

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :
 :
 v. : **CRIMINAL NO. 12-394**
 :
JOEL STOUT :

GOVERNMENT'S CHANGE OF PLEA MEMORANDUM

I. INTRODUCTION

Defendant Joel Stout is charged in seven counts of a 29-count indictment with conspiracy to commit fraud (one count) and mail fraud (six counts), in violation of 18 U.S.C. §§ 371, 1341. The conspiracy and mail fraud scheme occurred from October 2006 through October 2009. There is no plea agreement in this matter, and the defendant is entering an open guilty plea.

II. STATUTES CHARGED AND ELEMENTS OF THE OFFENSES

A. Conspiracy to commit fraud concerning aircraft parts, and mail and wire fraud (Count One)

To prove conspiracy to commit fraud in violation of 18 U.S.C. § 371 the government must prove the following elements:

1. That the defendant knowingly entered into an agreement with another person to commit fraud, and
2. That one or more persons did an overt act to effect the object of the conspiracy

The objects of the conspiracy alleged in the indictment are fraud concerning aircraft parts, mail fraud and wire fraud. Fraud concerning aircraft parts, in violation of 18 U.S.C. § 38(a)(1), includes the following elements:

1. The defendant falsified or concealed a fact, made a fraudulent representation or made or used a false writing;
2. The defendant knew the falsified or concealed a fact, fraudulent

- representation or false writing contained a false statement or entry at the time he made or used it;
3. the falsified or concealed a fact, fraudulent representation or false writing was material;
 4. he made or used the falsified or concealed fact, fraudulent representation or false writing with the intent to defraud; and
 5. the falsified or concealed fact, fraudulent representation or false writing concerned aircraft parts in or affecting interstate commerce.

Mail fraud, in violation of 18 U.S.C. § 1341, contains the following essential elements:

1. the defendant knowingly devised or participated in a scheme to defraud or to obtain money or property by materially false or fraudulent pretenses, representations or promises;
2. the defendant acted with the specific intent to defraud;
3. in advancing, furthering, or carrying out the scheme, the defendant caused an article to be mailed.

Wire fraud, in violation of 18 U.S.C. § 1343, contains the following essential elements:

1. defendant knowingly devised or participated in a scheme to defraud or to obtain money or property by materially false or fraudulent pretenses, representations or promises;
2. the defendant acted with the specific intent to defraud;
3. in advancing, furthering, or carrying out the scheme, the defendant caused to be transmitted by means of wire in interstate commerce writings, signs and signals.

B. Mail Fraud (Counts 15 through 20)

To prove mail fraud in violation of 18 U.S.C. § 1341, the government must prove the following essential elements beyond a reasonable doubt:

1. the defendant knowingly devised or participated in a scheme to defraud or to obtain money or property by materially false or fraudulent pretenses, representations or promises;
2. the defendant acted with the specific intent to defraud;
3. in advancing, furthering, or carrying out the scheme, the defendant caused

an article to be mailed.

III. MAXIMUM PENALTIES

The statutory maximum sentence for a violation of 18 U.S.C. § 371 (conspiracy to make false statements) is 5 years imprisonment, up to 3 years supervised release, a \$250,000 fine and a \$100 special assessment.

The statutory maximum sentence for each of the six charged violations of 18 U.S.C. § 1341 is 20 years imprisonment, 3 years supervised release, a \$250,000 fine, and a \$100 special assessment, as well as restitution to be determined by the court.

The total statutory maximum sentence which can be imposed by the Court is 125 years imprisonment, 3 years supervised release, a \$1,750,000 fine, and a \$700 special assessment, plus restitution.

The defendant further understands that supervised release may be revoked if its terms and conditions are violated. When supervised release is revoked, the original term of imprisonment may be increased by up to 2 years for each count of conviction, or a total of 14 years. Thus, a violation of supervised release increases the possible period of incarceration and makes it possible that the defendant will have to serve the original sentence, plus a substantial additional period, without credit for time already spent on supervised release.

IV. FACTUAL BASIS FOR THE PLEA

Flying Tigers, Inc. (hereafter “Flying Tigers”) was an aircraft maintenance business started by Gilbert Stout in 1975. After many years of operating the business, Gilbert Stout passed it on to his son Jay Stout, who, along with Jay’s son Joel Stout, operated Flying Tigers out of the Donegal Springs Airpark, 186 Airport Road, Marietta, PA, a small private

airport in the Eastern District of Pennsylvania.

The Federal Aviation Administration (FAA) requires that the mechanics who work on airplanes, and who certify that airplanes are fit for operation, be certified.¹ There are different levels of certification required for different types of activities. In order to perform certain mechanical work, an individual is required to have airframe and power plant certification (referred to as A&P). In order to certify the annual inspections of aircraft and engines, an A&P mechanic must also have inspection authority certification (referred to as IA).² All records of the general maintenance and annual inspections of each airplane are recorded in log books, required to be maintained by the airplane owner. Each airplane frame and engine has an individual log book with all maintenance and certification records. This allows the owner of the plane, the FAA or any potential buyer of an airplane to review the entire mechanical history of the frame and engines of the plane.

Jay Stout had been certified as an A&P mechanic with IA certification, but all his certifications were removed in 2003, following a series of hearings with the FAA. Therefore, for the entire period covered by the indictment in this matter, from 2003 to the present, Jay Stout was never certified as an A&P mechanic or as an IA.

Joel Stout has been a certified A&P mechanic since 2000. Joel Stout received his

¹ FAA regulations permit a company to operate as a certified repair station. After FAA review and evaluation, the FAA certifies the company to operate as a maintenance entity, and the company then authorizes people within the company to do the work. Flying Tigers has never been a certified repair station. Flying Tigers is a non-certified maintenance facility, which relies on the certifications of the individual mechanics.

² To obtain IA certification, an individual must be an authorized A&P mechanic with three years of experience, and must then pass a test. The IA certification is valid for a number of years, and must be renewed prior to expiration in order to remain valid. If the IA certification is not renewed prior to expiration, the A&P mechanic must take and pass a new test.

IA certification in about January 2005, but the defendant failed to renew his certification, which expired on March 31, 2006, and has never since been reinstated. As a result, from on or about March 31, 2006 to the present, defendant Joel Stout was authorized to perform certain maintenance or repairs on aircraft, but was not authorized to certify the annual inspections of aircraft.

In late 2004, Flying Tigers employed Brian Cavada, a fully certified A&P mechanic with Inspection Authority. Cavada oversaw the mechanical work performed at Flying Tigers, performed the annual inspections and certified those inspections in the aircraft and engine log books. Cavada worked for Flying Tigers through November 2006 in a full time capacity, and remained as a part time employee through the end of January 2007.

Agents obtained log books for airplanes worked on by Flying Tigers, and discovered numerous certifications for annual inspections performed by Flying Tigers in 2007 that bore the signature of Brian Cavada. Cavada confirmed that he had not performed the annual inspections, and that the signatures were forgeries. Agents also recovered numerous log books for airplanes without certifications for annual inspections, although invoices that Flying Tigers issued to the owners of those aircraft reflected that annual inspections had been completed.

The government would show that Flying Tigers performed annual inspections on aircraft, despite the absence of a certified mechanic with inspection authority. In order to conceal the absence of an IA, Flying Tigers, Jay Stout and Joel Stout did one of several things: they did not fill out the aircraft and engine log books at all, leaving no written record of the inspections, although they billed customers for the inspections; they forged Brian Cavada's name as having performed the annual inspections on numerous airplanes on behalf of Flying Tigers;

they arranged for Howard Gunter, a retired FAA examiner, to sign off annual inspections in log books on behalf of Flying Tigers, despite the fact that Gunter did not perform the inspections; or they placed their own names in the log books as the authorized individual certifying the annual inspection on behalf of Flying Tigers, even though neither was authorized to do so.

Throughout this period, Flying Tigers billed its customers for annual inspections of their aircraft, although the inspection itself was not performed by a certified mechanic or authorized. Joel Stout briefly worked for another airplane mechanic company in 2006, but returned to Flying Tigers in September 2006. When he returned, he resumed the responsibility of preparing invoices. Invoices were generally mailed to customers by Flying Tigers office staff, at the direction of Joel Stout. Customers sent their payment to Flying Tigers by check or wire, with the money deposited into the Flying Tigers bank account at Union National Community Bank in Mount Joy, PA.

In mid- to late- 2007, federal investigators began asking airplane owners for the log books of airplanes worked on by Flying Tigers. Some airplane owners contacted Jay Stout at Flying Tigers and asked him to review the log books to make sure they were accurate. Several of the logs books that were returned to owners bore signs of changes made to the books, by way of pages cut out, or covered up with additional stickers. In other cases, Flying Tigers told the airplane owners their original log books were “lost” and provided recreated log books.

Flying Tigers customers believed that Jay and Joel Stout were authorized to make all repairs and inspections of their aircraft. The airplane owners allowed the log books for their airplanes to remain in Flying Tigers custody. When customers asked Flying Tigers for their log books, they either did not receive log books, were given log books with unsigned annual

inspection certifications, or received 'reconstructed log books' with an explanation that the originals were lost. Some of those originals were recovered during May 2008 searches at Flying Tigers and at the home of Joel Stout.

Joel Stout was interviewed by Department of Transportation Office of Inspector General Special Agent Robert Brautigam on May 22, 2008 and November 25, 2009. Stout identified himself as the head mechanic at Flying Tigers, responsible for the day to day aircraft repairs at the business. He admitted losing his IA authority on March 31, 2006. Joel Stout admitted that on five occasions, he signed Brian Cavada's name to annual inspection certifications, explaining that his father told him that Cavada performed the inspections but was not around to sign the certifications. He was specific about one particular annual inspection that he signed, and believed the other four were around the same time. He admitted that he performed annual inspections for Flying Tigers customers even though he was no longer certified to perform them, and then prepared log book entries for those annual inspections as though Howard Gunter had performed them. When Gunter came to Flying Tigers, he simply signed off on the certifications. Joel Stout also acknowledged that after learning of the federal investigation, Jay Stout started to recreate log books to hide the fact that the original log books contained false log entries. Jay Stout would destroy the original log book which contained false entries, and Joel Stout recreated log book entries in the computer and gave those entries to Jay Stout. This destruction and recreation of log books took place while the fraud scheme continued.

The government would present documentary evidence in this matter. The airplane and engine log books were obtained from airplane owners, as well as recovered in the May 2008 search of Flying Tigers and at the home of Joel Stout. The log books contain entries

showing the following:

Airplane N201EF³ received an annual inspection at Flying Tigers on December 22, 2006. The log certifying the inspection in the propeller log for the aircraft bears the name of Joel Stout, although Joel Stout was not authorized to perform this inspection, having lost his certification on March 31, 2006. Notably, the airframe log for this same plane contains a February 11, 2004 annual inspection certified by Joel Stout, which is 10 months before Joel Stout became qualified to certify annual inspections.

The government would present evidence, outlined below, proving that Jay Stout and Joel Stout performed and billed airplane owners for annual inspections of their aircraft, but did not record the annual inspection in the aircraft and engine log books. These annual inspections were not validly performed because the annual inspections were not certified by a person with inspection authority. For each of the following aircraft, the government would present an invoice mailed by Flying Tigers to the aircraft owner. Each invoice includes reference to an annual inspection performed on the aircraft or engine on the date included below. The log books for each of these airplanes and engines do not include any certifications for annual inspections on the dates for which Flying Tigers charged their customers.

Date	Aircraft Number
February 21, 2006	N46SD
July 11, 2006	N795GA
April 18, 2007	N31720
May 8, 2007	N46SD

³ Airplanes are identified by unique tail numbers.

June 14, 2007	N2714
July 16, 2007	N79388
July 31, 2007	N6552L
August 7, 2007	N6373L
September 2, 2007	N4874W
October 5, 2007	N56411
October 24, 2007	N28802
November 25, 2007	N140HR
July 11, 2008	N77XC
July 18, 2008	N795GA

For each of the airplanes listed in the chart below, the annual inspections certified on the given dates purport to have been certified by Brian Cavada, an A&P mechanic with IA authority, who formerly worked for Flying Tigers. Cavada would testify that he did not perform the annual inspections for these aircraft, and that he did not sign the log book with his name. For some of these annual inspections, the government would present the additional testimony of airplane owners or Flying Tigers employees who would testify that Brian Cavada was not present on the dates reflected in the log books. Each of these annual inspections contain the forged signature of Brian Cavada.

Date	Aircraft number	document
January 4, 2007	N52WP	aircraft, left engine and right engine log books
February 21, 2007	N38750	aircraft, left engine and right engine log books
March 1, 2007	N9131K	aircraft and engine log books
April 4, 2007	N555PX	aircraft, left engine and right

		engine log books
April 10, 2007	N442LB	aircraft and engine log books
June 8, 2007	N3005Z	aircraft and engine log books
July 7, 2007	N5TU	aircraft and engine log books
July 12, 2007	N55RR	aircraft, left engine and right engine log books
August 6, 2007	N6885U	engine log book
August 12, 2007	N786GA	aircraft, left engine and right engine log books
August 14, 2007	N8072J	aircraft, left engine and right engine log books
October 8, 2007	N106B	aircraft and engine log books

Many airplane owners kept their log books at Flying Tigers. When owners asked Flying Tigers for the books, owners were told that the books were ‘lost.’ In many cases, Flying Tigers ‘recreated’ log books for the owners. In other instances, plane owners asked Flying Tigers whether there was anything wrong with their log books. Flying Tigers often took the books back, then returned them to the owners with assurances that the books were fine. The following log books have missing pages, or certification stickers that are covered up or ripped out, as follows:

Date	Aircraft Number	Description
December 7, 2007	N7861Y	page removed from right engine log immediately before August 5, 2007 certification
December 7, 2007	N7861Y	replaced certification stickers into aircraft and left engine log books dated August 5, 2007
May 2, 2008	N1190G	recreated aircraft and engine log books, April 2000 through April 2008

January 24, 2008	N201EF	recreated aircraft log books, January 2000 through December 2006
January 24, 2008	N201EF	recreated engine log books, December 2006
Between May 23, 2008 and January 6, 2010	N6077T	recreated aircraft and engine log books, September 2005 through September 2008

Defendant Joel Stout's responsibility at Flying Tigers included the preparation of invoices for services performed by Flying Tigers. The invoices charged airplane owners for annual inspections that were not performed and certified by an authorized IA. These invoices include charges for annual inspections certified with forged "Brian Cavada" signatures, as well as others for which no written certification of the annual inspection signed by an IA was ever prepared. Each of these invoices was mailed to airplane owners at Joel Stout's direction. Following receipt of the invoices, the airplane owners paid Flying Tigers through check or wire payment made to Flying Tigers' bank account.

Date of invoice	Aircraft #	Amount paid
April 4, 2007	N555PX	\$4,416.18
April 10, 2007	N422LB	\$2,176.99
April 18, 2007	N31720	\$3,500.00
May 8, 2007	N46SD	\$6,378.34
June 14, 2007	N2714	\$3,270.33
July 12, 2007	N55RR	\$4,064.19
July 16, 2007	N79388	\$2,601.68
August 6, 2007	N6885U	\$2,918.03
August 12, 2007	N786GA	\$3,012.12
August 14, 2007	N8072J	\$4,242.26

August 25, 2007	N67TP	\$2,300.00
August 25, 2007	N67TP	\$282.35
September 2, 2007	N4874W	\$26,000.00
October 5, 2007	N56411	\$6,194.35

Respectfully submitted,
ZANE DAVID MEMEGER
United States Attorney

RICHARD A. LLORET
Assistant United States Attorney
Chief, Health Care Fraud and Government Fraud

ARLENE D. FISK
Assistant United States Attorney

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Government's Change of Plea Memorandum was served upon the following by e-mail and U.S. mail:

Anna M. Durbin, Esq.
50 Rittenhouse Place
Ardmore, PA 19003

ARLENE D. FISK
Assistant United States Attorney

Dated: