

HYPERION AIR, INC.

████████████████████
6100 Red Hook Quarter, Suite B-3
St. Thomas, USVI 00802

February 23, 2011

VIA FACSIMILE AND FEDERAL EXPRESS

Deputy Chief Officer Dominick Calise
United States Customs and Border Protection
Terminal B / Customs Office
Newark Liberty International Airport
Newark, NJ 07114

Dear Deputy Chief Officer Calise:

I am the Chief Pilot for Hyperion Air, Inc. ("Hyperion Air"), which is the owner of N909JE, a Gulfstream aircraft (the "Aircraft").

Hyperion Air is grateful for the excellent job that Customs and Border Protection does to keep our country safe. Hyperion Air has been traveling in and out of Teterboro Airport for twenty years and has always been treated respectfully and courteously by your professional and able-bodied staff.

I am writing to clarify what appears to be a misunderstanding of the regulations by your officers on duty on February 20, 2011. On that evening, ██████████ met the Aircraft and advised that ██████████ had taken ill, but had called in and left instructions, and that ██████████ was filling in.

██████████ entered the Aircraft alone and instructed me to turn off the APU, leaving the passengers and cabin in the dark. He made his way back to the bathroom area where he said he discovered a high radiation reading by the left engine, and instructed the other agent on duty to follow the standard procedure of calling a third agent about the radiation reading. He then asked for the Aircraft's maintenance logs, though the Aircraft is not a FAR 135 charter operation, and is not required to carry the maintenance logs on board the Aircraft.

██████████ advised the crew and passengers that, although the Aircraft was coming in from its base of operations in the United States Virgin Islands, one of the passengers on the Aircraft, who was a United States citizen carrying a valid Florida driver's license and an original United States birth certificate as proof of citizenship, would be required to file a passport form and would be charged \$540 for doing so. I attempted to point out that passports were not required of United States citizens traveling from the United States Virgin Islands. This was met with a very respectful but inaccurate response. The passenger was told that the passenger needed a passport and should get one.

The officer on afternoon duty (whose initials were "█.") had taken the information regarding the flight and its passengers and was faxed all the details, as per his request, prior to the Aircraft's departure from St. Thomas, United States Virgin Islands. Out of an abundance of caution, I had already filed an eAPIS, though it was not necessary because the Aircraft was coming out of the United States Virgin Islands, and gave both the officer on duty and █ █ the confirmation number for the eAPIS filing. However, for some reason, the eAPIS filing did not register in the system, and the passenger was told to fill out a waiver form. The supervisor was called and asked if they would "waive the \$540 fee" (a fee that was not required), as the passenger had an original United States birth certificate and a valid Florida driver's license, which is all that is legally required to establish proof of United States citizenship.

█ later gave me a non-compliance notice with respect to a United States citizen on the flight that references the visa waiver program. However, the visa waiver program is not applicable to United States citizens. Please find a copy of the non-compliance notice attached. As I am sure you are aware, the ESTA program is for foreigners entering the United States. When this was brought to █ █ attention, the passengers were all told that they were flying in international air space, and therefore, needed passports.

We are obviously aware of the unique circumstances in this case, where the owner of the Aircraft is a registered sex offender and is sometimes subject to enhanced scrutiny. The enhanced scrutiny exercised has always been carried out in a courteous manner and in an environment of mutual respect between your officers and the owner and crew, who understand that the officers are simply doing their job. I would again like to reiterate on behalf of Hyperion Air and its owner that the Customs and Border Protection agents have always acted as consummate professionals. For our future flights, however, it would be of great assistance if you could provide us with a letter to confirm that: (1) United States citizens traveling on the Aircraft from the United States Virgin Islands to the United States can do so with a valid driver's license and original birth certificate, as proof of United States citizenship, (2) although eAPIS is helpful, it cannot be required in connection with flights from United States territories, such as the United States Virgin Islands, and (3) ESTA numbers are good for a period of time and only apply to foreigners. For your ease and convenience, the requested confirmation may be sent to my attention via email at █. It is our sincere desire to ensure that Hyperion Air and its flight crew continue to fully comply with all legal requirements, and we greatly appreciate your assistance.

Respectfully,

█
Chief Pilot for Hyperion Air, Inc.

cc.: Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP