CAA Non- Executive Board Members: **Ms Jane Hanson**
Ms Katherine Corich

By Registered Post and Email:

16 May 2023

Dear

Your Regulation 6 Review
Hearing Date: 30 March 2023

The Review Panel's decision is as follows:

INTRODUCTION

1. (the Applicant) holds an Airline Transport Pilot's Licence (Aeroplanes) (ATPL) issued by the CAA. He previously flew passenger aircraft for airlines. His ATPL was provisionally suspended on 2 May 2018, pending the outcome of a CAA investigation into an allegation that he had falsely claimed command flying hours. As a result of the investigation, he was prosecuted for offences of fraud and offences relating to entries in his personal flying logbook.

2. On , the Applicant pleaded guilty to four offences of fraud and two offences relating to entries in his personal flying logbook. A proposal to revoke his licence was made by letter dated 14 March 2022. On he was sentenced to 12 months' imprisonment. On the same date, he requested a review of the proposal to revoke his licence under Regulation 6 of the Civil Aviation Authority Regulations 1991.

3. Accordingly, the proposal to revoke the Applicant's licence has been considered by a CAA Panel, comprised of Katherine Corich and Jane Hanson, who are appointed by the Secretary of State for Transport as Non-Executive Members of the Board of the CAA. The hearing of the Applicant's Regulation 6 review application took place on 30 March 2023. The Panel convened to consider the proposal and the Applicant's response on the papers. The following material was considered:

   i) The SARG brief for Regulation 6 review;
   ii) The SARG bundle for the Regulation 6 review;

iii) A letter from the Applicant to the review panel;

4. This decision letter is structured as follows:

i) Section A summarises the relevant background;
ii) Section B sets out SARG's proposal;
iii) Section C sets out the Applicant's response;
iv) Section D assesses the merits of the proposal and the response; and
v) Section E is the Panel's conclusion.

SECTION A: RELEVANT BACKGROUND

5. The CAA prosecuted the Applicant for offences of fraud and offences relating to entries in his personal flying logbook. The fraud offences concerned false representations made about his flying experience, qualifications and references in order to obtain or maintain employment with [redacted] and [redacted]. The logbook offences concerned false entries made and altered at times when his employment as a pilot was under review by his employers.

6. The Indictment in the CAA's prosecution contained ten counts. On [redacted], at [redacted] Crown Court, before His Honour Judge (HHJ) [redacted], the Applicant pleaded guilty to six of the ten counts (Counts 1, 4, 5, 7, 9 and 10 on the Indictment). No finding of guilt or innocence was made in respect of the remaining four charges (Counts 2, 3, 6 and 8 on the Indictment). The counts he pleaded guilty to were as follows:

> **Count 1: Fraud by false representation**, contrary to section 1 of the Fraud Act 2006.
>
> [redacted] on a day before the 5th day of April 2016 committed fraud in that he dishonestly made a false representation, namely entering false details in a job application form that he had flown 1610 hours as Captain, intending to make a gain for himself by obtaining a job with [redacted], in contravention of section 2 of the Fraud Act 2006.
>
> **Count 4: Fraud by false representation**, contrary to section 1 of the Fraud Act 2006.
>
> [redacted] on the 25th day of January 2017 committed fraud in that he dishonestly made a false representation, namely providing false documentation to his employer comprising –
>
> (i) a fabricated Command Course Certificate of Training from July 2012 in the name of [redacted] signed by a [redacted], and
> (ii) a fabricated letter stating that [redacted] had successfully completed a command line check on 7th October 2012 from a [redacted], intending to make a gain for himself by seeking to continue his employment with [redacted], in contravention of section 2 of the Fraud Act 2006.
>
> **Count 5: Fraud by false representation**, contrary to section 1 of the Fraud Act 2006.
>
> [redacted] on the 15th day of February 2017 committed fraud in that he dishonestly made a false representation, namely forwarding to his

employer an e-mail from a [redacted] which had been edited without [redacted] consent, intending to make a gain for himself by seeking to continue his employment with [redacted], in contravention of section 2 of the Fraud Act 2006.

Count 7: Fraud by false representation, contrary to section 1 of the Fraud Act 2006.

[redacted] on a day before the 3rd of July 2017 committed fraud in that he dishonestly made a false representation, namely two fabricated references signed by a [redacted] in support of a job application, intending to make a gain for himself by obtaining a job with [redacted], in contravention of section 2 of the Fraud Act 2006.

Count 9: Knowingly making false entries in a logbook, contrary to articles 256(4) and 265(7) of the Air Navigation Order 2016.

[redacted] on, or before, 9th day of March 2018 knowingly making a false entry in a logbook, required to be maintained under the provisions of the Air Navigation Order 2016 by including –
(i) flights in aircraft operated by [redacted] prior to [redacted] working for [redacted]
(ii) flights with pilots prior to them working for [redacted]
(iii) 92 flights in aircraft before the aircraft had been registered as logged,
(iv) flights departing before the previous flight logged had arrived,
(v) 14 flights logged in an aircraft for the same time as a flight in a different aircraft,
(vi) 42 flights logged as departing from an airport that he had not arrived at,
(vii) flights where the flight time logged excessively exceeded the reasonable flight time, and
(viii) flying time when the flight had taken place in a flight simulator.

Count 10: Intentionally altering entries in a logbook, contrary to articles 256(3) and 265(7) of the Air Navigation Order 2016.

[redacted] on, or before, the 25th day of January 2017 intentionally altered an entry in a logbook, required to be maintained under the provisions of the Air Navigation Order 2016 by altering entries for flights which did not take place.

7. In a letter dated 14 March 2022, the CAA set out its findings of non-compliance (in accordance with Part-ARA.GEN.355), as to lack of fitness of character, and made its proposal to revoke the Applicant's ATPL. The letter explained that the CAA was required by Regulation (UK) No 2018/113 (the 'Aircrew Regulation') to take licensing action if findings were made of non-compliance and that its Fitness of Character policy (the "Policy") also required it to consider taking licensing action.

8. The letter of 14 March 2022 stated that the Aircrew Regulation specifically required the CAA to limit, suspend or revoke a licence where records had been falsified. The Policy required the CAA to consider regulatory intervention if a person may no longer have the

fitness of character appropriate to the privileges of their licence. The CAA must be satisfied that licence holders demonstrate trustworthiness and a propensity to obey rules.

9. The letter noted that the Applicant had pleaded guilty to offences of fraud by false representation, altering entries in and making false entries in a logbook. The fraud offences concerned representations the Applicant made to airlines about his flying experience to obtain or retain your employment as a commercial pilot. The logbook offences concerned his personal flying log, a document he was required to maintain with accuracy.

10. The letter stated that as the offences concerned false records, the CAA was required by the Aircrew Regulation to limit, suspend or revoke the Applicant's licence. It was said that the facts leading to the convictions, as well as the convictions themselves, showed that the Applicant did not have a propensity to obey rules and/or was untrustworthy, and therefore did not have the fitness of character to hold a pilot licence.

11. The letter stated that SARG had considered whether the Applicant's licence privileges could be limited or suspended, but had determined that the offending was so serious and so wholly contrary to aviation safety principles that there was no limitation which could be placed on his licence or reasonable period of suspension by or during which he would meet the standards required or be able to satisfy SARG that his fitness of character to hold a licence has been restored.

12. Accordingly, SARG was satisfied that there were sufficient reasons to revoke the Applicant's licence and proposed to do so. The letter reiterated that he may request a review of the proposal to revoke his licence and associated certificates under Regulation 6 of the Civil Aviation Authority Regulations 1991, which would be reviewed by a panel of CAA Board Members. The Applicant made such a request on the day that he was sentenced.

13. The Applicant was sentenced on [redacted], at [redacted] Crown Court. HHJ [redacted] sentenced him to a total of 12 months' imprisonment, which included concurrent sentences in respect of certain offences. The Panel has been provided with a copy of the Indictment, the Certificate of Conviction, the Summary of Facts upon and the Sentencing Remarks of HHJ [redacted].[1] A breakdown of the sentence for each offence is set out in the table below:

Count 1	12 months' imprisonment
Count 4	12 months' imprisonment, concurrent
Count 5	12 months' imprisonment, concurrent
Count 7	12 months' imprisonment, concurrent
Count 9	1 month, concurrent
Count 10	1 month, concurrent

14. The Applicant has been released from custody.

[1] SARG Bundle, 10-24 & 29-36

SECTION B: SARG'S PROPOSAL

15. The Applicant was issued an ATPL under the Aircrew Regulation by the CAA on 30 November 2012.[2] SARG submits that Part-ARA.FCL.250 of the Aircrew Regulation provides a list of circumstances in which the CAA must limit, suspend or revoke a pilot's licence issued under the Aircrew Regulation. A specified circumstance is the falsification of a logbook and SARG relies on that circumstance in this case and the CAA must therefore limit, suspend or revoke his licence.

16. Part-ARA.FCL.250 provides:

> **ARA.FCL.250 Limitation, suspension or revocation of licences, ratings and certificates**
>
> (a) The competent authority shall limit, suspend or revoke as applicable a pilot licence and associated ratings or certificates in accordance with ARA.GEN.355 in, but not limited to, the following circumstances:
>
> > (1) obtaining the pilot licence, rating or certificate by falsification of submitted documentary evidence;
> >
> > (2) falsification of the logbook and licence or certificate records;
> >
> > (3) the licence holder no longer complies with the applicable requirements of Part-FCL;
> >
> > (4) exercising the privileges of a licence, rating or certificate when adversely affected by alcohol or drugs;
> >
> > (5) non-compliance with the applicable operational requirements;
> >
> > (6) evidence of malpractice or fraudulent use of the certificate; or
> >
> > (7) unacceptable performance in any phase of the flight examiner's duties or responsibilities.
>
> (b) The competent authority may also limit, suspend or revoke a licence, rating or certificate upon the written request of the licence or certificate holder.
>
> (c) All skill tests, proficiency checks or assessments of competence conducted during suspension or after the revocation of an examiner's certificate will be invalid.

17. SARG also submit that the circumstances listed in Part-ARA.FCL.250 are non-exhaustive, and that there are therefore circumstances other than those listed which will require the CAA to take action. The fraud convictions should be considered as circumstances in which the CAA must limit, suspend or revoke under Part-ARA.FCL.250 as the listed circumstances refer to falsification and evidence of malpractice; the aviation-related fraud offences are said to have both characteristics.

18. Article 253(2) of the Air Navigation Order 2016 provides that the CAA may, on sufficient ground being shown to its satisfaction after due inquiry, revoke, suspend or vary any such

[2] The Aircrew Regulation is retained, as amended, in UK law following UK withdrawal from the EU

certificate, licence, approval, permission, exemption, authorisation or other document. SARG submit that good judgement, airmanship[3] and competency[4] are assessed skills to hold licence privileges under the Aircrew Regulation. Licence holders must demonstrate trustworthiness and a propensity to obey rules. There are overriding needs to protect the public and maintain public confidence.

19. SARG rely on the Policy, which provides that regulatory intervention must be considered if a licence holder no longer demonstrates fitness of character. Criminal convictions, falsification of records, providing false information and dishonest behaviour can call fitness of character into question. SARG submit that a licence holder convicted of aviation-related or dishonesty offences is unlikely to be considered of fit character.

20. In addition or in the alternative to non-compliance with the Aircrew Regulation, SARG argue that the convictions do not merely call into question the Applicant's fitness of character: they establish that he is not trustworthy and lacks a propensity to obey rules. He was repeatedly dishonest about his flying qualifications and experience. He fraudulently obtained command roles, altered documents, falsified and altered entries in his pilot's logbook and abused the trust of the public he carried and those with whom he flew.

21. SARG submits that the offending is so serious and contrary to public safety that the Applicant's trustworthiness and propensity to obey rules is unlikely to be restored for commercial aviation purposes. It is SARG's case that his ATPL should be revoked. The offending was repeated over a period of time. He abused the position of trust placed in him as an ATPL holder. He was sentenced on the basis that he would not fly again. It is argued that revocation is necessary to protect the public.

22. SARG argue the offending is contrary to airmanship and competency. The Applicant cannot be trusted to comply with the essential safety requirement to accurately log flights or to act in the interests of aviation safety. The conviction and imprisonment of an airline pilot for these offences undermines public confidence in him as a pilot. Public confidence in the CAA's decision-making process would be undermined by taking no action because:

    (a) no action is contrary to the legal requirement to take action and/or

    (b) no action is contrary to the Policy.

23. SARG submit that there is no limitation, period of suspension or variation which could be applied sensibly to the Applicant's licence. It is argued that the offending is so serious that there is no limitation or variation which can be placed on his licence or reasonable period of suspension by or during which he could meet the applicable standards or be able to satisfy the CAA that his fitness of character to hold a licence has been restored.

24. SARG has considered the possibility of rehabilitation and that the Applicant may wish to apply for a Private Pilot's Licence. SARG refers to the Rehabilitation of Offenders Act 1974, as amended, the rehabilitation period for a 12-month prison sentence is 48 months from the day on which the sentence is complete. SARG's position that this is an appropriate guide to the earliest date on which it could consider an application from him for a Private Pilot's Licence (i.e., [redacted]).

[3] SARG refer to the definition of 'Airmanship' as the consistent use of good judgement and well-developed knowledge, skills and attitude to accomplish flight objectives

[4] SARG refer to the definition of 'Competency' as a combination of skills, knowledge and attitude required to perform a task to the prescribed standard

SECTION C: THE APPLICANT'S RESPONSE

25. The Panel considered the Applicant's letter in opposition to the proposal to revoke. The Applicant said that he repented, and had learned much through this case and his time in custody. He said that he understood the reasons for his conviction which he did not at the time. He said that although he had been portrayed in documents and TV documentaries as a "mastermind fraudster", this was not the case and certain evidence and documents were omitted.

26. The Applicant did not submit any documentary evidence to the Panel beyond his letter in response to the proposal. He mentioned various matters that he considered relevant. These are summarised below. For the avoidance of any doubt, the Panel has taken into account all of the written representations made by the Applicant, and while it does not repeat all of his submissions in full in this decision letter, his letter was considered in its entirety.

27. The Applicant said that he refused to plead guilty to altering his logbook 'with the intent to deceive' and pleaded guilty to just altering his electronic logbook and entering false flights. He said the Flight Operations Manager, at [redacted] instructed him to alter his electronic logbook and remove all PICUS hours but was later told to alter his logbook again and put these hours back in, alleging it was known that they were false.

28. The Applicant said that on the day of his plea hearing, before he was due to appear in court, he was told that if he did not plead guilty to certain counts (which he said he intended to plead 'not guilty' to), then additional charges would be added to the list of charges against him with the threat of a harsher sentence. He said that he was told that if he pleaded guilty to certain counts then additional charges would not be added.

29. The Applicant referred to an incident when the lights went out, which he said was portrayed as "the aeroplane plunged into darkness". He stated it was daylight and that event was caused by a Ground Power Unit malfunction. He reported the event to [redacted] and suggested this was not an instance of pilot error which had been omitted from the account of the event and, "this story of me plunging the aircraft into darkness was created".

30. The Applicant stated that he only applied for a first officer job, not for a direct entry captain position. He said that he was offered the opportunity to try out for a captain position and in doing so underwent a simulator check. According to his written representations, his understanding was that if he failed, he would still be offered the position of first officer. He maintained that he passed the simulator check through his own competence and hard work.

31. The Applicant accepted that, "despite being instructed to alter the logbook, it was my hands that committed this crime, it did take me a while to come to terms with a lot of what I had been charged for." He went on to explain the reasons why it was difficult for him to accept, including his view that "the whole industry is rifled with 'parker pen hours'" (which was understood to be a reference to inaccurate or false recording of flights or details).

32. The Applicant also said, "I was instructed to alter and knowingly change my logbook by my company whose Core Values are Integrity and whom should have known better, tons of people fib on their CVs and applications to get a foot in the door, I only applied for a First Officers job. I didn't think in a million years I was committing a custodial crime as so many people do it. BUT after much time and counselling it doesn't matter how many people do it, who tells you to do it, it is still a crime."

33. The Applicant said, “I see the facts presented to the Panel have again been distorted and twisted to fit SARG’s purpose with no consideration or account of my responses.” He referred to his own personal circumstances, including that his mother was unwell. He further said, “I have served my punishment. I have learnt a hard lesson, I have repented, but SARG still keep pushing to kill me.” He referred to a documentary aired concerning his case and the effect upon him.

34. The Applicant asked for another chance to prove himself; he could still offer the industry a wealth of knowledge and experience. He said he was deeply sorry for his crime, and had learnt a very hard lesson. He said he had offered to speak at aviation training schools about his story but had no reply. He said he still had the passion and drive to be the best he could be in the aviation industry. He reiterated that he had learnt his lesson and paid his time. He asked the Panel not to revoke his licence.

SECTION D: MERITS OF THE PROPOSAL

35. The Panel considers that the burden of proof in this regulation 6 review is on SARG. The standard of proof is the balance of probabilities.

36. SARG submitted that the issues for the Panel were as follows:

    i) Is the Applicant’s offending a circumstance in which the CAA must limit, suspend or revoke his licence (Part-ARA.FCL.250)? If yes, the Panel must limit, suspend or revoke his licence; taking no action is not an option.

    And/or,

    ii) Does the Applicant’s offending demonstrate that he lacks trustworthiness and/or a propensity to obey rules? If yes, the CAA may suspend, vary or revoke his licence.

    iii) If yes to (i) and/or (ii), is limiting or suspending the Applicant’s licence, rather than revoking, appropriate in all the circumstances?

    And/or,

    iv) Will suspending or varying the Applicant’s licence, rather than revoking, satisfy the CAA as to the Applicant’s fitness of character, taking into account the overriding needs?

37. The Panel answer those questions in turn.

    i) Is the Applicant’s offending a circumstance in which the CAA must limit, suspend or revoke his licence (Part-ARA.FCL.250)?

    Answer: Yes.

38. Part-ARA.FCL.250 of the Aircrew Regulation provides a list of circumstances in which the CAA must limit, suspend or revoke a pilot’s licence and associated ratings or certificates in accordance with ARA.GEN.355. The list of specified circumstances is stated to be non-exhaustive. However, the falsification of a logbook is specifically referred to at Part-ARA.FCL.250(a)(2). This applies directly to the Applicant’s offending in this case.

39. The Applicant has pleaded guilty to knowingly making false entries in a logbook (Count 9),[5] and intentionally altering entries in a logbook (Count 10).[6] He was sentenced to 1 month imprisonment (concurrent) on both counts, as confirmed by the Certificate of Conviction.[7] Accordingly, the Panel is satisfied that the Applicant's offending is a circumstance in which the CAA must limit, suspend or revoke his licence under Part-ARA.FCL.250.

40. Even if that were not the case, the circumstances listed in Part-ARA.FCL.250 are not exhaustive. The Panel accepts SARG's submission that there are circumstances other than those listed which require the CAA to take action. The Applicant's convictions, particularly in so far as they involve the falsification of documents and fraudulent use of documents in the aviation context, are circumstances in which the CAA must limit, suspend or revoke under Part-ARA.FCL.250.

(ii) Does the Applicant's offending demonstrate that he lacks trustworthiness and/or a propensity to obey rules?

Answer: Yes, and as such the CAA should consider suspending, varying or revoking his licence.

41. In accordance with the Policy, the CAA must be satisfied that licensed individuals demonstrate trustworthiness and a propensity to obey rules. The Policy itself provides specific examples of matters that may call into question the fitness of character of the Applicant, including convictions for aviation-related or dishonesty offences, falsification of records, providing false information and dishonest behaviour. These apply squarely to the Applicant.

42. The Applicant pleaded guilty to four counts of fraud by false representation (Counts 1, 4, 5 and 7).[8] The Panel considered the circumstances of the offending, which included (by way of summary) providing false information to a prospective employer, providing false documentation to his employer when under review, editing an email without the author's consent to continue in his employment, and providing fabricated references to obtain a job with another prospective employer.

43. The nature and seriousness of the offending itself demonstrates a lack of trustworthiness. The offending was premeditated, dishonest, occurred on more than one occasion and involved a serious abuse of trust. The seriousness of the offending was such that it warranted a custodial sentence. The extent of the fraudulent activity (the number of occasions on which it occurred) gave rise to a concern that there was a propensity to act in this way.

44. The Panel has taken into account the Applicant's written representations about the offending. However, the representations did not alleviate the Panel's concerns about his fitness of character. While he expressed regret in some comments, in others he tended to minimise or normalise what had occurred. The Panel finds that the offending demonstrated that he lacks trustworthiness and a propensity to obey rules. As such the CAA should consider suspending, varying or revoking his licence.

[5] Contrary to articles 256(4) and 265(7) of the Air Navigation Order 2016
[6] Contrary to articles 256(3) and 265(7) of the Air Navigation Order 2016
[7] SARG Bundle, 16
[8] Contrary to section 1 of the Fraud Act 2006

(iii) If yes to (i) and/or (ii), is limiting or suspending the Applicant's licence, rather than revoking, appropriate in all the circumstances?

Answer: No.

45. The Panel considers that certain principles are fundamental to aviation, including maintaining accurate records and declaring any matter that puts a person, the aircraft or passengers at risk. Safety in aviation requires participants to self-declare matters that may need to be remedied or corrected. The willingness and ability to do so provides a level of assurance that such safety systems are working effectively. The Applicant did not adhere to these principles and thus poses a risk.

46. The CAA has a duty to protect the general public, maintain public confidence in the individuals that it licenses, and maintain public confidence in its own decision-making process. The Panel considered whether limiting or suspending the Applicant's licence, rather than revoking it, would be appropriate. However, the Panel was of the view that limiting or suspending his licence would not adequately address the risk he poses and would thus not be consistent with these duties.

(iv) Will suspending or varying the Applicant's licence, rather than revoking, satisfy the CAA as to his fitness of character, taking into account the overriding needs?

Answer: No.

47. The Panel has taken into account the written representations made by the Applicant at all stages, and while it does not repeat all of his submissions in this decision, these were considered in full. The Applicant has had sufficient opportunity to consider and respond to the proposal with any necessary information. It was noted that he expressed regret for the offending but some of his comments appeared to minimise or normalise what had occurred, or direct criticism at others.

48. The Applicant suggested, for example, that 'parker pen hours' (which appeared to refer to hours not properly or accurately recorded, or not actually flown) were common, and he referred to some changes being made at the prompting or with the knowledge of others. This had to be weighed against other comments where he appeared to accept responsibility, said he had learnt a hard lesson, and expressed regret for what had occurred.

49. The Applicant referred to personal challenges and the difficulty of being without the job he loves. However, in light of the offending and his representations, the Panel does not consider that any action short of revocation is appropriate taking all of the circumstances of this case into account. It may be that through his own learning and experience he could be an enabler to improving safety in the industry in another capacity, but revocation of his licence would not be a disproportionate response.

SECTION E: CONCLUSION

Accordingly, the Panel is satisfied that the Applicant's licence should be revoked.

Yours sincerely

[redacted]

[redacted]

The Review Panel

cc: [redacted] SARG Lawyer