

# FOIA MARKER

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**Collection/Record Group:** Clinton Presidential Records

**Subgroup/Office of Origin:** Public Liaison

**Series/Staff Member:** Suzanna Valdez

**Subseries:**

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**OA/ID Number:** 9446

**FolderID:**

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**Folder Title:**

Cuba File 1996 [Binder 1] [4]

**Stack:**

**S**

**Row:**

**30**

**Section:**

**5**

**Shelf:**

**6**

**Position:**

**2**

U.S. Department  
of Transportation

Federal Aviation  
Administration

**MAY 16 1996**

Office of the Assistant Chief Counsel  
Southern Region at Orlando, Florida  
9677 Tradeport Drive, Suite 160  
Orlando, Florida 32827-6367  
Telephone: (407) 844-8818  
Facsimile: (407) 844-8844

**CERTIFIED - RETURN RECEIPT REQUESTED**  
**and FEDERAL EXPRESS**

9580190142  
9680190076

Mr. Jose Basulto  
5790 SW 84th Street  
Miami, Florida 33143-8218

**EMERGENCY ORDER OF REVOCATION**

The Administrator has determined that safety in air commerce or air transportation and the public interest require the immediate revocation of your Commercial Pilot certificate. Therefore, the following constitutes an Emergency Order of Revocation:

1. At all times material herein you were and are now the holder of Commercial Pilot Certificate No. 002122405.
2. On or about July 11, 1995, representatives of the Miami Flight Standards District Office, Federal Aviation Administration (FAA), met with you, in your capacity as President of the Brothers to the Rescue, Inc. (BTR), and advised you of the potential serious consequences of unauthorized entry into Cuban territorial airspace. The FAA representatives also advised you that any violations of the Federal Aviation Regulations (FAR) or international regulations would be vigorously investigated. (The Cuban Government had alleged that aircraft N2506, registered to BTR, had operated into Cuban airspace without authorization on June 1, 1995).
3. On or about July 13, 1995, you operated civil aircraft N2506, a Cessna 337, the property of another, on a passenger-carrying flight departing from Opa Locka Airport, Miami, Florida, on a DVFR flight plan.
4. During the course of said flight you operated civil aircraft N2506 into the territorial airspace of the Republic of Cuba.
5. During the course of said flight you operated civil aircraft N2506 into the Havana, Cuba, Terminal Control Zone.
6. During the course of said flight you operated civil aircraft N2506 into Prohibited Area MUP1 of the Republic of Cuba.

7. At all times mentioned herein, the areas described in paragraphs 4, 5, and 6 above were either restricted areas or prohibited areas of the Republic of Cuba, as defined in Cuban Law 1318: LEY 1318 - ORGANIZACION, PLANIFICACION Y CONTROL DE LOS VUELOS SOBRE EL TERRITORIO Y REGION DE INFORMACION DE VUELO DE LA REPUBLICA DE CUBA (Cuban Law 1318) and REGLAMENTO DE LA LEY 1318 DE 1976 (Cuban Law 1318 of 1976). Specifically, Cuban Law 1318 and Cuban Law 1318 of 1976 define the terms Prohibited Area and Restricted Area as follows:

a. PROHIBITED AREA - Airspace of defined dimensions over the territory or waters which are under the jurisdiction of a State, within which the flight of aircraft is prohibited.

b. RESTRICTED AREA - Airspace of defined dimensions over the territory or waters which are under the jurisdiction of a State, within which the flight of aircraft is restricted in accordance with specific conditions established.

8. At the time of your operation of N2506 as described in paragraphs 3, 4, 5, and 6, you did not have authorization from the Cuban government air traffic control authority for entry into, and operation within, that airspace. Unauthorized entry into, and operation within this airspace is contrary to, and in violation of, Law 1218 of the Republic of Cuba, LEY 1218, REGLAMENTO DE SOBREVUELO AL TERRITORIO NACIONAL (Cuban Law 1218), Articles 3, 5, and 14, Cuban Law 1318, Articles 10 and 14, and Cuban Law 1318 of 1976, Articles 7 and 25.

9. On or about August 29, 1995, the U.S. Department of State issued a statement warning that entering Cuban territory, territorial waters or airspace without prior authorization from the Cuban government may cause one to be subject to arrest or other enforcement action by Cuban authorities. The statement also cited the July 14, 1995, statement in which Cuba warned "that any boat from abroad can be sunk and any airplane downed."

10. On or about August 29, 1995, you, and other members of the BTTR were advised again by representatives of the Miami Flight Standards District Office, FAA, of the potential serious consequences of unauthorized entry into Cuban airspace and that any violations of the FAR or international regulations would be vigorously investigated.

11. On August 31, 1995, the FAA issued a Notice of Proposed Certificate Action (Notice), proposing to suspend your airman certificate for 120 days for operating a U.S.-registered civil aircraft in the territorial airspace of the Republic of Cuba in violation of sections 91.703(a)(2), 91.703(a)(3), and 91.13(a) of the FAR.

12. The FAA, through the aforementioned Notice, placed you on further notice that unauthorized operation of U.S.-registered

civil aircraft in Cuban territorial airspace is in violation of the FAR.

13. On or about September 2, 1995, the Cuban government, in response to announced plans by BTTR to conduct flight activity near Cuba, again warned that it would force down or shoot down any airspace violators.

14. On or about October 18, 1995, the U.S. Department of State issued a statement advising BTTR "that if persons enter Cuban territory, territorial seas or airspace without authorization from the Cuban Government they may be subject to arrest or other enforcement action by Cuban authorities for violations of Cuban law. The Cuban Government has repeatedly asserted its determination to take actions it deems necessary, including the sinking of vessels and the downing of aircraft, to defend Cuban territorial sovereignty and to prevent unauthorized incursions into Cuban territorial waters and airspace."

15. On or about February 24, 1996, you operated civil aircraft N2506, a Cessna 337, the property of another, on a flight departing from Opa Locka Airport, Miami, Florida, on a DVFR flight plan.

16. During the course of said flight, you operated civil aircraft N2506 into the territorial airspace of the Republic of Cuba.

17. At all times mentioned herein, the area described in paragraph 16 above was either a restricted area or prohibited area of the Republic of Cuba, as defined in Cuban Law 1318 and Cuban Law 1318 of 1976.

18. At the time of your operation of civil aircraft N2506, as described in paragraphs 15, 16, and 17 above, you did not have authorization from the Cuban government air traffic control authority for entry into, and operation within, that airspace. Unauthorized entry into, and operation within this airspace is contrary to, and in violation of, Cuban Law 1318, Articles 3, 5, and 14, Cuban Law 1318, Articles 10 and 14, and Cuban Law 1318 of 1976, Articles 7 and 25.

19. During the course of your February 24, 1996, flight, as described in paragraphs 15 and 16 above, aircraft operated by the Republic of Cuba shot down two U. S.-registered civil aircraft, N24568 and N54858, which were being operated by pilots on behalf of BTTR.

20. Your operation of civil aircraft N2506, in the manner and under the circumstances described above, was careless or reckless so as to endanger the lives or property of others.

21. By reason of the foregoing, you have demonstrated that you lack the degree of care, judgment, and responsibility required of the holder of an airman certificate.

22. By reason of the foregoing, you have demonstrated that you lack the qualifications to be the holder of an airman certificate.

23. As a result of the foregoing facts and circumstances, you:

a. Violated Section 91.703(a)(2) of the Federal Aviation Regulations, in that you operated a civil aircraft of U.S. registry within a foreign country and you did not comply with the regulations relating to the flight and maneuver of aircraft there in force; in particular, you operated an aircraft in violation of the following regulations of the Republic of Cuba:

i. Law 1218 of the Republic of Cuba (LEY 1218 - REGLAMENTO DE SOBREVUELO AL TERRITORIO NACIONAL), Article 3 - Foreign civil aircraft may undertake overflights and effect landings for non-commercial purposes in the national territory under the provisions of any Treaty or Convention the Republic of Cuba may have signed, by means of the procedures referred to in Chapter III of this Law;

ii. Law 1218 of the Republic of Cuba, Article 5 - Overflights by foreign aircraft in the air space of the Republic of Cuba may only be effected in accordance with the corridors established by the Institute of Civil Aeronautics of Cuba and in compliance with standards and procedures the aforesaid institute may establish;

iii. Law 1218 of the Republic of Cuba, Article 14 - The overflights and landings for non-commercial purposes of foreign civil aircraft provided for in Article 3 may be undertaken only if a prior Certificate or Notification has been obtained. Certificates are permanent in nature so long as the conditions under which they were granted are maintained in effect and are only granted to regular international air services after compliance with the procedures set forth in this Chapter (III). Notifications are granted specifically for a specified number of non-regular flights and also for the realization of regular flights while the issuance of a certificate is pending;

iv. Law 1318 of the Republic of Cuba (LEY 1318 - ORGANIZACION, PLANIFICACION Y CONTROL DE LOS VUELOS SOBRE EL TERRITORIO Y REGION DE INFORMACION DE VUELO DE LA REPUBLICA DE CUBA), Article 10 - All flights over the air space and in the area under the air traffic control of the Republic of Cuba are to be undertaken in accordance with the characteristics of the flights, approved itineraries or prior authorizations;

v. Law 1318 of the Republic of Cuba, Article 14 - Overflights and flights of foreign aircraft toward or from the territory of the Republic of Cuba are to be undertaken only through established international corridors and airways;

vi. Law 1318 of 1976 of the Republic of Cuba (REGLAMENTO DE LA LEY 1318 DE 1976), Article 7 - The air space outside the routes and airways, zones of control and established national entry and exit procedures is considered restricted air space; special authorization for its utilization is therefore required from the National Center for Joint Flight Planning;

vii. Law 1318 of 1976 of the Republic of Cuba, Article 25 - All flights of foreign aircraft toward or from the territory of the Republic of Cuba, as well as overflights of Cuban air space, shall be undertaken only under an IFR [instrument flight rules] flight plan.

b. Section 91.703(a)(3) and Section 91.13(a) of the Federal Aviation Regulations, in that you operated a civil aircraft of U.S. registry within a foreign country in a careless or reckless manner so as to endanger the life or property of another.

c. Have demonstrated that you lack the care, judgment, and responsibility required of the holder of a commercial pilot certificate.

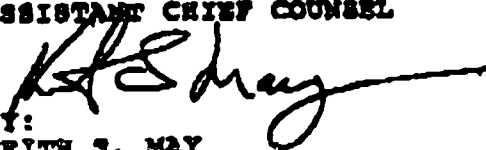
d. Have demonstrated that you lack the qualifications required of the holder of a commercial pilot certificate.

As a result of the foregoing, the Administrator has determined that safety in air commerce or air transportation and the public interest require the revocation of your Commercial Pilot certificate. The Administrator further finds that an emergency requiring immediate action exists in respect to safety in air commerce or air transportation and the public interest and, accordingly, this Order shall be effective immediately.

NOW, THEREFORE, IT IS ORDERED, pursuant to the authority vested in the Administrator by 49 U.S.C. Sections 44709 and 46105, that any and all airman certificates held by you including Commercial Pilot Certificate No. 002122405, be and hereby are, revoked. IT IS FURTHER ORDERED that said certificate(s) be surrendered to the undersigned immediately. NOTE: The allegations contained in the Notice of Proposed Certificate Action dated August 31, 1995, are hereby incorporated as modified into this Order, and any further processing of those allegations will be made as a part of this proceeding.

You may appeal from this Order in accordance with the paragraph below.

EDDIE L. THOMAS  
ASSISTANT CHIEF COUNSEL

  
BY:  
KEITH S. MAY  
Managing Attorney  
Office of the Assistant Chief Counsel  
Southern Region at Orlando, Florida

#### **APPEAL**

You may appeal from this Order within ten (10) days from the date it is served by filing an original and three copies of a Notice of Appeal with the Office of Judges, National Transportation Safety Board, Room 531, 5th Floor, 490 L'Enfant Plaza East, SW, Washington, D.C. 20594. An appeal must be filed within ten (10) days from the time of service of this Emergency Order. However, due to the fact that your Commercial Pilot certificate has been revoked on an emergency basis, the revocation will remain in effect during the pendency of any proceedings before the National Transportation Safety Board. Part 821 of the Board's Rules of Practice (49 CFR Part 821) applies to such an appeal. In the event you appeal, a duplication of your Notice of Appeal should be furnished to this office.

Whether or not you choose to appeal from the provisions of this order, you must surrender your Commercial Pilot certificate to Office of Assistant Chief Counsel, FAA, 9677 Tradeport Drive, Suite 160, Orlando, FL 32837, immediately.

In the event of an appeal to the NTSB, a copy of the Emergency Order will be filed with the NTSB and will serve as the Administrator's Complaint.

# C.A.M.P. 4 Justice

P.O. Box 14-4749 Coral Gables, FL 33114-4759

May 26, 1996

The Honorable William Clinton  
President of the United States of America  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Dear President Clinton:

On behalf of the Alejandro, Costa, de la Pena and Morales Families we would like to thank you for the time you spent with us during your visit to Miami. We greatly appreciate your concern and understanding of our grief at the loss of Armando, Carlos, Mario and Pablo following their murders at the hands of the Cuban Air Force on February 24, 1996.

At this time, however we find it necessary to bring to your attention a recent event that has given us cause for concern. The Federal Aviation Administration (FAA) has decided to revoke the license of Brothers to the Rescue (BTTR) pilot Jose Basulto. Although we respect the FAA's right to take this action and stand behind it if the charges are indeed true, we find very distressing the FAA's omission of key facts in its "Emergency Order of Revocation" (enclosed) and the dangerous ambiguity that results from it, as follows:

- (1) The FAA mentions several times that BTTR was warned about Cuba's threats and specifically the threat to shoot down any US aircraft violating its airspace (paragraph 14). The FAA fails to mention that such an action, when involving civilian aircraft, is illegal under international law. Such an omission serves to legitimize threats that have no legal basis. We agree that warning BTTR was more than appropriate, but it is a warning of a possible violent action by a hostile dictatorship, not one of a reasonable response by a civilized state. The distinction is important, and the FAA fails to make it.
- (2) In mentioning that Mr. Basulto flew into Cuban airspace on February 24, 1996, the FAA mentions the two BTTR aircraft that were shot down (paragraph 19). The FAA fails to mention that these aircraft never followed Mr. Basulto into Cuban airspace. Given the FAA's repeated mention of Cuba's threats to down any US aircraft entering its airspace, the uninformed reader is left to infer that the two downed planes did actually violate Cuban airspace. Your administration has consistently maintained that such a violation did not occur, but the FAA fails to make this clear.
- (3) The FAA also has seen fit somehow to find Mr. Basulto responsible for the deaths of our family members, stating that he "was careless or reckless so as to endanger the lives or property of others" (paragraph 20). Even if Mr. Basulto did indeed fly into Cuban airspace, we find it highly inappropriate for the FAA, or anybody else, to find anyone but the Cuban government responsible for the deaths of our relatives.

**Carlos, Armando, Mario, Pablo... we will never forget you**

The problems we have detailed here render the FAA's letter a potentially disastrous document, one that could be used against our quest for justice with great effectiveness if it were to find its way to the International Civilian Aeronautics Organization (ICAO), the United Nations, its Commission on Human Rights or an international court of law, just to name a few. We therefore request that the FAA's Order of Revocation be amended so as to correct the inaccuracies we have mentioned.

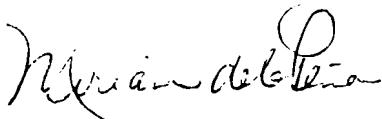
In addition, we strongly believe that no US government agency should make any statement or release any document regarding this incident that fails to make clear that the Republic of Cuba's downing of the two civilian aircraft which carried Armando, Carlos, Mario and Pablo was a barbaric and illegal act that occurred over international waters, for which the Republic of Cuba is solely responsible. Since this has consistently been your administration's position on the events of February 24, we feel that this is a very reasonable request. And we feel that our quest for justice needs to be accorded the priority it deserves.

Finally, we are requesting a briefing from the United States government of what really transpired on February 24. We are in the unenviable position of being in the middle, with little or no official information on this tragedy, and it is our dead who are clamoring for justice.

Sincerely,

  
Marlene Alejandre  
(Armando's widow)

  
Mirta Costa  
(Carlos' mother)

  
Miriam de la Pena  
(Mario's mother)

  
Eva Barba  
(Pablo's mother)

c: Madeleine Albright, US Ambassador to the United Nations  
Jose Basulto, Brothers to the Rescue  
Lincoln Diaz-Balart, US Representative - Florida  
Bob Graham, US Senator - Florida  
David Hinson, FAA, US Department of Transportation  
Harold Ickes, Deputy Chief of Staff  
Anthony Lake, National Security Advisor  
Connie Mack, US Senator - Florida  
Keith S. May, Managing Attorney, FAA  
Bob Menendez, US Representative - New Jersey  
Federico Pena, Secretary of Transportation  
Lula Rodriguez, United States Information Agency  
Ileana Ros-Lehtinen, US Representative - Florida  
Ray Ruga, Cuba Desk Officer, Department of Defense  
Eddie L. Thomas, Assistant Chief Counsel, FAA  
✓ Susana Valdez, Special Assistant to the President

Hr / Potus

**C O V E R**

**FAX**

**S H E E T**

**To:** Suzanna Valdes  
**Fax #:** (202) 456-6682 and 456-6218  
**Subject:**  
**Date:** June 6, 1996  
**Pages:** Fifteen, including this cover sheet.

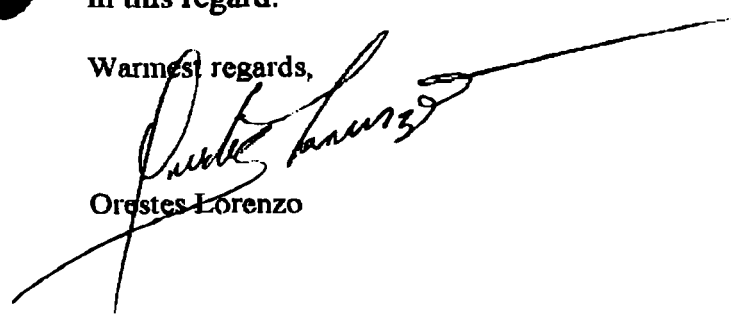
**COMMENTS:**

Dear Mrs. Valdes:

Included, please find a carbon copy of a letter to President Bill Clinton and the correspondent enclosures, which explain the subject.

I will deeply appreciate your intercession in whatever manner you may consider appropriate in this regard.

Warmest regards,

  
Orestes Lorenzo

From the desk of...

Orestes Lorenzo Perez

3150 Forest Breeze Way  
St. Cloud, FL 34771

(407) 957-8892  
Fax: (407) 957-8892

President Bill Clinton

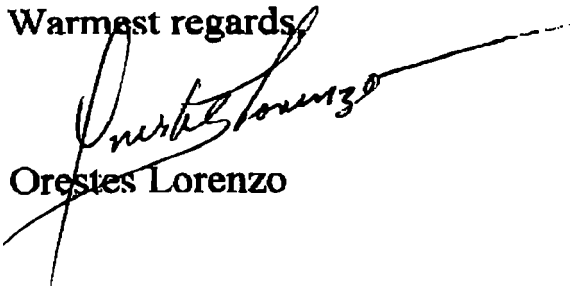
Page 2

June 6, 1996

3150 FOREST BREEZE WAY  
ST. CLOUD, FL 34771  
(407) 957-8892  
FAX: (407) 957-8892

Interests Section in Havana due to additional evidence my parents did not provide them.

Warmest regards,



Orestes Lorenzo

Enclosures:

Additional evidence to review the case.

Letter from Representative Ileana Ross-Lehtinen.

My letter to Mr. Joseph G. Sullivan.

Letter of response from Mr. Joseph G. Sullivan.

cc: The Honorable Janet Reno  
Attorney General  
Department of Justice  
Washington, D. C. 20530

Mr. Michael E. Ranneberger  
Department of State  
2201 C Street, North West  
Washington, D. C. 20520

The Honorable Leon Panetta  
White House Chief of Staff  
1600 Pennsylvania Avenue  
Washington, D. C. 20500

Mrs. Suzanna Valdes  
White House Office of Public Liason  
1600 Pennsylvania Avenue  
Washington, D. C. 20500

Mrs. Anna Patterson  
Department of State  
2201 C Street, North West  
Washington, D. C. 20520

Mr. Joseph Sullivan  
United States Interests Section  
Calzada entre L y M  
Vedado, Havana, Cuba.

Mr. Raymundo Ruga  
Country Director for Cuba  
2400 Defence, Pentagon  
Washington, D. C. 20301-2400

3159 FOREST BREEZE WAY  
ST. CLOUD, FL 34771  
(407) 957-8692  
FAX: (407) 957-8692

Orestes Lorenzo Perez  
3159 Forest Breeze Way  
St. Cloud, FL 34771

*fax Ray  
O/P Ruzo  
advise*

June 6, 1996

President Bill Clinton  
The White House  
1600 Pennsylvania Avenue  
Washington, D. C. 20500

Dear Mr. President:

Thank you very much for your personal intervention in reviewing my parents' case.

I still remember with great pride when, before your inauguration, my family and I were invited on your behalf by Mr. Thomason to walk with you and Mrs. Clinton across the Memorial Bridge. It was a gesture of yours that found a place in our hearts forever.

Included, please find all necessary information to reevaluate the case, which I believe, was rejected by consular officers at the United States

**TELEFAX MESSAGE**

**U.S. INFORMATION AGENCY  
301 4TH ST., SW - ROOM 255  
WASHINGTON, DC 20547  
PHONE (202/619-5217)  
FAX (202/205-0792)**

**FROM: LULA RODRIGUEZ, DIRECTOR  
OFFICE OF INTERNATIONAL VISITORS**

**DATE:** 6/12/96

**TO:**

Suzanna Valdez

**SUBJECT:**

Lula needs to discuss  
ASAP. Thanks.

• 06/11/96 TUE 18:13 FAX 202 456 2830

PUBLIC LIAISON

002  
001

06/11/96 18:52 202 267 3047

ADMINISTRATOR

--- NSC DEMOCRACY

done

Dear:

Gloria Valdez, White House Liaison

The Administrator has forwarded to me a copy of your letter concerning the Federal Aviation Administration's (FAA) emergency order revoking the pilot certificate of Jose Basulto. Please allow me to express my sympathy on the loss of your loved ones. Numerous officials of the United States Government have condemned the actions of the Cuban authorities in shooting down civil aircraft in international airspace. I share their outrage.

I have reviewed the order of revocation in light of your comments. The order was written <sup>that resulted in the loss of life of American citizens.</sup> simply for the purpose of presenting the allegations that support the certificate action ordered by the FAA. FAA's enforcement action against Mr. Basulto is based on the fact that he operated in Cuban airspace without authorization despite the numerous warnings of the potential danger involved in such flights and the official notification by the FAA that such operations are contrary to the Federal Aviation regulations. The revocation order is not intended as a document to address issues of wider concern. The unreasonableness and illegality under international law of the Cuban Government's actions are not ~~relevant~~ to the order of revocation. The position of the United States <sup>Legal</sup> Government with respect to such matters has been addressed in <sup>terms</sup> forums appropriate for that purpose. Our position is quite clear: The shootdown of the two unarmed civil aircraft in international airspace ~~is unacceptable and a violation of international law.~~

<sup>Connected</sup> <sup>must discuss</sup> <sup>Piloted by American citizens</sup> <sup>that shootdown</sup>  
In the revocation order, we did not mean to imply that the aircraft were in Cuban airspace. Rather, in the context of the warnings given, the fact that these aircraft were shot down <sup>in international airspace</sup> is a stark evidence of the dangers involved in the violations with which Mr. Basulto was charged.

Nor did we mean to expressly or impliedly convey the conclusion that the FAA holds Mr. Basulto responsible for the deaths of your family members. The U.S. Government holds the Cuban Government responsible for those deaths. Mr. Basulto is charged with operating an aircraft in a careless or reckless manner so as to endanger the aircraft he was operating and, more importantly, of the lives of the passengers aboard his aircraft. <sup>leave as is</sup>

I hope you find this information ~~helpful~~ <sup>clarifies</sup> <sup>that might have been</sup> <sup>misconception created by</sup>

Sincerely,

David R. Hinson  
Administrator

the order of revocation of Mr. Basulto's pilot license

**C.A.M.P. 4 Justice**

P.O. Box 14-4749 Coral Gables, FL 33114-4758

**FILE COPY**

May 26, 1996

The Honorable William Clinton  
President of the United States of America  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Dear President Clinton:

On behalf of the Alejandro, Costa, de la Pena and Morales Families we would like to thank you for the time you spent with us during your visit to Miami. We greatly appreciate your concern and understanding of our grief at the loss of Armando, Carlos, Mario and Pablo following their murders at the hands of the Cuban Air Force on February 24, 1996.

At this time, however we find it necessary to bring to your attention a recent event that has given us cause for concern. The Federal Aviation Administration (FAA) has decided to revoke the license of Brothers to the Rescue (BTTR) pilot Jose Basulto. Although we respect the FAA's right to take this action and stand behind it if the charges are indeed true, we find very distressing the FAA's omission of key facts in its "Emergency Order of Revocation" (enclosed) and the dangerous ambiguity that results from it, as follows:

- (1) The FAA mentions several times that BTTR was warned about Cuba's threats and specifically the threat to shoot down any US aircraft violating its airspace (paragraph 14). The FAA fails to mention that such an action, when involving civilian aircraft, is illegal under international law. Such an omission serves to legitimize threats that have no legal basis. We agree that warning BTTR was more than appropriate, but it is a warning of a possible violent action by a hostile dictatorship, not one of a reasonable response by a civilized state. The distinction is important, and the FAA fails to make it.
- (2) In mentioning that Mr. Basulto flew into Cuban airspace on February 24, 1996, the FAA mentions the two BTTR aircraft that were shot down (paragraph 19). The FAA fails to mention that these aircraft never followed Mr. Basulto into Cuban airspace. Given the FAA's repeated mention of Cuba's threats to down any US aircraft entering its airspace, the uninformed reader is left to infer that the two downed planes did actually violate Cuban airspace. Your administration has consistently maintained that such a violation did not occur, but the FAA fails to make this clear.
- (3) The FAA also has seen fit somehow to find Mr. Basulto responsible for the deaths of our family members, stating that he "was careless or reckless so as to endanger the lives or property of others" (paragraph 20). Even if Mr. Basulto did indeed fly into Cuban airspace, we find it highly inappropriate for the FAA, or anybody else, to find anyone but the Cuban government responsible for the deaths of our relatives.

**Carlos, Armando, Mario, Pablo... we will never forget you**



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

Office of the Administrator

800 Independence Ave., S.W.  
Washington, D.C. 20591

June 12, 1996

Dear Mses. Alejandre, de la Pena, Costa, and Barba:

The President has forwarded to me a copy of your letter concerning the Federal Aviation Administration's (FAA) emergency order revoking the pilot certificate of Jose Basulto. Please allow me to express my sympathy on the loss of your loved ones. Numerous officials of the United States Government have condemned the actions of the Cuban authorities in shooting down civil aircraft that resulted in the loss of life of American citizens in international airspace. I share their outrage.

I have reviewed the order of revocation in light of your comments. The order was written simply for the purpose of presenting the allegations that support the certificate action ordered by the FAA. FAA's enforcement action against Mr. Basulto is based on the fact that he operated in Cuban airspace without authorization despite the numerous warnings of the potential danger involved in such flights and the official notification by the FAA that such operations are contrary to the Federal Aviation Regulations. The revocation order is not intended nor is it appropriate to be used as a document to address issues of wider concern. The unreasonableness and illegality under international law of the Cuban Government's actions are not connected to the order of revocation. The position of the United States Government with respect to such matters has been addressed in legal terms in forums appropriate for that purpose. Our position is quite clear: The shootdown of the two unarmed civil aircraft piloted by Americans in international airspace is unacceptable and in violation of international law. I have attached Secretary Peña's opening statement at the council meeting of the International Civil Aviation Organization on this matter. I was a member of that delegation and can tell you that the Secretary clearly and eloquently made those points to the international community.

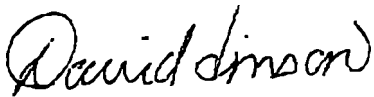
Indeed, a shootdown of unarmed civil aircraft, even if in Cuban airspace, would have been equally unlawful. In fact, our position has been clear from the start that the two aircraft shot down were not in Cuban airspace.

2

Nor did we mean to express or imply the conclusion that the FAA holds Mr. Basulto responsible for the deaths of your family members. The United States Government holds the Cuban Government responsible for those deaths.

I hope this information clarifies any misconception that might have been caused by the order of revocation issued to Mr. Basulto.

Sincerely,



David R. Hinson  
Administrator

Attachment

1. *SW*

# C.A.M.P. 4 Justice

P.O. Box 14-4749 Coral Gables, FL 33114-4759

COPY

G/20 copy sent,  
Herman, Berger

May 26, 1996

The Honorable William Clinton  
President of the United States of America  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Dear President Clinton:

On behalf of the Alejandro, Costa, de la Pena and Morales Families we would like to thank you for the time you spent with us during your visit to Miami. We greatly appreciate your concern and understanding of our grief at the loss of Armando, Carlos, Mario and Pablo following their murders at the hands of the Cuban Air Force on February 24, 1996.

At this time, however we find it necessary to bring to your attention a recent event that has given us cause for concern. The Federal Aviation Administration (FAA) has decided to revoke the license of Brothers to the Rescue (BTTR) pilot Jose Basulto. Although we respect the FAA's right to take this action and stand behind it if the charges are indeed true, we find very distressing the FAA's omission of key facts in its "Emergency Order of Revocation" (enclosed) and the dangerous ambiguity that results from it, as follows:

(1) The FAA mentions several times that BTTR was warned about Cuba's threats and specifically the threat to shoot down any US aircraft violating its airspace (paragraph 14). The FAA fails to mention that such an action, when involving civilian aircraft, is illegal under international law. Such an omission serves to legitimize threats that have no legal basis. We agree that warning BTTR was more than appropriate, but it is a warning of a possible violent action by a hostile dictatorship, not one of a reasonable response by a civilized state. The distinction is important, and the FAA fails to make it.

(2) In mentioning that Mr. Basulto flew into Cuban airspace on February 24, 1996, the FAA mentions the two BTTR aircraft that were shot down (paragraph 19). The FAA fails to mention that these aircraft never followed Mr. Basulto into Cuban airspace. Given the FAA's repeated mention of Cuba's threats to down any US aircraft entering its airspace, the uninformed reader is left to infer that the two downed planes did actually violate Cuban airspace. Your administration has consistently maintained that such a violation did not occur, but the FAA fails to make this clear.

(3) The FAA also has seen fit somehow to find Mr. Basulto responsible for the deaths of our family members, stating that he "was careless or reckless so as to endanger the lives or property of others" (paragraph 20). Even if Mr. Basulto did indeed fly into Cuban airspace, we find it highly inappropriate for the FAA, or anybody else, to find anyone but the Cuban government responsible for the deaths of our relatives.

Carlos, Armando, Mario, Pablo... we will never forget you

The problems we have detailed here render the FAA's letter a potentially disastrous document, one that could be used against our quest for justice with great effectiveness if it were to find its way to the International Civilian Aeronautics Organization (ICAO), the United Nations, its Commission on Human Rights or an international court of law, just to name a few. We therefore request that the FAA's Order of Revocation be amended so as to correct the inaccuracies we have mentioned.

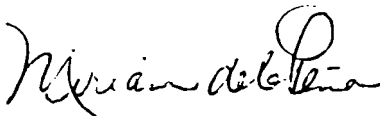
In addition, we strongly believe that no US government agency should make any statement or release any document regarding this incident that fails to make clear that the Republic of Cuba's downing of the two civilian aircraft which carried Armando, Carlos, Mario and Pablo was a barbaric and illegal act that occurred over international waters, for which the Republic of Cuba is solely responsible. Since this has consistently been your administration's position on the events of February 24, we feel that this is a very reasonable request. And we feel that our quest for justice needs to be accorded the priority it deserves.

Finally, we are requesting a briefing from the United States government of what really transpired on February 24. We are in the unenviable position of being in the middle, with little or no official information on this tragedy, and it is our dead who are clamoring for justice.

Sincerely,

  
Marlene Alejandre  
(Armando's widow)

  
Mirta Costa  
(Carlos' mother)

  
Miriam de la Pena  
(Mario's mother)

  
Eva Barba  
(Pablo's mother)

- c:     Madeleine Albright, US Ambassador to the United Nations  
          Jose Basulto, Brothers to the Rescue  
          Lincoln Diaz-Balart, US Representative - Florida  
          Bob Graham, US Senator - Florida  
          David Hinson, FAA, US Department of Transportation  
          ✓ Harold Ickes, Deputy Chief of Staff  
          Anthony Lake, National Security Advisor  
          Connie Mack, US Senator - Florida  
          Keith S. May, Managing Attorney, FAA  
          Bob Menendez, US Representative - New Jersey  
          Federico Pena, Secretary of Transportation  
          Lula Rodriguez, United States Information Agency  
          Ileana Ros-Lehtinen, US Representative - Florida  
          Ray Ruga, Cuba Desk Officer, Department of Defense  
          Eddie L. Thomas, Assistant Chief Counsel, FAA  
          Susana Valdez, Special Assistant to the President

U.S. Department  
of Transportation

Federal Aviation  
Administration

**MAY 16 1996**

Office of the Assistant Chief Counsel  
Southern Region at Orlando, Florida  
9677 Tradeport Drive, Suite 160  
Orlando, Florida 32837-6387  
Telephone: (407) 848-8818  
Facsimile: (407) 848-8844

**CERTIFIED - RETURN RECEIPT REQUESTED**  
**and FEDERAL EXPRESS**

9580190142  
9680190076

Mr. Jose Basulto  
5790 SW 24th Street  
Miami, Florida 33143-8218

**EMERGENCY ORDER OF REVOCATION**

The Administrator has determined that safety in air commerce or air transportation and the public interest require the immediate revocation of your Commercial Pilot certificate. Therefore, the following constitutes an Emergency Order of Revocation:

1. At all times material herein you were and are now the holder of Commercial Pilot Certificate No. 002122405.

2. On or about July 11, 1995, representatives of the Miami Flight Standards District Office, Federal Aviation Administration (FAA), met with you, in your capacity as President of the Brothers to the Rescue, Inc. (BTR), and advised you of the potential serious consequences of unauthorized entry into Cuban territorial airspace. The FAA representatives also advised you that any violations of the Federal Aviation Regulations (FAR) or international regulations would be vigorously investigated. (The Cuban Government had alleged that aircraft N2506, registered to BTR, had operated into Cuban airspace without authorization on June 1, 1995).

3. On or about July 13, 1995, you operated civil aircraft N2506, a Cessna 337, the property of another, on a passenger-carrying flight departing from Opa Locka Airport, Miami, Florida, on a DVFR flight plan.

4. During the course of said flight you operated civil aircraft N2506 into the territorial airspace of the Republic of Cuba.

5. During the course of said flight you operated civil aircraft N2506 into the Havana, Cuba, Terminal Control Zone.

6. During the course of said flight you operated civil aircraft N2506 into Prohibited Area MU1 of the Republic of Cuba.

7. At all times mentioned herein, the areas described in paragraphs 4, 5, and 6 above were either restricted areas or prohibited areas of the Republic of Cuba, as defined in Cuban Law 1318: LEY 1318 - ORGANIZACION, PLANIFICACION Y CONTROL DE LOS VUELOS SOBRE EL TERRITORIO Y REGION DE INFORMACION DE VUELO DE LA REPUBLICA DE CUBA (Cuban Law 1318) and REGLAMENTO DE LA LEY 1318 DE 1976 (Cuban Law 1318 of 1976). Specifically, Cuban Law 1318 and Cuban Law 1318 of 1976 define the terms Prohibited Area and Restricted Area as follows:

a. PROHIBITED AREA - Airspace of defined dimensions over the territory or waters which are under the jurisdiction of a State, within which the flight of aircraft is prohibited.

b. RESTRICTED AREA - Airspace of defined dimensions over the territory or waters which are under the jurisdiction of a State, within which the flight of aircraft is restricted in accordance with specific conditions established.

8. At the time of your operation of N2506 as described in paragraphs 3, 4, 5, and 6, you did not have authorization from the Cuban government air traffic control authority for entry into, and operation within, that airspace. Unauthorized entry into, and operation within this airspace is contrary to, and in violation of, Law 1218 of the Republic of Cuba, LEY 1218, REGLAMENTO DE SOBREVUELO AL TERRITORIO NACIONAL (Cuban Law 1218), Articles 3, 5, and 14, Cuban Law 1318, Articles 10 and 14, and Cuban Law 1318 of 1976, Articles 7 and 25.

9. On or about August 29, 1995, the U.S. Department of State issued a statement warning that entering Cuban territory, territorial waters or airspace without prior authorization from the Cuban government may cause one to be subject to arrest or other enforcement action by Cuban authorities. The statement also cited the July 14, 1995, statement in which Cuba warned "that any boat from abroad can be sunk and any airplane downed."

10. On or about August 29, 1995, you, and other members of the BTTR were advised again by representatives of the Miami Flight Standards District Office, FAA, of the potential serious consequences of unauthorized entry into Cuban airspace and that any violations of the FAR or international regulations would be vigorously investigated.

11. On August 31, 1995, the FAA issued a Notice of Proposed Certificate Action (Notice), proposing to suspend your airman certificate for 120 days for operating a U.S.-registered civil aircraft in the territorial airspace of the Republic of Cuba in violation of sections 91.703(a)(2), 91.703(a)(3), and 91.13(a) of the FAR.

12. The FAA, through the aforementioned Notice, placed you on further notice that unauthorized operation of U.S.-registered

civil aircraft in Cuban territorial airspace is in violation of the FAR.

13. On or about September 2, 1995, the Cuban government, in response to announced plans by BTTR to conduct flight activity near Cuba, again warned that it would force down or shoot down any airspace violators.

14. On or about October 18, 1995, the U.S. Department of State issued a statement advising BTTR "that if persons enter Cuban territory, territorial seas or airspace without authorization from the Cuban Government they may be subject to arrest or other enforcement action by Cuban authorities for violations of Cuban law. The Cuban Government has repeatedly asserted its determination to take actions it deems necessary, including the sinking of vessels and the downing of aircraft, to defend Cuban territorial sovereignty and to prevent unauthorized incursions into Cuban territorial waters and airspace."

15. On or about February 24, 1996, you operated civil aircraft N2506, a Cessna 337, the property of another, on a flight departing from Opa Locka Airport, Miami, Florida, on a DVFR flight plan.

16. During the course of said flight, you operated civil aircraft N2506 into the territorial airspace of the Republic of Cuba.

17. At all times mentioned herein, the area described in paragraph 16 above was either a restricted area or prohibited area of the Republic of Cuba, as defined in Cuban Law 1318 and Cuban Law 1318 of 1976.

18. At the time of your operation of civil aircraft N2506, as described in paragraphs 15, 16, and 17 above, you did not have authorization from the Cuban government air traffic control authority for entry into, and operation within, that airspace. Unauthorized entry into, and operation within this airspace is contrary to, and in violation of, Cuban Law 1318, Articles 3, 5, and 14, Cuban Law 1318, Articles 10 and 14, and Cuban Law 1318 of 1976, Articles 7 and 25.

19. During the course of your February 24, 1996, flight, as described in paragraphs 15 and 16 above, aircraft operated by the Republic of Cuba shot down two U. S.-registered civil aircraft, N24568 and N54858, which were being operated by pilots on behalf of BTTR.

20. Your operation of civil aircraft N2506, in the manner and under the circumstances described above, was careless or reckless so as to endanger the lives or property of others.

21. By reason of the foregoing, you have demonstrated that you lack the degree of care, judgment, and responsibility required of the holder of an airman certificate.

22. By reason of the foregoing, you have demonstrated that you lack the qualifications to be the holder of an airman certificate.

23. As a result of the foregoing facts and circumstances, you:

a. Violated Section 91.703(a)(2) of the Federal Aviation Regulations, in that you operated a civil aircraft of U.S. registry within a foreign country and you did not comply with the regulations relating to the flight and maneuver of aircraft there in force; in particular, you operated an aircraft in violation of the following regulations of the Republic of Cuba:

i. Law 1218 of the Republic of Cuba (LEY 1218 - REGLAMENTO DE SOBREVUELO AL TERRITORIO NACIONAL), Article 3 - Foreign civil aircraft may undertake overflights and effect landings for non-commercial purposes in the national territory under the provisions of any Treaty or Convention the Republic of Cuba may have signed, by means of the procedures referred to in Chapter III of this Law;

ii. Law 1218 of the Republic of Cuba, Article 5 - Overflights by foreign aircraft in the air space of the Republic of Cuba may only be effected in accordance with the corridors established by the Institute of Civil Aeronautics of Cuba and in compliance with standards and procedures the aforesaid institute may establish;

iii. Law 1218 of the Republic of Cuba, Article 14 - The overflights and landings for non-commercial purposes of foreign civil aircraft provided for in Article 3 may be undertaken only if a prior Certificate or Notification has been obtained. Certificates are permanent in nature so long as the conditions under which they were granted are maintained in effect and are only granted to regular international air services after compliance with the procedures set forth in this Chapter (III). Notifications are granted specifically for a specified number of non-regular flights and also for the realization of regular flights while the issuance of a Certificate is pending;

iv. Law 1318 of the Republic of Cuba (LEY 1318 - ORGANIZACION, PLANIFICACION Y CONTROL DE LOS VUELOS SOBRE EL TERRITORIO Y REGION DE INFORMACION DE VUELO DE LA REPUBLICA DE CUBA), Article 10 - All flights over the air space and in the area under the air traffic control of the Republic of Cuba are to be undertaken in accordance with the characteristics of the flights, approved itineraries or prior authorizations;

v. Law 1318 of the Republic of Cuba, Article 14 - Overflights and flights of foreign aircraft toward or from the territory of the Republic of Cuba are to be undertaken only through established international corridors and airways;

vi. Law 1318 of 1976 of the Republic of Cuba (REGLAMENTO DE LA LEY 1318 DE 1976), Article 7 - The air space outside the routes and airways, zones of control and established national entry and exit procedures is considered restricted air space; special authorization for its utilization is therefore required from the National Center for Joint Flight Planning;

vii. Law 1318 of 1976 of the Republic of Cuba, Article 25 - All flights of foreign aircraft toward or from the territory of the Republic of Cuba, as well as overflights of Cuban air space, shall be undertaken only under an IFR [instrument flight rules] flight plan.

b. Section 91.703(a)(3) and Section 91.13(a) of the Federal Aviation Regulations, in that you operated a civil aircraft of U.S. registry within a foreign country in a careless or reckless manner so as to endanger the life or property of another.

c. Have demonstrated that you lack the care, judgment, and responsibility required of the holder of a commercial pilot certificate.

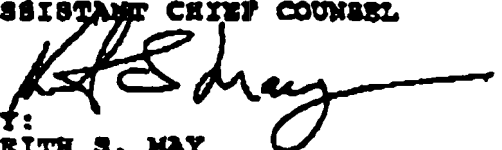
d. Have demonstrated that you lack the qualifications required of the holder of a commercial pilot certificate.

As a result of the foregoing, the Administrator has determined that safety in air commerce or air transportation and the public interest require the revocation of your Commercial Pilot certificate. The Administrator further finds that an emergency requiring immediate action exists in respect to safety in air commerce or air transportation and the public interest and, accordingly, this Order shall be effective immediately.

NOW, THEREFORE, IT IS ORDERED, pursuant to the authority vested in the Administrator by 49 U.S.C. Sections 44709 and 46105, that any and all airman certificates held by you including Commercial Pilot Certificate No. 002122405, be and hereby are, revoked. IT IS FURTHER ORDERED that said certificate(s) be surrendered to the undersigned immediately. NOTE: The allegations contained in the Notice of Proposed Certificate Action dated August 31, 1995, are hereby incorporated as modified into this Order, and any further processing of those allegations will be made as a part of this proceeding.

You may appeal from this Order in accordance with the paragraph below.

EDDIE L. THOMAS  
ASSISTANT CHIEF COUNSEL

  
BY:  
KEITH S. MAY  
Managing Attorney  
Office of the Assistant Chief Counsel  
Southern Region at Orlando, Florida

#### **APPEAL**

You may appeal from this Order within ten (10) days from the date it is served by filing an original and three copies of a Notice of Appeal with the Office of Judges, National Transportation Safety Board, Room 531, 5th Floor, 490 L'Enfant Plaza East, SW, Washington, D.C. 20594. An appeal must be filed within ten (10) days from the time of service of this Emergency Order. However, due to the fact that your Commercial Pilot certificate has been revoked on an emergency basis, the revocation will remain in effect during the pendency of any proceedings before the National Transportation Safety Board. Part 821 of the Board's Rules of Practice (49 CFR Part 821) applies to such an appeal. In the event you appeal, a duplication of your Notice of Appeal should be furnished to this office.

Whether or not you choose to appeal from the provisions of this order, you must surrender your Commercial Pilot certificate to Office of Assistant Chief Counsel, FAA, 9677 Tradeport Drive, Suite 160, Orlando, FL 32837, immediately.

In the event of an appeal to the NTSB, a copy of the Emergency Order will be filed with the NTSB and will serve as the Administrator's Complaint.

May 17, 1996

**NOTE TO:**       **ALEXIS HERMAN**  
                  **SUZANNA VALDEZ**

**FROM:**           **KITTY HIGGINS**

FYI.

May 16, 1996

## **FAA TALKING POINTS ON BASULTO ENFORCEMENT ACTION**

- \* Based on evidence of two previous violations of Federal Aviation Regulations on July 13, 1995 and February 24, 1996 regarding entry into Cuban airspace despite repeated warnings by the FAA and a proposed flight today south of the 24th parallel toward Cuba, the Federal Aviation Administration today revoked, on an emergency basis, the pilot's certificate of Jose Basulto, leader of the Brothers to the Rescue.
- \* Mr. Basulto was informed of the FAA action this morning in Miami prior to his planned flight today which was scheduled to depart at 10:00 a.m. EDT from Opa-Locka Airport.
- \* This enforcement action has proceeded consistent with agency actions on comparable violations. In a nation of laws, due process requires a strict adherence to legal procedures.
- \* FAA launched an investigation of Mr. Basulto in August, 1995 after an alleged violation of Cuban airspace on July, 13, 1995. That investigation led to a notice of proposed suspension on August 31, 1995. That proceeding remained open as the FAA, through the Department of State, has exchanged information with the government of Cuba regarding additional alleged violations. The emergency order is based on violations of Cuban airspace which occurred on July 13, 1995 and February 24, 1996.
- \* This order is effective during an appeal, if sought, to the National Transportation Safety Board.
- \* The FAA has been in communication with Mr. Basulto's attorney on this matter..
- \* The U. S. government condemned the brutal shooting down of two American civil aircraft by the Government of Cuba on February 24, 1996. The Cuban government must face the scrutiny of the international aviation community for this brutal act. The International Civil Aviation Organization is investigating the shootdown.



U.S. Department  
of Transportation

Federal Aviation  
Administration

**MAY 16 1996**

Office of the Assistant Chief Counsel  
Southern Region at Orlando, Florida  
9677 Tradeport Drive, Suite 160  
Orlando, Florida 32827-5397  
Telephone: (407) 648-8815  
Facsimile: (407) 648-8844

CERTIFIED - RETURN RECEIPT REQUESTED  
and FEDERAL EXPRESS

95SO190142  
96SO190076

Mr. Jose Basulto  
5790 SW 84th Street  
Miami, Florida 33143-8218

**EMERGENCY ORDER OF REVOCATION**

The Administrator has determined that safety in air commerce or air transportation and the public interest require the immediate revocation of your Commercial Pilot certificate. Therefore, the following constitutes an Emergency Order of Revocation:

1. At all times material herein you were and are now the holder of Commercial Pilot Certificate No. 002122405.
2. On or about July 11, 1995, representatives of the Miami Flight Standards District Office, Federal Aviation Administration (FAA), met with you, in your capacity as President of the Brothers to the Rescue, Inc. (BTTR), and advised you of the potential serious consequences of unauthorized entry into Cuban territorial airspace. The FAA representatives also advised you that any violations of the Federal Aviation Regulations (FAR) or international regulations would be vigorously investigated. (The Cuban Government had alleged that aircraft N2506, registered to BTTR, had operated into Cuban airspace without authorization on June 1, 1995).
3. On or about July 13, 1995, you operated civil aircraft N2506, a Cessna 337, the property of another, on a passenger-carrying flight departing from Opa Locka Airport, Miami, Florida, on a DVFR flight plan.
4. During the course of said flight you operated civil aircraft N2506 into the territorial airspace of the Republic of Cuba.
5. During the course of said flight you operated civil aircraft N2506 into the Havana, Cuba, Terminal Control Zone.
6. During the course of said flight you operated civil aircraft N2506 into Prohibited Area MUP1 of the Republic of Cuba.

7. At all times mentioned herein, the areas described in paragraphs 4, 5, and 6 above were either restricted areas or prohibited areas of the Republic of Cuba, as defined in Cuban Law 1318: LEY 1318 - ORGANIZACION, PLANIFICACION Y CONTROL DE LOS VUELOS SOBRE EL TERRITORIO Y REGION DE INFORMACION DE VUELO DE LA REPUBLICA DE CUBA (Cuban Law 1318) and REGLAMENTO DE LA LEY 1318 DE 1976 (Cuban Law 1318 of 1976). Specifically, Cuban Law 1318 and Cuban Law 1318 of 1976 define the terms Prohibited Area and Restricted Area as follows:

a. PROHIBITED AREA - Airspace of defined dimensions over the territory or waters which are under the jurisdiction of a State, within which the flight of aircraft is prohibited.

b. RESTRICTED AREA - Airspace of defined dimensions over the territory or waters which are under the jurisdiction of a State, within which the flight of aircraft is restricted in accordance with specific conditions established.

8. At the time of your operation of N2506 as described in paragraphs 3, 4, 5, and 6, you did not have authorization from the Cuban government air traffic control authority for entry into, and operation within, that airspace. Unauthorized entry into, and operation within this airspace is contrary to, and in violation of, Law 1218 of the Republic of Cuba, LEY 1218, REGLAMENTO DE SOBREVUELO AL TERRITORIO NACIONAL (Cuban Law 1218), Articles 3, 5, and 14, Cuban Law 1318, Articles 10 and 14, and Cuban Law 1318 of 1976, Articles 7 and 25.

9. On or about August 29, 1995, the U.S. Department of State issued a statement warning that entering Cuban territory, territorial waters or airspace without prior authorization from the Cuban government may cause one to be subject to arrest or other enforcement action by Cuban authorities. The statement also cited the July 14, 1995, statement in which Cuba warned "that any boat from abroad can be sunk and any airplane downed."

10. On or about August 29, 1995, you, and other members of the BTTR were advised again by representatives of the Miami Flight Standards District Office, FAA, of the potential serious consequences of unauthorized entry into Cuban airspace and that any violations of the FAR or international regulations would be vigorously investigated.

11. On August 31, 1995, the FAA issued a Notice of Proposed Certificate Action (Notice), proposing to suspend your airman certificate for 120 days for operating a U.S.-registered civil aircraft in the territorial airspace of the Republic of Cuba in violation of sections 91.703(a)(2), 91.703(a)(3), and 91.13(a) of the FAR.

12. The FAA, through the aforementioned Notice, placed you on further notice that unauthorized operation of U.S.-registered

civil aircraft in Cuban territorial airspace is in violation of the FAR.

13. On or about September 2, 1995, the Cuban government, in response to announced plans by BTTR to conduct flight activity near Cuba, again warned that it would force down or shoot down any airspace violators.

14. On or about October 18, 1995, the U.S. Department of State issued a statement advising BTTR "that if persons enter Cuban territory, territorial seas or airspace without authorization from the Cuban Government they may be subject to arrest or other enforcement action by Cuban authorities for violations of Cuban law. The Cuban Government has repeatedly asserted its determination to take actions it deems necessary, including the sinking of vessels and the downing of aircraft, to defend Cuban territorial sovereignty and to prevent unauthorized incursions into Cuban territorial waters and airspace."

15. On or about February 24, 1996, you operated civil aircraft N2506, a Cessna 337, the property of another, on a flight departing from Opa Locka Airport, Miami, Florida, on a DVFR flight plan.

16. During the course of said flight, you operated civil aircraft N2506 into the territorial airspace of the Republic of Cuba.

17. At all times mentioned herein, the area described in paragraph 16 above was either a restricted area or prohibited area of the Republic of Cuba, as defined in Cuban Law 1318 and Cuban Law 1318 of 1976.

18. At the time of your operation of civil aircraft N2506, as described in paragraphs 15, 16, and 17 above, you did not have authorization from the Cuban government air traffic control authority for entry into, and operation within, that airspace. Unauthorized entry into, and operation within this airspace is contrary to, and in violation of, Cuban Law 1218, Articles 3, 5, and 14, Cuban Law 1318, Articles 10 and 14, and Cuban Law 1318 of 1976, Articles 7 and 25.

19. During the course of your February 24, 1996, flight, as described in paragraphs 15 and 16 above, aircraft operated by the Republic of Cuba shot down two U. S.-registered civil aircraft, N2456S and N5485S, which were being operated by pilots on behalf of BTTR.

20. Your operation of civil aircraft N2506, in the manner and under the circumstances described above, was careless or reckless so as to endanger the lives or property of others.

21. By reason of the foregoing, you have demonstrated that you lack the degree of care, judgment, and responsibility required of the holder of an airman certificate.

22. By reason of the foregoing, you have demonstrated that you lack the qualifications to be the holder of an airman certificate.

23. As a result of the foregoing facts and circumstances, you:

a. Violated Section 91.703(a)(2) of the Federal Aviation Regulations, in that you operated a civil aircraft of U.S. registry within a foreign country and you did not comply with the regulations relating to the flight and maneuver of aircraft there in force; in particular, you operated an aircraft in violation of the following regulations of the Republic of Cuba:

i. Law 1218 of the Republic of Cuba (LEY 1218 - REGLAMENTO DE SOBREVUELO AL TERRITORIO NACIONAL), Article 3 - Foreign civil aircraft may undertake overflights and effect landings for non-commercial purposes in the national territory under the provisions of any Treaty or Convention the Republic of Cuba may have signed, by means of the procedures referred to in Chapter III of this Law;

ii. Law 1218 of the Republic of Cuba, Article 5 - Overflights by foreign aircraft in the air space of the Republic of Cuba may only be effected in accordance with the corridors established by the Institute of Civil Aeronautics of Cuba and in compliance with standards and procedures the aforesaid Institute may establish;

iii. Law 1218 of the Republic of Cuba, Article 14 - The overflights and landings for non-commercial purposes of foreign civil aircraft provided for in Article 3 may be undertaken only if a prior Certificate or Notification has been obtained. Certificates are permanent in nature so long as the conditions under which they were granted are maintained in effect and are only granted to regular international air services after compliance with the procedures set forth in this Chapter (III). Notifications are granted specifically for a specified number of non-regular flights and also for the realization of regular flights while the issuance of a Certificate is pending;

iv. Law 1318 of the Republic of Cuba (LEY 1318 - ORGANIZACION, PLANIFICACION Y CONTROL DE LOS VUELOS SOBRE EL TERRITORIO Y REGION DE INFORMACION DE VUELO DE LA REPUBLICA DE CUBA), Article 10 - All flights over the air space and in the area under the air traffic control of the Republic of Cuba are to be undertaken in accordance with the characteristics of the flights, approved itineraries or prior authorizations;

v. Law 1318 of the Republic of Cuba, Article 14 - Overflights and flights of foreign aircraft toward or from the territory of the Republic of Cuba are to be undertaken only through established international corridors and airways;

vi. Law 1318 of 1976 of the Republic of Cuba (REGLAMENTO DE LA LEY 1318 DE 1976), Article 7 - The air space outside the routes and airways, zones of control and established national entry and exit procedures is considered restricted air space; special authorization for its utilization is therefore required from the National Center for Joint Flight Planning;

vii. Law 1318 of 1976 of the Republic of Cuba, Article 25 - All flights of foreign aircraft toward or from the territory of the Republic of Cuba, as well as overflights of Cuban air space, shall be undertaken only under an IFR [instrument flight rules] flight plan.

b. Section 91.703(a)(3) and Section 91.13(a) of the Federal Aviation Regulations, in that you operated a civil aircraft of U.S. registry within a foreign country in a careless or reckless manner so as to endanger the life or property of another.

c. Have demonstrated that you lack the care, judgment, and responsibility required of the holder of a commercial pilot certificate.

d. Have demonstrated that you lack the qualifications required of the holder of a commercial pilot certificate.

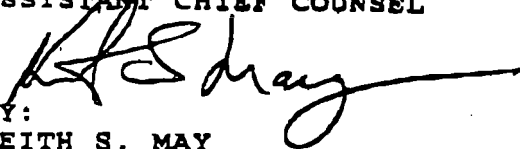
As a result of the foregoing, the Administrator has determined that safety in air commerce or air transportation and the public interest require the revocation of your Commercial Pilot certificate. The Administrator further finds that an emergency requiring immediate action exists in respect to safety in air commerce or air transportation and the public interest and, accordingly, this Order shall be effective immediately.

NOW, THEREFORE, IT IS ORDERED, pursuant to the authority vested in the Administrator by 49 U.S.C. Sections 44709 and 46105, that any and all airman certificates held by you including Commercial Pilot Certificate No. 002122405, be and hereby are, revoked. IT IS FURTHER ORDERED that said certificate(s) be surrendered to the undersigned immediately. NOTE: The allegations contained in the Notice of Proposed Certificate Action dated August 31, 1995, are hereby incorporated as modified into this Order, and any further processing of those allegations will be made as a part of this proceeding.

You may appeal from this Order in accordance with the paragraph below.

EDDIE L. THOMAS  
ASSISTANT CHIEF COUNSEL

BY:

  
KEITH S. MAY  
Managing Attorney  
Office of the Assistant Chief Counsel  
Southern Region at Orlando, Florida

APPEAL

You may appeal from this Order within ten (10) days from the date it is served by filing an original and three copies of a Notice of Appeal with the Office of Judges, National Transportation Safety Board, Room 531, 5th Floor, 490 L'Enfant Plaza East, SW, Washington, D.C. 20594. An appeal must be filed within ten (10) days from the time of service of this Emergency Order. However, due to the fact that your Commercial Pilot certificate has been revoked on an emergency basis, the revocation will remain in effect during the pendency of any proceedings before the National Transportation Safety Board. Part 821 of the Board's Rules of Practice (49 CFR Part 821) applies to such an appeal. In the event you appeal, a duplication of your Notice of Appeal should be furnished to this office.

Whether or not you choose to appeal from the provisions of this order, you must surrender your Commercial Pilot certificate to Office of Assistant Chief Counsel, FAA, 9677 Tradeport Drive, Suite 160, Orlando, FL 32827, immediately.

In the event of an appeal to the NTSB, a copy of the Emergency Order will be filed with the NTSB and will serve as the Administrator's Complaint.

**CERTIFICATE OF SERVICE**

I certify that I have mailed the foregoing Emergency Order via Certified Mail and Federal Express this date to

Mr. Jose Basulto  
5790 SW 84th Street  
Miami, Florida 33143-8218

*bl* *K. L. May*  
Legal Technician

Office of the Assistant Chief Counsel  
Southern Region at Orlando, Florida

5/16/96  
Date

cc: Stuart Goldstein

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## **Clinton Presidential Records Digital Records Marker**

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# el Nuevo Herald

MIAMI, FL, VIERNES 17 DE MAYO DE 1996

74 PAGINAS

## BASULTO PIERDE SUS ALAS

### Quitan licencia a líder de Hermanos al Rescate

Por CYNTHIA CORZO  
Redactora de El Nuevo Herald

La Oficina Federal de Aviación (FAA) le retiró indefinidamente el jueves la licencia de piloto a José Basulto, presidente de Hermanos al Rescate.

Hasta nuevo aviso, Basulto sólo podrá volar como pasajero, en un avión

controlado por un piloto con licencia.

Al revocar la licencia de Basulto, la FAA sostiene que "la seguridad en el comercio o transporte aéreo y el interés público" requirió la acción drástica e inmediata.

La orden está basada en evidencia de vuelos no autorizados de Basulto dentro del espacio aéreo cubano el 13 de julio

de 1995 y el 24 de febrero de 1996. Además, sostiene que Basulto ignoró numerosas advertencias de la FAA y del Departamento de Estado sobre sus acciones.

"Su operación del avión civil N2506 fue descuidada y temeraria como para

VEA BASULTO, 14A



Basulto: apelará decisión.

# Basulto: Es 'vendeta política'

**BASULTO, DE 1A**

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Un airado Basulto calificó la decisión de una "vendeta política ordenada por las altas esferas de la administración de Bill Clinton para castigar a Hermanos al Rescate".

"A nosotros nos culpan de la llegada de los refugiados; nos culpan del derribo de las avionetas el 24 de febrero y están furiosos porque nosotros revelamos que intentaban enmascarar que la voz Raúl Castro aparece en las grabaciones donde se ordena el derribo", dijo Basulto. "Estados Unidos ha caído a un bajísimo nivel moral al actuar de esta forma".

El 24 de febrero, cazas cubanos derribaron en aguas internacionales a dos avionetas de Hermanos al Rescate, matando a sus cuatro tripulantes. Una tercera avioneta, pilotada por Basulto, escapó ileso. Las autoridades norteamericanas insisten en que Basulto fue el único que penetró en el espacio aéreo cubano. Según La Habana, no fue derribado precisamente porque se hallaba sobre el espacio aéreo internacional.

La orden de la FAA cita que en varias ocasiones, a partir del 29 de agosto de 1993, el Departamento de Estado y la FAA advir-



**José Basulto (centro) anuncia el jueves en conferencia de prensa la revocación de su licencia. Le acompañan (de izq. a der.) la activista Silvia Iriando, la abogada Sofia Powell-Cossío, el abogado Stuart A. Goldstein y Armando Alejandra, padre de uno de los pilotos caídos.**

**C.M. GUERRERO / El Nuevo Herald**

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Los abogados de Basulto y de Hermanos al Rescate apurarán la orden de emergencia ante un tribunal federal. El juicio podría realizarse en un mes. La revocación será apelada ante la FAA y la Junta Nacional de Seguridad en el Transporte.

Un piloto cuya licencia ha sido revocada debe esperar un año antes de solicitar la restauración.

"Yo no necesito una licencia para luchar en Bahía de Cochinos y no necesito una ahora", dijo Basulto.

La orden de emergencia llegó a manos de Basulto 40 minutos antes de que se iniciara una misión especial hasta el punto en

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"El plan de vuelo llegó a Cuba y ellos protestaron, así comenzó todo", dijo Basulto. "Fue una especie de ataque preventivo".

Pero la misión no se canceló, simplemente se cambió la ruta. Las dos avionetas sobrevolaron la Corriente del Golfo, al este de Miami Beach, y desde allí lanzaron las flores.

Basulto voló como copiloto, acompañado por el piloto Guillermo Lares.

"A Basulto le van a sobrar capitanes con quienes volar para seguir adelante con nuestra misión", dijo Lares.

Representantes del gobierno de Cuba en Washington, D.C., elogiaron la acción de la FAA. José Luis Ponce, portavoz de la Sección de Intereses de Cuba, señaló que la tragedia del 24 de febrero

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"Es una medida adecuada contra alguien que ha demostrado indiferencia a las regulaciones de la FAA y de leyes internacionales al haber violado el territorio soberano de Cuba", dijo Ponce.

La investigación de los vuelos de Basulto comenzó el pasado verano cuando realizó un vuelo no autorizado sobre La Habana durante las actividades de la Flotilla Democrática del 13 de julio. En esa ocasión, las dos avionetas que entraron al espacio aéreo cubano dejaron caer miles de volantes que decían "Compañeros no. Hermanos", o "No somos patriotas. Hermanos".

Basulto indicó que el vuelo fue una táctica de distracción para retirar la atención de la flotilla que estaba siendo agredida por una lancha patrullera de Cuba.

"¿Por qué Estados Unidos insiste en hacer cumplir las leyes de Cuba?", preguntó Basulto. "Quieren hacernos a mí el chivo expiatorio y tratar de dañar la reputación de Hermanos al Rescate".

**M E T A****MANAGEMENT CONSULTING SERVICES****Facsimile Transmittal****TO:***Suparna Chakravarty***FAX #***305**456-6218***FROM:***Maria Elena***DATE:***5/17/96***NUMBER OF PAGES (INCLUDING COVER SHEET):***5*

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EL NUEVO HERALD FRI DAY, MAY 17, 1996

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## Recuperan piezas grandes de avión hundidas en fango

AVION, DE 1A

llevaran al hangar de Tamiami, donde los investigadores de aviación las estudiarán en las próximas semanas.

Cinco de las nueve piezas que

esparcidos sobre terreno seco. En cambio, dijo, lo que se recupere del DC-9 se colocará en el hangar "en dos dimensiones, y trataremos al menos de poner las partes

piloto. No se ha recuperado ninguno de los recipientes pero los investigadores tratan de determinar si causaron algún incendio o explosión antes de que el avión

antes de estrellarse el avión que había humo en la cabina del piloto y la de pasajeros.

Los investigadores se negaron a especular sobre un incendio a

se sacaron el jueves estaban atadas ya con cuerdas el miércoles por la noche, listas para el helicóptero antes del amanecer. Las otras piezas las ataron durante la operación misma.

"Sacar los motores, sacar el tren de aterrizaje, era una gran prioridad para nosotros", dijo Francis.

Según él, los investigadores no tenían planes de reconstruir los aviones, como se hace con frecuencia en casos en los que gran parte de los destrozos están

esparcidos en todo y no se puede "reconstruir a otro", o básicamente, exponer el esqueleto del avión sección por sección.

"En este momento no estamos reconstruyendo la nave", dijo Francis. "No nos estamos aproximando siquiera a un esfuerzo tan detallado como ése".

La atención sigue concentrada en más de 50 recipientes de oxígeno que había en el compartimiento de carga cuando el avión se estrelló, momentos después de que la tripulación informó que había humo en la cabina del

capitán.

Lewis Jordan, presidente de ValuJet, advirtió que no se diera "información incorrecta, ni se hicieran juicios precipitados".

"No estoy diciendo que ValuJet no esté libre de culpa", dijo en una conferencia de prensa en Atlanta. "He dicho que no he visto culpa".

Los trabajadores ya han recuperado restos chamuscados y manchados de hollín, que sugieren que puede haberse producido un incendio en la parte frontal del avión. La tripulación informó

durante el vuelo, o si creen que los envases de oxígeno puedan haber jugado un papel en el desastre. Pero ha habido mucha especulación con respecto a la naturaleza potencialmente peligrosa de los recipientes, especialmente cuando las sustancias químicas que contenían tenían ya la fecha vencida. Pero también ha aumentado la confusión sobre los recipientes, que eran de acero inoxidable, en cuanto a dónde estaban guardados y si estaban bien identificados cuando se colocaron en el avión.

*THE MIAMI HERALD - Friday, MAY 17, 1996*

# FAA grounds Brothers' Basulto

By **CHRISTOPHER MARQUIS**  
And **ALFONSO CHARDY**  
Herald Staff Writers

Federal aviation officials on Thursday abruptly revoked the pilot's license of Brothers to the Rescue founder Jose Basulto and threatened him with heavy fines or even arrest if he defies their decision.

The action appeared aimed at preventing a recurrence of the tragic Feb. 24 incident when Cuban MiG fighters shot down two Brothers' planes, killing four pilots and prompting a flurry of new U.S. sanctions against Havana.

The measure was quickly denounced by Basulto and others in the Cuban-American community. Basulto called it "a political vendetta from the Clinton



Associated Press

**PLEASE SEE BASULTO, SA**

**DENOUNCES ACTION:** Jose Basulto, foreground, who flew in this plane Thursday but not as pilot.

# s' Basulto grounded by FAA

10/17/1994

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PAGE 04

## TEXT OF FAA'S STATEMENTS

Statements from FAA regarding Basulto: "The Federal Aviation Administration today issued an emergency order revoking Jose Basulto's pilot certificate. The emergency order prohibits Basulto from operating an aircraft as a pilot in command or as a required crew member.

"The order is based upon evidence of unauthorized operation into Cuban airspace by Basulto on July 13, 1995, and February 24. The order also indicates that Basulto ignored numerous warnings concerning his actions from the FAA and the State Department.

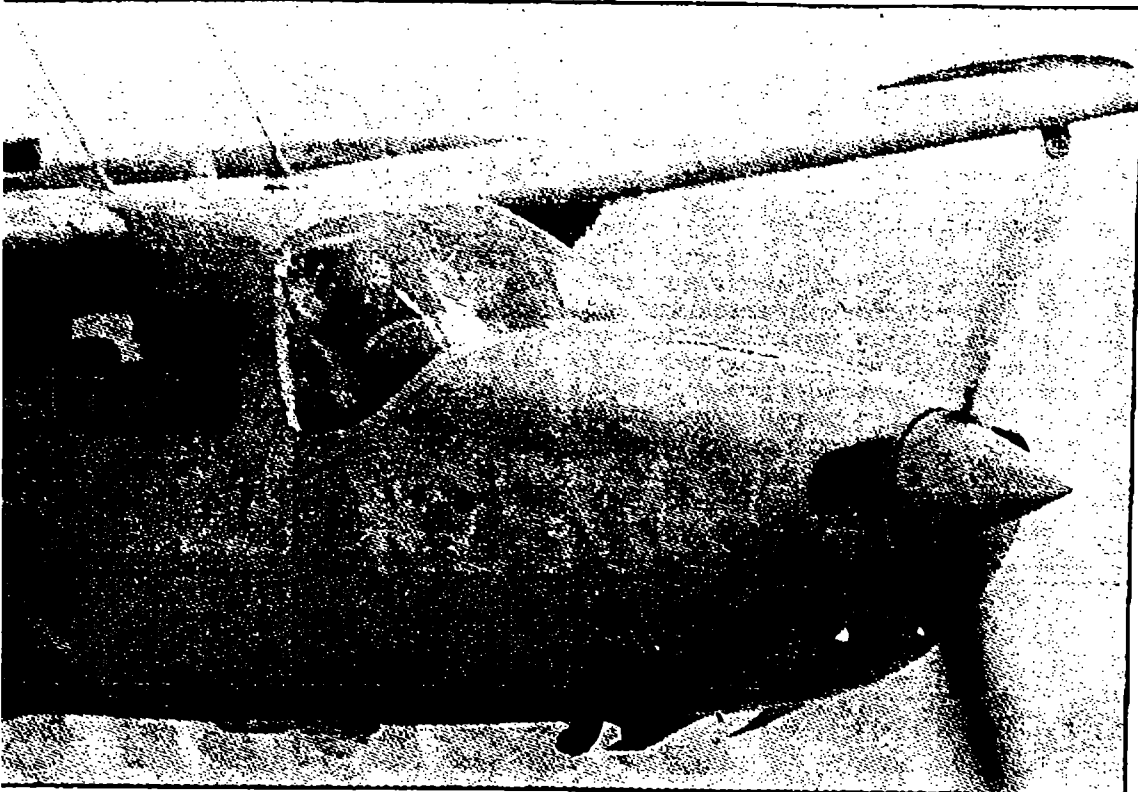
"The order is effective immediately. Basulto has the right to appeal the revocation to the National Transportation Safety Board. A pilot whose certificate is revoked ordinarily must wait one year before applying for reinstatement, unless the FAA authorizes earlier reinstatement."

From emergency order of revocation to Basulto:  
"Your operation of civil aircraft N2506, in the manner and under the circumstances

described above, was careless or reckless so as to endanger the lives or property of others.

"By reason of the foregoing, you have demonstrated that you lack the degree of care, judgment, and responsibility required of the holder of an airman certificate.

"As a result of the foregoing, the [FAA] administrator has determined that safety in air commerce or air transportation and the public interest require the revocation of your Commercial Pilot certificate. The administrator further finds that an emergency requiring immediate action exists in respect to safety in air commerce or air transportation and the public interest and, accordingly, this order shall be effective immediately."



HERMILIO QUINTANA / For The Herald

**NOT ON CONTROLS:** Following the sudden license revocation, Jose Basulto waves to show he is losing the plane after takeoff Thursday from Opa-locka Airport to the Florida Straits.

herwise perished in the of the Caribbean," she is of great concern that sons ... appear to help itarian regime of Cuba in e to silence the attempts ers to the Rescue to help edom and democracy to

itself in a position of weakness rather than leadership by giving in to the demands of the Cuban government."

### Cuba: 'Adequate measure'

Meanwhile, the Castro government praised the move. Jose Ponce, a spokesman for Cuba's mission in Washington, said the Feb. 24 tragedy could have been averted if such a step had been taken earlier.

"It's an adequate measure against someone who has shown disregard of the regulations of the

FAA and of international law by having violated Cuba's sovereign territory," Ponce said.

Basulto's wings have been clipped at the start of what is known as rafters' season, the calm-weather months in which desperate Cubans typically flee the island on makeshift vessels. In recent years, Brothers to the Rescue has helped U.S. authorities spot rafters and air-dropped food, water and communications equipment to them.

Already, two vessels of refugees have been intercepted by Coast

Guard patrols this week, U.S. officials said. One boat carrying 19 Cubans was found in the Mona Passage off the Dominican Republic, and another carrying 10 Cubans was intercepted in the Florida Straits, the Coast Guard reported.

### Ten days to appeal

Under FAA rules, Basulto may appeal the revocation within 10 days. If denied, he must wait one year before applying for a new license. Basulto's aviation attorney, Stuart Goldstein, said he

will file an appeal.

Basulto's original flight plan Thursday called for flying over Cay Sal Bank below the 24th parallel. FAA officials said the plan was the first time Basulto had sought to fly that close to Cuba since Feb. 24.

Cuba's military uses the parallel as a trip wire and places troops on alert when an unknown plane is detected beyond that boundary. Under international law, nations have jurisdiction over waters reaching 12 miles from their coast.

# Brother

**BASULTO, FROM 1A**  
administration."

The punitive step came just 40 minutes before Basulto was scheduled to takeoff from Opa-locka Airport after filing a flight plan that would have taken him south of the 24th parallel, about 40 miles from the Cuban coast.

In an "emergency order of revocation" sent to Basulto, the Federal Aviation Administration said he had ignored repeated warnings from the federal government to respect Cuban airspace, or risk U.S. prosecution or a Cuban attack.

"Your operation of civil aircraft N-2506 . . . was careless or reckless so as to endanger the lives or property of others," the order said, referring to the Feb. 24 incident.

"You have demonstrated that you lack the degree of care, judgment and responsibility required of the holder of an airman certificate."

Sofia Powell-Cosio, a Miami attorney for Brothers, countered that the FAA never warned the group about a possible shoot down.

Basulto, whose plane was the only one to escape the Cuban attack in February, opted Thursday to hand over the pilot's duty to a colleague — at least nominally — and dropped the plan to fly near Cuba. The pilot, Guillermo Lares, declined to say whether Basulto had taken over the controls during a flight that carried them about 10 miles east of Miami Beach.

The exile airmen were joined by Eva Barbas, the mother of Pablo Morales, one of four people killed in the Feb. 24 shoot down.

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Barbas dropped red, white and pink carnations into the water below, marking her dead son's 30th birthday.

FAA officials said Thursday their decision was based on an investigation that determined Basulto had illegally entered Cuban airspace twice, on July 13, 1995, and again on Feb. 24.

Although FAA enforcement actions are ostensibly apolitical, Thursday's decision was approved by senior White House officials who appeared more willing to anger Basulto's supporters than to risk another confrontation with the government of President Fidel Castro.

"It was a political call all the way," said one U.S. official, who said the president's National Security Council had given the FAA the green light to act against Basulto.

Basulto, who has received numerous warnings from U.S. authorities, has become something of a folk hero among many Cuban exiles. Originally a humanitarian organization, Brothers to the Rescue has aided hundreds of Cuban refugees trying to reach Miami by sea.

U.S. authorities have been disinclined to punish him, even as his actions became increasingly political in nature, culminating in the release of thousands of anti-Castro leaflets during flights over Havana.

#### **Basulto: Revocation vindictive**

Upon his return to Opa-locka Thursday, Basulto and his attorneys acknowledged that the original plan to fly near Cuba may have prompted the FAA to act.

But Basulto, in a news conference inside a steamy airport hangar, denounced the revocation as vindictive.

"We have carried out many such flights before," Basulto said. "It's a political vendetta from the Clinton administration against Brothers to the Rescue."

Basulto claimed the FAA move was "an act of revenge" by the administration to punish Brothers for the crisis in U.S.-Cuban relations precipitated by the February shoot down, the rafter exodus of 1994 and recent exile charges that the U.S. government is withholding evidence linking top Cuban officials to the shoot down.

In any event, Basulto said the action would not keep him from participating in Brothers' missions.

"I didn't need a license to fight in the Bay of Pigs, and I don't need one now," he said.

#### **'Shameful,' says Diaz-Balart**

Thursday's move was quickly denounced by Cuban-Americans

lawmakers and exile leaders.

Rep. Lincoln Diaz-Balart, a Miami Republican, decried the measure as "shameful."

"In revoking Basulto's license, the Clinton administration once again reminds us that appeasement is its most predominant characteristic with regard to threats and blackmail by tyrants and thugs like Castro," Diaz-Balart said.

Rep. Heena Ros-Lehtinen, another Miami Republican, fired off a letter to FAA administrator David Hinson, asking him to reconsider on the grounds that Basulto's activities are nonviolent and humanitarian in nature.

"Mr. Basulto and Brothers to the Rescue have unselfishly used their pilots' licenses to help save thousands of refugees who would

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FYI

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U.S. Department  
of Transportation

Federal Aviation  
Administration

Office of the Assistant Chief Counsel  
Southern Region at Orlando, Florida  
9977 Tradeport Drive, Suite 180  
Orlando, Florida 32827-8397  
Telephone: (407) 848-8815  
Facsimile: (407) 848-8844

**MAY 16 1996**

**CERTIFIED - RETURN RECEIPT REQUESTED**  
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9550190142  
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Mr. Jose Basulto  
5790 SW 84th Street  
Miami, Florida 33143-8218

**EMERGENCY ORDER OF REVOCATION**

The Administrator has determined that safety in air commerce or air transportation and the public interest require the immediate revocation of your Commercial Pilot certificate. Therefore, the following constitutes an Emergency Order of Revocation:

1. At all times material herein you were and are now the holder of Commercial Pilot Certificate No. 002122405.
2. On or about July 11, 1995, representatives of the Miami Flight Standards District Office, Federal Aviation Administration (FAA), met with you, in your capacity as President of the Brothers to the Rescue, Inc. (BTTR), and advised you of the potential serious consequences of unauthorized entry into Cuban territorial airspace. The FAA representatives also advised you that any violations of the Federal Aviation Regulations (FAR) or international regulations would be vigorously investigated. (The Cuban Government had alleged that aircraft N2506, registered to BTTR, had operated into Cuban airspace without authorization on June 1, 1995).
3. On or about July 13, 1995, you operated civil aircraft N2506, a Cessna 337, the property of another, on a passenger-carrying flight departing from Opa Locka Airport, Miami, Florida, on a DVFR flight plan.
4. During the course of said flight you operated civil aircraft N2506 into the territorial airspace of the Republic of Cuba.
5. During the course of said flight you operated civil aircraft N2506 into the Havana, Cuba, Terminal Control Zone.
6. During the course of said flight you operated civil aircraft N2506 into Prohibited Area MU1 of the Republic of Cuba.

7. At all times mentioned herein, the areas described in paragraphs 4, 5, and 6 above were either restricted areas or prohibited areas of the Republic of Cuba, as defined in Cuban Law 1318: LEY 1318 - ORGANIZACION, PLANIFICACION Y CONTROL DE LOS VUELOS SOBRE EL TERRITORIO Y REGION DE INFORMACION DE VUELO DE LA REPUBLICA DE CUBA (Cuban Law 1318) and REGLAMENTO DE LA LEY 1318 DE 1976 (Cuban Law 1318 of 1976). Specifically, Cuban Law 1318 and Cuban Law 1318 of 1976 define the terms Prohibited Area and Restricted Area as follows:

a. PROHIBITED AREA - Airspace of defined dimensions over the territory or waters which are under the jurisdiction of a State, within which the flight of aircraft is prohibited.

b. RESTRICTED AREA - Airspace of defined dimensions over the territory or waters which are under the jurisdiction of a State, within which the flight of aircraft is restricted in accordance with specific conditions established.

8. At the time of your operation of N2506 as described in paragraphs 3, 4, 5, and 6, you did not have authorization from the Cuban government air traffic control authority for entry into, and operation within, that airspace. Unauthorized entry into, and operation within this airspace is contrary to, and in violation of, Law 1218 of the Republic of Cuba, LEY 1218, REGLAMENTO DE SOBREVUELO AL TERRITORIO NACIONAL (Cuban Law 1218), Articles 3, 5, and 14, Cuban Law 1318, Articles 10 and 14, and Cuban Law 1318 of 1976, Articles 7 and 25.

9. On or about August 29, 1995, the U.S. Department of State issued a statement warning that entering Cuban territory, territorial waters or airspace without prior authorization from the Cuban government may cause one to be subject to arrest or other enforcement action by Cuban authorities. The statement also cited the July 14, 1995, statement in which Cuba warned "that any boat from abroad can be sunk and any airplane downed."

10. On or about August 29, 1995, you, and other members of the BTTR were advised again by representatives of the Miami Flight Standards District Office, FAA, of the potential serious consequences of unauthorized entry into Cuban airspace and that any violations of the FAR or international regulations would be vigorously investigated.

11. On August 31, 1995, the FAA issued a Notice of Proposed Certificate Action (Notice), proposing to suspend your airman certificate for 120 days for operating a U.S.-registered civil aircraft in the territorial airspace of the Republic of Cuba in violation of sections 91.703(a)(2), 91.703(a)(3), and 91.13(a) of the FAR.

12. The FAA, through the aforementioned Notice, placed you on further notice that unauthorized operation of U.S.-registered

civil aircraft in Cuban territorial airspace is in violation of the FAR.

13. On or about September 2, 1995, the Cuban government, in response to announced plans by BTTR to conduct flight activity near Cuba, again warned that it would force down or shoot down any airspace violators.

14. On or about October 18, 1995, the U.S. Department of State issued a statement advising BTTR "that if persons enter Cuban territory, territorial seas or airspace without authorization from the Cuban Government they may be subject to arrest or other enforcement action by Cuban authorities for violations of Cuban law. The Cuban Government has repeatedly asserted its determination to take actions it deems necessary, including the sinking of vessels and the downing of aircraft, to defend Cuban territorial sovereignty and to prevent unauthorized incursions into Cuban territorial waters and airspace."

15. On or about February 24, 1996, you operated civil aircraft N2506, a Cessna 337, the property of another, on a flight departing from Opa Locka Airport, Miami, Florida, on a DVFR flight plan.

16. During the course of said flight, you operated civil aircraft N2506 into the territorial airspace of the Republic of Cuba.

17. At all times mentioned herein, the area described in paragraph 16 above was either a restricted area or prohibited area of the Republic of Cuba, as defined in Cuban Law 1318 and Cuban Law 1318 of 1976.

18. At the time of your operation of civil aircraft N2506, as described in paragraphs 15, 16, and 17 above, you did not have authorization from the Cuban government air traffic control authority for entry into, and operation within, that airspace. Unauthorized entry into, and operation within this airspace is contrary to, and in violation of, Cuban Law 1218, Articles 3, 5, and 14, Cuban Law 1318, Articles 10 and 14, and Cuban Law 1318 of 1976, Articles 7 and 25.

19. During the course of your February 24, 1996, flight, as described in paragraphs 15 and 16 above, aircraft operated by the Republic of Cuba shot down two U. S.-registered civil aircraft, N2456S and N5485S, which were being operated by pilots on behalf of BTTR.

20. Your operation of civil aircraft N2506, in the manner and under the circumstances described above, was careless or reckless so as to endanger the lives or property of others.

21. By reason of the foregoing, you have demonstrated that you lack the degree of care, judgment, and responsibility required of the holder of an airman certificate.

22. By reason of the foregoing, you have demonstrated that you lack the qualifications to be the holder of an airman certificate.

you: 23. As a result of the foregoing facts and circumstances,

a. Violated Section 91.703(a)(2) of the Federal Aviation Regulations, in that you operated a civil aircraft of U.S. registry within a foreign country and you did not comply with the regulations relating to the flight and maneuver of aircraft there in force; in particular, you operated an aircraft in violation of the following regulations of the Republic of Cuba:

i. Law 1218 of the Republic of Cuba (LEY 1218 - REGLAMENTO DE SOBREVUELO AL TERRITORIO NACIONAL), Article 3 - Foreign civil aircraft may undertake overflights and effect landings for non-commercial purposes in the national territory under the provisions of any Treaty or Convention the Republic of Cuba may have signed, by means of the procedures referred to in Chapter III of this Law;

ii. Law 1218 of the Republic of Cuba, Article 5 - Overflights by foreign aircraft in the air space of the Republic of Cuba may only be effected in accordance with the corridors established by the Institute of Civil Aeronautics of Cuba and in compliance with standards and procedures the aforesaid Institute may establish;

iii. Law 1218 of the Republic of Cuba, Article 14 - The overflights and landings for non-commercial purposes of foreign civil aircraft provided for in Article 3 may be undertaken only if a prior Certificate or Notification has been obtained. Certificates are permanent in nature so long as the conditions under which they were granted are maintained in effect and are only granted to regular international air services after compliance with the procedures set forth in this Chapter (III). Notifications are granted specifically for a specified number of non-regular flights and also for the realization of regular flights while the issuance of a Certificate is pending;

iv. Law 1318 of the Republic of Cuba (LEY 1318 - ORGANIZACION, PLANIFICACION Y CONTROL DE LOS VUELOS SOBRE EL TERRITORIO Y REGION DE INFORMACION DE VUELO DE LA REPUBLICA DE CUBA), Article 10 - All flights over the air space and in the area under the air traffic control of the Republic of Cuba are to be undertaken in accordance with the characteristics of the flights, approved itineraries or prior authorizations;

v. Law 1318 of the Republic of Cuba, Article 14 - Overflights and flights of foreign aircraft toward or from the territory of the Republic of Cuba are to be undertaken only through established international corridors and airways;

vi. Law 1318 of 1976 of the Republic of Cuba (REGLAMENTO DE LA LEY 1318 DE 1976), Article 7 - The air space outside the routes and airways, zones of control and established national entry and exit procedures is considered restricted air space; special authorization for its utilization is therefore required from the National Center for Joint Flight Planning;

vii. Law 1318 of 1976 of the Republic of Cuba, Article 25 - All flights of foreign aircraft toward or from the territory of the Republic of Cuba, as well as overflights of Cuban air space, shall be undertaken only under an IFR [instrument flight rules] flight plan.

b. Section 91.703(a)(3) and Section 91.13(a) of the Federal Aviation Regulations, in that you operated a civil aircraft of U.S. registry within a foreign country in a careless or reckless manner so as to endanger the life or property of another.

c. Have demonstrated that you lack the care, judgment, and responsibility required of the holder of a commercial pilot certificate.

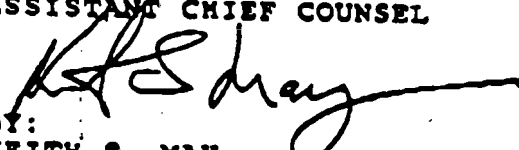
d. Have demonstrated that you lack the qualifications required of the holder of a commercial pilot certificate.

As a result of the foregoing, the Administrator has determined that safety in air commerce or air transportation and the public interest require the revocation of your Commercial Pilot certificate. The Administrator further finds that an emergency requiring immediate action exists in respect to safety in air commerce or air transportation and the public interest and, accordingly, this Order shall be effective immediately.

NOW, THEREFORE, IT IS ORDERED, pursuant to the authority vested in the Administrator by 49 U.S.C. Sections 44709 and 46105, that any and all airman certificates held by you including Commercial Pilot Certificate No. 002122405, be and hereby are, revoked. IT IS FURTHER ORDERED that said certificate(s) be surrendered to the undersigned immediately. NOTE: The allegations contained in the Notice of Proposed Certificate Action dated August 31, 1995, are hereby incorporated as modified into this Order, and any further processing of those allegations will be made as a part of this proceeding.

You may appeal from this Order in accordance with the paragraph below.

EDDIE L. THOMAS  
ASSISTANT CHIEF COUNSEL

  
BY:

KEITH S. MAY  
Managing Attorney  
Office of the Assistant Chief Counsel  
Southern Region at Orlando, Florida

#### APPEAL

You may appeal from this Order within ten (10) days from the date it is served by filing an original and three copies of a Notice of Appeal with the Office of Judges, National Transportation Safety Board, Room 531, 5th Floor, 490 L'Enfant Plaza East, SW, Washington, D.C. 20594. An appeal must be filed within ten (10) days from the time of service of this Emergency Order. However, due to the fact that your Commercial Pilot certificate has been revoked on an emergency basis, the revocation will remain in effect during the pendency of any proceedings before the National Transportation Safety Board. Part 821 of the Board's Rules of Practice (49 CFR Part 821) applies to such an appeal. In the event you appeal, a duplication of your Notice of Appeal should be furnished to this office.

Whether or not you choose to appeal from the provisions of this order, you must surrender your Commercial Pilot certificate to Office of Assistant Chief Counsel, FAA, 9677 Tradeport Drive, Suite 160, Orlando, FL 32827, immediately.

In the event of an appeal to the NTSB, a copy of the Emergency Order will be filed with the NTSB and will serve as the Administrator's Complaint.

**CERTIFICATE OF SERVICE**

I certify that I have mailed the foregoing Emergency Order via Certified Mail and Federal Express this date to

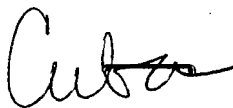
Mr. Jose Basulto  
3790 SW 84th Street  
Miami, Florida 33143-8218

*kl* *K. L. May*  
Legal Technician

Office of the Assistant Chief Counsel  
Southern Region at Orlando, Florida

5/16/96  
Date

cc: Stuart Goldstein



16 de mayo de 1996

**Puntos de discusión respecto a la aplicación de la ley y el Sr. Basulto**

- \* En base a la evidencia de dos violaciones previas de las Regulaciones Federales de Aviación ocurridas el 13 de julio de 1995 y el 24 de febrero de 1996, con respecto a la incursión en el espacio aéreo cubano, a pesar de repetidas advertencias por parte de la FAA, la Administración Federal de Aviación revocó en el día de hoy, en emergencia, el certificado de piloto de Jose Basulto, líder de Hermanos al Rescate.
- \* El sr. Basulto fue informado esta mañana de la acción de la FAA en Miami antes de su vuelo, que había sido planeado para partir hoy, hacia el sur del paralelo 24, a las 10:00 a.m. EDT del aeropuerto de Opa-Locka.
- \* Esta acción de ejecución de la ley ha procedido de acuerdo con las acciones de la agencia con respecto a violaciones comparables. En una nación de leyes, el proceso legal correspondiente requiere la adherencia estricta a los procedimientos legales.
- \* La FAA emprendió la investigación del sr. Basulto en agosto de 1995 después de una supuesta violación del espacio cubano aéreo el 13 de julio de 1995. La investigación condujo a una notificación de una propuesta de suspensión el 31 de agosto de 1995. Ese proceso permaneció abierto en tanto la FAA investigaba supuestas violaciones adicionales. La orden de emergencia está basada en violaciones del espacio aéreo cubano ocurridas el 13 de julio de 1995 y el 24 de febrero de 1996.
- \* La orden es vigente durante la apelación, si fuese registrada, a la Junta de Transporte Nacional de Seguridad.
- \* La FAA ha estado en comunicación con el abogado del sr. Basulto en lo referente a este asunto.
- \* El gobierno de los E.E.U.U. condenó el derribo brutal de dos naves aéreas civiles norteamericanas por parte del gobierno cubano el 24 de febrero de 1996. El gobierno cubano debe enfrentar el escrutinio de la comunidad internacional de aviación causado por este acto brutal. La Organización Internacional de Aviación Civil está investigando el derribo.

OPTIONAL FORM 98 (7-90)

REVISED VERSION

**FAX TRANSMITTAL**

# of pages ▶

|                            |                                  |
|----------------------------|----------------------------------|
| To<br><b>SUSANA VALDEZ</b> | From<br><b>CECILIA CAVESTANY</b> |
| Dept / Agency              | Phone #<br><b>267-3231</b>       |
| Fax #                      | Fax #<br><b>FAA</b>              |

NSN 7540-01-317-7368

5089-101

GENERAL SERVICES ADMINISTRATION

May 16, 1996

## FAA TALKING POINTS ON BASULTO ENFORCEMENT ACTION

- \* Based on evidence of two previous violations of Federal Aviation Regulations on July 13, 1995 and February 24, 1996 regarding entry into Cuban airspace despite repeated warnings by the FAA and a proposed flight today south of the 24th parallel toward Cuba, the Federal Aviation Administration today revoked, on an emergency basis, the pilot's certificate of Jose Basulto, leader of the Brothers to the Rescue.
- \* Mr. Basulto was informed of the FAA action this morning in Miami prior to his planned flight today which was scheduled to depart at 10:00 a.m. EDT from Opa-Locka Airport.
- \* This enforcement action has proceeded consistent with agency actions on comparable violations. In a nation of laws, due process requires a strict adherence to legal procedures.
- \* FAA launched an investigation of Mr. Basulto in August, 1995 after an alleged violation of Cuban airspace on July, 13, 1995. That investigation led to a notice of proposed suspension on August 31, 1995. That proceeding remained open as the FAA, through the Department of State, has exchanged information with the government of Cuba regarding additional alleged violations. The emergency order is based on violations of Cuban airspace which occurred on July 13, 1995 and February 24, 1996.
- \* This order is effective during an appeal, if sought, to the National Transportation Safety Board.
- \* The FAA has been in communication with Mr. Basulto's attorney on this matter..
- \* The U. S. government condemned the brutal shooting down of two American civil aircraft by the Government of Cuba on February 24, 1996. The Cuban government must face the scrutiny of the international aviation community for this brutal act. The International Civil Aviation Organization is investigating the shootdown.

# FAA News

**Washington, D.C.**

**FOR IMMEDIATE RELEASE**

**Thursday, May 16, 1996**

**APA 96-83**

**Contact: Anthony Willett**

**(202) 267-8521**

## **FAA REVOKES BASULTO PILOT CERTIFICATE**

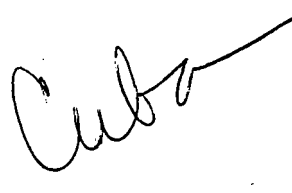
The Federal Aviation Administration today issued an emergency order revoking Jose Basulto's pilot certificate. The emergency order prohibits Basulto from operating an aircraft as a pilot in command or as a required crew member.

The order is based upon evidence of unauthorized operation into Cuban airspace by Basulto on July 13, 1995, and February 24. The order also indicates that Basulto ignored numerous warnings concerning his actions from the FAA and the State Department.

The order is effective immediately. Basulto has the right to appeal the revocation to the National Transportation Safety Board. A pilot whose certificate is revoked ordinarily must wait one year before applying for reinstatement, unless the FAA authorizes earlier reinstatement.

An FAA official will be available to address further inquiries regarding this matter in a background briefing at 3 p.m. Reporters should call (202) 493-4180, pass code 6666, no later than 2:55 p.m. (EDT).

-3C-

A handwritten signature in cursive script, appearing to read "Cuba", is written over a horizontal line.

May 16, 1996 -- REVISED AT 1:15 P.M.

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