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The Special Counsel

February 13, 2024

The President
The White House
Washington, D.C. 20500

Re: OSC File Nos. DI-20-000827, DI-20-000863, DI-21-000350, and DI-21-000353

Dear Mr. President:

I am forwarding to you reports transmitted to the U.S. Office of Special Counsel (OSC) by the Department of Transportation (DOT) in response to the Special Counsel's referral of a disclosure of wrongdoing at the Federal Aviation Administration (FAA), New York Flight Standards Office (NY FSDO), Garden City, New York; Cincinnati (CVG) FSDO, Cincinnati, Ohio; and Dallas/Fort Worth Certificate Management Office (DFW CMO), Irving, Texas. I have reviewed the disclosure, the agency reports, and the whistleblower comments, and, in accordance with 5 U.S.C. § 1213(e), I have determined the reports contain the information required by statute and the findings appear reasonable.¹

The Allegations

██████████, an Aviation Safety Inspector-Operations, and ██████████, an Aviation Safety Inspector-Principal Operations Inspector, who consented to the release of their names, alleged that FAA officials failed to effectively oversee the operations of Atlas Air Worldwide and its subsidiaries, Atlas Air (Atlas) and Polar Air Cargo (Polar). Specifically, ██████████ and ██████████ alleged that an FAA official in the NY FSDO approved a training program waiver for Atlas and Polar without authority to do so, permitting Atlas and Polar to maintain a single training program in violation of regulations; FAA officials in CVG FSDO and DFW CMO permitted Atlas and Polar to operate without required paperwork in violation of regulations; and high level FAA officials interfered with attempts by FAA inspectors, including ██████████ and ██████████, to perform their duties and ensure that Atlas and Polar meet FAA requirements.

¹ The allegations were referred to former Secretary of Transportation Elaine Chao pursuant to 5 U.S.C. § 1213(c) and (d). The FAA Flight Standards Service conducted the investigation. Former Secretary Chao delegated the authority to review and sign the report to DOT General Counsel John E. Putnam.

Additionally, [REDACTED] and [REDACTED], who consented to the release of their names, alleged that FAA officials have permitted Atlas and its subsidiaries to engage in repeated, egregious infractions of FAA regulations and requirements, without significant repercussions. [REDACTED] and [REDACTED]² asserted that these infractions amount to a substantial and specific danger to public safety.

The Agency Reports

The agency reports partially substantiated the allegations, finding that CVG FSDO and DFW CMO FAA officials permitted Atlas and Polar to operate without required paperwork in violation of FAA regulations. The whistleblowers stated that air carriers must request and receive authorization for certain individuals to have access to the cockpit in flight via the issuance of FAA Form 8430-6, which FAA policy states must be in hardcopy form. The whistleblowers asserted that FAA officials permitted Atlas to issue and distribute photocopied forms and pressured the whistleblowers to expedite Atlas's authorizations by using an unauthorized fillable electronic form. Investigators found that, while FAA Order 8900.1 does not prohibit the use of FAA Form 8430-6 in electronic form, an FAA official provided guidance in 2017 that the "correct procedure" is the "procedure that utilizes the hardcopy version of the form." The report further found that Atlas and Polar used the electronic form; however, an FAA official directed only the use of the hardcopy Form 8430-6 and provided an educational PowerPoint presentation to Atlas and Polar regarding the correct process. Atlas and Polar no longer use the electronic version of the form. The agency determined no additional corrective actions were needed because of the training and because the electronic form is no longer being used.

The agency reports did not substantiate the remaining allegations, including that an NY FSDO FAA official approved a training program waiver for Atlas and Polar without proper authority, thus permitting Atlas and Polar to maintain a single training program in violation of agency regulations. The whistleblowers asserted that all air carrier certificate holders must establish and maintain an FAA-approved training program, and that Atlas and Polar—because they hold separate air carrier certificates—must maintain separate training programs pursuant to 14 C.F.R. § 121.401(a)(1). The whistleblowers contended that a Principal Operations Inspector (POI) wrongfully waived the requirement for Atlas and Polar to maintain separate training programs in December 2011, thus allowing Polar to transfer its pilots to Atlas's training program. It was determined that neither Atlas nor Polar requested a waiver for a pilot training program. Thus, no waiver was granted. Rather, in December 2011, Atlas and Polar applied to the FAA to have a joint training program, which was approved by the POI. The FAA Chief Counsel determined that there was no violation of training requirements and that a joint training program between Atlas and Polar is permissible pursuant to the training regulations.

² Hereinafter, except as otherwise noted, [REDACTED], [REDACTED], [REDACTED], and [REDACTED] are collectively referred to as "the whistleblowers".

The whistleblowers also alleged that FAA officials did not require Atlas and Polar to update their Operations Specifications (OpSpecs) to reflect the nature of this business, which includes a wet lease between Atlas or Polar and their respective clients. Investigators did not substantiate that Atlas or Polar have wet leases. Rather according to a May 2004 FAA legal opinion, Atlas's and Polar's operational construct represented charter arrangements. The agency did not find any lease or contractual arrangement involving Atlas or Polar that amounted to a wet lease, thus neither applied for an OpSpec for a wet lease. Additionally, the agency did not find any records or information concerning wet leases in Atlas's and Polar's OpSpecs or within FAA's data and tracking system.

Finally, the whistleblowers alleged that Atlas and Polar filed flight plans using client call signs while operating flights for clients who are also air carriers, such as Cathay Pacific Airways and Qantas Airways, in violation of regulatory requirements. The agency report did not substantiate this allegation. The investigators found an Atlas flight plan and dispatch release, dated in September 2019, in which a Qantas call sign was used. The aircraft for this flight was registered to Atlas, and the flight plan shows Atlas as the operator. However, the flight was from Melbourne, Australia to Sydney, Australia, and was not within the U.S. air space. Further, investigators found that operational control for this flight was clearly Atlas and not Qantas, and the Cathay Pacific flight was the same Qantas flight mentioned above from Melbourne to Sydney.

The investigation did not substantiate that FAA officials interfered with attempts by FAA inspectors to perform their duties and ensure that Atlas and Polar met FAA requirements. As an example, the whistleblowers alleged that a DFW Front Line Manager improperly directed the approval of Atlas manuals in response to Atlas's request for an expedited review. The whistleblowers asserted that the Principal Maintenance Inspector (PMI), in violation of FAA guidance, signed an Atlas manual revision approval letter on behalf of one of the whistleblowers, without the whistleblower's knowledge or consent. The whistleblowers asserted that this allowed Atlas to add new aircraft to revenue service and fly them without authorization. Further, the whistleblowers asserted that the approval letter was not properly executed. The report stated that, although there is no guidance regarding signing for another PMI, signing for an approving official is a common practice within the FAA and is not considered an inappropriate signature or authorization. Investigators further found that there is no evidence showing that Atlas wrongfully operated aircraft as a result, and there were no implications to aviation safety.

The investigation also did not substantiate that FAA officials permitted Atlas Worldwide and its subsidiaries to engage in repeated, egregious infractions of FAA regulations and requirements. Investigators found no evidence indicating that the whistleblowers or other personnel were prevented from conducting their oversight duties.

Finally, the reports noted that the whistleblowers raised additional concerns outside of the allegations outlined in OSC's referral for investigation. The reports explained that these issues raised by the whistleblowers have already been evaluated and are being addressed by the agency.

The Whistleblowers Comments

[REDACTED], [REDACTED] and [REDACTED] provided comments on the agency reports. [REDACTED] and [REDACTED] disagreed with the investigative findings and contended that Atlas Worldwide, and its subsidiaries Atlas and Polar, continue to operate in violation of federal regulations. [REDACTED] further stated that the FAA has failed to support FAA inspectors in their oversight of Atlas Worldwide.

[REDACTED] disagreed with the reports' findings, and further added that Atlas Worldwide has significant influence over the FAA that has resulted in deficient oversight and serious safety concerns regarding Atlas Worldwide operations. Further, [REDACTED] asserted that FAA officials retaliated against him for raising safety concerns. Additionally, [REDACTED] and [REDACTED] commented that FAA's actions concerning Atlas Worldwide resulted in a chilling effect on all FAA employees involved in oversight of Atlas Worldwide.

The Special Counsel's Findings

I thank the whistleblowers for bringing these allegations to OSC. I have determined that the reports meet all statutory requirements and appear reasonable. As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the agency report, and whistleblower comments to the Chairs and Ranking Members of the Senate Committee on Commerce, Science, and Transportation, and the House Committee on Transportation and Infrastructure. I have also filed redacted copies of these documents and the redacted referral letter in our public file, which is available online at www.osc.gov. This matter is now closed.

Respectfully,



Karen Gorman
Acting Special Counsel

Enclosures