

# My drug test was “positive,” and ALPA helped clear my name.

**I**t helps that I'm not a drug user. It helps that I paid attention when I became an ALPA member. It helps that ALPA is serious about representing each and every one of its pilots.

My story begins with one not unfamiliar to many of us—in 2005 my airline's bankruptcy was imminent. I needed to find new employment. I had several interviews lined up, one specifically with Gemini Air Cargo.

I went through a promising interview process, which included a pre-employment drug test. Based on paperwork Gemini had sent to me, I knew the interview process included a drug test, so I was not at all concerned but rather excited about the new opportunity. But when my test results were taking an extraordinarily long time to reach Gemini's management, I became concerned and contacted the MRO (medical review officer).

She told me that I had tested positive on my drug test. She asked me if there was a reason I would have had codeine in my sample. After some thought, I told her that during personal travel in February 2005, I had experienced a terrible headache while in London and had purchased Co-Codamol, an over-the-counter medication to relieve headache, cold, and flu symptoms. On the morning of the interview, I experienced similar symptoms and took the medication.

The MRO asked me for the documentation regarding my purchase of the medication. I gathered together the receipt for purchasing the Lufthansa ticket; a photocopy of a Co-Codamol box along with the enclosed information leaflet; a copy of an Internet search with information showing that the dose of Co-Codamol I purchased and took did not require a prescription; information about the pharmacy chain from which I purchased the medication; a receipt for duty-free purchase at Dulles Airport, showing name, flight number, and seat allocation; and a photocopy of the re-entry stamp into the United States.

I immediately submitted all the

information requested, greatly relieved that I had all of this paperwork. Despite submitting the information, the MRO

By Margaret “Rosalind” Heinemann

reiterated she had concerns regarding my drug test and notified me that she had forwarded my case to the FAA. My world was spinning. I learned soon after that, despite all the documentation I had produced for the MRO, she still reported the test result as “positive.”

I got ALPA involved very early in the process. Somehow, I knew to call the Aeromedical Office, which put me in touch with ALPA's Legal Department. It must have been from paying attention

## About the Author

First Officer Margaret “Rosalind” Heinemann is a 53-year-old pilot with an unblemished record. She has had her private pilot license since 1992 and became an ALPA member in 1998, flying for Independence Air/Atlantic Coast for 7 years before being furloughed. She has since found employment with another airline. Before airline flying, she ran Valley Flying Service, a fixed-base operator for which she was also a flight instructor, and flew scenic flights as a commercial pilot.



**F/O Heinemann thanks ALPA senior attorney Suzanne Kalfus for all her help.**

when I became an ALPA member or from reading *Air Line Pilot*. Whatever the reason, I was grateful for the support.

I learned from the Legal Department that in light of the circumstances, the MRO was authorized under the regulations to find there was a legitimate medical explanation for the presence of codeine in my test result and to report the test as “negative.” However, I was the

certainly not the intent of the regulatory scheme to penalize and effectively end the airline career of an upstanding pilot who is not an illegal drug user.”

Step by step, Kalfus contacted all the people needed to clear my name. After contacting the FAA, she moved on to the Department of Transportation—its Office of Drug and Alcohol Policy and Compliance (ODAPC) is

possible adverse consequences to her. In a conversation with me, the MRO expressed concerns about being subject to an FAA audit.

One of the most liberating moments for me was when the DOT finally sent us the results of a report the ODAPC conducted regarding my case, which found that the MRO had failed to follow the regulations, and stated DOT’s

**T**here is no way I could have fought this on my own. All of ALPA’s resources, including the ALPA Aeromedical Office and ALPA’s Legal Department, were crucial to my being vindicated. The best part is that every second of help that I received over the last year was included in my membership benefits as an ALPA member.

victim of a medical review officer who “was afraid to do her job,” and that made me also a victim of a process that took a lot of time, effort, and follow-up. Suzanne Kalfus, senior attorney in ALPA’s Legal Department, handled my case, and was undeterred in her tenacious pursuit on my behalf. After considering the facts of my story, she spearheaded the effort to clear my name.

The biggest problem for me was regaining employment. No other airline employer was willing to hire me with a positive test result on my record—it is like a scarlet letter.

To return to flying after a positive drug test, the regulations require a pilot to be evaluated by a substance abuse professional and comply with any treatment recommendations by the professional. The pilot must pass a return-to-duty test, and then be subject to follow-up testing for the requisite period of time.

I was evaluated by the FAA’s former chief psychiatrist, Dr. Bart Pakull, who had run the FAA’s alcohol special issuance program. His report confirmed that I was not an illegal drug user and found no evidence to support any diagnosis of substance abuse or dependence.

In a letter to the FAA, Kalfus wrote, “The overwhelming evidence fully demonstrates a legitimate medical explanation for Heinemann’s drug test result. To brand her with the mark of a positive drug test, and force her to suffer all the attendant regulatory consequences, is a gross injustice. It is

identified in the regulations as having the authority to be able to assist in having a positive test result changed.

So, Kalfus continued to pursue the issue; and ODAPC, after conducting its own investigation into the matter, found that the MRO “did not have an adequate basis for verifying the employee’s test as positive.” Because of the finding, the employee’s test as positive “should be canceled.

“To maintain the test as positive. . .

conclusion that the test result should be changed.

Ultimately, as a result of the DOT’s report and its follow-up with the MRO Service, the drug test was canceled, and my record was cleared.

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## THE DOT’S REGULATIONS

In determining whether a legitimate medical explanation exists for the presence of a drug or metabolite in an employee’s body, the MRO is authorized to consider the employee’s use of medication from a foreign country:

- The substance must be one that is legally obtained in a foreign country.
- The substance must have a legitimate medical use.
- The substance must be used consistent with its proper and intended medical purpose.

The employee has the burden of proving a legitimate medical explanation. To do so, the employee must promptly provide relevant evidence to the MRO. 🔄

would work as an injustice on the employee that is inconsistent with the intent and procedures of DOT drug and alcohol testing regulations. Any record of the test should be expunged by FAA and the employer,” read the DOT’s report.

Apparently, the MRO had been afraid to find a “legitimate medical explanation” and report the test as “negative” because she was concerned about

received over the last year was included in my membership benefits as an ALPA member.

The alternative would have been hiring a private attorney, and paying thousands of dollars—which I would never have been able to do. If it hadn’t been for ALPA, I wouldn’t be here. I wouldn’t have been able to get a job. For ALPA’s assistance in saving my career, I am eternally grateful. 🔄