

Robert Spahr
7731 Abbott Street
Pittsburgh, PA 15221

August 24, 2010

Karen P. Gorman, Esquire
Deputy Chief, Disclosure Unit
United States Office of Special Counsel
1730 M Street, NW
Suite 300
Washington, DC 20036-4505

Re: OSC File Number: DI-09-1298

Dear Ms. Gorman:

First and foremost I wanted to express my utmost gratitude to the Office of Special Counsel for its diligent effort in processing this case. Thank you!

As for my comments on the response from the Department of Transportation I give the Office of Special Counsel full authorization to use my comments in any manner it deems necessary. I have signed the enclosed document titled, "Consent to Public Release of Written Comments on Agency Report".

Regarding the U.S. Department of Transportation Memorandum dated July 30, 2010 on the subject of my OSC complaint DI-09-1298 I have the following comments:

OSC Request 1, OIG Response: Mr. John McGraw, Deputy Director of Flight Standards of Policy Oversight, describes the actions of management as poor performance, however he states they can't be rated as such since these event occurred outside the current review period. I am dismayed that the Performance Management System seems to have a loophole in it which allows an employee's inappropriate behavior to go undocumented and without remedial actions. This to me is a flawed system; as there should be a means to address undiscovered performance issues that are brought to the knowledge of the supervisor at a later date.

The Performance Management System statue of limitations loophole will continue to allow similar circumstances to occur over and over again. For example the Deputy Director states an Individual Development Plan focused on policies and procedures will be made part of the Performance Management Plan Standards. If, however, as in my whistleblower complaint, employees stray from following the policies and procedures, yet it is not discovered until a subsequent review cycle, then once again their poor performance would not be documented and accompanied by the appropriate corrective actions *solely because* it fell outside of the current review period.

OSC Request 2, OIG Response: The Federal Aviation Administration appears to be focusing its corrective actions solely on changes to policy and procedures; however the policy and the procedures weren't the problem. It was management's failure to follow the policy and procedures. How does changing the policies and procedures make an employee follow them? Though the policy and procedures needed some fine tuning, they weren't the underlying cause of the employees straying from the guidance. Without any doubt, I firmly believe the problem is a cultural issue within the Federal Aviation Administration. The focus should be on *why* employees, not only in this office, but throughout the Federal Aviation Administration, routinely stray from guidance and orders.

One possibility is the lack of proper quality assurance from the Federal Aviation Administration via local supervisors and regional/national quality assurance checks to ensure employees are performing as expected. As in the case of CJ Systems Aviation Group, which had 10 accidents with five fatalities in a two year period; due in a large part to the lack of proper oversight by the Federal Aviation Administration (on multiple levels) which in itself was fueled by not having a quality assurance protocol or system in place.

I believe another reason for Inspectors not following guidance is an underlying cultural issue of people thinking they have a better way of accomplishing our mission. One issue made apparent by not only my compliant, but others such as the Southwest Airlines whistleblower complaint, is whether or not to take enforcement action against a certificate holder when regulatory noncompliance issues are found.

There are many Inspectors who believe enforcements serve no purpose and more would be served working collaboratively with the violators, even with those who intentionally violate the regulations. I recall one senior Inspector telling me, "You do things the hard way by writing all those letter of investigations and enforcement cases." His way of handling findings was over a cup of coffee and a discussion with the certificate holder. This seems to be the mode of operation for a number of Inspectors. It appears some Inspectors are working more along the lines of a consultant rather than regulator.

Also contributing to the decision to move forward with an enforcement action is the relationship an Inspector has with the certificate holder. Some Inspectors develop a close personal relationship and consequently write far fewer, if any, enforcement actions. There have been certificate holders who have told me they have never received a letter of investigation until I showed up. In my office alone you could examine the Inspectors and their respective enforcement actions over the last 24 months and find some who have written none while others have written dozens.

I find it remarkable that a company can be in business for numerous years with obvious safety issues, yet never have any of them been documented and addressed until a new Inspector shows up. Ironically, to add to the questionable pseudo-protocols of some, as an Inspector who does write enforcement actions, I have been removed from more than one certificate when the company I had oversight of complained about me to my managers,

for writing an enforcement action. It is unfathomable, and should be unacceptable, that doing one's duty, and providing safety oversight as the guidance dictates, removes one from serving in that very capacity.

Finally, concerning cultures within an organization and expectations, I don't feel any organization can reach its true potential without a successful culture. The Federal Aviation Administration sees the benefit of developing such cultures so much so that it is moving forward with new regulations requiring certificate holders to have a safety management system. The Federal Aviation Administration has hopes that this system will foster a Reporting and Just Culture within these companies. Yet, the Federal Aviation Administration itself lacks the attributes of a Reporting and Just Culture. Based on my experience we are still operating in a Secretive and or Blame culture. I would hope we could start taking steps to developing a better culture throughout the Federal Aviation Administration. I have seen some moment in that directions in parts of our organization, but we are far from success.

Reading over the Department of Transportation Office of Inspector General report dated February 22, 2010 on the subject of OIG Investigation I08E000436SINV I have the following comment:

Allegation 1: I thought I had made the point clear to the Office of Inspector General Senior Investigator that I believed the Federal Aviation Administration *never* did a follow-up with my concerns with Erie Aviation. After reading over the report it seems it is not mentioned for some reason, so perhaps I was not clear enough with my concern so I will reiterate it now.

I am concerned that Erie Aviation has been violating 14 CFR 145.205(a) for almost five years by not following the air carriers' maintenance programs since my original findings in 2005. Since I was removed from oversight of the company I have no way of verifying this other than briefing my predecessors (Principal Avionics Inspector and Principal Maintenance Inspector), which I had and hoped they looked into the matter.

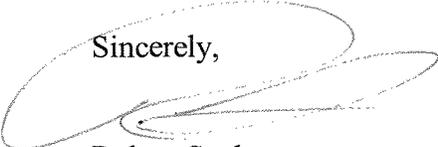
Erie Aviation performs work for numerous 14 CFR 121 air carriers and I know they have numerous process specifications along their locally created procedure for the Becker ST3100 handset. Back in 2005 when I had asked Erie Aviation management if the air carriers were aware Erie Aviation was using an alternate procedures instead of the manufacture's maintenance manuals as some air carriers if not all may be expecting requiring them to use; I was told the information (Erie Aviation's internally developed procedure) was proprietary and they would not discuss this with the air carriers.

Though these procedures may be proprietary, Erie Aviation must follow the air carriers maintenance programs per 14 CFR 14.205(a). Typically an air carrier will place on their work order or on other documentation their expectation as to what standard to repair the defective item with. For example some air carriers have an engineering department that

develops specific procedures for repairing and testing an item, which a repair station such as Erie Aviation is required to follow if this is the process the air carrier specifies.

At this point I will wait until after this submission to confirm if the Office of Special Counsel or the Office of Inspector General has initiated any further investigation into this matter or has plans to do so. If neither have initiated or plan to look further into this matter then I will ask the local management at the Allegheny Flight Standards District Office to do so. Perhaps I could also file under the Safety Information Reporting System? Either way this matter needs to be investigated.

Sincerely,



Robert Spahr
Aviation Safety Inspector