

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION

NIGHT BOX  
FILED

APR 18 2005

CLARENCE MADDOX,  
CLERK, USDC/SDFL/FTL

HUGO J. VILLALOBOS,

Plaintiff,

v.

GULFSTREAM ACADEMY OF  
AERONAUTICS, INC.; THOMAS L.  
COOPER; THOMAS P. COOPER; and  
MARK OTTOSEN;

Defendants.

05-60646

Civil Action No.

Jury Trial Demanded

CIV-COHN

COMPLAINT

Plaintiff, Hugo J. Villalobos ("Villalobos"), by the undersigned attorneys, makes the following averments:

1. This is a civil action brought pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§ 4301 - 4333 ("USERRA").

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 38 U.S.C. § 4323(b).

3. Venue is proper in this district under 38 U.S.C. § 4323(c)(2) and 28 U.S.C. § 1391(b) because Defendants maintain a place of business in this judicial district.

PARTIES

4. Villalobos resides at 13212 S.W. 45<sup>th</sup> Drive, Miramar, Florida 33027, within the

jurisdiction of this Court.

5. Defendant Gulfstream Academy of Aeronautics, Inc. is located at 5302 N.W. 21<sup>st</sup> Terrace, Fort Lauderdale, Florida 33309, within the jurisdiction of this Court.

6. Defendant Thomas L. Cooper is one of the two owners of Defendant Gulfstream Academy of Aeronautics, Inc. He can be located at 1815 Griffin Road, Suite 400, Dania, Florida 33004, within the jurisdiction of this Court.

7. Defendant Thomas P. Cooper is one of the two owners of Defendant Gulfstream Academy of Aeronautics, Inc. He can be located at 1815 Griffin Road, Suite 400, Dania, Florida 33004, within the jurisdiction of this Court.

8. Defendant Mark Ottosen is the president of Defendant Gulfstream Academy of Aeronautics, Inc. He can be located at 5302 N.W. 21<sup>st</sup> Terrace, Fort Lauderdale, Florida 33309, within the jurisdiction of this Court.

9. Defendants Gulfstream Academy of Aeronautics, Inc., Thomas P. Cooper, Thomas L. Cooper, and Mark Ottosen are employers within the meaning of 38 U.S.C. § 4303(4).

#### CLAIM FOR RELIEF

10. Villalobos was hired to work for Gulfstream International Airlines Training Academy, Inc. ("GIATA") as the Director of Flight School Operations on May 8, 2000. GIATA was located at 5302 N.W. 21<sup>st</sup> Street Terrace, Fort Lauderdale, Florida 33309. Defendants Thomas L. Cooper and Thomas P. Cooper were the owners of GIATA. In or about 2001, Defendant Mark Ottosen became the president of GIATA.

11. In or about May 2000, Villalobos was made a General Manager at GIATA.

12. At the time he was hired to work for GIATA, Villalobos was a member of the Air Force Reserve ("the Reserve"). In this capacity, he performed mandatory military duties one

weekend a month, in addition to an annual tour of duty. Defendants Thomas L. Cooper and Thomas P. Cooper knew about Villalobos's enlistment in the Reserve because it was listed on his resume and application.

13. Between May 2000 and September 2000, one of the owners of GIATA, Defendant Thomas P. Cooper, made negative comments about Villalobos's military duty obligations. These negative comments included statements such as "Why do you have to go [for military activity with the Reserve]?" and "These games get in the way of work," or words to that effect.

14. Based on comments he received from one of the owners of GIATA, such as those described in Paragraph 13, above, Villalobos took a leave of absence from the Reserve in September 2000, because he began to fear that he might suffer an adverse employment action at GIATA if he continued his military activity.

15. Villalobos again joined the Reserve in March 2002.

16. After rejoining the Reserve, in approximately April 2002, Villalobos informed Defendant Mark Ottosen that his first mandatory Reserve duty was scheduled for May 19-20, 2002. In response, Defendant Mark Ottosen stated "I'll have to see about that," or words to that effect.

17. According to documents obtained from the website of the Florida Department of State, Division of Corporations, on or about April 24, 2002, GIATA changed its name to Gulfstream Academy of Aeronautics, Inc. Gulfstream Academy of Aeronautics, Inc. was located at 5302 N.W. 21<sup>st</sup> Street Terrace, Fort Lauderdale, Florida 33309. Defendants Thomas P. Cooper and Thomas L. Cooper were the owners, and Defendant Mark Ottosen was the president, of Gulfstream Academy of Aeronautics, Inc.

18. Upon information and belief, after GIATA changed its name to Gulfstream

Academy of Aeronautics, Inc. ("GAA1"), Villalobos then worked for GAA1.

19. In mid-May 2002, Villalobos was notified by the Reserve that his annual tour of duty was scheduled for June 3-7, 2002. Villalobos immediately notified Defendant Mark Ottosen, the president of GAA1, of his upcoming tour of duty

20. According to documents obtained from the website of the Florida Department of State, Division of Corporations, on or about May 21, 2002, GAA1 changed its name to Gulfstream Air Charter, Inc. Gulfstream Air Charter, Inc. is located at 1550 S.W. 43<sup>rd</sup> Street, Fort Lauderdale, Florida 33315. Defendants Thomas P. Cooper and Thomas L. Cooper are the owners, and Defendant Mark Ottosen is the president, of Gulfstream Air Charter, Inc.

21. According to documents obtained from the website of the Florida Department of State, Division of Corporations, at the same time GAA1 changed its name to Gulfstream Air Charter, Inc., Defendant Thomas P. Cooper established two new corporations, Gulfstream Academy of Aeronautics, Inc. and Gulfstream Training Academy. Gulfstream Academy of Aeronautics, Inc., a named Defendant in this action, is located at 5302 N.W. 21<sup>st</sup> Street Terrace, Fort Lauderdale, Florida 33309. Defendants Thomas P. Cooper and Thomas L. Cooper are the owners, and Defendant Mark Ottosen is the president, of Defendant Gulfstream Academy of Aeronautics, Inc.

22. Upon information and belief, after the creation of Defendant Gulfstream Academy of Aeronautics, Inc. ("GAA2"), Villalobos then worked for GAA2. Villalobos performed the same job duties and retained the same job title at GAA2 as he did at GAA1.

23. In an e-mail dated on or about May 28, 2002, and sent at approximately 1:01 p.m., Villalobos reminded Defendant Mark Ottosen, the president of GAA2, of Villalobos's upcoming annual tour of duty.

24. In an e-mail dated on or about May 28, 2002, and sent at approximately 5 p.m., Defendant Mark Ottosen, the president of GAA2, notified Villalobos that he was terminated from employment at GAA2, effective immediately.

25. On May 29, 2002, in a meeting with Villalobos, Defendant Mark Ottosen, the president of GAA2, told Villalobos that "since [Villalobos had] reserve obligations, [Villalobos was] the logical choice to let go," or words to that effect.

26. In correspondence dated June 13, 2002, Defendant Mark Ottosen informed Villalobos that he was terminated effective May 28, 2002. This correspondence was drafted on stationary that bore the title "Gulfstream Academy of Aeronautics" and identified Defendant Mark Ottosen as "President."

27. Defendants violated Section 4311 of USERRA, among other ways, by denying Villalobos retention in employment and instead discharging him because of his membership in, or obligation to perform service in, a uniformed service.

28. As a result of Defendants' unlawful discharge of Villalobos, he has suffered substantial loss of earnings and other benefits of employment.

#### PRAYER FOR RELIEF

WHEREFORE, Villalobos prays that the Court enter judgment against the Defendants, their officers, agents, employees, successors and all persons in active concert or participation with them, as follows:

29. Declare that Defendants' discharge of Villalobos was unlawful and in violation of USERRA;

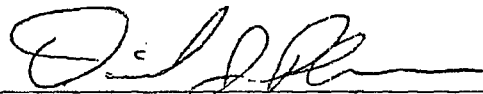
30. Require that Defendants fully comply with the provisions of USERRA by reinstating Villalobos at the level of seniority, status and compensation that he would have

enjoyed had he remained employed continuously with the Defendants, and by paying Villalobos for his loss of wages and other benefits suffered by reason of Defendants' failure or refusal to comply with the provisions of this law;

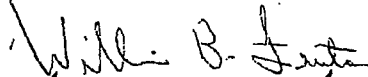
- 31. Award Villalobos prejudgment interest on the amount of lost wages found due;
- and
- 32. Grant such other and further relief as may be just and proper.

R. ALEXANDER ACOSTA  
Assistant Attorney General  
Civil Rights Division

BY:

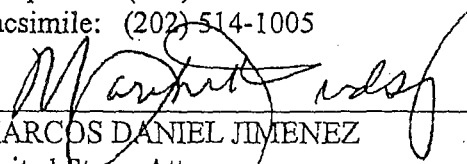


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