on the basis of information secured and produced from Environment Canada, demonstrating when during the relevant days official "night" occurred at the relevant places of flight.

"Night" VFR means a flight conducted in accordance with visual flight rules during hours of official "night". Night is defined as that period of time commencing one-half hour after sunset and ending one-half hour before sunrise.

Records of the history of ownership of the aircraft CFVPN are maintained in the Regional Office of Transport Canada (Toronto). During the relevant period of time from July 1990 to January 1991, the aircraft was registered in the name of Nabil Tamimi.

On a routine inspection by Inspector Oscar Binder, copies of the journey log for C-FVPN were compared with the entries found in Exhibit M-4. It is relevant to note that Mr. Dubey copied the journey log entries sometime prior to February 12, 1991, and those copies inspected by Binder were received sometime in August 1991 by Transport Canada. The journey log was returned to the Applicant on September 23, 1991. There are discrepancies found by comparing the entries on the two photocopies. The copy certified by Binder is Exhibit M-8. Some of the discrepancies are as follows:

1. The entries for **July 29, 1990** suggest an erasure of the word "McMurren", it being replaced by the first name of the Applicant. The number of persons on board appears to be altered from a "2" to "1". However, the weight of the total number of persons on board remains the same (260 lbs.).
2. The **November 15, 1990** entry on Exhibit M-8 indicates a different time. The log produced some nine months after the entry appears now to suggest the flight time as 17:00 hours as compared to 20:00 hours (i.e. 3 hours earlier, during what would be day flight conditions).

In both documents the signature and licence number of the Applicant are clearly visible.

In cross-examination of Richter, it was determined that there was no visual evidence of the passenger who was on the flight with the Applicant on July 29, 1990. In addition, Richter acknowledged that there is no lawful requirement to use local as distinct from universal or international time for log book entries.

Prior to calling the third witness, the Applicant made an objection that he would not be able to remain in the Hearing Room during testimony given by one Erin McMurren. As a result of interpersonal difficulties and allegations of a threat to his personal security, he indicated that he was not prepared to remain for the balance of the Hearing. Following some lengthy consultation, an arrangement was made whereby hotel security was present. The Applicant was given an opportunity to discuss the matter with his lawyer by telephone. Tamimi eventually agreed to remain during the testimony of McMurren. Ample opportunity was provided to him to address

the Tribunal in respect of other possible security requirements and indeed an opportunity to adjourn the matter so that his lawyer could be present. These suggestions were declined.

Erin McMurren swore she had known the Applicant for approximately five years and had resided with him during a portion of that period of time. Although she paid for the aircraft, it was registered in the name of the Applicant.

She believed that at all relevant times, he had the appropriate pilot licence to fly the aircraft both with her as a passenger and after official dark. She flew with the Applicant in C-FVPN on many occasions and with the Applicant as pilot-in-command prior to July 29, 1990.

She confirmed, that on that specific day she flew as a passenger on the return flight from Muskoka.

She testified that reference to her name in the log book (Exhibit M-4) was correct and confirmed that the reference to the weight of two people in the aircraft (260 lbs) would be approximately the combined weight of her and Tamimi.

She identified the signature of Tamimi on the log book, having seen him make the entries many times (in the aircraft at the conclusion of the flights on which she was a passenger).

The witness confirmed that she was present in the aircraft during the flight from Quebec City on September 27, 1990, to Toronto Island and that they arrived late in the evening when it was very dark ("no sunlight"). She recalls this because of the bad weather and the fact that the flight took longer than expected.

Indeed, she confirmed that during October, November and December of that year, she flew a number of times with the Applicant at night.

At the conclusion of the McMurren testimony, Mr. Loan indicated that he had no further witnesses to call. At this point the Applicant raised the argument that the charge was deficient in that its particulars did not conform to the evidence. That is, the aircraft described in the charges (C-FPVN) was not the same aircraft as described in the evidence (C-FVPN).

Inspector Loan made an application to reopen the

Minister's case so as to make application to amend the charges set out in the registered letter, the effect being to correct the typographical error.

Following some discussion, I allowed the Application to be re-opened and the amendment made, on the basis that it would be of no prejudice to the Applicant provided that he was given an opportunity to prepare his defence based on the amended Notice.

Being concerned about the fairness of the Hearing, I reminded Mr. Tamimi that from the outset of the evidence, it was my intention to invite the Case Presenting Officer to make the amendment in a way which would permit the charges to reflect the evidence which had been heard. It was

only by the inadvertence of the Application not being made prior to Mr. Tamimi being called upon to present his defence that the issue arose in the manner it did (i.e. by requiring the request to re-open). Accordingly, from the outset of the Hearing, Tamimi was aware that this Application was going to be made.

However, in fairness to him, an opportunity for adjournment was provided. He elected to take advantage of the suggestion and the matter was adjourned from February 14, 1992, to March 11, 1992, when the Hearing reconvened at the North York Memorial Community Hall.

Nabil Tamimi again appeared on March 11, 1992, and testified on his own behalf. He reiterated the reasons for the acrimony between himself and Ms. McMurren and expressed concern for the delay in activating the charges. He confirmed that he has never had a night endorsement, and suggested that the Transport Inspectors did "not know what they were doing". At one point he said he had lived with Ms. McMurren and, at another point in his evidence, said the opposite. At one point he swore that all the entries in the log (Exhibit M-4) were correct, at another, when it served his purpose, he was "not sure if the entries were all correct".

CONCLUSION

Based then on the Amended Notice of Suspension, I am satisfied with the accuracy of the following entries of the journey log which has been referred to as Exhibit M-4:

- Firstly, I am satisfied that on the basis of Section 28 of the Regulations referred to by Mr. Loan, the flight did in fact take place on July 29, 1990 from Toronto Island Airport to Muskoka with two persons on board. I am satisfied on the evidence that those two persons were Mr. Tamimi (the Applicant) and a person by the name of McMurren - a person who testified she had had a number of flights with Tamimi even prior to that date and prior to the Applicant being licensed.
- I am satisfied, by reference to the Column signifying the person who makes the entry, that the pilot was the Applicant. Under the Column which is headed No. 11, "Equipment Baggage or Cargo", there is an indicated zero weight for baggage being carried on the flight. In addition, there is an unambiguous reference to two people on board. The weight of the number of persons on board is indicated at 260 pounds and I notice from the same page of that logbook that there are references to flights from July 24 through to 29 - perhaps five or six hours of total flying time - where the name of the pilot is Tamimi. There is no first name as is the case on Exhibit M-8, in which the name "Nabil" is added to that same Column No. 3.
- In addition, I observe that the times recorded for the subject flight are consistent with the way in which all the other entries in the logbook are found.
- I am satisfied also that on September 27, 1990 a flight from Quebec City to Toronto Island took place. It commenced, in accordance with the log, at 1540 hours and concluded at 2015 (8:15 pm.). Similarly, a flight from Toronto Pearson to Toronto Island did take place on November 15, 1990, departing at 2000 and a landing at 2010.
- I am also satisfied that a flight took place in accordance with the entry on M-4 in the logbook on December 2, 1990 - a flight from St. Catharines to Toronto Island, arriving at 1735 hours.

I am satisfied and make findings of fact based on my observation of witnesses, particularly Ms. McMurren on behalf of the Minister and the Applicant himself. Where there are inconsistencies between the evidence given by Dubey and the Applicant, I find I have no difficulty in accepting the evidence of Mr. Dubey. I am satisfied and make findings of fact based on the logbook submitted by Dubey which are purported to be copied from a logbook taken from the aircraft in question - a logbook clearly prepared by Tamimi.

I am satisfied that on July 29, 1990, Tamimi was a student pilot, not permitted to carry passengers, in accordance with the requirements for licensing student pilots. On that day, his passenger was Ms. McMurren.

I am satisfied that on September 27, 1990, a flight from Quebec City to Toronto terminated after official dark. I am satisfied that that night flight was in contravention of the conditions for pilot licensing of the Applicant, namely "day VFR flying only" and accordingly, have no difficulty in finding that that violation took place.

I am satisfied that the flight on November 15, 1990, from Toronto Pearson to Toronto Island Airport is as the logbook evidence suggests. I am satisfied that it took place approximately two hours after official dark on that day.

I am satisfied that on December 2, 1990, the flight to Toronto Island commenced after official dark and concluded after official dark, both times being subject to night VFR conditions.

The entries of July 29, 1990, clearly indicate the erasure of the word "McMurren" from the logbook. There does not appear to be any explanation for this other than the fact that the Applicant suggests that at some time subsequent to that date, as a result of personal difficulties between himself and McMurren, the "falling out" may have given rise to some motive on her part to create difficulties for him. However, at the time the log book was actually copied there does not appear to be any such motivational rationale for such an allegation.

I also note that the changes purported to have been made in what Tamimi refers to as the "authentic logbook" were obviously made some time after the relevant time period in the early part of that year, namely, July or early August 1990.

There is no explanation whatsoever as to why, for example, on the later logbook copy there is a baggage weight of 100 pounds. On an earlier copy of the logbook there is zero pounds referred to in the same Column.

There are clearly alterations to the log book: a change from two people on board to one person on board. There seems to be complete obliteration of the word "McMurren" from the July 29th entry, it being replaced by the name, "Nabil." It is also interesting to note that the word "Nabil" appears to be added to other entries on the same page for no apparent reason and with no explanation from the Applicant.

Mr. Tamimi argues that, on the first charge, Exhibit M-8 is the authentic log entry. I am unable to give any credence at all to that suggestion. Pursuant to the terms of the Air Regulations, the

entry that was made shortly after the flights and copied within a relatively short period of time after July 29th, is the best evidence and in my mind would be considered the "authentic logbook entries".

Mr. Tamimi argues that the total weight is consistent with one person on board. That is contrary to the evidence. Ms. McMurren testified the total weight of both parties is indicated. Tamimi maintains he was on a training solo cross-country flight, which is inconsistent with the weight and number of persons on board the aircraft as shown in the log (Exhibit M-4). On the basis of that inconsistency, I find no merit in the argument of Mr. Tamimi.

As far as the second count is concerned, there simply is no explanation for the discrepancy between Exhibits M-4 and M-8, insofar as it relates to entries which are not germane to the specific allegations but are germane to the finding of credibility. I do find in favour of the real evidence which is found in Exhibit M-4.

On the third count, the Applicant simply denies the allegation of the time at which those flights took place. I completely reject his evidence on that point. I simply do not believe him. I have heard the evidence of Mr. Dubey and Ms. McMurren, as well as considered the real evidence found in the logbook. There is no independent evidence offered by Mr. Tamimi in connection with his rationalization of any of those flights.

ON THE BASIS OF ALL OF THE EVIDENCE, PARTICULARLY ON MY OBSERVATIONS OF THE APPLICANT, AND ON THE BASIS OF THE CLEAR INCONSISTENCIES WITH THE REAL EVIDENCE BEFORE ME, I FIND THE MINISTER HAS, WITHOUT ANY DOUBT, MADE OUT THE ALLEGATIONS THAT ARE REFERRED TO IN THE NOTICE OF SUSPENSION, DATED JULY 25, 1991, AS AMENDED.

PENALTY

At the conclusion of the hearing, I rendered my decision to the parties present so that they might have an opportunity to speak to the matter of penalty. The following is the transcript of that aspect of the proceedings:

"THE CHAIR: In that regard, I would ask the Minister now to make some comments in regard to disposition which he is recommending to me.

MR. LOAN: Generally what we have to consider and look at with regard to the Minister is, what specific sanction should be specified for a given violation. There are a lot of factors that the Minister has to take into play, the deterrent value, the value to deter someone from committing a violation again, the type or nature of the offence. Is the level of the offence minor or is it serious?

When we take a look at that, we use as an example a pilot fails to carry a pilot's licence when acting as pilot in command which is comparable to a pilot who knowingly operates an aircraft overloaded; is it minor or is it serious? The

Minister has to look at that when they are trying to decide on a sanction based on a finding, a conviction.

We also have to look at what does the penalty do in affecting an individual or a company. Does a 14-day suspension of somebody like a commercial pilot or a company have a greater impact on a document holder than the same suspension of a private licence pilot? We have to look at, is there mitigation or aggravation? Was the alleged offender solely responsible or was he or she in some way a victim? I give as an example of that of an aircraft maintenance engineer certifies an aircraft without assuring the standards of airworthiness were met effect causing the C of A to be invalid. The pilot flies the aircraft in violation of regulation 210. Is the person a victim? Who is truly responsible or likely a victim? Who took reasonable care?

By contrast, an individual who knowingly commits a violation in the hope of gaining some benefit. Another element of the mitigation/aggravation question is the extent of the violation. An example of that would be you break an assigned altitude by a hundred feet compared with 1,200 feet when there is a thousand-foot separation and an instrument condition.

The previous record has to go in place. The Minister has to look at that when he or she is making a decision. Has the alleged offender violated any Previous section of the Aeronautics Act and, if so, were they safety oriented? It is a complex affair. Each case is unique on its own. The set of circumstances are less complex there but the Ministry must treat each set of circumstances consistently, regardless of the location and this is why we try to follow the guidelines of what we call the Enforcement Manual which is nationally known across Canada.

Let us deal with the specific case at hand. We have given our information regarding Mr. Tamimi. A couple of the points to make in question to it is the Minister has no doubt in his mind that the knowledge was there by the individual that he was violating the regulations and the Act and doing so by carrying passengers and so on. We feel there is no mitigation there.

The aggravation factors are that Mr. Tamimi knowingly, wilfully acted in a negligent matter with no respect for public safety because with his limited knowledge of flying ability, carrying passengers and third party interests, we have to look at that though nothing happened. The facts are at this time what could have happened. He boasted about it, the evidence of Mr. Dubey. He boasted about how he could fool Transport Canada.

Under the circumstances of this case, the penalty assessed in this Notice is fair, if not light and necessary in the promotion of compliance of the offender. With that, Mr. Eberhard, I respectfully submit that the Minister has made its case, as you have confirmed, and that all three counts should be considered, at least to the minimum of 42 days suspension. Thank you.

THE CHAIR: Is there any record?

MR. LOAN: I am sorry, there is no previous record on Mr. Tamimi.

THE CHAIR: Mr. Tamimi, I would like your view on what you would think would be a fair in terms of penalty or sanction.

MR. TAMIMI: Whatever you say.

THE CHAIR: I am asking you what you would say in response to what Mr. Loan has said.

MR. TAMIMI: I just said I don't believe it. It is something that I know that I have no word at all. It appears to me that Mr. Loan -- I talked to him on the phone yesterday. understood that "You will be charged. Don't ever try to fight with the government." I called him yesterday on the phone. I have no work.

THE CHAIR: You have no work and there has been no monetary sanction suggested here. Mr. Tamimi, are you still flying?

MR. TAMIMI: Yes, sir.

THE CHAIR: That, I take it, is for recreational purposes?

MR. TAMIMI: I am trying to get more hours.

THE CHAIR: How many hours have you had since the time of the last charge, being December 2nd, 1990, last year?

MR. TAMIMI: Last year I had maybe 60 or 70 hours.

THE CHAIR: Can you tell me what the enforcement manual recommends insofar as the first, second and third offence and what limitations of the sanctions are, as the maximum and minimum of penalty that could be secured in this type of case?

MR. LOAN: On the air navigation order for No. 2 and on Section 828 you are talking seven to 14-day licence suspension.

THE CHAIR: What is the maximum and minimum permitted, not from your guideline but under the legislation?

MR. LOAN: There is no maximum or minimum with regards to suspension. There is nothing in the Act, it says you can suspend the licence for a period of time. If I might use, giving an example of what a first offence or a subsequent offence ...

THE CHAIR: This is your internal policy?

MR. LOAN: The internal policy to try to keep it fair but firm. First offence, no previous record, this is what they would go after. Second offence -- that is the only way I can give that to you. With reference to 7.3.1(f), that being dual procedure, the section "Indictable Summary" and dealt with not in the courts but administratively is strictly a suspension and there is nothing laid out in policy about how far you should go. Initially I imagine the investigator's decision to put in was based on the other two which are in here. So I can't -- but I can give you what it calls for first and what subsequent offenses call for.

THE CHAIR: Well, Mr. Tamimi, I am going to tell you right now what I am going to do. Once again it would normally wait until some future time but because of the way in which I regard the seriousness of these offenses, I am going to impose the sanction as of the date which is about the date when your limitation for purposes of an appeal of my decision would take effect. So, I am going to impose the sanction to commence on... May the 1st, 1992. That is so it will allow you sufficient time after you have received my written reasons for judgment to take whatever action you think may be necessary.

I can tell you that I have considered the comments made by Mr. Loan regarding his view of how the Tribunal should deal with both the personal and deterrent value of the disposition for pilots who contravene sections related to clear aviation safety concerns in Section 7.3 of the Air Regulations. Quite frankly, the violations which I have found are so flagrant that it almost seems trivial to impose the sentence or the disposition which is recommended as a first offence disposition by the Policy Manual. Indeed, I think it is far lighter than it should be and I am going to simply ignore it.

I perceive a violation related to flying with passengers when you are not licensed to do so as (an example of the) matters which were the clear target of Justice Dubin when he made his remarks that led to the creation of the Civil Aviation Tribunal in the first place, namely, that aviation safety and concern for those who are affected by the actions of pilots such as yourself is to be held uppermost in the minds of those who impose both regulatory and Tribunal-related sanctions.

That comment applies equally to those flights which you took in September, November and December in conditions for which you were not licensed at all, namely, flights that took place in conditions that were not day VFR conditions. Indeed, in one case it is clear to me that the weather conditions may very well have been outside the VFR conditions themselves even for day flying.

That is not the charge. The three flights are related to night flights at a time when you did not have a night rating and apparently still do not have (such qualification).

The third count, related to entries in the journey log, simply echoes the finding of fact that I made, having observed you during the course of the hearing and relating your evidence to the evidence from others and the real evidence before me." That is: matters of your own personal integrity and indeed in matters of credibility in the aviation community. I expect them to be higher than those which would be found in the general population. Pilots are trained professionals, and I, for one, expect them to observe regulations under the Aeronautics Act as standards which are to be regarded as the basis of pilot safety, passenger safety and having in mind all those influenced by those of us who fly and are involved in the aviation community.

On the basis of the evidence I have heard, the nature of the offenses, and the fact there is apparently no contrition, remorse or perhaps any recognition of the seriousness of the offenses that you have become involved in, I consider that a strong deterrent is necessary for you personally and a strong deterrent generally is required for the aviation community. This tribunal simply will not tolerate the kind of infractions that you have committed.

"SO, I HAVE NO DIFFICULTY IN IMPOSING ON CHARGE NO. 1, A 30-DAY SUSPENSION OF THE LICENCE; ON CHARGE NO. 3, A 45-DAY SUSPENSION OF LICENCE; ON CHARGE NO. 2, A 15-DAY SUSPENSION OF YOUR LICENCE.

THAT IS A TOTAL OF 90 DAYS. THAT SUSPENSION WILL COMMENCE ON MAY 1ST, 1992 AND FINISH 90 DAYS THEREAFTER. You will be receiving formal notification of that from the Tribunal office. You may wish to seek legal advice in respect to your avenue of appeal of both the decision and sanction." (emphasis added) You should be guided by the time period within which such appeal must be launched.

"That being all of the matters which I have the responsibility for deciding in this hearing, this matter is now concluded."

(Original oral comments prepared by Nethercut & Company Ltd., per P.D. McQueen).

I NOW HEREBY CONFIRM THE FINDINGS NOTED ABOVE AND THE SANCTION IMPOSED, NAMELY A 90-DAY SUSPENSION, COMMENCING MAY 1, 1992.

John J. Eberhard, c.r.
Member
Civil Aviation Tribunal