

SUPPORTING DEPOSITION (CPL § 100.20)

PAGE 1 OF 2THE PEOPLE OF THE STATE OF NEW YORK
—VS.

DEFENDANT(S)

LOCATION OF INCIDENT:

STATE OF NEW YORK _____ COURT

COUNTY OF WASHINGTONTOWN OF ARGYLELOCATION OF DEPOSITION:

STATE OF NEW YORK

COUNTY OF WARRENCITY OF GLENS FALLSOn DATE: 3/5/17 at TIME STARTED: 12:12p. FULL NAME: AMIR ABBAS KARIMI

state the following: ON THE MORNING OF MARCH 5, 2017, I PICKED UP JESSICA AT SQUAMMIT AT EYET IS. WE THEN DROVE MY VEHICLE TO FLOYD BENNETT AIRPORT, MEMORIAL AIRPORT (LOCATED) AT 443 QUEENSBURG AVE. IN THE TOWN OF QUEENSBURG. I AM A STUDENT AND I WAS TAKING LESSONS AND JESSICA IS MY INSTRUCTOR. I HAVE FLOWN WITH JESSICA A COUPLE OF TIMES BEFORE. WHEN WE ARRIVED TO THE AIRPLANE WE PERFORMED A PRE-FLIGHT INSPECTION. I DID AN INSPECTION MYSELF, THEN JESSICA DID ONE ON HER OWN. AT APPROXIMATELY 9:30A WE TOOK OFF. WE TOOK OFF AFTER THE INSPECTIONS HAD PASSED, WITH NO ISSUES TO REPORT. WE TOOK OFF FROM RUNWAY NO. 1 IN A NORTHERN DIRECTION. THE TAKE OFF WAS SMOOTH. I WAS OPERATING THE PLANE AT THAT POINT. THE WEED WAS AT APPROXIMATELY 3 NAUTICAL MILES. THE FLOW WAS SOMEWHAT BUMPY UP THERE. WE PERFORMED 2 OR 3 TURN AND GO'S AROUND THE AIRPORT. WE THEN HEADED SOUTHEAST TO DO SOME ADDITIONAL MANEUVERS. WE DID 1 OR 2 SLOW FLIGHTS SUCCESSFULLY. THIS WAS THE ORDER OF THE MANEUVERS, SLOW FLIGHT, POWER OFF STALL, SLOW FLIGHT, POWER OFF STALL. ON THE LAST POWER OFF STALL, I ATTEMPTED ^{AT THE EXHAUST} TO RESTART THE AIR PLANE. THE AIRPLANE WOULD NOT RESTART. I THEN TOLD JESSICA

NOTICE

(Penal Law § 210.45)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury

this _____ day of _____

-OR-

* Subscribed and Sworn to before me

this _____ day of _____

(SIGNATURE OF DEPONENT)

(WITNESS)

TIME ENDED:

(NAME OF PERSON TAKING DEPOSITION)

* This form need be sworn to only when specifically required by the court

STATEMENT CONTINUATION SHEET

PAGE 2 OF 2 PAGES

NAME: AMIR ABBAS KARIMI

DATE: 3/5/17

THAT SHE HAS THE PLANE. WE FOUND A FEEL TO DO AN EMERGENCY LANDING. WE WERE TRYING SPENDING TIME TO GET THE PLANE STABILIZED. WE CLIMBED AND ROLLED INTO THE TREES THE WINDSHIELD BROKE OUT AND I THINK IT HIT MY FACE. I WAS DIZZY AND LOOKING FOR MY PHONE TO CALL 911. I LOCATED IT IN MY POCKET WHILE WAS OUT OF THE PLANE. JESSICA WAS STILL IN THE PLANE. I WENT BACK TO TRY AND HELP HER SHE TOLD ME TO CALL 911. I THEN CALLED 911 FOR ASSISTANCE. I BELIEVE THE INCIDENT WAS COMPLETELY ACCIDENTAL. I DON'T THINK WE COULD HAVE DONE ANYTHING TO PREVENT IT. THIS DECLARATION IS TRUE AND ACCURATE. I HAVE PROVIDED THIS DECLARATION OF MY OWN FREE WILL AND UNDER NO DURESS.



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PAGE 1 OF 2

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LOCATION OF INCIDENT:

STATE OF NEW YORK COURT

COUNTY OF WASHINGTONTOWN OF ARBYLE

LOCATION OF DEPOSITION:

STATE OF NEW YORK

COUNTY OF WARRENCITY OF GLENS FALLSOn DATE: 3/5/17 at TIME STARTED: 126pm I, FULL NAME: JESSICA M. GIOVANNI

state the following: On THE MORNING OF MARCH 5, 2017, I MET AMER ARBAS KARIM
AT THE WATARGET OF ERT 15, AND THEN DROVE TO FLYND BENNETT MEMORIAL
AIRPORT LOCATED AT 4113 GURNEBURG AVE. IN THE TOWN OF GURNEBURG. WE ARRIVED
AT DAN FISHERVILLE AIRFIELD. WHILE HE WAS GIVING ME BLANKET PERMISSION TO USE,
WE BOTH DID PRESENT INSPECTION, WHICH PASSED. AND THEN TOOK OFF
FROM RUNNING NUMBER 1. WE STAGED IN PATTERN FOR 3 PATTERNS UNTIL
WE DECIDED TO LEAVE THE AIRPORT. THE WIND WAS VARIABLE, ^{AT 3 KNOTS} AND WE
HAD BLUE SKIES. THE TAKE OFF WAS GOOD. NO INDICATION OF ANYTHING
WRONG. WE THEN WENT TO THE SOUTH EAST. WE THEN PERFORMED A SLOW
FLIGHT WHICH WAS SUCCESSFUL. WE DID A POWER OFF STALL SUCCESSFULLY. ^{REVIEW}
WE DID ANOTHER SLOW FLIGHT SUCCESSFULLY. ^{TRAIL} DID ANOTHER POWER
OFF STALL, AT WHICH TIME WHEN WE APPLIED FULL POWER AND NO POWER
CAME OUT THE PROPELLER STOPPED. WE ESTABLISHED A NOSE DOWN
ATTITUDE TO RECOVER AIR SPEED FROM THE STALL ALSO WE NEVER
FULLY STALLED THE AIR PLANE. WE LOWERED THE NOSE TO RECOVER AIR
SPEED A 63 TO 65 MPH AND PUSHED IN THE THROTTLE AND THERE WAS NO POWER.
I THEN TOOK THE CONTROLS. WE TESTED SEVERAL THINGS TO REGAIN

NOTICE

(Penal Law § 214.45)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury

this _____ day of _____

-OR-

* Subscribed and Sworn to before me

this _____ day of _____

* This form need be sworn to only when specifically required by the court

(WITNESS)

TOP. P. J. GIOVANNI
 (NAME OF PERSON TAKING DEPOSITION)

TIME ENDED:

2:16p

STATEMENT CONTINUATION SHEET

PAGE 2 OF 2 PAGES

DATE: 3/5/17

NAME: Jessica M Giovanni

POWER OF THE AIRPLANE. I WANTED TO START WITH THE KEY.
 WE PULLED THE PROPeller OUT. WE COULD NOT GET IT TO SPIN.
 WE PULLED THE TARB OUT AND PUSHED IT BACK IN. WE WANTED TO START
 WITH DISTRICT THROTTLE SPINDLES & ^{MINUTE} ~~WANTED~~ ^{SETTING} ~~SETTING~~. I UTILIZED MY
 ALTITUDE TO MAKE AN EMERGENCY LANDING IN A FIELD. I ~~LANDED WITH AN~~
~~ALL TIME~~ ~~I~~ ~~WAS~~ ~~IN~~ ~~THE~~ ~~FIELD~~ ~~I~~ ~~THOUGHT~~ ~~THE~~ ~~WAS~~ ~~GOOD~~
 AND I HAD ^{FULL} ~~THE~~ FLAPS AT 40°. ^{AT TOUCH DOWN.} I ~~LANDED~~ ~~GOING~~ UP A HILL.
 THE SPEED CARROD IS OVER THE HILL ~~FOR~~ ~~DOWN~~ ~~THE~~ ~~HILL~~.
 WE ~~REMAINING~~ ~~WERE~~ ~~WITH~~ ~~THE~~ ~~TREES~~ ~~THE~~ ~~WINDSHIELD~~ ~~CAME~~ ~~OUT~~
 AND ~~WAS~~ ~~MY~~ ~~FACE~~ ~~THIS~~ ~~WAS~~ ~~AN~~ ~~ACCIDENT~~ ~~WE~~ ~~COULD~~ ~~HAVE~~ ~~NOT~~ ~~DOED~~
 ANYTHING DIFFERENT. THIS DEPOSITION IS TRUE AND ACCURATE TO THE
 BEST OF MY KNOWLEDGE. I HAVE PROVIDED THIS EXPLANATION OF
 MY OWN FREE WILL AND UNDER NO DURESS. END OF DEPOSITION.





MEMORANDUM FOR RECORD

Todd Gunther
Air Safety Investigator
Eastern Region

Date: March 8, 2017
Subject: Information from Amir Karimi (Student Pilot)
NTSB Accident Number: ERA17LA0120

According to Mr. Karimi, he was receiving flight instruction on the accident flight from Ms. Jessica Giovanni, who had given him lessons a few time before.

Prior to the flight, they observed that there was already fuel in the airplane and she had it filled with another 6 gallons of fuel per side.

He did the takeoff, and then they did 2 or 3 touch and go landings. They next flew to the practice area near Glenn Falls, New York.

After arriving in the practice area, they did some maneuvers. They first did slow flight, then a power off stall, then slow flight again, followed by another power off stall, then the engine quit.

He advised that "I told" Jessica and "She did the engine failure checklist" and "we tried to start the engine", but it would not start.

He also advised that they used carburetor heat during the touch and go landings, slow flight, and power off stalls.



MEMORANDUM FOR RECORD

Todd Gunther
Air Safety Investigator
Eastern Region

Date: March 8, 2017
Subject: Information from Daniel Ellsworth (Airplane Owner)
NTSB Accident Number: ERA17LA0120

According to Mr. Ellesworth, Ms. Jessica Giovanni who was the flight instructor on the accident flight, took the airplane without saying anything to him and he had not talked to her in quite a while almost possibly a year, and that she was not supposed to be doing flight instruction in his airplane.

RECORD OF ☐ VISIT ☒ CONFERENCE OR ☐ TELEPHONE CALL		TIME 09:00	DATE 03/13/2017								
NAME S OF PERSON S CONTACTED OR IN CONFERENCE AND LOCATION		ROUTING <table border="1"> <thead> <tr> <th>SYMBOL</th> <th>INITIALS</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> </tr> <tr> <td></td> <td></td> </tr> <tr> <td></td> <td></td> </tr> </tbody> </table>		SYMBOL	INITIALS						
SYMBOL	INITIALS										
Jessica Marie Giovanni											
SUBJECT Aircraft accident N60939											
DIGEST											
The Albany FSDO Conducted an interview with Pilot Jessica Marie Giovanni on the factors leading up to the emergency landing in the town of Argyle NY. Jessica stated she was operating the aircraft on 03/13/2017 to keep proficient in type aircraft since she was applying to become a flight instructor to a local flying club. Jessica stated she brought along a passenger / friend named Amir Karimi who is a student pilot, for company since she would rather fly with someone than alone. The flight originated from the Glens Falls NY airport. After having the FBO (Rich Air) assist in removing the aircraft from the hangar she conducted a preflight inspection. She then had the FBO top off the aircraft which resulted in adding 12 gallons of fuel. She flew around the glens falls airport and performed a couple of touch and goes and the proceeded east towards Argyle, NY. Jessica then stated the aircraft was operating fine and had no signs of any thing wrong. Jessica then stated she performed slow flight and power off stall maneuvers and recovered normally. She then stated she attempted a second power off stall and when she selected the throttle for power there was no response. She then stated the engine loss all power, she went through the procedures to diagnose what was wrong by checking mixture, carb heat, engine primer. Jessica then stated she attempted to restart the aircraft with the key but had no success. Jessica stated she could not remember if she saw the propeller turning when attempting to restart since she was now focusing on where to land as the passenger was becoming very unsettled. Jessica stated she had to "slip" the aircraft in to land in the field but knew she was going to end up contacting the trees but wasn't sure how hard. I asked Jessica if she used carb heat during the flight and she said yes she used it through out the flight as needed. I asked Jessica at what altitude was she performing the maneuvers and she responded at 3,000 ft. I asked if she thought the propeller was turning while attempting to restart the engine she responded that she didn't remember seeing it turning but she did "kinda" remember hearing it.											
CONCLUSION ACTION TAKEN OR REQUIRED											
DATE 03/13/2017											
TITLE Aviation Safety Inspector		SIGNATURE 									

In the Matter of the Investigation of the March 5, 2017
Accident involving a Cessna 150J, N60939

AFFIDAVIT

STATE OF NEW YORK)
)ss:
COUNTY OF WARREN)

Daniel Ellsworth being duly sworn deposes and says:

1. I am the member of Ellsworth Aircraft LLC a New York Limited Liability Company with a principal business address of 1776 State Route 9, Lake George NY, 12845.
2. Ellsworth Aircraft LLC owns a Cessna 150J airplane – N60939.
3. N60939 is hangered at Floyd Bennet Memorial Airport (KGFL-Warren County Airport) in the hangar known as the “main hangar.”
4. N60939 is stored in the main hangar with approximately 8-10 other planes.
5. I do not have a key for the main hangar.
6. In order to use N60939, I must first request that employees of the fixed based operator (FBO) of Warren County Airport –Rich Air – take N60939 of the hangar.
7. Keys to N60939 are left in the airplane to facilitate the moving of planes in the hangar by the FBO.
8. On March 5, 2017, I was flying a helicopter, owned partially by Ellsworth Aircraft LLC, with Bob Kellogg, and landed at Warren County Airport in order to refuel.
9. While waiting to refuel, I began a conversation with Bob Kellogg, my friend Jim Barrett, and the fuel lineman known as “C.J.”
10. My friend Jim Barrett was complaining of a small problem with his airplane and that he may not be able to fly it that day.

11. Consequently, I told Jim that he and I could fly my airplane N60939 if he needed to fly somewhere.

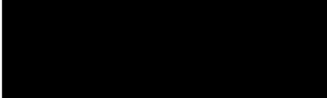
12. Upon hearing this conversation, C.J responded: "Your Plane is not here. Jessica Giovanni took it. She said you had said it was ok."

13. Around the same time, I received a text message from Jessica Giovanni stating: "Dan I just crashed your plane. I was doing slow flight and crashed. Totaled. I'm ok but bleeding a lot I'll call u[sic] soon. I'm 10 miles southeast of Gfl."

14. Jessica Giovanni is a flight instructor. I have used Jessica for annual flight reviews in the past particularly because she is one of only a few instructors in the area able to provide annual flight reviews and instruction with respect to helicopters.

15. I did not give Jessica Giovanni permission to use my plane on March 5, 2017.

16. At no time in the nearly 1 year period before March 5, 2017 had I been in contact with Jessica Giovanni.


DANIEL ELLSWORTH

Sworn to before me this 6th
day of April, 2017.


Notary Public

EDWARD P FITZGERALD
Notary Public, State of New York
