

TRANSPORTATION APPEAL TRIBUNAL OF CANADA

BETWEEN:

James Edward Sellars, Applicant

- and -

Minister of Transport, Respondent

**LEGISLATION:**

*subsections 202.13(2) and 602.77(1) of the Canadian Aviation Regulations, SOR/96 433, pursuant to section 7.7 of the Aeronautics Act, R.S.C., 1985, c. A-2*

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Review Determination  
Franco Pietracupa

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**Decision: May 16, 2013**

Citation: *Sellars v. Canada (Minister of Transport)*, 2013 TATCE 16 (Review)

Heard in Moncton, New Brunswick, on February 28, 2013

**REVIEW DETERMINATION AND REASONS**

**Held: Count 1:** The Minister has proven, on the balance of probabilities, that the Applicant, James Edward Sellars, contravened subsection 602.77(1) of the *Canadian Aviation Regulations*. As such, the monetary penalty of \$250 is upheld.

**Count 2 and Count 3:** The Minister has proven, on the balance of probabilities, that the Applicant, James Edward Sellars, contravened subsection 202.13(2) of the *Canadian Aviation Regulations*. The monetary penalty of \$1 000 for each count is upheld, for a total penalty of \$2 000.

The total amount of \$2 250 is payable to the Receiver General for Canada and must be received by the Transportation Appeal Tribunal of Canada within thirty-five (35) days of service of this Determination.

## I. BACKGROUND

[1] The Minister of Transport (Minister) issued a Notice of Assessment of Monetary Penalty (Notice) to the Applicant, James Edward Sellars, on June 4, 2012, pursuant to section 7.7 of the *Aeronautics Act*, R.S.C. 1985, c. A-2 (*Act*), with respect to alleged contraventions of subsections 202.13(2) and 602.77(1) of the *Canadian Aviation Regulations*, SOR/96-433 (*CARs*).

[2] Schedule A to the Notice sets out the charges as follows:

1. On or about June 21, 2011, you, James Edward Sellars, failed to close a flight plan from Havelock, NB to Cable Head airport, PEI, thereby contravening subsection 602.77(1) of the *Canadian Aviation Regulations*(*CARs*).

Monetary Penalty Assessed: \$250.00

2. On or about, June 21, 2011, at or near Havelock, NB to Cable Head airport, PEI, you operated an aircraft without registration in Canada, thereby contravening subsection 202.13(2) of the *Canadian Aviation Regulations*(*CARs*).

Monetary Penalty Assessed: \$1000.00

3. On or about, July 16, 2011, at or near Havelock, NB to Cable Head airport, PEI, you operated an aircraft without registration in Canada, thereby contravening subsection 202.13(2) of the *Canadian Aviation Regulations*(*CARs*).

Monetary Penalty Assessed: \$1000.00

Total Monetary Penalty Assessed: \$2250.00

[3] A Request for Review was filed with the Transportation Appeal Tribunal of Canada (Tribunal) on June 22, 2012. A Review Hearing on the matter was held in Moncton, New Brunswick (NB), on February 28, 2013.

## II. REGULATIONS

[4] Subsections 202.13(2) and 602.77(1) of the *CARs* read as follows:

### *Division II — Aircraft Registration*

#### **Registration of Aircraft — General**

**202.13(2)** Except as otherwise authorized under subsection 202.14(1) or 202.43(1), no person shall operate an aircraft in Canada unless it is registered in Canada, in a contracting state or in a foreign state that has an agreement in force with Canada that allows an aircraft that is registered in that foreign state to be operated in Canada.

[...]

#### Requirement to File an Arrival Report

**602.77(1)** Subject to subsections (3) and (4), a pilot-in-command of an aircraft who terminates a flight in respect of which a flight plan has been filed under subsection 602.75(1) shall ensure that an arrival report is filed with an air traffic control unit, a flight service station or a community aerodrome radio station as soon as practicable after landing but not later than

(a) the search and rescue action initiation time specified in the flight plan; or

(b) where no search and rescue action initiation time is specified in the flight plan, one hour after the last reported estimated time of arrival.

### **III. PRELIMINARY MOTION**

[5] On February 27, 2013, Mr. Sellars submitted a motion in writing to the Tribunal in which a specific statement of fact was raised. Upon further questioning and clarification from the Tribunal Member, both parties agreed on the following: that Mr. Sellars was the Pilot-In-Command (PIC) of aircraft N666RS, a Bellanca 17-30A, on June 21, 2011, and July 16, 2011. As well, the Minister provided clarifications and assurances to Mr. Sellars that the disclosure package sent to him by the Minister was necessary and required in order for the Applicant to mount a suitable defence.

### **IV. EVIDENCE**

#### **A. Minister**

##### **(1) *John Navaux***

[6] John Navaux is a retired Air Traffic Controller (ATC), a former Transport Canada Inspector, and is currently a Director and member of the Havelock Flying Club, NB. He testified that he is familiar with aircraft N666RS as it has been seen in Havelock for some time. He confirms having seen the aircraft attend various events at the airfield over the last two to three years, as well as having seen the aircraft hangared on numerous occasions.

[7] In further testimony, Mr. Navaux confirmed that Mr. Sellars is the owner of a hangar in Havelock.

[8] In cross-examination, Mr. Navaux was asked if he could confirm that aircraft N666RS was permanently based in Havelock during the time period in question of two to three years. He responded that he could not confirm this fact.

##### **(2) *Christian Allain***

[9] Christian Allain is a Civil Aviation Safety Inspector with Transport Canada based in Moncton, NB. He was assigned to conduct an investigation regarding the allegations levied against Mr. Sellars. He testified that a Canadian Aviation Daily Occurrence Report (CADOR) was generated on June 22, 2011 (Exhibit M-2), following the failure to close a Visual Flight Rules (VFR) flight plan by the PIC of aircraft N666RS. The flight plan was filed by the aircraft on June 21, 2011, and indicated that it was to undertake a VFR flight from Havelock, NB to Cable Head Airpark, Prince Edward Island (PEI). After the aircraft had not arrived at its estimated time and a waiting period of 60 minutes had been observed as required by the aircraft's flight plan, a Communications Search (Comsearch) was initiated for the aircraft. The aircraft and pilot were eventually located by the Royal Canadian Mounted Police (RCMP) in Cable Head Airpark. The pilot then advised the RCMP that he had omitted to close the flight plan.

[10] Following the review of the CADOR, Mr. Allain testified that a request for the ATC flight audio recording was initiated. Furthermore, a letter dated December 12, 2011, in support of the investigation, was sent from him to Mr. Sellars (Exhibit M-3) requesting the aircraft documentation, as well as photocopies of the journey logbook title page, certificate of registration, and any other pertinent documentation. Mr. Sellars was advised in this letter that the information requested was to be submitted on a voluntary basis and was not mandatory.

[11] Mr. Allain further testified that he requested the journey logbook pages relevant to the specific time period of August 27, 2008, to December 1, 2011. He confirmed that no documents were submitted by Mr. Sellars following this letter, nor at any time during the investigation.

[12] Mr. Allain also testified that Transport Canada sent a request for all pertinent information in regards to aircraft N666RS to the United States of America's (USA) Federal Aviation Administration (FAA). Among the documents Transport Canada received, was a letter dated April 23, 2010, sent by the FAA to Paladin Global Aviation Inc. (Paladin Global) in which the Agency issued a "Notice of Apparent Ineffectiveness of Certificate of Aircraft Registration for Civil Aircraft N666RS" (Exhibit M-7).

[13] Mr. Allain went on to explain that the letter stated that based on section 47.9(f) of the USA *Federal Aviation Regulations (FARs)*, the FAA informed Paladin Global that it was required to submit a six-month report in which the aircraft's total accumulated hours flown within the USA were indicated. The letter stated that as this report has not yet been received, the Agency cannot determine if the aircraft is based and primarily used in the USA and, as such, the registration appeared to be ineffective under section 47.41(a)(8)(ii) of the *FARs*.

[14] A second document brought to the Tribunal's attention by Mr. Allain was the Aircraft Registration Application (Exhibit M-7). Mr. Allain specifically testified to the section in which the name of the applicant for this certificate was, "Paladin Global Aviation Inc.", c/o Tom Witmer Aviation. In the second section further down on this form, Box (1) b. was ticked off indicating and certifying that the owner/operator was a non-citizen corporation organized and doing business under the laws of the State of Delaware, USA; that the aircraft was based and primarily used in the USA; and that any records or flight hours would be available for inspection at "Witmer Aviation, Pottstown, Pa". The Application was signed by "J. E. Sellars", President, and dated September 2, 2008.

[15] Mr. Allain testified that he contacted Mr. Sellars by telephone on November 2, 2011. Questions regarding the ownership, utilization and base of operations for N666RS were raised by Mr. Allain. He stated that Mr. Sellars informed him that he was not the owner of aircraft N666RS; that the aircraft is owned by a leasing company called Paladin Global, based in Delaware and was unaware that the Certificate of Registration had expired. He assured Mr. Allain that he would inform the leasing company of this fact. Mr. Allain went on to say that he was told that numerous pilots flew N666RS and that the aircraft, to Mr. Sellars's knowledge, was at this time in Pottstown.

[16] Mr. Allain initiated a second telephone call to Mr. Sellars on November 22, 2011. Mr. Allain explained that he was unable to communicate with Paladin Global, but had touched base with Mr. Witmer. Mr. Sellars reiterated that he was leasing the aircraft during the summer

from Paladin Global and that Mr. Witmer was responsible for the technical maintenance of the aircraft in the USA. Mr. Sellars was unable to provide any contact information in regards to Paladin Global. Mr. Allain informed Mr. Sellars that a witness had seen the aircraft in Havelock as of the week before and not in Pennsylvania as stated. Mr. Sellars replied that it had only returned to the USA a few days ago.

[17] Mr. Allain testified that Mr. Witmer informed him that he had only conducted a pre-buy inspection on N666RS a few years ago, and had not seen the aircraft since then, although he was still receiving correspondence for the aircraft on occasion.

[18] In cross-examination, Mr. Allain was asked if situations arise in which pilots forget to close their respective flight plans. He responded that it occurs on occasion. As well, Mr. Allain was asked if he has ever worked for the FAA; he replied that he has not.

[19] Further discussion centred on the documents sent by the FAA to Mr. Allain. A question was raised as to the date of the Aircraft Re-Registration Application form sent in by Paladin Global and signed by "J. E. Sellars" (Exhibit M-7). Mr. Allain confirmed that the date of the signature was August 31, 2011, thus prior to the expiry of the existing Certificate of Registration, which was stated as September 30, 2011 on the application.

[20] The issue of differences in the interpretation of terminology used by the FAA and Transport Canada was raised in cross-examination. Mr. Allain responded that he has not worked for the FAA and as such was not an expert regarding any differences in the interpretation of terminology used by the FAA and Transport Canada.

[21] In redirect examination, Mr. Allain explained that Mr. Witmer had not seen the aircraft N666RS since the pre-buy inspection which, based on the invoice (Exhibit M-8), would have been on August 26, 2008.

**(3) *Lloyd Taylor***

[22] Lloyd Taylor is the Superintendent of Aviation Enforcement for Transport Canada in Moncton. Mr. Taylor testified that he met with Mr. Sellars in May 2012 at the request of the Applicant. Mr. Taylor was asked if at this meeting Mr. Sellars was able to produce any of the requested documents that would have helped in the investigation. He replied that he was informed by Mr. Sellars that the aircraft had since been sold and no documents were available.

[23] Mr. Taylor stated that the discussion during the meeting centred on several facts regarding the relationship between Mr. Sellars and Paladin Global. Mr. Sellars did clarify that he was the sole person named under this company. Mr. Sellars also mentioned that he had received no mail correspondence between Mr. Witmer and himself with regards to Paladin Global, and was unaware of any requirements on his part to keep the Certificate of Registration valid, until he had heard this from Mr. Taylor.

[24] Mr. Taylor went on to testify that several questions were raised to Mr. Sellars regarding the required paperwork needed to maintain the validity of the Certificate of Registration. He stated that Mr. Sellars's response again centred on the fact that he had received no correspondence from either Mr. Witmer or the FAA, and was unaware of any.

[25] In cross-examination, Mr. Taylor was asked by the Applicant if it was possible that some correspondence may not have been received by him. Mr. Taylor replied that this could be possible.

## **B. Applicant**

### **(1) *James Edward Sellars***

[26] Regarding the first count in the Notice, James Edward Sellars testified that he in fact omitted to close his flight plan on June 21, 2011, but that it was unintentional. He went on to explain that there may have been confusion as to whether Air Traffic Services would close his flight plan, as is done in controlled airports. Secondly, he stated that the owner of the airfield Cable Head Airpark met him on arrival and proceeded to provide him with a tour of the facilities. That delay, and based on the fact that his cellphone had been turned off, created the situation that triggered the Comsearch for N666RS, approximately 60 minutes after it had landed.

[27] In response to the second and third counts regarding the allegedly expired Certificate of Registration, Mr. Sellars explained that Tom Witmer's address of business was to act as his drop-off mail centre for USA-based correspondence in relation to N666RS. He was unaware that mail being received there was not being forwarded to his address in Moncton.

[28] He went on to explain that when he was informed by Mr. Taylor that his Certificate of Registration was set to expire on September 30, 2011, he sent an Aircraft Re-Registration Application to the FAA on August 31, 2011. Mr. Sellars testified that he was informed by the FAA by way of letter on October 26, 2011, that since the Re-Registration Application had only been received by the FAA in October, after the expiry of the Certificate of Registration, he would now be obligated to re-apply under the Aircraft Registration Application form.

[29] Mr. Sellars also testified that he was given assurances via telephone from the FAA office in Oklahoma City, Oklahoma, USA, that his Certificate of Registration remained valid pending further information sent on his behalf. He mentioned that on the Aircraft Registration Application form signed by him on September 2, 2008 (Exhibit M-7), a note clearly specifies that pending receipt of the aircraft's Certificate of Registration, the aircraft may be operated for a period not in excess of 90 days.

[30] Mr. Sellars further specified that the aircraft operates in the USA during the winter and only operates in Canada during the summer months. He also went on to clarify that the aircraft has been in Canada over the winter due to weather and would make its way back to the USA in the early spring. He confirmed that the aircraft has yet to be sold.

[31] In cross-examination, Mr. Sellars admitted to being the PIC of N666RS, and to not closing his flight plan on arrival in Cable Head.

[32] The Minister asked Mr. Sellars if he had any documentation on him with respect to N666RS's journey logbook so as to verify how many hours the aircraft flies in Canada versus the USA; the response was "no". Mr. Sellars went on to say that flight legs flown by the aircraft in the USA were flown by USA pilots. This was completed in a non-monetary fashion as the

aircraft was simply lent to the pilots. He also confirmed that he does not have an FAA pilot licence.

[33] Mr. Sellars was asked if he received any correspondence from Mr. Witmer during the period of August/September 2008 to May 2011. He stated that none was sent to him even though he had spoken to Mr. Witmer on numerous occasions during this period. Mr. Sellars clarified that he was only made aware of the requirements of submitting six-month flight activity reports to the FAA by Mr. Taylor in November 2011. Once made aware of this obligation, Mr. Sellars explained that he proceeded to contact the FAA in order to receive all mail correspondence at his address in Canada.

[34] The location of the aircraft over the past two to three years was also raised by the Minister. Some confusion as to its location during the winter was highlighted. Mr. Sellars confirmed that for the 2012-2013 winter season the aircraft remained in Canada and would not meet the FAA criteria that was issued under the Certificate of Registration for non-citizens of the USA. Mr. Sellars also confirmed that the signature on the initial Aircraft Registration Application for N666RS, dated September 2, 2008, was his. He also confirmed that he had understood the requirements under the *FARs* for the need to have the aircraft fly 60 per cent of its hours primarily in the USA.

## **V. ARGUMENTS**

### **A. Minister**

[35] Concerning the first count, the Minister argues that the PIC for N666RS, Mr. Sellars, acknowledged that he did not close the flight plan within one hour after landing (as indicated in the plan) as required by subsection 602.77(1) of the *CARs*. The Minister argues that testimony from the Applicant, as well as his lack of grasp of the seriousness of this oversight, must be taken in consideration. Responsibility rests with the PIC and not with any other Flight Support Services.

[36] As to the second and third counts, the Minister argues that the requirements to maintain the validity of the Certificate of Registration hinged on the need for the aircraft to be based primarily in the USA; this provision was never met. Although he had a voluntary option to provide documentation to Transport Canada in order to clarify this required condition, the Applicant did not provide any. Furthermore, the requirement to provide a six-month activity report to the FAA, as stated in section 47.9 of the *FARs*, was never met until such time as Mr. Sellars was finally made aware of this by Transport Canada during the course of the investigation.

[37] As well, issues regarding the ownership and location of the aircraft during the period of September 2008 to May 2011 remain unclear. The Minister maintains that Mr. Sellars' testimony was conflicting as to the owner and operator of N666RS. Mr. Sellars' responses to questioning early on in his testimony led the Minister to believe that Mr. Sellars would need to contact Paladin Global in order to respond to certain allegations; yet further in testimony, Mr. Sellars testified that this USA company is in fact identified under one person: himself. This fact, along with the lack of documentary support, did not help matters. The Minister argues that he has

proven, on the balance of probabilities, that N666RS does not appear to have flown frequently in the USA, and since no six-month reports were ever submitted, the Certificate of Registration was rendered invalid. Finally, the Minister argues that the fines levied are based on Transport Canada's first level guidelines, and have been applied properly.

## **B. Applicant**

[38] Concerning the first count, the Applicant admits that he testified that he did not close his flight plan as required by the *CARs*. He argues that when flying into controlled airports, this service is offered and provided to him by Flight Support Services. He argues that this is a frequent occurrence within the industry, and that this was simply an oversight on his part. He agrees with the Minister as to the seriousness of this oversight, and did apologize for this mishap.

[39] Mr. Sellars goes on to explain that the second and third counts are without merit. The expiration date of the Certificate of Registration is September 30, 2011, which was valid on the dates that the two charges are alleged to have taken place (June 21, 2011 and July 16, 2011). He also argues that in telephone discussions with the FAA, he was never told the certificate was invalid. The need to submit a six-month activity report was understood by him after having been brought to his attention and he has adhered to this since. Again, from his discussion with the FAA, he agrees that this additional information report was omitted though required; however, in his opinion, this did not render the Certificate of Registration invalid. Mr. Sellars argues that in accordance with this certificate a 90-day window after expiry is also available, thus making the certificate valid until November or December 2011.

[40] The Applicant argues that all necessary steps had been taken with Mr. Witmer as to having documentations forwarded to him, but although some mail was sent, no FAA documents were ever forwarded to his attention until this issue with Transport Canada came to light.

## **C. Minister's Reply**

[41] The Minister submits that the responsibility for closing a VFR flight plan rests solely with the PIC. As to the date of validity on the aircraft's Certificate of Registration, the Minister reiterated that a separate requirement in the *FARs* must be met in order for this date to remain valid. When this requirement is not met, it renders such a certificate invalid. Its use and effectiveness depends on the other criteria and requirements being met.

# **VI. ANALYSIS**

## **A. Count 1: Subsection 602.77(1) of the *CARs***

[42] The Tribunal Member must decide whether the Minister has proven, on the balance of probabilities, that Mr. Sellars contravened subsection 602.77(1) of the *CARs*, which, as indicated above, specifies as follows:

**602.77(1)** Subject to subsections (3) and (4), a pilot-in-command of an aircraft who terminates a flight in respect of which a flight plan has been filed under subsection 602.75(1) shall ensure that an arrival report is filed with an air traffic control unit, a flight service station or a community aerodrome radio station as soon as practicable after landing but not later than



- (a) the search and rescue action initiation time specified in the flight plan; or
- (b) where no search and rescue action initiation time is specified in the flight plan, one hour after the last reported estimated time of arrival.

[43] Since monetary penalties assessed under section 7.7 of the *Act* are for strict liability offences, the Minister only has to demonstrate that the contravention has occurred. There is no real dispute by Mr. Sellars that he filed a VFR flight plan on June 21, 2011, from Havelock, NB to Cable Head, PEI, as he agreed to this in *viva voce* testimony. Mr. Sellars also admitted under oath that he omitted to close his flight plan on arrival. Although the Applicant argued that this service is normally offered to him at controlled airports and that this may have played a part in his omission to call the Flight Service Centre to close the flight plan, the facts presented by the Minister and the testimony given by both Mr. Allain and Mr. Sellars himself, clearly indicate to the Tribunal Member that the Minister has proven this allegation on the balance of probabilities.

## **B. Counts 2 and 3: Subsection 202.13(2) of the CARs**

[44] In my view, the Minister has proven, on the balance of probabilities, that Mr. Sellars contravened subsection 202.13(2) of the *CARs* on June 21, 2011, and on July 16, 2011.

[45] In his testimony, Mr. Sellars explained that from the time of his purchase of the Bellanca 17-30A, until he was advised by Transport Canada during the investigation of the alleged offences in November 2011, all pertinent mail information regarding this aircraft was to be sent to him from a USA location by Mr. Witmer. Since little correspondence was forwarded to his attention and, based on his testimony, no FAA mail or letters, he was unaware that any issues regarding eligibility existed with his FAA Certificate of Registration.

[46] He testified that when he contacted the FAA office in Oklahoma City, he was told that the certificate was still valid until its expiry date of September 30, 2011. Based on this information, the Applicant assumed the certificate was in order and proceeded to inform the FAA to now direct his correspondence to his Canadian mailing address; and furthermore, advised the FAA that he would now be sending the activity reports as required under section 47.9 of the *FARs*.

[47] With that said, it is my view that the Applicant did not meet the accompanying requirements to maintain the validity of his Certificate of Registration during the period in which it was issued, that is from May 14, 2009, to September 30, 2011. Two critical pre-conditions in the continuing eligibility of the aircraft's certificate were not complied with, and no evidence provided to that effect was presented to the Tribunal to indicate the contrary. These conditions are the ones that the FAA indicated had not been met: that the aircraft be used primarily in the USA; and that the Applicant provide six-month reports.

### **(1) Aircraft Registration Application (Exhibit M-7)**

[48] Mr. Sellars confirmed that he is the sole person registered or operating under Paladin Global. He also confirmed that the signature in the Aircraft Registration Application form is his. Section 2 of this form is clearly ticked off and states: "A non-citizen corporation organized and doing business under the laws of (state) Delaware and said aircraft is based and primarily used in the United States". Testimony from Mr. Sellars confirmed that this was not the case, specifically

during the period of August 2011 to the date of the Hearing. Mr. Sellars has the right not to provide any evidence in regards to the aircraft's base of operations and/or hours flown, but, in relying on what was presented in evidence and on what was heard through testimony, the Tribunal Member has no other choice but to agree that this condition was not met. The Minister's documentary evidence indicates several time periods, from the Aircraft Registration Application, dated September 2, 2008, until the Aircraft Re-Registration Application sent by Mr. Sellars on August 31, 2011, during which time the exact location of the aircraft could not be confirmed. Mr. Sellars collaborated some of these facts in testifying as to the uncertain location of the aircraft during this timeframe.

**(2) *Notice of Apparent Ineffectiveness of Certificate of Aircraft Registration for Civil Aircraft N666RS (Exhibit M-7)***

[49] It is the Tribunal Member's view that this correspondence, submitted into evidence by the Minister, between the FAA and Paladin Global, demonstrates the non-compliance of Mr. Sellars in properly maintaining a valid registration for N666RS. Dated April 23, 2010, it informs Paladin Global (Mr. Sellars) that the continued eligibility of the certificate, issued and based on section 47.9 of the *FARs*, is to be predicated under the obligation that Paladin Global submit to the FAA Aircraft Registry office, a six-month report which shows the accumulated total hours flown by the aircraft within the USA during that period. In determining compliance with this section of the *FARs*, the operator/owner must submit these reports every six months during the period of validity of the Certificate, which in this case would be until September 30, 2011. I would add as well, that this requirement is clearly indicated under section 47.9 of the *FARs*. The letter goes on to state that the FAA has not received any report to date and, as such, the FAA is unable to determine that the aircraft is based and primarily used in the USA. Accordingly, the registration appears to be ineffective under this section.

[50] The Applicant's explanation is centred on the fact that he had relied on Mr. Witmer's services in forwarding any correspondence regarding N666RS to his attention. Mr. Allain testified that in his investigation he did call Mr. Witmer. Mr. Witmer confirms that he conducted a pre-buy inspection on the aircraft in late August 2008, then did not see the aircraft again, although he may have received some mail on occasion for N666RS. Other than testimony from Mr. Sellars in regards to this agreement with Mr. Witmer, no other documentary evidence was submitted to the Tribunal on this point. Telephone communications with the FAA offices in the USA were also discussed, but with little collaborative evidence.

[51] With that said, I believe that Mr. Sellars has a duty to comply with all required pre-conditions laid forth in the issuance and maintenance of the eligibility of the Certificate of Registration as agreed to by him when he applied for this registration. In my view, Mr. Sellars is synonymous with Paladin Global, acting as President and testifying to his status as President as well. The Tribunal has evidence to the fact that Mr. Sellars, in signature and under the title of President of Paladin Global, purchased N666RS on August 27, 2008, applied for an aircraft registration for N666RS on September 2, 2008, and applied for a re-registration for N666RS on August 31, 2011. In my view, to simply state that a third party had the responsibility to forward any required correspondence and mail to him is neither acceptable nor prudent. Add to this the fact that no written or oral evidence about this agreement was submitted to the Tribunal during this Review Hearing. Ultimately, the responsibility rested with the owner/operator of N666RS to

adhere to the conditions set forth in the Certificate of Registration when he applied for and received issuance of it. In not maintaining the required reporting agreement in order to keep this certificate valid, it is my view that it became ineffective when Mr. Sellars did not send the required reporting forms to the FAA, thus contravening subsection 202.13(2) of the *CARs*.

## **VII. DETERMINATION**

[52] **Count 1:** The Minister has proven, on the balance of probabilities, that the Applicant, James Edward Sellars, contravened subsection 602.77(1) of the *Canadian Aviation Regulations*. As such, the monetary penalty of \$250 is upheld.

[53] **Count 2 and Count 3:** The Minister has proven, on the balance of probabilities, that the Applicant, James Edward Sellars, contravened subsection 202.13(2) of the *Canadian Aviation Regulations*. The monetary penalty of \$1 000 for each count is upheld, for a total penalty of \$2000.

May 16, 2013

(Original signed)

Franco Pietracupa

Member