



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218

Washington, D.C. 20036-4505

202-254-3600

February 18, 2010

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

Re: OSC File No. DI-08-1733

Dear Mr. President:

The Office of Special Counsel (OSC) received disclosures from Cheryl A. Henderson, Aviation Safety Inspector, Department of Transportation (DOT), Federal Aviation Administration (FAA), United Airlines (United) Certificate Management Office (CMO), Daly City, California. Ms. Henderson, who consented to the release of her name, alleged FAA employees compromised the safety of the flying public by developing inappropriate business relationships with United, specifically regarding FAA's oversight of United's emergency door battery packs and installation of overhead bins.

Pursuant to 5 U.S.C. § 1213(c) and (d), OSC requested the Honorable Mary Peters, former Secretary of Transportation, on June 24, 2009, to conduct an investigation. Then-Secretary Peters delegated authority to the Honorable Calvin L. Scovel, III, DOT Inspector General, to conduct the investigation. On August 28, 2009, the Honorable Ray LaHood, Secretary of Transportation, submitted an agency report to OSC. On November 6, 2009, OSC received a supplemental report from DOT providing more details regarding its corrective actions.

The agency report largely substantiated Ms. Henderson's allegations. The DOT Office of Inspector General (OIG) investigation found that two CMO supervisory inspectors, Mr. Kavin K. Krum, Principal Avionics Inspector, and Mr. Steven Crutcher, Principal Maintenance Inspector, violated FAA's Voluntary Disclosing Reporting Program (VDRP). See FAA Advisory Circular 00-58A, VDRP. Specifically, Mr. Krum and Mr. Crutcher improperly permitted United to self-disclose noncompliance with an Airworthiness Directive (AD) about the installation of overhead bins, after it had been discovered by Ms. Henderson two weeks prior.¹ In addition, the investigation found that Mr. Krum failed to adequately address the expiration of emergency door batteries and the integrity of the battery restoration equipment, which was found to have been

¹ AD-2005-20-05 was issued on November 3, 2005, to prevent the failure of tie rods to the center overhead stowage bin modules. Failures of the tie rods could result in a collapse of the bin modules and, thus, injuries to passengers and crew. AD requirements are mandatory as set forth by 14 CFR Part 39.

noncalibrated and, therefore, inadequate for measuring accurately the quality of the batteries. OIG also found that while United eventually replaced all the emergency door batteries in question, Mr. Krum delayed by 18 months a decision regarding United's use of non-calibrated equipment during its battery restoration process. OIG concluded that this issue was only investigated and reported by the United CMO because of ongoing Congressional and OSC probes, and Ms. Henderson's continually raising concerns about this flawed restoration process.

As part of the agency's corrective action, FAA informed OIG that it would work with FAA Human Resources to consider appropriate administrative action against Messrs. Krum and Crutcher based on their improper acceptance of United's self-disclosure. FAA Human Resources will also consider Mr. Krum's failure to determine whether United was required to maintain a tracking system for its emergency door packs and to ensure a timely investigation into the use of non-calibrated equipment to restore batteries. The agency stated that it would make its decisions about administrative action against Messrs. Krum and Crutcher before October 31, 2009.

On November 6, 2009, DOT provided OSC with a supplemental report stating that FAA, after a review of the investigation and United CMO managers' conduct, decided to issue Messrs. Krum and Crutcher proposed five-day suspensions. Furthermore, DOT clarified that FAA determined that emergency door batteries would be considered service-limited parts, and not life-limited parts with a required tracking system. Service-limited parts are not tracked under regulation, but DOT stated "as a practical matter the air carrier must ensure that they are within the service limits." DOT emphasized, nevertheless, that this determination did not change the fact that Mr. Krum failed to take appropriate action to address the conflicting documentation provided by the manufacturer and air carrier about whether the batteries were life-limited parts, and failed to contact appropriate parties, including the manufacturer and air carrier, to investigate the safety concern.

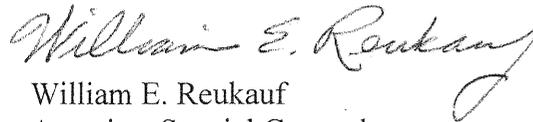
Pursuant to 5 U.S.C. § 1213(e)(1), Ms. Henderson had an opportunity to review and comment on the report and the supplemental report. Ms. Henderson expressed frustration that Mr. Krum and Mr. Crutcher's proposed disciplinary action was less than the most lenient penalty of a 30-day suspension, according to FAA's Human Resources Operating Instructions' Table of Penalties, for compromising aviation safety and betraying the public trust. She emphasized that such leniency demonstrates FAA's failure to hold managers accountable. In addition, Ms. Henderson disagreed with FAA's determination that emergency door batteries are not "life limited parts," stating that "the reality is all batteries have a "life" limit. At some point they will cease to function. Perhaps that is why we use the term "dead" battery."

OSC has reviewed the original disclosures, the agency report, the supplemental report, and the whistleblower's comments. Based on that review, OSC has determined that the agency report contains all of the information required by statute, and that its findings appear to be reasonable.

The President
Page 3

As required by § 1213(e)(3), OSC has sent copies of the agency report, the supplemental report, and the whistleblower's comments to the Chairman and Ranking Member of the Senate Committee on Commerce, Science, and Transportation, and the Chairman and the Ranking Member of the House Committee on Transportation and Infrastructure. OSC has also filed copies of the agency report, the supplemental report, and the whistleblower's comments in our public file and closed the matter.

Respectfully,



William E. Reukauf
Associate Special Counsel

Enclosures