

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE ALASKA BIG GAME COMMERCIAL SERVICES BOARD**

In the Matter of)	
)	
CHAD REEL)	OAH No. 20-0850-GUI
)	Agency No. 2018-000009

REVISED DECISION¹

I. Introduction

The Division of Corporations, Business and Professional Licensing (Division) filed an accusation against licensed master guide-outfitter Chad Reel over events surrounding an April 2017 hunt. The Division alleges that Mr. Reel was illegally operating inside a state park, made aircraft repairs he is not authorized to make, flew clients after making those unauthorized repairs, and attempted to conceal from investigators the scope of those repairs. The Division also alleges Mr. Reel's party left litter inside the state park. It contends that Mr. Reel acted with moral turpitude. Mr. Reel contends that he acted reasonably and responsibly given the circumstances.

At hearing, the Division met its burden of proving that Mr. Reel:

- (1) ~~Entered Wood Tikehik State Park during commercial operations and without a permit, and left litter inside the park upon his party's exit; and~~
Flew clients in a plane to which he had made unauthorized repairs outside the scope of his pilot's certification and in significant violation of applicable FAA requirements, and, in so doing, carelessly exposed clients to undue hazards.

This decision concludes that the violations proven in this case support the imposition of meaningful discipline against Mr. Reel's license. The Division did not prove that Mr. Reel's conduct was morally turpitudinous, nor that he failed to cooperate with or withheld information from law enforcement in a manner that implicates disciplinary sanctions.

II. Factual and procedural history

A. Background and license history

Chad Reel holds Master Guide-Outfitter license 132346, first issued July 31, 2018 and which will lapse unless renewed on December 31, 2021. Prior to obtaining his Master Guide Outfitter license, Mr. Reel had held a Registered Guide-Outfitter license from 2001-2011 and

¹ This revised decision modifies the July 2, 2021 proposed decision consistent with the Board's action on July 23, 2021.

2014 - 2018. Mr. Reel has a lengthy disciplinary history, with multiple periods of suspension and probation, as well as a three-year period of revocation.

In May 2006 Mr. Reel pleaded no contest to same-day airborne wolf hunting and a guiding violation. His Registered Guide-Outfitter license was suspended for one year as part of his court-imposed sentence in that case.²

In November 2007, two weeks after the license suspension was lifted, Mr. Reel had an aircraft accident in the Yukon Territory. Investigators to that accident found a grizzly bear skull that lacked the export permit and declaration required to clear Canadian customs. Mr. Reel was cited and fined by the United States Fish and Wildlife Service for this incident.³

Less than a year later, in September 2008, Mr. Reel was charged with guiding violations after clients in the field lacked required hunt records when contacted by an Alaska State Trooper. In December 2009, the Board adopted a consent agreement imposing 18 months of probation, a public reprimand, and a fine.⁴

In May 2011 Mr. Reel's license was summarily suspended by the Division for failing to comply with the terms of probation – specifically, for aiding in the commission of guiding and wildlife violations by several employees.⁵ The Board vacated the summary suspension but, after a full hearing before an Administrative Law Judge, imposed a three-year license revocation.⁶ On appeal, the Superior Court reversed some of the Board's findings, but upheld the findings that Mr. Reel had knowingly allowed an unlicensed employee to guide on a moose hunt and had abetted the employee's violation.⁷ Following this partial reversal, the Board kept Mr. Reel's three-year revocation in place.⁸

Mr. Reel's license was reinstated in December 2014. In September 2015 he was cited and fined for actively guiding on Bureau of Land Management (BLM) managed lands without the required BLM Special Use Permit.⁹ In February 2017, the Board adopted a consent agreement imposing a \$250 fine and a public reprimand for that incident.¹⁰

² Ex. 15, Ex. 16.

³ Ex. 17, p. 2.

⁴ Ex. 17.

⁵ Ex. 18.

⁶ Ex. 19, 20. The ALJ's proposed decision recommended a three-year period of probation. The Board, under AS 44.64.060(e)(3), revised the sanction to a three-year revocation. See Ex. 20, p. 24.

⁷ Ex. 22.

⁸ Strout testimony.

⁹ Ex. 23, p. 1.

¹⁰ Ex. 23, pp. 3, 5.

The hunt at issue in the current case occurred two months after the Board adopted that consent agreement.

B. Mr. Reel's pre-hunt replacement of his Super Cub's approved propeller

Mr. Reel is a certified pilot and as part of his guiding activities transports clients into and out of the field and between camps in his Piper PA-18-150 Super Cub.¹¹ The legality, safety, and professionalism of Reel's actions vis-à-vis that plane are a central part of this case.

The FAA's type certification of the PA-18 identifies several allowable propellers, all of which are metal propellers.¹² A company whose propellers are not production certified for the PA-18 is Catto. Catto makes a wood core composite propeller that some pilots prefer to the metal propellers, but which is not certified for use on any type-certificated aircraft.¹³ Despite not being production certified by the FAA, Catto propellers are fairly popular amongst pilots of small "rag and tube" airplanes like the one flown by Mr. Reel. Catto exhibits its product at trade shows, and a number of small planes in Alaska can be seen with Catto or similar composite propellers.¹⁴

At the time of the incident giving rise to this case, Mr. Reel's PA-18 was being flown with a Catto composite propeller.¹⁵ Mr. Reel himself had replaced the plane's approved Sensenich propeller with a Catto propeller. This, in itself, raises several additional matters of concern. First, while individuals holding airmen's certificates are authorized to perform routine preventative aircraft maintenance, more substantive repairs must be performed by an FAA-certificated Airframe and Powerplant (A&P) mechanic. Mr. Reel does not hold an A&P certification, and so is not authorized to perform such repairs. Replacing a propeller is not a "routine maintenance" task, and is required to be performed by an A&P mechanic.¹⁶ Secondly, although maintenance and repairs of FAA-certified aircraft are required to be tracked in the aircraft logbooks, Mr. Reel did not document his removal and replacement of the Sensenich propeller.¹⁷

¹¹ For simplicity, this plane is referred to herein as the PA-18.

¹² Grimes test; Whitehair test. The FAA certifies types of aircraft and aircraft components. The PA-18-150 is "type certificated" by the FAA, meaning that the FAA has certified the aircraft for production using an identified design and specified component parts. Robertson test.

¹³ Robertson test.

¹⁴ Ex. H; Reel test.; Whitehair test.

¹⁵ Reel testified that he first got a Catto propeller in 2014.

¹⁶ Whitehair test.; Grimes test.; 14 C.F.R. 43.3 and Appendix A.

¹⁷ Robertson test.

When Reel then brought his PA-18 for its annual inspection in April 2017, the inspector refused to allow him to bring his plane into the hangar for inspection with the Catto propeller installed.¹⁸ In order to secure an inspection, Mr. Reel removed the Catto propeller, replaced it with an approved Sensenich propeller, and presented the plane for its inspection. After the inspection, Mr. Reel then reinstalled the Catto propeller.¹⁹ This was the second unauthorized installation he had done. Mr. Reel again did not document these events in the aircraft's maintenance log.²⁰

C. April 2017 hunt

1. *Background and hunt plans*

Shortly after the annual inspection and his reinstallation of the Catto propeller, Mr. Reel began a guided brown bear hunt with Idaho resident Charles Dally. Mr. Dally was in Alaska with his longtime friend, Eric Klopman, and both men had contracts with Reel for one-on-one hunts.

Dally's hunt contract provided for a hunt from April 16 – 26, 2017, and had five Big Game tags – two brown bear, one black bear, and two wolf.²¹ Klopman's hunt contract called for a hunt from April 15 - 25 and had four Big Game tags.²² Klopman hunted with Reel's assistant guide, Jeff Tart, while Dally hunted with Reel. A third client, Steve Johnson, was also in the field with another of Reel's assistant guides, Mark Sullivan.

2. *First week of the hunt*

Dally and Klopman arrived in Dillingham on Saturday, April 14, 2017, and both began their hunts the following morning. Dally and Reel flew first to a base camp near Little Gold Lake, where they spent several days. On Tuesday, April 17, Mr. Reel phoned the Department of Natural Resources to inquire about getting a permit for operating within Wood-Tikchik State Park, but he did not obtain a permit. A few days later, Reel and Dally relocated to a spike camp just outside the park.²³

On Sunday, April 22, Mr. Dally successfully harvested a brown bear. After Dally and Reel field dressed the bear, Mr. Reel flew it back to the base camp and then returned to the spike

¹⁸ Ex. 3, p. 2; Reel test.; Robertson test.

¹⁹ Ex. 3, p. 2; Reel test.; Robertson test.

²⁰ Reel test.; Robertson test.

²¹ Ex. 2, pp. 82-84.

²² Ex. 2, pp. 64, 68.

²³ Ex. 2, p. 8.

camp.²⁴ The following day, the weather was rainy and warming, and the men discussed “moving from the spike camp to a more desirable place.”²⁵ While Dally had taken a bear by this point, other hunters in Reel’s group had not, and were not ready to leave the field.²⁶

Reel and Dally spent hours stomping out a runway in deep, heavy snow and loading all of their gear into Reel’s PA-18.²⁷ After they began taxiing, Reel determined that the snow was too soft to successfully take off with all their gear and his client. The men “agreed that [Mr. Dally] would stay at spike camp and Mr. Reel would move our equipment to a more desirable landing spot.”²⁸

3. *Reel’s entry into the park, and the propeller strike*

Reel departed the spike camp between 4:00 and 5:00 p.m. on April 23, with the weather rainy and in the mid-forties.²⁹ He left Dally the following items: a .44 revolver, a pair of snowshoes, a fanny pack containing “a couple bottles of water” and “some granola bars,” and “a small bag of trash.”³⁰

With the plane’s load lightened by Dally’s exit, Reel took off. Since the events which followed, Reel has maintained that his decisionmaking was driven by wanting to stay within sight of Dally, which in turn limited his options about where to land the plane. From the spike camp, Reel first flew to Upnuk Lake, the entirety of which is located inside Wood-Tikchik State Park. Despite having no commercial use permit for operating in the park, Reel testified he intended to land on the lake, unpack the gear, return for Dally, repack the gear, and use the longer distance of the lake to provide the length of runway they would need to take off.

However, Reel aborted his Upnuk Lake plans after landing on the lake and realizing there was too much soft snow and overflow. He estimates that he taxied for about a mile and a half before being able to take off again, and then flew to a nearby ridge (still inside the park). After landing on the ridge, Reel attempted to turn the plane around. While he was doing so, the propeller hit a hard surface and one of the blades snapped off.³¹

²⁴ Reel also stopped off at the Sullivan camp to check on Sullivan and Johnson. Reel test. In the time that the hunters were at the main camp, and later after they moved to their spike camp, Reel periodically flew to check on his other clients at the other camps. On those days, because of the prohibitions against hunting “same day airborne,” Dally did not hunt. Ex. 2, p. 8; Dally test.

²⁵ Dally test.

²⁶ Reel test.

²⁷ Reel test.; Dally test.

²⁸ Dally test.

²⁹ Dally test.

³⁰ Reel test., Dally test.

³¹ Ex. 2, pp. 104, 106. (D. 142).

The ridge where Reel landed was only about 1.5 miles from the spike camp. It was close enough that Dally had seen Reel circle the lake and later land on the ridge, and had heard the propeller strike. Sometime after the strike, and apparently as part of a prearranged distress signal, Reel fired several shots into the air, signaling to Dally that he would need to hike or snowshoe to where Reel had landed.

After a brief wait, Dally began snowshoeing to the marooned plane, carrying the gun, the fanny pack, and the bag of trash. The physically demanding hike through soft, deep snow took about three hours. At some point during the hike Dally called his wife, Sara, on his satellite phone. Sara was alarmed about his condition (“very upset”) and the circumstances he described: being in chest deep snow and unsure if he would be able to complete the steep climb to where the plane was located.³² Reel placed a beacon to help Dally locate the site in the near darkness, and Dally eventually reached Reel and his plane around 11:00 p.m. It would be five days before they left the ridge.³³

4. *Field repairs to Reel's PA-18*

With Reel and Dally reunited on the ridge with Reel's incapacitated aircraft, Reel began efforts to obtain replacement parts for the broken propeller. Both men had satellite phones.³⁴ The clients at other camps also had satellite phones, which they used to relay messages via their wives, who called Reel's wife, who relayed information to Reel.³⁵

Over the coming days, Reel called multiple pilots and air services in Dillingham, trying to locate someone to bring a new propeller and an engine mount. Reel eventually arranged for Wasilla pilot Jonah Stewart to bring the replacement propeller, an engine mount, and other repair equipment. Stewart flew the parts out to the men's camp on the evening of April 26 and Reel, who considers himself “pretty handy with a wrench,” replaced the broken propeller and the engine mount with Stewart's help.³⁶

Three important regulatory facts give context to the repairs made by Reel.

³² R. 2205.

³³ The various hunting parties looked into being brought out of the field by a helicopter service, but decided against it because being transported by helicopter would require them to forfeit their bears.

³⁴ Reel's eventually ran out of battery, after which they shared Dally's phone. R. 2205.

³⁵ When located by Troopers on April 27, the Klopman/Tart camp had run out of propane, which they had used to make water, and reported not having heard from Reel for days. Reel had also not spoken with Steve Johnson and Mark Sullivan since April 22.

³⁶ Reel test.; R. 2192-2193. *N.b.* The agency record in this case includes the Troopers' audio recorded interviews, which are considered as the best available evidence of what was said at the time of these initial encounters. They are accordingly relied on in this decision to supplement the testimony and exhibits concerning how these events unfolded.

- (1) First, both airplane propeller and engine mount replacements may only be performed by a certified Airframe and Powerplant (A&P) mechanic, a certification Reel does not hold.³⁷
- (2) Second, the PA-18-150 is the subject of an FAA Airworthiness Directive (AD) requiring that, after a propeller strike, the plane be inspected by an A&P mechanic – and certain parts replaced by that mechanic – before being operated again.³⁸

The AD requires that if a Lycoming engine (the type on Reel's PA-18) incurs a propeller strike, the crankshaft must be inspected before being returned to service. The AD emphasizes that, "Since a failure of the gear or the gear attaching parts would result in complete engine stoppage, the proper inspection and reassembly of these parts is very important" and the procedures set out in the AD "are mandatory."³⁹

Mr. Reel did not comply with the AD at the time of the propeller strike, or upon returning to Dillingham with Mr. Dally.

- (2) Third, FAA regulations allow a pilot to apply for and obtain a "ferry permit" to fly an otherwise unairworthy plane to maintenance repairs after being damaged. Despite no one on the ridge holding an A&P certification and the existence of the AD, and Mr. Reel did not seek, much less obtain, a ferry permit.

Despite these facts, and rather than arrange for the plane to be repaired by a certified mechanic, Reel elected to replace the propeller himself.⁴⁰ He also did not arrange alternate transportation for his clients, instead preparing to transport them in his own self-repaired plane.

During his time on the ridge, Reel spoke with "at least four or five different airplane guys – mechanics, pilots, IAs, long time outfitters" – about how to proceed. One of these "airplane guys" was Don Whitehair, an experienced Idaho-based pilot and certified A&P mechanic who had flown for him in the past. Over the course of several satellite phone calls, Whitehair gave Reel advice on replacing and testing the propeller. Whitehair advised using a dial indicator to check for damage to the flange, checking the crankshaft for evidence of metal shavings, and "running up" the engine to check for vibration – items he characterizes as the things an A&P mechanic would have done in this situation.⁴¹ According to Reel, other mechanics he spoke with

³⁷ 14 C.F.R. 43.3 and Appendix A; Whitehead test.; Grimes test.; Robertson test.

³⁸ Airworthiness Directives are regulations issued by the FAA to correct an unsafe condition in an aircraft, engine, propeller, or aircraft appliance. 14 C.F.R. part 39. An AD was issued in January 2003 regarding Lycoming direct drive piston aircraft engines, including the O-320 engine on Reel's PA-18-150. Ex. 28.

³⁹ Ex. 28, pp. 1-3.

⁴⁰ There is evidence that Reel attempted to locate an A&P mechanic who would fly into the field and do the work. However, Reel admits he did not attempt to arrange an FAA ferry permit that would enable him to fly the plane, once operational, to a mechanic for the full scope of required repairs.

⁴¹ Whitehair test.; Ex. G.

gave him similar advice. After he replaced the engine mount and propeller, Reel performed the various tests recommended by Whitehair.

The repairs were finished on April 26, but the hunters remained “socked in” due to weather until the following day. They were in the process of packing the plane and stomping out a runway when an Alaska Wildlife Trooper search party located them.

5. *Alaska Wildlife Troopers’ search for Reel and his clients*

The Alaska Wildlife Troopers had first heard about apparent problems with Reel’s hunt on April 25, when they received a report that Mr. Reel was asking for airplane parts – specifically, an engine mount and a new propeller – to be flown out to him by ski plane. Dillingham Wildlife Trooper Joe Wittkop coordinated with King Salmon-based Trooper Travis Lons to search for Reel’s party the following day.

Troopers Lons and Wittkop searched by helicopter on April 26, but were unsuccessful in locating Reel, his clients, or their hunting camps, although they did find the airplane tracks on Upnuk Lake. When they returned from the field, Wittkop learned of several additional calls to the Troopers that day – both from hunters’ family members and from other local pilots – that Mr. Reel was out in the field with a damaged airplane, and that multiple hunting parties “were stranded and in need of non-emergency assistance ... due to dwindling food and fuel.”⁴² Mr. Dally’s wife, in particular, had called the Troopers multiple times in attempt to ensure the groups’ safety.

Troopers Lons and Wittkop left Dillingham early the following morning (April 27) to continue their search, and ultimately succeeded in locating all three manned Reel camps, as well as the base camp, that day. The first camp they located was the Klopman-Tart camp, west of Mirror Bay, outside the state park.⁴³ The men were out of propane, having been supposed to fly out on April 24. They indicated they had not heard from Reel in days, although they had been in communication through satellite calls to their wives, who had transmitted information to and from Reel’s and Dally’s wives.⁴⁴

The Troopers continued north to Upnuk Lake where they’d seen the tracks the previous day. They located the now-vacant spike camp, then followed a set of snowshoe tracks to the location of the two planes – Reel’s and Stewart’s – on a hillside ridge inside the state park.⁴⁵

⁴² Wittkop test.; Ex. 2, p. 12.

⁴³ Recordings of this conversation are in the record at R. 2197 and R. 2208.

⁴⁴ Ex. 2, p. 7; Wittkop test.

⁴⁵ Ex. 2, p. 7; Wittkop test.

After landing, but before reaching the hunters, Trooper Wittkop found the broken propeller blade, which had been “sheared off near the hub of the propeller.”

When the Troopers arrived around 8:30 a.m., the men were loading up gear to leave the camp. Dally appeared embarrassed that his wife had called the Troopers, portraying their situation as “typical weather delays.” The Troopers interviewed both hunters and Mr. Stewart, although these conversations were somewhat hurried as Reel, Stewart, and Dally rushed to get Reel’s plane off the ridge while conditions allowed.

After some preliminary questions about the hunt and the trip, Wittkop told Dally they were mostly there to check on the group’s welfare and make sure they were “going to get out today.” When asked what had happened with the plane, Dally told the Troopers that Reel had “nicked the prop a little bit.” When asked for details, Dally demurred, telling Troopers, “He brought some oil and, I don’t know, I’m not an airplane guy so I don’t know what all he brought.”⁴⁶ When asked whether a propeller had been brought out, Dally, a certified pilot himself, replied, “no, I don’t believe so.”

Stewart declined to tell the Troopers what repairs were needed, saying he’d come out “with some parts” and that “you can ask [Reel]” exactly what was required.⁴⁷ Only when asked directly did he confirm that he’d brought Reel a replacement propeller.⁴⁸

Reel likewise minimized the problems in describing them to the Troopers. When Troopers approached Reel, he said that they were hurrying to get off the ridge before conditions deteriorated. He volunteered that Dally “hasn’t done anything wrong,” and took his bear “outside the park.” He explained that he had “made a mistake,” trying to land on the lake and then, later, landing on the ridge and turning the plane without first stomping down the surrounding snow.” When asked about the need for repairs, Reel initially told the Troopers he had “dinged the propeller” when landing. Later in the conversation, when asked directly, Reel apparently acknowledged having replaced the propeller.⁴⁹ Neither Reel nor Stewart told the Troopers that Reel had also changed the engine mount.

After Stewart finished loading his plane and departed, Reel and Dally asked the Troopers whether they could help transport Dally out of the field. After they were advised that this type of

⁴⁶ Any marginal credibility that this interview might otherwise have had is further strained by the fact that Dally is himself a certified pilot. It is difficult to imagine a scenario in which a certified pilot in this situation would not have noticed the arrival of a new propeller, let alone a new propeller and new engine mount.

⁴⁷ R. 2192-2193.

⁴⁸ Ex. 2, p. 9; R. 2192-2193.

⁴⁹ Wittkop test.; Ex. 2, p. 14.

assistance would likely result in forfeiture of the bear, Dally and Reel rejected that option and eventually flew off the ridge to the base camp to retrieve Dally's bear.

Once both planes had left the ridge, the Troopers further inspected the incident area. In addition to the sheared-off propeller blade, they found a fragment of a composite material consistent with a propeller, as well as an FAA parts tag for a PA-18 Engine Mount.⁵⁰ At the camp area, they found discarded food – leftover sushi rolls, lettuce, and orange peels – in the campfire pit, as well as a small plastic bag.⁵¹ Trooper Wittkop cleaned up these items and packed them out of the camp.

Troopers Lons and Wittkop then left the ridge campsite and flew to the area of the prior spike camp to try to locate the kill site for Dally's bear. Unable to locate that site, they flew to Reel's base camp at Little Gold Lake, where Reel and Dally had gone to retrieve Dally's bear. Reel's plane was parked on a patch of bare tundra, and Reel explained he had gotten stuck in overflow at Little Gold Lake.

Lons and Wittkop assisted in pushing Reel's plane off the tundra, and then left to search for the final Reel camp. They located Reel client Steve Johnson and assistant guide Mark Sullivan at a camp on the edge of Cascade Lake. Like Jeff Tart and Eric Klopman, Johnson and Sullivan, who were supposed to have flown out days earlier, reported not having heard from Reel in two days. The Troopers performed a welfare check, updated the hunters about Reel's plane, and relayed a request from Reel to move to an area suitable for landing in light of his recent difficulties with lake overflow.

6. *Reel's continued use of aircraft after the propeller strike*

Reel's use of his recently damaged, self-repaired aircraft did not end with flying Charles Dally off the ridge above Upnuk Lake, nor with returning Dally to Dillingham. After flying Dally to Dillingham, Reel did not arrange alternative transportation for his remaining clients. Instead, he returned to the field to fly each of them – Steve Johnson and Eric Klopman – and also flew a new client – John Law – into the field.⁵²

In all, Reel flew his plane for more than forty hours after replacing the propeller in the field and before having the plane inspected or serviced by a certified mechanic.

⁵⁰ Wittkop test; Ex. 2, pp. 9, 160.

⁵¹ Wittkop test; Ex. 2, pp. 9, 120.

⁵² Wittkop test.; Ex. 2, p. 10.

Several weeks later, Reel finally had his plane serviced by an A&P mechanic. The May 17 logbook entries indicate that Jim Erickson conducted a “prop strike inspection” required by AD 2004-10-14, which included removing, inspecting, reassembling, and reinstalling the engine with a new engine mount. Erickson also installed an FAA-certified Sensenich propeller.⁵³

(3) Investigations that followed Reel’s April 27 return from the field

Reel’s actions in the events described above were investigated by both the Alaska State Troopers, who forwarded the case to the Office of Special Prosecutions and Appeals (OSPA), and the Department of Natural Resources, which issued citations against Reel for operating inside and littering in the state park. The DNR citations were later dismissed by the prosecution.⁵⁴

In early May 2017, Trooper Wittkop, himself a certified pilot, notified the FAA about the events of Reel’s late April hunt. The matter was assigned to FAA investigator Harold Robertson, who began an investigation and ultimately interviewed Wittkop, Dally, and Reel.

Robertson and another FAA investigator interviewed Reel on May 11, 2017. Reel brought documentation including his engine and airframe logbooks. The FAA investigators reviewed the logbooks and noted that neither contained entries documenting the April 26 removal and replacement of the propeller and engine mount. The logbooks also contained no record of Reel’s earlier removal and replacement of his approved propeller, the second removal/replacement for the inspection, or the post-inspection reinstallation of the Catto propeller. Nor had Reel completed the prop strike AD.

In the course of the interview, Robertson showed Reel photos taken during Trooper Wittkop’s investigation, showing the broken propeller blade, an Approved Part (PMA) Tag for the engine mount, and the plane with the replacement propeller installed. Reel acknowledged that all three were his aircraft or aircraft parts. He acknowledged installing a Catto propeller on the plane and, when asked about his annual inspection, relayed that he had switched out the propellers in order to pass the IA, and had then reinstalled the unapproved Catto propeller.

In terms of areas of noncompliance with FAA requirements, Robertson was concerned about Reel’s installation of the unapproved propeller, his arguable deception vis a vis the annual inspection propeller swap, his noncompliance with the airworthiness directive on prop strikes,

⁵³ Ex. I.

⁵⁴ Eskellin test.; Ex. 1, pp. 7-8; 3DI-17-00297MO, *State of Alaska vs. Reel, Chad Anthony*.

his failure to log the repairs he had made, and the extent of his flying after making the field repairs and before completing the AD.⁵⁵

Despite investigators' concerns, the FAA ultimately took no enforcement action against Reel. According to Robertson, this was due to time limitations governing enforcement actions, which must generally be brought within six months of learning of the events. Investigators were unable to meet that deadline in this case, and the case "went stale" for purposes of FAA enforcement.⁵⁶

(4) Accusation and hearing

After a delay to see if the Office of Special Prosecutions and Appeals would be pursuing charges relating to Trooper Witkop's investigation, the Division of Corporations, Business and Professional Licensing investigated this matter in 2019.⁵⁷ On September 29, 2020, the Division filed an Accusation seeking suspension or permanent revocation of Mr. Reel's license. The Accusation was amended during these proceedings, and the active Accusation alleges thirteen counts centered around the following allegations:

- Entering Wood-Tikchik State Park to conduct commercial activities without a commercial use permit. (Counts 2, 3, 4, 9, 10)
- Violating FAA regulations (Counts 1, 3, 5, 6, 7, 11, 12)
- Failing to comply with investigators/law enforcement (Counts 6, 7)
- Littering in a state park (Counts 3, 8, 13)

Mr. Reel's request for a hearing on the Accusation was referred to the Office of Administrative Hearings (OAH) pursuant to AS 44.64.030(a)(6). The hearing was held over three days between late March and late April 2021, during which testimony was taken from Mr. Reel, Mr. Dally, Trooper Wittkop, Park Ranger Eskellin, FAA Investigator Robertson, Don Whitehair, and Michael Grimes, the Division's rebuttal expert.⁵⁸

III. Discussion

The parties have starkly differing views of this case. The Division argues that Reel has shown an ongoing disregard for the laws governing his guide business, and that his choices vis a vis the propeller replacement were not only illegal but so dangerous as to be unprofessional and

⁵⁵ Robertson was also concerned about Reel's honesty during the investigation, and whether he had downplayed the seriousness of the damage to the plane or the scope of his repairs. However, Reel admitted to having replaced both the blade and the engine mount.

⁵⁶ Robertson depo.; Ex. 25, p. 1; *see generally*, 49 C.F.R. 821.33

⁵⁷ Strout test.

⁵⁸ Because of FAA regulations restricting live testimony by employees, FAA Investigator Robertson, testified by a video deposition taken on April 12 and then filed with OAH. *See* 49 C.F.R. Part 9.

immoral. Reel, who suggests he is the victim of a longstanding campaign of harassment and unfair discipline, urges that any violations of rules governing his aircraft were both technical and outside of this Board's jurisdiction, and that the remaining allegations in the Accusation are petty and unwarranted.

A. Legal framework and evidentiary issues

This case is governed by the Administrative Procedure Act (APA) and by the statutes and regulations governing licensure of Big Game Guides and Transporters.⁵⁹ Because the Division is seeking to impose discipline on Mr. Reel's license, the Division has the burden of proof by a preponderance of the evidence.⁶⁰

Administrative proceedings conducted under the APA do not follow strict rules of evidence. Rather, relevant evidence is admissible "if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule that makes improper the admission of the evidence over objection in a civil action."⁶¹ Under the APA, hearsay is admissible, but may not be used alone to establish a fact unless it would be admissible under the Rules of Evidence. Otherwise inadmissible hearsay may, however, "be used to supplement or explain direct evidence."⁶²

In a motion filed after the testimony of Reel's expert, the Division requested that official notice be taken of various federal regulations it contended were implicated in that testimony. The motion is granted. Alaska R. Evid. 302(c)(2) – though not formally applicable and used here as a guide – permits a tribunal to take notice of federal regulations with or without a motion.⁶³

⁵⁹ AS 08.01, 08.54, and 12 AAC 75. The APA, found at AS 44.62, is made applicable by AS 44.62.330(a)(21).

⁶⁰ AS 44.62.460(e)(1).

⁶¹ AS 44.62.460(d).

⁶² AS 44.62.460(d) ("Hearsay evidence may be used to supplement or explain direct evidence but is not sufficient by itself to support a finding unless it would be admissible over objection in a civil action.").

⁶³ The Division's request covered 14 C.F.R. 39.7 ("What is the legal effect of failing to comply with an airworthiness directive?"); 14 C.F.R. 43.3 and Appendix A; 14 C.F.R. 43.7, ("Persons authorized to approve aircraft, airframes, aircraft engines, propellers, appliances, or component parts for return to service"); 14 C.F.R. 43.9 ("Content, form, and disposition of maintenance, preventive maintenance, rebuilding, and alteration records."); 14 C.F.R. 91.7 (Civil aircraft airworthiness); 14 C.F.R. 91.13 ("Careless or reckless operation."); 14 C.F.R. 91.319, ("Aircraft having experimental certificates, operating limitations"); and 14 C.F.R. 91.407 ("Operation after maintenance, preventative maintenance, rebuilding, or alteration").

B. *Did the Division meet its burden of proving the allegations in the accusation?*

The 13 counts of the Accusation center around four key concepts – the park entry, the litter, the FAA violations, and cooperation with investigators. Each of these four concepts is addressed separately below.

~~1. Entry into Wood Tikehik State Park (Counts II, III, IV, IX, X)~~

~~Five counts of the Accusation allege that Mr. Reel violated his licensing obligations by entering Wood Tikehik State Park without a commercial use permit during the Dally hunt. They are:~~

- ~~• Count II accuses Mr. Reel of violating AS 08.54.720(a)(4), which prohibits licensees from knowingly entering or remaining on state land without prior authorization during the course of providing big game hunting or transportation services.~~
- ~~• Count III accuses Mr. Reel of violating 11 AAC 18.010, which prohibits entering state parks without a commercial use permit.~~
- ~~• Count IV alleges Mr. Reel violated 12 AAC 75.340(b)(2) by entering Wood-Tikehik State Park without a commercial use permit during the course of providing big game hunting services.~~
- ~~• Count IX alleges that that providing transportation services inside the park without a permit violated 12 ACC 75.440(b)(1).~~
- ~~• Count X alleges that failing to obtain a permit before entering the park to provide transportation services violated 12 ACC 75.440(b)(2).~~

~~There is of course no factual dispute that Reel knowingly entered Wood Tikehik State Park during the April hunt. He initially touched down on Upnuk Lake, all of which is inside the park, and later landed on the ridge above the lake, also inside the park. And there is no factual dispute that in April 2017 Reel had no permit to conduct commercial operations in the park. The question for the Board's purposes is whether Reel's entry and occupancy of the park gives rise to a violation of guiding law under these circumstances.~~

~~Reel argues that he only entered the park due to emergency circumstances and not to actively conduct commercial activity, and also that Dally's hunt was effectively over by the time he entered the park. Accordingly, Reel argues, he should not be found to have violated the statutes and regulations governing park use during guiding activity. Taken as a whole, however, the facts do not support Reel's contention that he was somehow exempt from the commercial use permit and related requirements governing operations within the park.~~

~~Admittedly, the evidence is unclear about the hunters' intentions at the time they left the spike camp. With several days left on the hunt contract and Dally having four unused Big Game~~

~~tags, they may have been planning to move their gear to another spike camp and continue hunting. Or they may have, as they have now testified, been planning to return to the base camp, get Dally's bear, and eventually return to Dillingham. Fundamentally, however, the resolution of Counts II, III, IV, IX, and X does not depend on a determination of this question.~~

~~It is undisputed that Dally was still on his contracted guided hunt at the time the men packed up Reel's plane, and then at the time that Reel took off without Dally to stage gear and retrieve Dally. For the purposes of his contact with Reel and Reel's licensure obligations, Dally's hunt did not end until he returned from the field to Dillingham. Even if Dally was not intending to take any more game, the trip itself was not over, and Reel was still providing the services for which Dally had contracted. Thus, at the time Reel entered the park, even if Dally was not "done hunting," Reel was still providing him with commercial guiding and transportation services.~~

~~Reel next argues that even if he technically violated the statutes and regulations by entering the park, he was justified in doing so because an emergency had arisen. Again, the evidence does not support this contention. While Reel ended up in something of an emergency while in the park, his entry into the park preceded the emergency. When he took off from the spike camp, the plane was fully operational and no emergency yet existed.~~

~~At the time Reel entered the park, he was planning to use Upnuk Lake as a staging ground for gear on the way to moving Dally to another camp (whether it was the base camp or another spike camp). Reel now contends the entire entry into the park was due to emergency circumstances, because his decisionmaking was driven by his desire to find a landing spot where he could set down the gear while remaining in Dally's frame of view. But it was Reel's own decisionmaking—including taking a plane loaded with all the gear and leaving the client, with snowshoes and a gun, behind—that led him to need to stay close to the spike camp and, by extension, to the park entrance.~~

~~Reel had numerous options that did not involve flying into the state park to stage gear while his client remained at the spike camp unprovisioned. Perhaps most obviously, he could have removed the 230 lbs of gear from the plane instead of removing his client. He could have taken Dally back to the base camp, and then returned for the remaining gear. While it may have been most convenient for Reel to enter the state park and use it as a staging area, he did not have a permit when he made the business decision to do so.~~

~~Because Reel entered the state park in the course of providing guiding and transportation services, the Division has met its burden of establishing the associated violations (Counts II, III, IV, IX, and X):~~

2. Littering in the State Park

The Division also alleges that Mr. Reel violated his professional obligations by leaving litter in the State park after the plane repairs. As a factual matter, the Division has met its burden of proving that Reel or someone in his party left discarded food and a plastic bag at their campfire site inside the state park when Reel, Dally, and Stewart left the ridge on April 27. Surveying the scene after the planes' departure, Trooper Witkop found orange peels, leftover sushi, shredded lettuce, and a plastic bag.

As a legal matter, the Division approaches this issue several ways. In Count III, the Division alleges that the littering violated AS 46.06.080(a), and that this violation ran afoul of his 12 AAC 75.340(b) obligation to "comply with applicable state and federal statutes and regulations." In Count VIII, the Division alleges that Reel failed to practice sound wildlife conservation practices by leaving litter at the camp where the plane repairs occurred.

The statute the Division accuses Mr. Reel of violating in Count III, AS 46.06.080(a), provides in pertinent part that "a person may not throw, drop, deposit, discard, or otherwise dispose of litter from a vehicle or otherwise, on public or private property in the state or in waters in the state or under state jurisdiction" except in circumstances not relevant here.⁶⁴ A related statute defines litter to mean "all waste material including disposable packages or containers disposed of in a manner prohibited by AS 46.06.080," except for "the wastes of the primary processes of mining or other extraction process, logging, sawmilling, farming, or manufacturing."⁶⁵

Reel argues that the sushi rolls, lettuce, and orange peels were not "litter" because they would be eaten by "the foxes and the ravens." But the definition of litter does not turn on whether or not an animal might eat whatever waste material one has left behind. This is a frivolous argument, and the fact that Mr. Reel makes it increases the concern raised by the

⁶⁴ AS 46.06.080(a) ("A person may not throw, drop, deposit, discard, or otherwise dispose of litter from a vehicle or otherwise, on public or private property in the state or in waters in the state or under state jurisdiction unless (1) the property is designated by a state agency or municipality as a site for the sanitary disposal of garbage or refuse, and the person is authorized to use the site for that purpose; or (2) litter is placed in a litter receptacle so that the litter is prevented from being carried away or deposited by the elements upon public or private property or water in the state or under state jurisdiction.")

⁶⁵ AS 46.06.150.

littering violation itself. Campers in Alaska state parks are prohibited from leaving food for wildlife consumption. Reel cannot possibly expect the Board to believe that his understanding of Leave No Trace camping principles allows campers to leave piles of leftover food behind in state parks. Furthermore, Reel's party also left a plastic bag behind. Even under Reel's fantastical understanding of litter laws, a plastic bag would count as litter.

Reel also argues that the "sound wildlife conversation practices" provision relied on by the Division in Count VIII does not prohibit leaving discarded food and plastic bags at a camp site. The regulation, 12 AAC 75.340(e)(3), requires all classes of guides to "practice sound wildlife conservation and create an awareness of conservation needs and practices when dealing with the public." Reel's apparent contention that provision and its requirements are not implicated in leaving behind food waste to be eaten by animals accentuates the reasons this provision is included in the regulation setting out professional standards for guides. The dangers associated with wildlife consuming human food are well established, and are or should be well known to licensed guides. Sound wildlife conservation includes not leaving discarded food for wildlife to eat, and also includes not leaving plastics behind in the wilderness.

The Division met its burden of establishing that Reel's party littered in a state park and in doing so, violated an applicable state regulation and violated his professional obligations towards sound wildlife conservation practices.

3. Airplane repair violations (Counts I, III, V, XI, XII)

Several counts allege that Mr. Reel violated his guiding obligations by acting in a manner inconsistent with the federal aviation regulations governing the plane he uses to transport his clients. The Division variously argues that doing so was unprofessional or even immoral, and/or violated a guide's obligation to follow "applicable" state and federal regulations.

- In Count I, the Division alleges that Mr. Reel "engaged in unprofessionalism, moral turpitude, or gross immorality" by flying clients "in a plane which had been damaged, had not been repaired by a certified mechanic, and in which he had installed a propeller which he knew was not approved for the aircraft."⁶⁶ Count V asserts that this same conduct "intentionally, recklessly, or carelessly" exposed his clients to undue hazards.⁶⁷

⁶⁶ Under AS 08.54.710(j), the board may suspend or permanently revoke a transporter license or any class of guide license if the board finds after a hearing that the licensee engaged in conduct involving unprofessionalism, moral turpitude, or gross immorality.

⁶⁷ Count V, citing AS 08.54.720(a)(8)(A) (Board may impose discipline if licensee has knowingly committed violation of regulation adopted under AS 08.54; 12 AAC 75.340(c)(2) (guides shall avoid intentionally, recklessly, or carelessly exposing an employee or client to undue hazards).

- Counts III and XI allege that Mr. Reel failed to comply with FAA regulations pertaining to the parts and repairs of his aircraft, and that these failures implicate 12 AAC 75.340(b)(1), which requires guides to comply with applicable state and federal statutes and regulations. Count XII asserts that Mr. Reel's failure to comply with FAA regulations pertaining to the parts and repairs of his aircraft at the time he was providing transportation services implicates 12 AAC 75.440(b)(1).

Mr. Reel's chief response to these allegations is that the Board lacks jurisdiction to enforce FAA regulations. He also argues that he took reasonable steps in an emergency situation.

a. *Airplane repairs as violation of applicable federal regulations (Counts III and XI)*

As to Mr. Reel's jurisdictional argument, the argument is misplaced. Inherent in the Board's jurisdiction is ensuring that licensees follow the laws that govern the activities performed as they carry out their licensed services. This obligation is not limited to compliance with wildlife and game statutes. Rather, 12 AAC 75.340(b)(1) requires all classes of guides to comply with all "applicable state and federal statutes and regulations."

The Board's ability to impose discipline turns on the relationship between the alleged violation and the licensed services being provided. For example, if the Board learned that a guide was not following federal labor laws in employment of assistant guides, the Board could impose discipline on the license for those failures because of the nexus between the violation and the performance of licensed duties.⁶⁸

Even though the FAA regulations are not federal wildlife regulations, they are intrinsically tied to Mr. Reel's performance of his guide duties. He cannot fly clients in and out of the field or between campsites without his pilot's certification and his airplane's airworthiness certificate. Statutes and regulations governing those certificates, in turn, are inherently "applicable" to Reel's performance of his duties as a licensee of this Board. The Board is neither able to, nor attempting to, impose discipline on Reel's FAA-issued certificates, thereby restricting his ability to fly in non-guiding contexts. What the Board is doing is ensuring that, *when conducting commercial guiding*, its licensees are acting professionally, legally, and with due regard for client safety. In this context, Reel's noncompliance with applicable FAA regulations is plainly relevant to whether discipline should be imposed on his guide license.

As to the merits of the Division's claims, the Division met its burden of proving that Reel violated multiple significant FAA regulations governing both the use of his plane for guide

⁶⁸ *C.f. Fantasies on 5th Avenue LLC v. State*, 446 P.3d 360 (Alaska 2019)

services generally (namely, the inspection-related propeller swap) as well as the appropriate response to the events in Wood-Tikchik State Park.

Mr. Reel performed multiple major repairs on his aircraft outside the scope of his certification,⁶⁹ and without entering required entries into the aircraft's log books.⁷⁰ He also failed to comply with the airworthiness directive regarding required actions following a propeller strike.⁷¹ Instead of acting to protect his clients from the risk created by his improvised repair, moreover, he then flew the aircraft – repeatedly, and with guiding clients on board – before the proper inspections had been conducted and before the aircraft had been properly returned to service.⁷² Each of these actions violated substantive FAA rules applicable to his licensed activities as a provider of Big Game commercial services. The Division has therefore met its burden as to Counts III, XI, and XII.

b. Airplane repairs as unprofessional conduct (Count I)

In addition to arguing that Mr. Reel's decision to fly clients in the plane after his unauthorized repairs violated his duty to follow "all applicable" regulations, the Division further contends that this conduct reflects such a profound error in judgment as to constitute "unprofessionalism, moral turpitude, or gross immorality."⁷³ This allegation, set out in Count I, fails as to "moral turpitude" and "gross immorality," but succeeds as to "unprofessionalism."

While courts have long acknowledged the "inherent ambiguity" of the phrase "moral turpitude,"⁷⁴ the conduct alleged in this case does not fit within the broad confines of its general meaning. The concept of moral turpitude is typically located crimes that particularly implicate "dishonesty, [or] 'depraved and inherently base' conduct," although it can also include "acts that

⁶⁹ See 14 C.F.R. 43.3. and Appendix A; 14 C.F.R. 43.7(f) ("A person holding at least a private pilot certificate may approve an aircraft for return to service after performing preventive maintenance[.].").

⁷⁰ 14 C.F.R. 43.9, "Content, form, and disposition of maintenance, preventive maintenance, rebuilding, and alteration records;" 14 C.F.R. 91.407 ("(a) No person may operate any aircraft that has undergone maintenance, preventive maintenance, rebuilding, or alteration unless ... (2) The maintenance record entry required by § 43.9 or § 43.11, as applicable, of this chapter has been made.").

⁷¹ See 14 C.F.R. 39.7 ("Anyone who operates a product that does not meet the requirements of an applicable airworthiness directive is in violation of this section.").

⁷² 14 C.F.R. 91.407 ("(a) No person may operate any aircraft that has undergone maintenance, preventive maintenance, rebuilding, or alteration unless (1) It has been approved for return to service by a person authorized under § 43.7 of this chapter; and (2) The maintenance record entry required by § 43.9 or § 43.11, as applicable, of this chapter has been made."); 14 C.F.R. 91.7, Civil aircraft airworthiness ("(a) No person may operate a civil aircraft unless it is in an airworthy condition.").

⁷³ Accusation, Count I, citing AS 08.54.710(j).

⁷⁴ *Nunez v. Holder*, 594 F.3d 1124, 1131 (9th Cir. 2010). Many Boards whose statutes use the term have identified morally turpitudinous crimes in regulation. See, e.g., 20 AAC 10.035 (Professional Teaching Practices Commission); 12 AAC 40.967(17) (Medical Board).

indicate ‘bad character’ or that reflect adversely on one’s ‘personal values.’”⁷⁵ Before other Boards, licensees have been found to have committed acts of moral turpitude in cases involving prostitution and theft.⁷⁶

The facts of this case are not so egregious as to reflect on Mr. Reel’s moral character. The facts reflect poorly on Mr. Reel’s judgment, but not to such a degree or in a manner to suggest moral turpitude. Rather, the conduct shown reflects, and the Division unquestionably met its burden of showing, that Mr. Reel acted unprofessionally when he flew clients in an aircraft that he had rendered unairworthy.⁷⁷

Conducting secret modifications to an aircraft after its FAA inspection and in a manner not permitted by either the licensee’s airman’s certificate or the aircraft’s airworthiness certificate is an unprofessional act. Likewise, flying clients in a field-repaired unairworthy aircraft (in a non-emergency situation) is an unprofessional act. Mr. Reel did this multiple times on multiple days. While these acts do not rise to the level of moral turpitude, and do not implicate “gross immorality,” they fall squarely within the meaning of unprofessional conduct.

c. Airplane repairs as exposing clients to undue hazards (Count V)

The Division also met its burden under Count V of showing that Mr. Reel exposed his clients to undue hazards.⁷⁸ As a threshold matter, it is not a defense to these allegations that the plane ultimately did not fail during Reel’s 40-50 hours of flying it before complying with the AD. Nor is it a defense that the inspection, when finally, belatedly conducted, apparently did not reveal further damage to the plane. In the context of this case, the question of exposure to undue hazards must be viewed prospectively, from the perspective of possible harms, and is not limited to a retrospective consideration of whether such harms actually transpired.

As to the merits, the evidence supports that Mr. Reel knowingly exposed his clients to undue hazards. This is not to say that Reel *believed* he was exposing his clients to hazards. This decision accepts that Mr. Reel took steps to try to make the field repairs safe, and believed the plane to be safe to operate when he and Mr. Dally left the ridge above Upnuk Lake.

⁷⁵ *Matter of L.R.C.*, Oah Case No. 08-0625-SGL, at p. 4 (Commissioner of Public Safety 2009).

⁷⁶ See, e.g., *Matter of Oliver*, OAH Case No. 16-1500-MED (Alaska State Medical Board 2017); *Kenai Peninsula Borough Bd. of Educ. v. Brown*, 691 P.2d 1034 (Alaska 1984).

⁷⁷ See Grimes test. (PA-18’s airworthiness certificate was invalidated by the unauthorized propeller installation and other unauthorized repairs by Reel, and by Reel’s failure to complete the AD after the prop strike).

⁷⁸ 12 AAC 75.340(c)(2) (All classes of guides must ... avoid intentionally, recklessly, or carelessly exposing an employee or client to undue hazard).

But Mr. Reel *knowingly* took each of the actions that created undue risk to his clients by disregarding the many requirements that prohibited flying them in the field-repaired plane after the propeller strike. The safety implications of propeller strikes generally are well known amongst licensed pilots and were amply established at hearing.⁷⁹ And the potential implications of prop strikes on the Lycoming engine in Reel's PA-18 are severe enough to justify an AD mandating a thorough inspection and identified maintenance steps "before further flight" any time the engine has "experience[d] a propeller strike."⁸⁰ In light of these factors, Mr. Reel's self confidence in his unauthorized field repair does not ameliorate concerns about undue hazards while flying multiple clients around in his uninspected, field repaired plane.

It is a close call as to whether Mr. Reel's choice to fly with Mr. Dally after the field repairs implicates a violation under this count, because there was an element of exigency to the Dally transport (with the weather window subject to closure, the only immediately available alternative was to use the Troopers to fly Dally out).⁸¹ But even if the choice to fly Mr. Dally out of the field could be considered defensible, he not take a direct route back to Dillingham with Mr. Dally. Instead, he flew Dally twice in the field repaired plane – first to the base camp and then later to Dillingham. Each added flight raises additional questions about Reel's judgment with regard to client safety and the potential risks associated with the field repairs he had made.

Further, once Dally was out of the field and Reel and the damaged plane were safely in Dillingham, Reel continued to fly clients, engaging in additional risk-taking. While Eric Klopman and Steve Johnson were still in the field at this time, it is more likely true than not true that safer alternatives could have been used to retrieve them. Reel's field repaired and now unairworthy plane was not the only aircraft in Dillingham.⁸² Again, accepting that Reel believed

⁷⁹ Wittkop test. (damage to a propeller blade can cause severe vibrations and imbalance), Grimes test. and report.

⁸⁰ The Airworthiness Directive documents the significant safety risks associated with operating the aircraft after a propeller strike without the needed inspection and maintenance laid out in that document. Ex. 27, p. 1 ("The actions specified in this AD are intended to prevent loosening or failure of the crankshaft gear retaining bolt, which may cause sudden engine failure."); Ex. 28.

⁸¹ The parties spent considerable effort trying to find meaning in the Troopers rendering assistance to Reel before he and Dally took off, as well as them not insisting that Dally fly out with them instead of in Reel's plane. That Wittkop and Lons did not apparently identify the situation as an immediate threat to Dally's life or safety is not conclusive on the question of whether Reel, as a licensee, took actions that exposed his client to an undue hazard.

⁸² The evidence supports that this late in the spring, many pilots had removed their skis and were now unable to land in the soft snow as would be required to pick up the remaining hunters. But the evidence also supports that at least some pilots – Mr. Stewart – were able to do so. While using his own plane may have been the easiest and most cost-efficient alternative, the evidence does not support a finding that no other alternatives existed.

the field repaired plane to be safe, his decisionmaking was still at least careless with regard to client safety.

And even if the decisions to bring Klopman and Johnson out of the field in the field damaged aircraft could be found justified in terms of the possible safety risks of the unairworthy plane versus the risks of continuing to leave the men in the field with dwindling supplies until alternative transportation could be arranged, no such justification exists for the decision to fly the new client, John Law, out into the field in the field repaired plane. Flying Mr. Law in the field repaired plane was fundamentally a business decision that prioritized convenience over client safety, while exposing the client to undue risk. None of the ameliorating justifications existing for the clients stranded in the field existed to justify flying Mr. Law out into the field in an unairworthy plane requiring immediate inspection and repair.

In short, with respect to Dally, Klopman, and Johnson, Mr. Reel's action in continuing to fly clients in the field repaired plane without inspection or service by an IA mechanic and without regard to the AD was at least careless. And as to Mr. Law, who had none of the arguable competing safety needs favoring a flight, the decision was simply reckless. The Division has met its burden of showing that Mr. Reel "recklessly or carelessly" exposed his clients to undue hazards (Count V).

4. Cooperation with law enforcement (Counts VI and VII)

Lastly, the Division also alleges that Mr. Reel was insufficiently forthcoming with Troopers and FAA investigators, and that this reticence violated his obligations under AS 08.54. The Division did not meet its burden of proof on this issue.

Alaska Statute 08.54.720(a)(8)(A) allows the Board to discipline a licensee who has violated a regulation adopted under AS 08.54. One such regulation, 12 AAC 75.340(e), requires all classes of guides to cooperate with and provide information to assist state or federal law enforcement officers.⁸³ Count VI and VII allege that Mr. Reel failed to cooperate with law enforcement and failed to provide information to assist law enforcement in not disclosing the extent of damage to his plane, switching propellers, and trying to hide the engine mount repair. Taken as a whole, however, and despite Mr. Reel's initial lack of forthrightness, the evidence is not strong enough to support a finding under 12 AAC 75.340(e).

⁸³ 12 AAC 75.340(e)(1), (2).

Upon the Troopers' initial arrival at the ridge, Mr. Reel intentionally minimized his description of the damage and did not volunteer a disclosure of his aircraft maintenance activities. When asked if he had replaced the propeller, however, he admitted to having done so. As to the engine mount, neither Trooper asked Reel whether he had done other repairs beyond the propeller replacement. Given the totality of circumstances on the ridge, including the questions asked and the hurried pace of discussion while trying to take off during a closing window of good weather, the evidence is not strong enough to support a finding of failure to cooperate or provide information to law enforcement.

As to the FAA investigation, Mr. Reel again initially did not fully describe to the FAA investigators the scope of repairs he had undertaken. But early in the discussion, albeit only once confronted with the evidence of both the propeller and engine mount replacements, he admitted to both repairs. While it is a close call, the totality of circumstances surrounding the FAA interview do not support a finding of failure to cooperate or failure to provide information in either investigation.

It asks too much of licensees to interpret 12 AAC 75.340(e) to demand an immediate and unfiltered recitation of all details of an event, and to allow a finding of violation even where full facts emerge over the course of a short conversation. In both instances, Reel provided full information shortly after any initial hesitations. While he could have been more forthcoming initially, the evidence is not so strong as to warrant a sanctionable violation.⁸⁴ The Division has not met its burden as to Counts VI and VII.

C. What discipline, if any, is appropriate?

The Division having satisfied its burden of proving violations as described above, the Board must determine what level of discipline is appropriate under the circumstances of this case. The Division's Amended Accusation broadly requests that the Board "revoke, suspend, or impose other disciplinary sanctions" against Mr. Reel's licenses.⁸⁵ At hearing, the Division indicated it was seeking permanent revocation of Mr. Reel's licenses. In the alternative, it requests a five-year suspension, a five-year probationary period, a fine of \$11,500 (with \$5,750

⁸⁴ Mr. Reel's most deceptive conduct may have been the replacement of the propeller before and after the annual inspection. However, the inspection was not conducted by a law enforcement officer, and the "cooperation and full disclosure" regulation is not so broad as to allow a finding of a violation under the facts of the inspection-related propeller switch.

⁸⁵ Amended Accusation, p. 14.

suspended), and a public reprimand.⁸⁶ Mr. Reel, again viewing this cases as overblown, argues that he has been “aggressively ... pursued and targeted,” and that the Division is fundamentally misdirected in its approach to discipline in this case.⁸⁷

Under AS 08.01.075(f), a board is required to “seek consistency in the application of disciplinary sanctions.” While it does not appear this Board has previously encountered a disciplinary accusation arising out of similar or analogous facts, the Board can look to certain guideposts and principles in identifying appropriate discipline. These include the disciplinary sanctions matrix, the disciplinary parameters identified in AS 08.54.710(j), and the Board’s previously expressed interest in assuring that licensees operating “in remote areas and without immediate oversight” will appropriately self-police their own activities.⁸⁸

The Board uses a matrix of criminal sanctions and previous disciplinary actions to guide its decision-making in determining the appropriate level of discipline for any particular statute or regulation.⁸⁹ While the matrix is not controlling, it is a useful starting point towards the goal of consistency. Whether the offense is a first, second, or third, and the nature of the offense all influence whether the recommended sanction is as minimal as a letter of advisement and small fine to as grave as permanent revocation.

The violations established here are of AS 08.54.720(a)(4) (remaining on public land without prior authorization) and .720(a)(8)(A) (compliance with AS 08.54, its regulations, and state and federal wildlife and game laws). The majority of violations are under 08.54.720(a)(8)(A), and then, more specifically, the catch-all regulation of 12 AAC 75.340(b)(1). The former requires licensees to comply with state and federal wildlife or game statutes, as well as regulations adopted under AS 08.54. The latter requires licensees to comply with all “applicable state and federal statutes and regulations.”

For a violation of .720(a)(4), the matrix advises that the Board has previously imposed a fine (\$500 - \$5,000), reprimand, and up to five years of probation for a first-time violation and adds to that a suspension of 1-2 years for a second violation.⁹⁰ For a violation of .720(a)(8)(A), the matrix advises that the Board has previously imposed a fine (\$1,000 - \$4,000), reprimand,

⁸⁶ Closing arguments. The Division explained that the proposed fine is based on \$500 for a violation of AS 08.54.720(a)(4), and \$1,000 each for 11 violations of AS 08.54.720(a)(8)(a).

⁸⁷ Closing arguments.

⁸⁸ See *Matter of Smith*, OAH No. 08-0424-GUI (Big Game Commercial Services Board 2009), at 16.

⁸⁹ Ex. 26.

⁹⁰ Ex. 26, p. 3.

and up to one year of probation for a first-time violation. For a second violation, the Board has imposed twice the previous fine, probation up to two years, and a reprimand.⁹¹

The Division correctly points out that a sanction based solely on the characterization of Reel's actions in this case as "first time offenses" would fail to account for his voluminous disciplinary history, as well as fail to account for the seriousness of the violations committed here.⁹² Even if the FAA-related violations are characterized as "first time" violations, they are numerous, and serious. More fundamentally, as held above, Reel not only violated "applicable regulations," but also committed unprofessional conduct and carelessly exposed his clients to undue harm.

In addition to range of disciplinary sanctions identified within the matrix, the matrix itself and prior decisions applying it have acknowledged that the totality of circumstances in a particular case necessarily influences the appropriateness of any particular disciplinary outcome. A particularly important overall circumstance is Mr. Reel's prior difficulty in complying with guiding-related laws. His misconduct has been so serious that it has already resulted in one revocation, with the license reinstated after three years. The year after being reinstated, he committed another violation. And two months after approval of a consent agreement for that violation, he ran the hunt at issue in this case.

In identifying the appropriate sanction here, the Board must account for the seriousness of the offenses and also serve as a deterrent to other licensees. As has been noted in prior Board decisions, the nature of the profession keeps licenses and their clients largely outside of view. The profession must rely on its members to act with ethics and prudence when no one is watching.⁹³ Mr. Reel's conduct in this case shows a willingness to cut corners and ignore the rules, even on matters as unforgiving as aircraft safety. Particularly in the remote settings in which licensees operate, the Board cannot indulge such conduct.

Lastly, in addition to the matrix, we are also guided by AS 08.54.710(j), which establishes the disciplinary parameters for a finding of unprofessional conduct: "The board may suspend or permanently revoke a transporter license or any class of guide license if the board

⁹¹ Ex. 26, p. 4.

⁹² This decision does not accept the Division's suggestion of a matrix analysis based on the total number of times Reel has been found to have violated AS 08.54.720. The matrix does not offer an analysis based on mixing and matching different .720 violations, but instead individually examines discipline imposed for violations of that statute's individual subsections.

⁹³ See, e.g., *Matter of Smith*, *supra*; *Matter of Hicks*, OAH No. 18-0539-GUI (Big Game Commercial Services Board 2019), at 31.

finds after a hearing that the licensee engaged in conduct involving unprofessionalism, moral turpitude, or gross immorality.” While this decision does not accept the Division’s characterization of these events as either “morally turpitudinous” or “grossly immoral,” they were unquestionably unprofessional, demonstrating a lack of good judgment, and raising serious integrity concerns about a willingness to put business decisions ahead of client safety. Also relevant, as noted, is Mr. Reel’s lengthy disciplinary history, including having fallen so far below professional standards in the past that his license has previously been revoked for a period of years. The hunt at issue in this case was his second disciplinary matter in just three years after that revocation was lifted. Moreover, this case reveals varied and pervasive misconduct, much of it intentional.

In these circumstances, a sanction less than a meaningful period of revocation would provide insufficient assurance against further serious violations and accompanying safety hazards. Accordingly, this decision concludes that a five-year period of license revocation appropriately addresses the seriousness of Mr. Reel’s conduct while leaving open the possibility that he could later seek to return to the profession if willing and able to follow applicable laws.⁹⁴ Additionally, a fine of \$6,500 (\$5,000 for the regulatory violations and unprofessional conduct, and \$1,500 for the ~~state park entry and littering~~) is imposed, with \$2,500 suspended. A public reprimand will also issue.

IV. Conclusion

The Division met its burden of proving that Chad Reel engaged in unprofessional conduct that violated numerous applicable federal laws and created an undue risk of harm to his clients. The totality of the circumstances supports imposition of discipline as follows:

- (1) license revocation for a period of five years;
- (2) a civil fine in the amount of \$6,500, with \$2,500 suspended; and
- (3) a public reprimand.

Transmitted July 23, 2021 *nunc pro tunc* July 2, 2021



Cheryl Mandala
Administrative Law Judge

⁹⁴ The presumptive five-year term of revocation is without prejudice to any rights under AS 44.62.550.

Adoption

The ALASKA BIG GAME COMMERCIAL SERVICES BOARD adopts this revised decision as final under the authority of AS 44.64.060(e)(1).

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of distribution of this decision.

DATED this 27 day of July 2021.

By:



Jason L. Bunch

Name

Chairman, BGCSB

Title