



**Transportation
Security
Administration**

April 10, 2013

SENT BY FIRST CLASS MAIL

(b)(6)

RE: TSA Case No.

(b)(6)

FINAL NOTICE OF PROPOSED CIVIL PENALTY AND ORDER

By Notice of Proposed Civil Penalty dated January 10, 2013, you were advised that the Transportation Security Administration (hereinafter "TSA") proposed to assess a civil penalty against you in the amount of \$900.00 for a violation of the Transportation Security Regulations (hereinafter "TSR") alleged therein. As of this date, we have not received a response to the Notice.

After consideration of all the available information presently a part of this enforcement action, it appears that:

1. At all times relevant herein, Section 1540.109 of the Transportation Security Regulations (TSRs) provided that no person may interfere with, assault, threaten, or intimidate screening personnel in the performance of their screening duties under this subchapter. 49 C.F.R. Section 1540.109.
2. At all times relevant herein, the Transportation Security Administration (TSA) contracted with Covenant Aviation Security (CAS) to perform security screening duties at the San Francisco International Airport (SFO), Burlingame, CA.
3. On March 10, 2012, you were a ticketed passenger for a flight departing from Terminal 3, at SFO.
4. On that date at approximately 0718 hours, you presented yourself and your accessible property for screening at the Terminal 3, Checkpoint E Passenger Screening Checkpoint at SFO.

SENSITIVE SECURITY INFORMATION

~~WARNING: THIS RECORD CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER 49 C.F.R. PARTS 15 AND 1520. NO PART OF THIS RECORD MAY BE DISCLOSED TO PERSONS WITHOUT A "NEED TO KNOW," AS DEFINED IN 49 C.F.R. PARTS 15 AND 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR OF THE TRANSPORTATION SECURITY ADMINISTRATION OR THE SECRETARY OF TRANSPORTATION. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC DISCLOSURE IS GOVERNED BY 5 U.S.C. 552 AND 49 C.F.R. PARTS 15 AND 1520.~~

www.tsa.gov

5. On that date, prior to submitting to the screening process, you notified a CAS Transportation Security Officer (TSO) that you wanted to opt out of the Advanced Imaging Technology (AIT) screening process. The CAS TSO informed you that you would receive a pat-down since you elected to opt out of the AIT screening process. The CAS TSO further informed you that the pat-down could be conducted in a private screening room.
6. You agreed to the pat-down and requested that the pat down be conducted in a private screening room. A CAS TSO and a CAS Lead TSO (LTSO) escorted you into the private screening room.
7. Immediately upon entering the private screening room you removed your pants, your shirt and your undergarments, exposing your genitalia. The CAS TSO and CAS LTSO advised you that your behavior was inappropriate and that screening could not continue until you got dressed.
8. You ignored the instructions of the CAS TSO and CAS LTSO. You then turned your back to the CAS TSO and CAS LTSO. You leaned forward, spread your buttocks and stated "there is nothing there."
9. The CAS TSO and CAS LTSO again advised you that your behavior was inappropriate and asked you to put your clothes back on.
10. The CAS LTSO notified a CAS Supervisory TSO (STSO) of your inappropriate conduct. As a result of your inappropriate conduct, the CAS STSO requested the assistance of the San Francisco Police Department-Airport Bureau (SFPD-AB).
11. After the CAS STSO requested the assistance of the SFPD-AB, you put your clothes back on but refused to allow the CAS TSO or CAS LTSO to perform a pat-down.
12. At approximately 0730 hours an SFPD-AB officer arrived at the private screening room. The SFPD-AB officer advised you that if you did not complete the screening process, you would not be able to continue with your flight. You agreed

to the pat down.

13. At approximately 0730 hours a TSA Transportation Security Manager (TSM) arrived at the private screening room.
14. At approximately 0750 hours, the CAS TSO and CAS LTSO conducted a pat down screening on you.
15. At approximately 0755 hours, you departed the screening checkpoint and you continued with your flight.
16. At approximately 0810 hours, the TSA TSM and a TSA Transportation Security Inspector obtained statements from the CAS TSO, LTSO and STSO regarding the incident.
17. At approximately 0810 hours, the CAS TSO, LTSO and STSO resumed their normal screening duties.
18. Three CAS TSA employees and one TSA employee were required to assist you during the screening process. Two CAS employees were called away from other duties at the checkpoint to respond to your conduct. In addition a TSA Transportation Security Manager was called away from other duties to respond to your conduct.
19. In addition to the three CAS TSA employees and the one TSA employee, an SFPD-AB officer was called to assist during the screening process.
20. The CAS screening personnel were taken away from other screening duties for approximately 92 minutes to attend to you.

By reason of the foregoing circumstances, it appears that you violated the following section(s) of the Transportation Security Regulations:

- a. 49 C.F.R., §1540.109 of the Transportation Security Regulations (TSRs), which states that no person may interfere with, assault, threaten, or intimidate screening personnel in the performance of their screening duties under this subchapter.

Pursuant to 49 U.S.C. § 46301(a) and (d), you are subject to a civil penalty not to exceed \$11,000.00 for the violation noted. After reviewing all of the relevant facts and evidence

contained in the investigative file, the TSA proposes to assess a civil penalty in the amount of \$900.00 for this violation.

Within 15 days of your receipt of this Final Notice, you must either: (1) submit the full civil penalty amount proposed in this Final Notice; (2) submit a civil penalty amount that is otherwise agreed upon by the undersigned TSA attorney; or (3) request, in writing, a Formal Hearing in this matter. IF YOU DO NOT RESPOND TO THIS FINAL NOTICE OR FAIL TO REQUEST A FORMAL HEARING IN WRITING WITHIN 15 DAYS OF YOUR RECEIPT OF THIS FINAL NOTICE, THIS FINAL NOTICE WILL AUTOMATICALLY BECOME AN ORDER ASSESSING CIVIL PENALTY (hereinafter "Order") IN THE AMOUNT PROPOSED, AND YOU WILL HAVE WAIVED YOUR RIGHT TO REQUEST A HEARING IN THIS MATTER.

Should you elect to submit the civil penalty, a certified check or money order, payable to the "Transportation Security Administration," should be mailed to:

US Department of Homeland Security
Transportation Security Administration
P.O. Box 530262
Atlanta, GA 30353-0262

The case number of this matter should be written on the face of the certified check or money order, and a copy of the payment instrument forwarded to the undersigned attorney.

You also have the option of paying the civil penalty by credit card or direct debit. If you elect to pay electronically you should log on to www.Pay.gov, which is a secure website administered by the U.S. Department of the Treasury (instructions enclosed).

You may not change the civil penalty amount proposed in this Final Notice absent the agreement of the undersigned attorney and the TSA Office of Chief Counsel.

Should you elect to request a Formal Hearing, you must file a typewritten or legibly handwritten "Request for Hearing" with the ALJ Docketing Center:


USCG ALJ Docketing Center	
Attention: Enforcement Docket Clerk	Email: ALJdocket@ALJBalt.USCG.MIL
40 S. Gay Street, Room 412	Fax: (410) 962-1746
Baltimore, Maryland 21202-4022	

Additionally, you must mail a copy of your "Request for Hearing" to the undersigned attorney. The Request must be dated and signed by you, in accordance with 49 C.F.R. § 1503.16 of the TSR, and should include your current mailing address. You may view the **Transportation Security Regulations at: <http://www.gpoaccess.gov/ecfr/index.html>**

Also, please note that this process is separate and distinct from any criminal proceeding.

If you do not respond to this Final Notice within 15 days of receipt, this Final Notice becomes an Order, and the Order will constitute a debt owed to the United States. If this debt is not paid in full within 30 days of the time this Final Notice becomes an Order, the debt will be considered delinquent. For delinquent debts, Federal law requires the TSA to charge interest. The interest will be charged at a fixed annual rate along with an administrative charge of \$12.00 per month, representing the TSA's costs of administrative collection. The current annual rate can be found at <http://fms.treas.gov/cvfr/index.html>. Furthermore, if the amount assessed is not paid in full within 90 days of the date that the debt becomes delinquent, the TSA is required to assess an additional penalty at an annual rate of 6%, accruing from the date of delinquency. Debts delinquent for more than 180 days will be referred to the U.S. Department of Treasury for further collection action, including offset of Federal payments and tax refunds, or to the United States Department of Justice for litigation. An Order Assessing Civil Penalty constitutes a finding by the TSA of the facts and regulatory violation contained therein.

Please direct all communications in this matter to the undersigned attorney.

By: 
Stephanie M. Jackson
Supervisory Counsel Attorney
U.S. Department of Homeland Security
Transportation Security Administration
700 Airport Blvd, Suite 200
Burlingame, CA 94010
(650) 581-(b)(6)

CERTIFICATE OF SERVICE

I hereby certify that an original copy of the foregoing Final Notice of Proposed Civil Penalty and Order, TSA Case No. (b)(6) has been sent on this date, by First Class Mail to:



Dated: April 10, 2013


Patrick Shaw