

STATUS REPORT CONCERNING

"BROTHERS TO THE RESCUE"
AND
MIAMI FSDO

BACKGROUND

The MIAMI FSDO became involved with the "BROTHERS TO THE RESCUE" (BTTR) in the early part of 1993 when the rescue efforts on the part of the "BROTHERS" resulted in several minor incidents. The Miami FSDO responded with a surveillance program which included inspections of ALL of the aircraft used on the rescue missions.

On September 28, 1993, the entire group of forty four (44) pilots that were involved with the rescue efforts were invited to a meeting at Miami FSDO. FAA personnel from the FSDO provided regulatory clarification and safety guidance for the forthcoming BTTR operations. The FAA also made it very clear that the primary responsibility of the inspectors was to ensure flight safety and any unsafe practice or procedure used by the BTTR would be dealt with using the normal enforcement policies. The message was accepted and understood, and, Mr. Basulto expressed his thanks for the FAA interest and concerns. Several suggestions were tabled by the BTTR that would improve the safety of their operation, however, Miami FSDO has NO records of any of the suggestions or recommendations being implemented.

Mr. Carlos Ernesto Gartner was pilot in command of Piper Aztec N5333Y on June 19, 1994 on a routine BTTR rescue mission in the Florida waters approximately 50 miles southwest of Marathon, Florida. At approximately 11:30 AM a vessel traveling westbound was observed carrying what seemed to be Cuban refugees. Mr. Gartner circled the vessel and then elected to make a low pass over the vessel to enable him to drop a radio to the occupants. The low pass was made in such a manner that the left wing of the aircraft contacted the mast of the vessel doing damage to both the aircraft and the vessel. As a result of the inflight collision, Mr. Gartner flew his aircraft directly back to Marathon and landed without further incident. This matter was the subject of several past Congressional inquiries and an ongoing FAA Enforcement Action #94SO190068. This case was heard before a NTSB Law Judge and Mr. Gartner was found guilty of careless actions with an aircraft and fined a total of \$1000.00. The FAA is not happy with this resolution and has the decision of the NTSB under appeal.

On June 1, 1995, the Cuban government filed a diplomatic note regarding Cessna 337, N2506, a BTTR aircraft. The government of Cuba asserted that between 11:59 AM and 12:03 PM, aircraft N2506 entered four kilometers into Cuban airspace in the vicinity of Barocoa the eastern tip of the Cuban island. The U.S. Military Operations office of the ARTCC conducted an investigation which indicated the Miami Center has NO contact with the aircraft in question. Further investigation with Miami AIFSS revealed the following information:

1. On June 01, 1995 at 1109Z, The following flight plan was filed:

Call sign N2506, type C337, Depart OPF, Time P1215, Speed 140, Altitude 500, Route OPF 2400N, 7930W, 2330N, 8230W, 2400N, 8230W, OPF time enroute 0600. Remarks Rafter rescue flight, Pilot Basulto, Phone 685-7101, 439-1157. NOTE- this is a standard rafter flight plan.

2. June 01, 1995 1307Z, N2506 departed and was assigned a transponder code of 1203.

3. June 01, 1995 Flight plan on N2506 canceled at 1758Z.

NOTE-communications were made by phone. Miami AIFSS has NO inflight radio contacts.

Miami FSDO has requested copies of all radar information from Miami ARTCC, This information is needed to confirm the Cubans government allegations and proceed with FAA enforcement action.

After learning of the July 13, 1995 flotilla, Miami FSDO inspectors again met and communicated with Mr. Jose Basulto of BTTR. both verbally and in writing expressing concern for the BTTR safety and the need for regulatory compliance during the upcoming flotilla. Mr. Basulto was provided a copy of the appropriate regulations that would govern his proposed operations in International airspace and again advised about the factors surrounding regulatory compliance and any action outside that framework would be dealt with using the normal enforcement policies. Mr. Basulto indicated he understood our concerns.

On July 13, 1995, the day of the Cuban flotilla, Miami ARTCC stated that an incident occurred within the territorial waters and over the land mass of Cuba. The ARTCC records indicate there were 13 U.S. registered aircraft on flight plans in or near the area of the incident. The registration numbers of the aircraft are: N161BH, N5485S, N29226, N61276, N2456S, N108LS, N312MX, N2329S, N2506, N408JC, N3537Q, and N165BH.

The ARTCC has been unable to provide positive RADAR identification of the aircraft involved, however, the ARTCC will be contacting the Cuban RADAR for an exchange of information with respect to the aircraft mentioned above.

A Miami TV news station reported was aboard aircraft N108LS along with Mr. Jose Basulto as they flew the aircraft over the populated areas near the shore lines of Havana. The NEWS commentator identified Mr. Basulto and described his actions in the aircraft as throwing "BROTHERS TO THE RESCUE" bumper stickers out of the aircraft over downtown Havana. This action was video taped and a copy of the tape has been obtained by the Miami FSDO. The result of this action and type of flying is now a part of an enforcement action #95SO190142 against Mr. Jose Basulto. The information requested from the Cuban government with respect to that particular flight was presented to the Miami ARTCC who in turn directed same to the Miami FSDO. The documents presented by Cuban RADAR and air traffic control were totally in Spanish and needed careful translation. Contact was made with the FAA legal office, Mr Keith May who instructed the FSDO to send the documents to his office immediately for translation and inclusion in the case file against Mr. J. Basulto. The latest on the action against Mr. Basulto is, the total enforcement file and all documents have been transferred to the legal office in Washington Headquarters for processing and informal conference procedures.


August 9, 1995, FAA personnel from the Miami FSDO attended a meeting in Miami that was chaired by Mr. Rick Nuccio, the White House Point Man on Cuba and Co-chaired by Mr. John Schlosser, DOS.

In attendance were members of the Miami Police, Customs, FBI, Coast Guard and special Bomb/Terrorist Agents. The point of discussion as the announced flotilla planned for September 2, 1995. A major fear is the possible downing of a BTTR aircraft by land based gunfire. Toward this end, the U.S. Department of State, Office of the Spokesman prepared a Public Announcement for immediate release on August 8, 1995. This announcement warns "ALL", persons that the Cuban government asserted its "FIRM DETERMINATION" to take actions necessary to defend Cuban territorial sovereignty and to prevent unauthorized incursions into Cuban territorial waters and airspace. The Cuban government stated, "Any boats from abroad can be sunk and any aircraft downed". The Department of State takes this statement very seriously.

This particular flotilla began with numerous boats but shortly after departing the Miami mainland, one of the boats started taking on water and while within sight of the Miami sank into the ocean. All members of the crew and passengers were rescued but one older Cuban gentleman suffered a heart attack and died on his way to the hospital. The flotilla was canceled as a result of this tragedy. The BROTHERS were

standing by at Opa Locka Airport to depart and play their part but also canceled when news of the sinking was transmitted to their headquarters.

The "NEW" repatriation procedures introduced by President Clinton has tended to nullify the charter that motivated the BROTHERS to fly their aircraft. The latest from Mr. Jose Basulto is an application with the FAA to become a legal Air Taxi operation that would allow the BROTHERS to fly from Miami/Opa Locka into Guantanamo Bay, Cuba. The purpose of the flights would be to carry medications, mail, food and people. Mr. Basulto submitted a Preapplication Statement of Intent on November 6, 1995 in the name of Gopher Air Inc. but to this date this application has not been acted upon toward completion by that organization.



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