

Hinckley plane crash settlement not closed

□ Insurance company's checks to plaintiffs in Hinckley plane crash bounce

By TOBY COTTER
Staff Writer

SYCAMORE — Valerie Steele-Holden was one of the unfortunate ones.

Her husband Glenn, a Chicago resident, was one of the 12 people aboard the 1951 military plane when it crashed into a rural DeKalb County soybean field.

That was in 1992.

Valerie's memories of Glenn remain, but like most people, she wanted to be compensated for a loss the National Transportation Safety Board said was caused by "inadequate maintenance and inspection."

Steele-Holden and eight others sued Anderson Propeller, the company that allegedly gave advice on installing a defective engine, and James Baron, the former owner of the Hinckley Parachute Center.

With Baron having little financial resources after the crash, the group — with nine separate cases — went after Anderson Propeller.

In a motion for a summary judgment in DeKalb County, Anderson Propeller attorneys argued that a company maintenance man had no direct legal responsibility to those who were killed in the crash.

Circuit Judge John Countryman rejected that argument in July.

The case was set to go before a DeKalb County jury last week, but Anderson Propeller and their Texas-based insurer, American Eagle Insurance Company, offered a settlement.

The settlement with the insurance company, in lieu of a jury trial, was

The day it happened

By TOBY COTTER
Staff Writer

HINCKLEY — An airplane carrying 12 people fell out of the sky just after take-off on Sept. 7, 1992. The pilot and 11 skydivers were burnt beyond recognition.

DeKalb resident Ed Baron, and his brother Chris were aboard the 1951 military airplane owned by their father James.

The father had owned the Hinckley Parachute Center for 20 years before the crash.

As the plane left the ground that warm fall afternoon, it started to shake and experience problems. It did not gain the proper altitude and subsequently dropped to the ground.

Upon impact, the airplane burst into flames.

The bodies were burnt so badly that DeKalb County Coroner Dennis Miller asked three local dentists to help identify the victims.

Skydivers from Sugar Grove, Cicero, Chicago, Indiana, and

Maryland lost their lives in the accident.

"From the first sight of the accident scene, you could tell that there were no survivors," Miller said.

The National Transportation Safety Board released a report in 1993 concluding that the probable cause of the crash was "inadequate maintenance and inspection ... which resulted in an engine power loss during the critical takeoff phase of the flight."

Federal records further indicated that the engine that failed had been installed in the plane by James Baron and one of his employees. Neither Baron nor his employee were certified to do such work. Baron told investigators a Federal Aviation Administration certified mechanic, allegedly from Anderson Propeller, had advised them in the engine installation.

James Baron was not at the

See ACCIDENT, page 2 →

set to pay the plaintiffs an undisclosed amount of money for dismissal of all claims against Anderson Propeller. With the agreement, the case was closed and a jury wasn't needed.

Checks from American Eagle were sent to the plaintiff's attorneys on Oct. 31 from The First National Bank of Chicago. The settlement agreement keeps the amount from being a matter of public record.

Seven of the plaintiff's and their

attorney's cashed the checks. The other two, including Steele-Holden's, were not immediately cashed.

When the legal representatives went to the bank for their clients in late December, they found out that American Eagle's bank account in Chicago was closed.

On Dec. 22, 1997 the Texas Department of Insurance placed American Eagle Insurance Company

See CRASH, page 2 →

Crash...

← CRASH, from page 1

into a temporary receivership. A judge in Travis County, Texas ordered American Eagle be designated "as an impaired insurer ... its financial condition is such that continued operation is hazardous to its insured and creditors."

Grant Dixon, lead plaintiff's counsel from the law firm of Corboy and Demetrio in Chicago and the lawyer who represented Steele-Holden, said he waited to cash the check because of Illinois law.

"I couldn't cash the check," Dixon said. "In Illinois it is illegal to cash a check when somebody died until the judge orders you to do it. The reason is very simple, you don't want people running around cashing checks if they aren't their checks. They might be trying to take money from the estate."

Because the check bounced, Dixon filed a motion in DeKalb County earlier this month asking Judge Countryman to enforce the settlement. He said his client agreed to settle and is owed "many, many thousands of dollars."

"They've issued bad checks," Dixon said. "If you or I issue bad checks it is a crime. This is a serious issue."

However, Ken Ross, an attorney from Chicago-based law firm Blatt, Hammesfahr and Eaton representing Anderson Propeller, said Dixon is to blame for not cashing the check.

In a motion filed Tuesday, Ross contended that Dixon's claims are off-base and asked the judge to dismiss the motion for enforcement.

The motion from Ross's office said Dixon makes it appear as though they refused to pay. It said Dixon and Steele-Holden were at fault for not cashing the check right away, especially knowing the financial instability of American Eagle Insurance.

Steele-Holden and Dixon's delay is "particularly inexplicable since the financial instability and potential insolvency of American Eagle was a principal issue in the settlement negotiations before the court," the motion said. "If (the parties) would have presented her draft (check) in a timely fashion, then the draft would

"They have engaged in a criminal act ... The criminal code says that if you write a bad check ... it's a Class-A misdemeanor"

— Grant Dixon,
lead plaintiff's counsel

have been honored."

Ross would not comment further on the case, but simply said "the motion spoke for itself."

Dixon and Anderson Propeller attorneys will be appearing in front of Judge Countryman later this month. And Dixon is promising fireworks.

In fact, Dixon is going bring the topic of criminal activity in front of Countryman.

"They have engaged in a criminal act in the State of Illinois," Dixon said. "The criminal code says that if you write a bad check, especially for this size, it's a Class-A misdemeanor. That is absolutely reprehensible."

Dixon said his clients should be able to collect what was agreed upon by both sides. He said there would not have been a settlement with Anderson Propeller and American Eagle if he would have known the checks were no good.

If American Eagle's check would not have bounced, the case would be closed.

But the problem reaches far beyond this one check. It goes all the way from Illinois to Texas.

"I don't know the circumstances for which this particular insurance company went under, but I can guarantee you that even if my settlement was for \$10 million, it would not be the type of thing that would make an insurance company of that size go under," Dixon said. "Every insurance company, when they get notice of a claim, makes an evaluation of the claim and sets aside reserves, which is like putting money into a savings account. The

law requires them to put money into those reserves."

American Eagle had those reserves. In fact, the company was once considered among the country's top aviation insurers.

In 1995, American Eagle had an "excellent" rating from New Jersey-based A.M. Best Co., a leading authority on insurance company stability.

But with bad investments in California, American Eagle started to lose millions. In 1995 alone, the company reported a net loss of \$13.2 million. The following year things got worse.

Former Company President Philip Guthrie said the landslide continued.

"Once the company started to see the losses from its California operations that the company had acquired a number of years ago, it got very difficult," Guthrie said. "What we've worked to do is sell the different operating portions of the business to other insurance companies so that policy holders would have the best on-going coverage possible."

With all the divisions sold, the only thing left for American Eagle are the claims from former customers, which includes celebrity Christie Brinkley who has a claim against American Eagle from a 1994 helicopter crash.

But where is the money for the claims against American Eagle? And what about the check issued by American Eagle for the Hinckley crash victims?

Guthrie said he could not comment on the claims. He said the Texas Department of Insurance is



■ handling all issues dealing with the company's receivership.

Dana Palmer, spokesman for the Texas Department of Insurance, would comment on the claims. He said American Eagle has more than 1,000 outstanding claims.

Palmer said the company probably will not be able to pay all of those claims. The reason: \$5 million.

According to Palmer, American Eagle had \$63 million in assets and liabilities of \$68 million as of Sept. 30, 1997.

"There is no guarantee that all their claims will be paid in full," Palmer said.

Dixon said his case in DeKalb County is different from the other claims American Eagle has with ex-customers across the country.

"The difference is that we reached a deal," Dixon said. "They've agreed to pay a certain amount of money. And they have to pay that."

Dixon said the settlement was a contract, one that has been neglected by American Eagle and Anderson Propeller.

As for American Eagle, Guthrie said it is "highly unlikely" that the company will ever recover.

Accident...

← ACCIDENT, from page 1
Hinckley Airport the day of the crash, but that day still haunts him.

"The accident has affected us more than anyone can imagine," Baron said in an August interview. "You can never recover."

After the crash, Baron got out of the business.

The Hinckley Airport is now owned by a group of investors, while the skydiving business has been opened by Bo Babovic.

Babovic oversees the entire operation of Chicagoland Skydiving. He said the business does more than 15,000 jumps per year.