UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	**CRIMINAL COMPLAINT**
v.	:	Hon. Mark Falk, U.S.M.J.
DAVID BANACH	:	Mag. No. 05-3502

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent with Federal Bureau of Investigation, and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached page and made a part hereof.

_____
Gary C. Adler, Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,
January 4, 2005, in the District of New Jersey

THE HONORABLE MARK FALK
UNITED STATES MAGISTRATE JUDGE

_____
Signature of Judicial Officer

Attachment A

COUNT 1

On or about December 29, 2004, in Morris County, in the District of New Jersey and elsewhere, defendant DAVID BANACH did knowingly and willfully interfere with, disable, and incapacitate a driver, captain, or person, namely an aircraft pilot, while employed in operating and maintaining a mass transportation vehicle, namely a chartered Atlantic Aviation aircraft, with reckless disregard for the safety of human life.

In violation of Title 18, United States Code, Sections 1993(a)(5) and (8), and 1993(b).

COUNT 2

On or about December 31, 2004, in Morris County, in the District of New Jersey and elsewhere, in a matter within the jurisdiction of the executive branch of the Government of the United States, namely the Federal Bureau of Investigation, defendant DAVID BANACH knowingly and willfully made materially false, fictitious, and fraudulent statements and representations.

In violation of Title 18, United States Code, Section 1001(a)(2).

Attachment B

I, Gary C. Adler, a Special Agent with the Federal Bureau of Investigation, having conducted an investigation, am aware of the following facts:

1. On or about December 29, 2004, an Atlantic Aviation Flight Services charter aircraft, namely a Cessna Citation jet bearing tail number N102FS [hereinafter "the Aircraft"], was flying from Boca Raton, Florida to Teterboro, New Jersey. The Aircraft was being piloted by R.D. and was transporting approximately six passengers. R.D., a commercial airline pilot since 1971, had previously made several hundred landings at Teterboro Airport during his career.

2. During its landing approach into Teterboro Airport, the Aircraft was traveling at approximately 250 knots and was flying at about 3,000 feet. Both R.D. and his co-pilot, W.D., observed a green-colored laser beam strike and illuminate the left side of the windshield on approximately three occasions. The laser beam flashes distracted both pilots, causing a temporary loss of vision. After regaining his vision, R.D. notified the Teterboro air traffic controller to report the incident. The FBI was ultimately notified of the incident, opened an investigation, and began making efforts to identify the location and source of the laser and the person who was operating it.

3. On or about December 31, 2004, R.D. agreed to accompany law enforcement agents in a Port Authority of New York and New Jersey Police Department ("PAPD") helicopter in order to identify the Aircraft's aeronautical location at the time of the incident described in Paragraph 2. R.D. explained, in substance and in part, that he observed the laser beams emanating from the vicinity of a strip mall that he recognized due to its lighting. Using a Federal Aviation Administration-generated aeronautical mapping of the Aircraft's flight path, R.D. directed the PAPD helicopter to the immediate vicinity from where the laser beams originated. While circling above that location, the PAPD helicopter was struck and illuminated with a laser beam that R.D. described as very similar in color to the one that struck the Aircraft he was operating on or about December 29, 2004. Consequently, a helicopter crewmember shined a spotlight on the house where the laser beam emanated from so law enforcement officers on the ground could respond to that residence.

4. Shortly afterwards, law enforcement responded to the residence identified by the surveillance helicopter. At that time, an individual later identified as defendant DAVID BANACH exited the residence to inquire about the police activity. When informed that law enforcement was investigating incidents relating to laser beams being directed at aircraft, defendant BANACH stated, in substance and in part, that it "was his daughter" who had shined the laser beam on the PAPD helicopter.

5. Defendant BANACH returned inside and retrieved a black box that contained a silver cigar-shaped object identified by defendant BANACH as the laser. The law enforcement officer activated the laser which produced a green light. Defendant BANACH cautioned the law enforcement officer, in substance and in part, not to shine the laser in his eyes because it could blind him.

6. Thereafter, agents from the FBI were invited by defendant BANACH into his residence where they conducted an interview. During the interview, defendant BANACH stated, in substance and in part, that his daughter shined the laser on the helicopter earlier that evening. Agents also asked defendant BANACH whether he committed the December 29, 2004 laser incident, which had been reported by various news outlets [as described in Paragraph 2]. He stated that he had not.

7. After questioning other witnesses, defendant BANACH admitted that he, rather than his daughter, shined the laser on the PAPD helicopter earlier that evening, but adamantly denied any involvement in the December 29, 2004 laser incident. Defendant BANACH agreed to accompany agents to the FBI Newark Division office for further questioning.

8. At the FBI office, defendant BANACH was given his Miranda rights and voluntarily agreed to submit to a polygraph examination and further discuss the incidents with law enforcement. Defendant BANACH provided a handwritten statement admitting that he shined the laser on the PAPD helicopter, but he continued to deny any involvement regarding the December 29, 2004 incident. After the polygraph was completed and during additional questioning, defendant BANACH admitted, in substance and in part, that he had lied to law enforcement and that he shined laser beams on both the PAPD helicopter earlier that evening and the Aircraft on December 29, 2004.

8. At all relevant times, the Aircraft was a “mass transportation vehicle” within the meaning of Title 18, United States Code, Sections 1993(c)(5) and (8).