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December 16, 2002

OFFICE OF THE ADMINISTRATOR
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EXECUTIVE SECRETARIAT

VIA Certified U.S. Mail # 7002 0460 0001 8044 1995

Honorable Marion C. Blakey, Administrator
Federal Aviation Administration
Department of Transportation
800 Independence Ave., SW
Washington, D.C. 20591

re: Petition/Application for Waiver of Age 60 Limitation (14 CFR 121.383(c))

Dear Administrator:

The Petitioner/Applicant, Gerald S. Ross, FAA Certificate Number 1769632, hereby petitions the Federal Aviation Administration for a waiver from the age limitation of 14 Code of Federal Regulations, Part 121, Section 383(c), otherwise known as the Age 60 Rule. As you know, this regulation mandates that a pilot who is older than 59 years old may not pilot aircraft for hire in Part 121 passenger operations. Applicant is a pilot under Part 121 (Continental Airlines) at this time but will turn sixty years old in July of 2003.

On March 26, 1999, this Applicant petitioned the FAA for a similar waiver. In responding to that petition, the FAA denied it and, as its sole reason for denial, stated that the Applicant did not show that he was "unique" compared to other pilots similarly situated, i.e., facing mandatory retirement at the age of sixty. After researching the issue of uniqueness, Applicant wishes to re-petition for the above-referenced waiver.

Applicant made an FOIA inquiry to the FAA in reference to the Age 60 Rule as to the "unique" issue and discovered that the FAA did not have a definition of the terms "unique" or "uniqueness." Nor did the FAA have any written guidance as to how to show the uniqueness of an applicant.

In addition, Applicant can find no requirement for a showing of "uniqueness" in any waiver procedure to deviate from a limitation that the FAA has established. For instance, a waiver from a compliance date with the Stage III noise abatement regulation places no requirement on an applicant to make a showing of uniqueness. Similarly, for a waiver from any of the limitations under the Aging Aircraft regulations, there is no requirement for the applicant to make a showing of uniqueness. More relevant, the requirements for a waiver on a medical condition for an active Part 121 Class I applicant make no demand for that applicant to provide a showing of uniqueness.

The Applicant is perplexed at the FAA's arbitrary and capricious demand for a showing of uniqueness. Without a specific definition or guidance from the FAA or a waiver requirement that is consistent with every other waiver procedure the FAA provides, Applicant has no way of knowing whether or not he has provided sufficient information to be eligible for a waiver of the Age 60 Rule. Such a situation places the Applicant in an untenable position because any decision adverse to Applicant is subjective on the FAA's part in that it provides no additional information or guidance to comply with such a requirement.

Since there is a dearth of information emanating from the FAA concerning the term "unique" or any guidance for making such a showing, the Applicant must turn to the dictionary definition of the term "unique," which states: (1) being the only one of its kind; (2) being without equal or rival (*Webster's II New College Dictionary*, Houghton Mifflin, 1999).

Consequently, in an attempt to comply with the bald requirement to show uniqueness and using the dictionary definition of the term "unique," Applicant would make the following points as to his uniqueness in contrast to all other pilots similarly situated:

- Applicant is a human-being with distinct characteristics as defined by his DNA code. Science has proven beyond any statistical doubt that the Applicant has different DNA profile from any other pilot similarly situated (one in 3 million). Such a DNA profile is the essence of being because it determines the physical make-up of the Applicant. Thus his DNA code makes Applicant unique with respect to other pilots similarly situated.

- Applicant's life experiences, their physical and mental effects and their combinations, make him unique in contrast to other pilots similarly situated. Applicant was a Navy Aviator during the Viet Nam war, amassing 230 combat missions and 350 carrier landings. Very few, if any, other pilots similarly situated can make those claims. In sequential elimination of all other pilots that might be similarly situated, Applicant was hired by Braniff Airlines in 1973, which took bankruptcy and closed its doors in 1982, causing Applicant to be without employment. Then in 1983, Applicant was hired by Continental Airlines. Applicant will be forced to retire on July 18, 2003. The combination of these physical, as well as mental, life experiences absolutely eliminated all other pilots similarly situated and, therefore, makes Applicant unique in comparison to those pilots.

- Applicant states, avers and declares the following: Applicant certifies that after reaching sixty years old, Applicant will not be adversely affected by any progressive deterioration of certain important physiological and psychological functions that may otherwise occur in another pilot, making that pilot unfit to operate aircraft under Part 121. Further, Applicant certifies that he will not be adversely affected by any significant medical defects attributable to a degenerative process that may otherwise occur in another pilot, making that pilot unfit to operate aircraft under Part 121. Finally, Applicant certifies that he will not be adversely affected by any sudden incapacity due to any medical defect that may otherwise occur in another pilot, making that pilot unfit to operate aircraft under Part 121.

This declaration is made under penalties of perjury, and unless this declaration is rebutted by specific, credible and relevant facts pertaining to only the Applicant and not broad generalities, Applicant's averments must be taken as fact and that each is true and correct.

In sum, the Applicant has addressed and proven his uniqueness in contrast to any and all pilots who are similarly situated. That is, no other pilot has the same DNA profile that has the same physiological make-up; no other pilot has been through the same life experiences that provide similar physiological and psychological testing; and no other pilot has made the same or similar declaration concerning the absence of medical, physiological and psychological problems after age sixty with respect to operating aircraft as a pilot under Part 121.

Therefore, the Applicant states that he should be granted a waiver to 14 CFR 121.383(c) and be allowed to continue as a pilot under Part 121 after he has reached age sixty.

The above is true and correct and signed under penalties of perjury this 16th day of December, 2002:

Gerald S. Ross

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