



## **Braniff felon is back; Feds bar him from aviation**

Once again, we found something while looking for something else. And this time, our reaction was Hoo-lee [Stuff]! The convicted felon involved in the collapse of Braniff II is back.

What's even more amazing is that after Scot Spencer became notorious for flim-flams involving several iterations of Braniff and suckering the otherwise astute management team of Piedmont Airlines in the buyout of Braniff II from the Pritzker empire, George Warde became involved with Ascend Aviation—a Spencer charter operation described in the articles below. Warde was former president of Airbus, American Airlines and Continental Airlines.

To say we were dumbfounded to come across these items doesn't even begin to cover it. To learn that Warde was involved with this little twerp after the Braniff notoriety was even more astounding.

The most recent (as of Nov. 7) 20 page DOT filing may be found here:

[http://dmses.dot.gov/docimages/pdf93/359194\\_web.pdf](http://dmses.dot.gov/docimages/pdf93/359194_web.pdf)

The Department of Transportation is harsh in its characterizations of Spencer. The Department issued an order barring Spencer from any involvement with aviation; Spencer has appealed.

Warde's involvement with Spencer is outlined in a Consent Order with DOT in which Warde paid a \$30,000 fine. This document may be found here:

[http://dmses.dot.gov/docimages/pdf93/342278\\_web.pdf](http://dmses.dot.gov/docimages/pdf93/342278_web.pdf)

Warde is now 84 and in ill-health, according to the DOT filing, which describes his involvement with Spencer.

There are 208 DOT filings about Spencer dating to the early 1990s.

We've reprinted several articles from the San Bernadino (CA) *Press-Enterprise* below. They are self-explanatory.

## **Awaited airport deal hits obstacle**

**INLAND: The businessman who sought hangar space is banned from the aviation industry.**

**12:10 AM PDT on Thursday, September 29, 2005**

By MARK KAWAR / The Press-Enterprise

Hope dimmed Wednesday for the lease of San Bernardino International Airport's largest hangar to an aircraft storage company when a federal official barred the company's owner from the aviation business.

The airport agreed last month to lease the hangar to SBD Aircraft Services LLC in a five-year, \$2.1 million deal, although the airport had not yet put the lease into effect. A week after the lease agreement was reached, Administrative Law Judge Richard Goodwin ruled on a case begun last April, in which the Department of Transportation accused SBD owner Scot Spencer of operating an unlicensed air carrier in a previous business venture in San Bernardino.

Goodwin's Aug. 23 ruling fined Spencer \$1 million and permanently banned him from the aviation industry, but gave him 30 days to contest the decision before it became final.

### **Judge Rules Again**

On Wednesday, the judge made his earlier decision final, rejecting a request from Spencer's attorney for a new hearing.

The attorney argued that Spencer did not have adequate time to prepare for the original hearing. Spencer has until Oct. 12 to make a final appeal directly to the U.S. Department of Transportation.

If he does not, or if his appeal is rejected, he will have no further recourse, said Department of Transportation spokesman Bill Mosely.

Neither Spencer nor his attorney could not be reached for comment Wednesday.

### **Scope of Ban Questioned**

Spencer has previously said that he would like to continue leasing the hangar from the airport, even if he were banned from aviation, because not all of his activities would be covered by the ban and others at SBD could perform activities he could not.

Don Rogers, the airport's acting executive director, said any ban on Spencer's activities would likely prevent him from beginning the lease.

"We're not going to get into an argument with the Department of Transportation about the definition of 'aviation activities,' " Rogers said.

He said he has talked to Spencer, who said he would appeal the judge's original ruling. "We're just in a holding pattern right now," Rogers said. "We're going to be patient," though the airport could begin looking for a new tenant for the hangar if Spencer does not resolve his case within a month or so, he said.

Reach Mark Kawar at (909) 806-3052 or [mkawar@pe.com](mailto:mkawar@pe.com).

## Plane-service firm hit by judge's ruling

11:53 PM PDT on Friday, August 26, 2005

By PAUL HERRERA / The Press-Enterprise

A federal judge's ruling could end airline entrepreneur Scot Spencer's business deals with San Bernardino International Airport unless he responds to the government's questions within a month.

The U.S. Department of Transportation won a default judgment against Spencer this week when the air industry veteran failed to respond to document requests. If finalized, the default judgment would ban Spencer from "involvement in air transportation operations so that he is banned from the aviation industry."

The judgment, by administrative law judge Richard D. Goodwin, includes a \$1 million penalty. It would also void Spencer's deal with the airport due to a contract provision addressing the government investigation.

Spencer, as head of SBD Aircraft Services LLC, is leasing the airport's main hangar in a five-year, \$2.1 million deal.

Spencer has 30 days to contest the judgment and begin working with investigators before it becomes a final order. Reached by phone Friday, he said he never received notice of the default judgment proceedings and therefore couldn't respond in time.

"We would never just not file a response," Spencer said. "That wouldn't make any sense." Spencer responded to a prior subpoena in the case, but declined to answer questions, according to documents filed in the Department of Transportation's enforcement action.

Don Rogers, interim director of the San Bernardino International Airport, said he was assured by Spencer and an attorney for the government that the case would continue and may not lead to the lifetime aviation ban.

George Warde, also named in the same government investigation, cooperated and received a \$30,000 fine. Rogers said the government attorney told him Spencer also might work out a deal that may not include a ban.

A spokesman for an attorney representing the government declined to comment. Spencer said even if the ban stands, he could legally continue his current activity at the airport. With the case pending, SBD Aircraft Services is now subleasing the space to other firms involved in aircraft maintenance, Spencer said.

However, Rogers said the lease deal with Spencer includes protective clauses that would void the contract if the government bans him from aviation. Rogers said the airport intends to invoke the clause.

Spencer came to the airport with a checkered past including a string of airline bankruptcies and felony convictions. He served 51 months in federal prison following felony convictions on bankruptcy fraud and conspiracy to commit bankruptcy fraud.

Spencer's companies have left a trail of angry business associates and corresponding lawsuits on the way to San Bernardino.

Rogers said Spencer has settled all his accounts with the airport. Last week SBD Aircraft Services paid \$93,000 in back rent to clear the way for the new lease deal.

His current problems with the Department of Transportation stem from charges that Spencer operated Ascend Aviation, a charter service, as an unlicensed air carrier. The company has said it only marketed the service, but contracted with another carrier to handle the flights.

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## **Inland airport on a limb with deal**

**HANGAR: San Bernardino officials agree to a lease with an entrepreneur who owes them money.**

**12:16 AM PDT on Saturday, August 13, 2005**

By MARK KAWAR / The Press-Enterprise

The San Bernardino International Airport plans to begin a five-year, \$2.1 million lease on Monday with an airline entrepreneur who is a convicted felon, has a spotty record of airline success, owes the airport \$93,000 and whom the U.S. Department of Transportation wants to bar from aviation. The lease of the airport's largest hangar will take effect if Scot Spencer pays the debt he owes from a previous venture by Monday.

An airport spilling over with business might have taken a pass on Spencer's new venture, but as interim airport director Don Rogers said, other tenants are "not lining up to lease this hangar." Spencer said he is repaying his debts and is adamant the airport will get its money by Monday. He paid the airport \$100,000 last week for a separate debt. The lease deal will be a new start for him, he said.

In June, the airport's governing board, the San Bernardino International Airport Authority, unanimously approved the lease, citing its potential economic benefits. Members said they knew about Spencer's past, but because users of the hangars have been hard to find, they are willing to work with him.

Rogers said he'd like to see Spencer's new venture succeed, but he'd also be happy if the airport just got some of its money out of the deal. He included 13 provisions in the lease intended to protect the airport.

In addition to paying the airport, Spencer's company, SBD Aircraft Services LLC, must meet various standards of financial health and submit monthly financial statements to the airport. And any Department of Transportation judgment against Spencer that survives an appeal voids the lease.

### **Problems for Both**

Both the airport and the hangar have had a rough history. When Norton Air Force Base closed in 1994, it took 10,000 jobs out of San Bernardino. Private businesses have since created thousands of jobs on former base land, but the airport itself has languished.

Lockheed Martin pulled out of the aircraft-maintenance hangar in 1995. Santa Barbara Aerospace took over the site in 1997 but went bankrupt two years later. American Air Carrier Support lasted about a year in the same location before it went bankrupt.

The new lease would give SBD control over two of the four bays at the airport's largest hangar and an option to lease the other two later. A second commercial hangar at the airport is leased to package delivery company DHL, meaning that any aviation business wanting to operate at the airport might have to sublease space from Spencer's company.

Spencer plans to store planes owned by another of his companies in the hangar. He said he already has three agreements to lease planes to other companies, which he declined to name. Rogers said he has seen the contracts and is confident the company will have revenue.

SBD's lease allows it to use the hangar space to repair aircraft, sell parts or store cargo, but Spencer said he has no immediate plans to do any of those things and will primarily act as a landlord and lessor.

Spencer's previous venture at the airport, a charter-booking service called Ascend Aviation Group LLC, operated only a few months in 2003 before running out of money, leaving customers and vendors with claims against the company.

One of those vendors was Blue's Aviation, the only fuel provider at San Bernardino International Airport. Blue's owner Don Blue said he seized one of Spencer's company's planes when it couldn't pay the \$500,000 fuel bill it owed to Blue's supplier.

Blue said a court order allowed him to tow one of the planes back with him. He said he stripped the plane for parts and sold the remains to pay for the fuel bill.

Spencer said he voluntarily surrendered the plane to satisfy the debt, even though Ascend owed the money and another of his companies, KCP Leasing and Services, owned the plane.

"Ascend could have been put into bankruptcy and discharged its debts," he said. "It didn't." KCP once owned 13 planes, but according to the Federal Aviation Administration, it now has six, which it has transferred to SBD. Spencer said it sold the others to pay off Ascend's debts. Ascend has now paid off 95 percent of its \$5 million to \$6 million debt. KCP owes the \$93,000 debt to the airport, he said.

### **Began as Teenager**

Spencer, 40, began his aviation career as teenager when, in 1984, he tried to start an airline called Southern Express in Texas. The venture failed. The next year, Spencer was elected chief executive of Air One airlines, a St. Louis carrier with nine planes. He offered to bring money into the struggling company, but the board of directors ousted him after two days when the money didn't appear.

The airline went bankrupt. Spencer said in an interview that the money was there, but he didn't deliver it after he learned that the airline's financial situation was worse than he had thought. In 1988, a group of investors Spencer assembled bought Dallas-based Braniff Inc., owner of Braniff airlines. The next year, Braniff filed for bankruptcy.

Braniff's owners attempted to restart the airline in 1990, but the Department of Transportation warned them that it was concerned about Spencer's involvement, calling him "unqualified." The department asked Braniff's owners to give sworn affidavits that Spencer was no longer involved in running the company and they complied, according to department records.

Yet by May 1991, Spencer had become the company's president. The Department of Transportation forced the company to remove him. Later that summer, Braniff went bankrupt again.

In 1994, the U.S. attorney for the Eastern District of New York charged Spencer with defrauding the Department of Transportation by taking off-book payments, hiding the airline's assets from the bankruptcy court, and running Braniff after the department ordered him not to.

He was convicted of bankruptcy fraud and conspiracy to commit bankruptcy fraud for taking kickbacks and hiding assets but was acquitted on two counts of fraud for his role in running the

airline. His defense to those charges was that he did run the airline but committed no fraud because he never tried to hide his role.

### **Formed New Business**

Soon after being released from prison in 2002 after serving 51 months, Spencer incorporated Ascend in Florida and made his first move into San Bernardino.

Flush with cash from investors, his other company, KCP, bought 13 Boeing B727-200 aircraft from American Airlines. Some of the planes had belonged to Braniff before the company sold them in bankruptcy. Ascend began marketing charter flights out of the San Bernardino airport in 2003.

Ascend booked the charters, and Ryan International Airlines Inc., of Kansas, operated them. Ascend did not have a permit to operate an airline itself.

Within months of its first flight, Ascend ran into trouble, which Spencer blamed on unexpectedly high expenses for fuel, pilot salaries and especially for maintenance. A consultant's report on the cost of maintenance for the planes was off by \$6 million, he said.

As the company's funds dwindled, customers' grievances piled up.

Mike Binder, owner of Altitude Aviation of Los Angeles said Ascend canceled a charter to fly CBS television executives and celebrities to an awards show in New York, forcing Altitude to scramble to find another carrier. Altitude is suing Ascend for \$71,000 in Superior Court in Los Angeles, claiming in the suit that its payment for the undelivered flight wasn't refunded.

Dee Robbins, who books flights for Major League Baseball teams, recalled an incident in 2003 when the Los Angeles Dodgers were ready to fly to an away game but couldn't because the fuel dealer refused to fill up the plane because Ascend hadn't paid its bill. Robbins said she paid the \$16,000 fuel bill. Ascend later wrote her a check that bounced, she said.

### **Dodgers are Suing**

The Dodgers are also suing Ascend in Superior Court in Los Angeles, claiming it owes the team \$220,000 because it didn't make scheduled flights.

Spencer denied that Ascend ever left customers in the lurch, though he admits that some were inconvenienced when the company stopped operating.

"It's been a rough time for the business," Spencer said, noting that several major airlines are in bankruptcy. "There's been a lot of people who have lost a lot of money, and a lot of people are upset about that."

In April, the Department of Transportation began proceedings to shut down Ascend, permanently bar Spencer from the aviation industry, and fine the company \$1 million.

Assistant General Counsel for Aviation Enforcement and Proceedings Samuel Podberesky claimed in a case document that the company has operated as an air carrier but does not have a permit to do so.

Ascend tried to skirt the law, Podberesky claimed in a court filing, by contracting with Ryan to fly charters on KCP planes.

Ryan sued KCP in U.S. District Court in Kansas in 2003, claiming the company misled it about its status with the Department of Transportation. Ryan won a judgment of \$3.8 million last October.

Ascend, in a filing with the Department of Transportation, agreed that it marketed flight service that Ryan operated but denied that makes Ascend an "indirect air carrier" as the department claimed. Ascend's case is scheduled go to a Department of Transportation hearing in October. Spencer and the Department of Transportation declined to comment on ongoing litigation.

"It has cash. It has some net worth. We've protected ourselves with the lease," Rogers said. "We just hope we have a chance to collect some of our back rent."  
*Reach Mark Kavar at (909) 806-3052 or [mkavar@pe.com](mailto:mkavar@pe.com).*