

# NEWS

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***Paul J. Fishman, U.S. Attorney***

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kimb1124.rel  
FOR IMMEDIATE RELEASE  
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## Captain of Jet That Crashed at Teterboro in 2005 Charged in Superseding Indictment

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NEWARK – The captain of an ill-fated flight from Teterboro Airport which crashed upon take-off in 2005 has been named in a 27-count Superseding Indictment charging a series of crimes against him and his co-conspirators, all members of now-defunct charter jet company Platinum Jet Management LLC, U.S. Attorney Paul J. Fishman announced

John Kimberling, 63, a contract pilot with Platinum Jet in Ft. Lauderdale, Fla. in 2004 and 2005, was charged with joining a conspiracy to defraud charter flight customers, jet charter brokers, and the Federal Aviation Administration (“FAA”) through interstate wire communications, and to defraud the United States by impeding and obstructing the FAA’s regulation of commercial aircraft in the United States. The Superseding Indictment also charges Kimberling with four counts of making false statements.

The Superseding Indictment also adds charges to the original indictment against the following individuals associated with Platinum Jet:

- Michael Brassington, 36, the President, CEO, chief pilot and co-founder of Platinum Jet, is now charged with one count of conspiracy, one count of endangering the safety of an aircraft, and 22 false statement counts. (He was originally charged with the conspiracy count, five false statement counts and one endangering count.)
- Paul Brassington, 30, a Vice President and co-founder of Platinum Jet, is now charged with one count of conspiracy and six false statement counts. (He had originally been charged in only the conspiracy count.)
- Brian McKenzie, 44, Platinum Jet’s Director of Maintenance, is now charged with one count of conspiracy and 11 false statement counts. (He too had originally been charged in only the conspiracy count).

Defendant Francis Vieira, 60, a Platinum Jet pilot, who is charged with one count of conspiracy and 16 false statement counts, was not charged with any additional offenses.

Two defendants from the original indictment, Andre Budhan and Joseph Singh, have pleaded guilty. Budhan pleaded guilty on June 22 to the conspiracy count. He is scheduled to be sentenced on Feb. 8. Singh pleaded guilty on July 7 to the conspiracy charge. His sentencing is scheduled for April 5.

The Superseding Indictment was returned by a grand jury in Newark on Nov. 13 and unsealed with Kimberling’s self-surrender to the U.S. Marshal’s Service in Fort Lauderdale. The defendant is scheduled to make an initial appearance today before U.S. Magistrate Judge Robin S. Rosenbaum in federal court in Fort Lauderdale.

An arraignment for Kimberling on the Superseding Indictment is scheduled for Dec. 3 before U.S. District Judge Joseph A. Greenaway, Jr., in Newark.

According to the Superseding Indictment, from November 2002 until November 2003, the

conspirators operated Platinum Jet as an on-demand commercial jet charter company without having a “Part 135 certificate,” which is required by Federal Aviation Regulations (“FAR”) for charter operations and is very difficult to obtain. During this period, the conspirators lied in contractual documents faxed from state to state to charter brokers about Platinum Jet’s illegal regulatory and safety status. The Superseding Indictment claims that the defendants operated more than 85 commercial flights during this time period in violation of federal safety regulations for more than \$1 million in compensation.

The Superseding Indictment further alleges that in November 2003, the conspirators started sharing a Part 135 certificate, or “piggybacking,” with a Part 135 certificate holder named Darby Aviation, and that after they did so, they continued to violate FAA rules by dispatching unqualified pilots, and pilots without the FAA-required amount of rest, to fly chartered flights. To conceal this illegality, the Superseding Indictment alleges, Michael Brassington, Vieira, Kimberling, and other Platinum Jet pilots signed FAA-mandated flight logs for more than 30 charter-brokered flights falsely indicating that those charters were private, non-profit flights, which are subject to much less onerous regulation than commercial flights. This alleged conduct lasted from November 2003 until shortly after the crash at Teterboro Airport in February 2005. During this period, the Brassingtons continued to claim in interstate contracts with the brokers that Platinum Jet was in compliance with federal safety regulations.

### **The “Tankering” Scheme**

As part of the conspiracy, the Superseding Indictment alleges a dangerous and fraudulent “tankering” scheme, where the defendants, in order to save money and take advantage of cheap fuel contracts, would over-fuel aircraft to an extent where those aircrafts’ centers-of-gravity were too far forward for safe takeoff. The defendants would then falsify FAA-required weight-and-balance graphs to conceal the tankering and dangerous weight configuration. According to the Indictment, Michael Brassington and Vieira doctored numerous weight-and-balance graphs to conceal excess front-loaded weight before takeoff and instructed other pilots to do the same. Also, McKenzie is alleged to have lied to a Platinum Jet pilot about the weight of one of the aircraft in order to keep the scheme going. According to the Superseding Indictment, Platinum Jet flew more than 25 commercial charter flights on two separate aircraft with centers-of-gravity that exceeded the aircrafts’ forward limits, and lied about it in FAA-required documents.

It was this dangerous tankering, according to the Indictment, that ultimately caused the Teterboro crash. The Indictment alleges that, in November 2004, Michael Brassington told a first officer with Platinum Jet that one of the aircraft, Jet N370V, weighed considerably less than the weight reflected on FAA-required weight-and-balance graphs located on that aircraft. In reliance on this representation from Michael Brassington, the first officer over-fueled Jet N370V on the day of the crash and caused its center-of-gravity to exceed its forward limit for takeoff. According to the Superseding Indictment, this extra weight and excessively forward center of gravity contributed to the crash.

Fishman credited Special Agents of the Department of Transportation, Office of the Inspector General, under the direction of Inspector General Calvin L. Scovel III and Special Agent in

Charge Ned E. Schwartz, for the investigation leading to the Superseding Indictment.

The government is represented by Assistant U.S. Attorney Scott B. McBride of the U.S. Attorney's Government Fraud Unit.

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Defense Counsel for Kimberling: Stephen N. Dratch, Esq., Livingston