

Order 97-8-29

Served: August 29, 1997



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 29th day of August, 1997

Applications of

CUSTOM AIR TRANSPORT, INC.

for certificates of public convenience and necessity under
49 U.S.C. 41102 to engage in interstate and foreign charter
air transportation of persons, property, and mail

**Dockets OST-97-2255
OST-97-2256**

ORDER TO SHOW CAUSE

Summary

By this order, we tentatively conclude that Custom Air Transport, Inc. (“Custom”) is a citizen of the United States, and is fit, willing, and able to provide interstate and foreign charter air transportation of passengers, and should be issued certificates of public convenience and necessity for such operations.

Background

Custom, based at Ft. Lauderdale, Florida, holds a section 41102 certificate, issued by Order 95-11-16 on November 8, 1995, authorizing it to engage in interstate scheduled air transportation of property and mail. On March 21, 1997, Custom, a Nevada corporation, filed applications in Dockets OST-97-2255 and OST-97-2256 requesting authority under 49 U.S.C. 41102 to provide, respectively, interstate and foreign charter air transportation of persons, property, and mail. Custom accompanied its applications with the information required by section 204.3 of our regulations for an examination of its fitness.¹

¹ On April 23, July 31, and August 15, 1997, Custom supplemented its applications with information on personnel, operating plans, and financial resources.

Section 41102 of Title 49 of the United States Code (Transportation) (“the Statute”) directs us to determine that applicants for certificate authority to provide interstate and foreign charter air transportation of persons, property, and mail are fit, willing, and able to perform such transportation and to ensure that all operations relating to this authority conform to the provisions of the Statute and the regulations and requirements of the Department. In making fitness findings, the Department uses a three-part test that reconciles the Airline Deregulation Act's liberal entry policy with Congress' concern for operational safety and consumer protection. The three areas of inquiry that must be addressed in order to determine a company's fitness are whether the applicant (1) will have the managerial skills and technical ability to conduct the proposed operations, (2) will have access to resources sufficient to commence operations without posing an undue risk to consumers, and (3) will comply with the statute and regulations imposed by Federal and State agencies. We must also find that the applicant is a U.S. citizen.

We have received no answers to the applications and no special issues regarding the applicant have come to our attention that would warrant oral hearing procedures. Under these circumstances, we propose to decide the issue of Custom's fitness to conduct passenger operations on the basis of the written record, and we tentatively conclude that Custom is a U.S. citizen and is fit, willing, and able to operate its proposed air service. However, we will give interested persons an opportunity to show cause why we should not adopt as final these tentative findings and conclusions.

FITNESS

The Company

Since instituting operations in 1995, Custom has performed cargo charter air service under wet-lease contracts for Lufthansa, Emery Worldwide Airlines, Kitty Hawk Airlines, and the U.S. Postal Service. The carrier, which currently operates a fleet of five leased B-727-200 freighter aircraft in domestic and foreign service, is owned equally by Mr. Richard Wellman and his wife, Mrs. Lynda Wellman.²

If granted the authority it requests here, Custom states that it plans to add passenger charter service to its current cargo operations. The applicant expects to institute its new charter service in the Caribbean area, flying B-727s under the trade name “Tropic Aire.”

Managerial Competence

² The Wellmans also own Custom Air Support Holdings, Inc., located in Opa Locka, Florida, through which they own Custom Air Parts, Inc., which supplies aircraft parts and other aviation support services in Opa Locka. Two other subsidiaries of Custom Air Support Holdings -- Custom Air Services, Inc., a Part 145 FAA-certified aircraft component repair station based in Denison, Texas; and Brent Aviation, Inc., a Part 125 carrier based in Denison -- were sold as of January 1, 1997. The Wellmans also founded and formerly operated International Airline Support Group, Inc. (IASG), a publicly held, Miami-based supplier of commercial aircraft, aircraft parts, and other types of support to air carriers. Currently, the Wellmans are only passive investors in IASG.

Mr. Richard Wellman continues to serve as Custom's Chairman, President, and Chief Executive Officer, and Mrs. Lynda Wellman continues to hold the positions of Secretary/Treasurer and Director.³

Mr. George J. Mittelstaedt was selected to serve as Custom's General Manager in September 1996. He has over 40 years of experience in aviation operations and management, including five years as Director of Operations for AirTran Airways and its predecessors, Conquest Sun Airlines/Destination Sun Airways. In addition, Mr. Mittelstaedt worked as a pilot for 28 years for Eastern Air Lines. He holds an FAA Airline Transport Pilot Certificate.

Mr. Thomas O. Duckworth joined Custom in June 1996 and served as its Director of Safety until being named to his current position, Director of Operations, in November 1996. He was employed as a pilot for 23 years with Eastern Air Lines, and, after its shutdown, worked for two years for the start-up carrier Destination Sun Airways as its Executive Vice President. Mr. Duckworth also operated his own aviation consulting firm, All Tech Services, Inc., in Florida, and was employed as a check airman and instructor with AirTran Airways. He holds an Airline Transport Pilot Certificate issued by the FAA.

Since July 1996, Mr. Charles B. Howard has been employed by Custom as a pilot and check airman, and was selected as Director of Safety in January 1997. He has had experience in many aspects of airline operations during his 24-year career, including two years as Av Atlantic's Assistant Director of Operations, and five years as a flight engineer with Express One International, Key Air, and Eastern Air Lines. At Eastern, Mr. Howard also worked for four years as a ramp and passenger service agent and for 12 years as an in-flight service representative and training instructor. He holds FAA-issued Certificates as a Flight Engineer and Airframe and Powerplant Mechanic.

Mr. Stephen E. Caison became Custom's Chief Pilot in June 1996. After ten years in the U.S. Armed Services working as an aircraft mechanic, pilot and instructor, Mr. Caison spent the next ten years as a pilot with certificated carriers, including Eastern Air Lines, Evergreen International Airlines, American International Airways, and Express One International Airlines. Prior to joining Custom, he was employed for two years as Director of Flight Standards and check airman for Av Atlantic. He holds FAA Airline Transport Pilot and Airframe and Powerplant Mechanic Certificates, and has logged over 11,300 hours of flight time.

Mr. Richard F. Sartini joined Custom as its Director of Maintenance in April 1997. Most of his 28-year aviation career was spent at Eastern Air Lines, where he started as an aircraft mechanic in 1968 and was employed as Manager of its Widebody Engine Shop when the carrier ceased operations in 1991. He subsequently worked for five years as Vice President-Maintenance &

³ The background and qualifications of Mr. and Mrs. Wellman were discussed in Order 95-10-33, issued October 20, 1995.

Engineering for Carnival Airlines. Mr. Sartini is an FAA-certified Airframe and Powerplant Mechanic.

Mr. William J. Hoffman has been Custom's Chief Inspector since May 1996. Previously, he was employed as an aircraft mechanic with Rich International and Batch Air, an FAA-certified Repair Station. He worked as Aircraft Records Manager and Director of Quality Control for Florida West Airlines, and as Vice President of Maintenance for Global Aerospace/Florida West Aircraft Services, an FAA-Certified Repair Station. Mr. Hoffman possesses an FAA Airframe and Powerplant Mechanic Certificate.

Based on the experience and background of the applicant's key personnel and the fact that they are currently managing Custom's cargo operations, we tentatively find that Custom will have the management skills and technical ability needed to conduct its proposed passenger service.⁴

Financial Plan and Operating Proposal

Using the trade name "Tropic Aire," Custom plans to inaugurate its passenger charter operations in the Caribbean area with one leased 172-passenger B-727-200 aircraft and, if demand increases as expected, add a second 149-passenger B-727-231 by the sixth month of operations. Custom foresees that an increasing demand for charters could justify a four-aircraft charter fleet by the end of the first year of passenger operations. The flights would be conducted under short- and long-term wet-lease contracts for the Department of Defense, travel agents, charter brokers for sporting events and cruise lines, and domestic and foreign charter and scheduled air carriers.⁵

Custom provided an illustrative service plan consisting of daily scheduled flights originating and culminating at points in the United States (*e.g.*, New York or Miami) and including various intermediate points in the Caribbean area (*e.g.*, Guyana, Surinam, Curacao or St. Croix). Custom anticipates that this plan would utilize one B-727-200 an average of approximately 10.7 hours per day.

The applicant also provided a forecast income statement for its cargo operation, and forecast income statements for both a one-aircraft and a two-aircraft passenger charter operation for its first year of passenger operations, with accompanying unit-cost breakdowns and explanations of how the various projections were derived.⁶ The applicant states that its cargo forecasts are based

⁴ Before authorizing a carrier to conduct air transportation operations, the FAA also evaluates certain of the carrier's key personnel with respect to the minimum qualifications for those positions as prescribed in the Federal Aviation Regulations. The FAA's evaluation of these key personnel provides an added practical and in-person test of the skills and technical ability of these individuals.

⁵ We have advised Custom that, pursuant to section 208.6(a)(i) of the Department's charter rules, any charter passenger authority granted to the carrier would also authorize it to perform subservice/wet-lease flights on behalf of U.S. or foreign air carriers transporting the latter's scheduled or charter traffic.

⁶ As a result of delays in locating a suitable B-727 aircraft and changes in the original lease and maintenance reserve expense projections, Custom supplied a revised charter profit and loss forecast

Footnote continued --

on actual experience with its own operations, and the unit-cost estimates and traffic forecasts for the passenger charter projections were derived from its historical costs and industry standard costs and from discussions with potential chartering organizations.

Since Custom indicated in its applications and exhibits that it would utilize two charter aircraft for a considerable portion of the first year, we have calculated the funds the carrier will need to meet our financial fitness criteria for the passenger charter operation based on operations with a two-aircraft charter fleet for seven months of the first year (*see* Exhibit 4, Supplement 1 to Custom's application). In its first year of passenger charter service, the applicant expects to operate 3,450 flight hours and incur total operating expenses of approximately \$6,703,444. Custom also estimated that pre-operating expenses will total approximately \$113,000, primarily for crew training and FAA certification expenses. We have examined Custom's cost estimates and find them to be reasonable. Based on our analysis of the applicant's forecasts, it appears that Custom will need access to resources of at least \$1,788,861 to meet the Department's financial fitness criteria for its proposed passenger operations.⁷

Custom furnished a balance sheet showing that, as of December 31, 1996, it had current assets of \$400,495, current liabilities of \$1,298,092, and stockholders' equity of \$126,057, including \$125,957 of retained earnings. Of its negative working capital balance of \$897,597, \$300,000 represents a loan owed to a related company, which has provided written confirmation that repayment will not be expected until November 1998. Moreover, the carrier's first year of cargo operations resulted in an operating and net profit, as evidenced by its income statement for calendar year 1996. During this period, Custom earned revenue of approximately \$9.12 million and incurred operating expenses of about \$8.96 million, yielding operating revenues of approximately \$160,700, and a net income of \$115,441.

In view of its limited internal resources, Custom states that it has arranged a line-of-credit for \$2.3 million from Trans-American Aeronautical Corporation ("TAAC"), which funds are to become available to the company upon delivery of its first passenger aircraft on or about October 1, 1997. Custom states that TAAC has pledged to provide documentation on the credit facility, including associated terms and conditions, once a show-cause order is issued in this proceeding. In the interim, the applicant supplied a letter from Edward H. Gilbert, the attorney who negotiated a similar TAAC credit facility for Custom at the time it received its initial certificate authority in

covering the period October 1997 to September 1998 (*see* revised Exhibit 105D, which is labeled Exhibit 4 in Supplement 1 to Custom's application).

⁷ This amount is comprised of the projected \$113,000 in pre-operating costs plus \$1,675,861, which is one-fourth of the applicant's estimated total first-year operating costs of \$6,703,444. To meet the Department's financial fitness criteria, an applicant should have access to financial resources sufficient to cover its pre-operating expenses and the expenses that are reasonably projected to be incurred during three months of normal certificated operations. Because projected operations during the first several months of air transportation services frequently do not include all costs that will be incurred during a normal period of operations, it is our practice to base our three-month test on one quarter of the first year's operating cost forecast. Projected revenues are not used to offset any of this amount.

1995. Mr. Gilbert confirmed that the \$2.3 million credit facility had been negotiated with TAAC and that he expected the funds to be available by October 1.

After evaluating the applicant's operating proposal, current financial condition and financing arrangements, we tentatively conclude that, if Custom obtains access to the credit facility it has negotiated, it will possess sufficient financial resources to compensate for its working capital deficit and to initiate the limited charter passenger operations it has proposed without posing an undue risk to consumers.

While Custom has not yet supplied verification of a funding commitment that we would expect to see before making a tentative finding of financial fitness, we note that Custom is an operating air carrier, that it previously obtained financing from TAAC for its start-up operations, and that the legal counsel of the financing organization has confirmed that the credit facility has been negotiated. Nevertheless, we will not issue an order finalizing these tentative findings until we have received satisfactory documentation of a commitment to provide the necessary financing. In addition, since the planned line-of-credit is not to become available until October 1997, we will require Custom to furnish, at the time that it seeks to have its authority made effective, a list of pre-operating expenses paid and those remaining to be paid, and verification that it has actually received access to funds sufficient to cover any current working capital deficit and any remaining pre-operating expenses, and to provide a working capital reserve equal to the operating costs that would be incurred in three months of passenger charter operations.

Furthermore, if Custom should propose to significantly expand its operations, such as through the acquisition of additional aircraft, the financial fitness findings made herein may no longer be valid. Therefore, as more fully discussed under "Certificate Conditions and Limitations" below, we have decided to limit Custom's authority to operations with five cargo and two passenger aircraft. If Custom wishes to operate additional aircraft, it must notify us at least 45 days in advance and file updated evidence of its financial condition and of the resources available to support any planned expansion.

Compliance Disposition

Custom stated that neither it nor any of its directors, officers or key personnel has been charged with unfair or deceptive or anticompetitive business practices, or with fraud, felony or antitrust violations, and that there are no actions or judgments outstanding or pending against it or any of its key personnel. In addition, the applicant declared that there are no investigations pending and that no enforcement actions have been taken against itself or any of its key personnel regarding compliance with the Statute or any regulations or orders issued pursuant to the Statute in the past ten years.

We have searched our records, including those of the FAA, and have found no pending enforcement cases and no history of any accidents or incidents involving Custom or any of its key personnel. Custom stated that it has applied to the FAA for certification to transport passengers under the Federal Aviation Regulations. The FAA affirms that the process of amending Custom's

Operations Specifications to authorize passenger charter operations is proceeding normally, and that the FAA knows of no reason why we should not find the company fit.

We have also examined the Department's consumer complaint records and found no evidence of any complaints or lack of compliance on the part of the applicant's owners, key personnel, or related companies. In addition, our Office of Aviation Information declares that Custom has been timely and accurate in filing the required operating and traffic reports.

Based on all of these considerations, we tentatively conclude that Custom has and will have the proper regard for the laws, rules, and regulations governing its service to ensure that its aircraft and personnel will conform to applicable safety standards and that acceptable consumer relations practices will be followed.

CITIZENSHIP

49 U.S.C. 41102 requires that certificates to engage in air transportation be held only by citizens of the United States as defined in 49 U.S.C. 40102(a)(15). That section specifies that the president and two-thirds of the board of directors and other managing officers be U.S. citizens and that at least 75 percent of the outstanding voting stock be owned and controlled by U.S. citizens. We have also interpreted the statute to mean that, as a factual matter, the carrier must actually be controlled by U.S. citizens.

Custom is a corporation organized under the laws of the State of Nevada. All of its stock is held by two individuals, Mr. Richard Wellman and Ms. Lynda Wellman, who are U.S. citizens. The applicant has provided an updated affidavit attesting that it remains a U.S. citizen and has affirmed that its stockholders, members of its board of directors, and key personnel are U.S. citizens. We have found nothing in the record that would lead us to conclude that control of this applicant is not with citizens of the United States.

In view of the foregoing, we tentatively conclude that Custom is a U.S. citizen and that it is fit, willing, and able to provide the interstate and foreign passenger charter service it proposes.

PUBLIC CONVENIENCE AND NECESSITY

No finding of consistency with the public convenience and necessity is required for the award of authority for interstate charter air transportation of persons, property, and mail under section 41102, although such a finding is required for authority to engage in foreign charter air transportation. We tentatively find that the foreign charter air transportation proposed by Custom is consistent with the public convenience and necessity. By Order 78-7-106, which instituted the *Former Large Irregular Air Service Investigation*, the Civil Aeronautics Board found that there was a continuing demand and need for additional charter air carriers. These findings remain valid and apply to the authority sought by Custom. Therefore, if Custom meets the fitness

requirements of the Statute, it will receive certificates authorizing it to engage in interstate and foreign charter air transportation of persons, property, and mail.⁸

OBJECTIONS

We will give interested persons 15 days following the service date of this order to show cause why the tentative findings and conclusions set forth here should not be made final; answers to objections will be due within 10 days thereafter. We expect such persons to direct their objections, if any, to the applications and points at issue and to support such objections with detailed economic analyses.⁹ We will not entertain general, vague, or unsupported objections. If no substantive objections are filed, we will issue an order that will make final our tentative findings and conclusions with respect to certification and fitness and will issue certificates that will contain exact copies of the attached specimen Terms, Conditions, and Limitations.

EFFECTIVE CERTIFICATE CONDITIONS AND LIMITATIONS

If Custom is found fit and issued the certificates it seeks, its authority will not become effective until the carrier has fulfilled all of the requirements for effectiveness as set forth in the terms and conditions attached to its certificates. Among other things, this includes our receipt of evidence that Custom has obtained authority from the FAA to conduct charter passenger air transportation under Part 121 of the Federal Aviation Regulations, that it has obtained passenger liability insurance coverage meeting the requirements of Part 205 of our rules, and that it actually has access to the required financial resources.

Our conclusion as to Custom's fitness is based on the operating plans described in its applications. These plans call for Custom to continue its cargo operations with the five freighter aircraft it is leasing and to institute passenger charter operations with up to two leased passenger aircraft. Our fitness findings might no longer apply if the company were to substantially change the scope of its operations through the introduction of several additional aircraft. Therefore, once the applicant's certificate becomes effective, should Custom propose to utilize more than seven aircraft in its operations (five cargo and two passenger aircraft), it must notify the Department in writing at least 45 days in advance and demonstrate its fitness for such operations prior to placing the additional aircraft into service. Furthermore, should Custom propose any other substantial

⁸ Pursuant to 49 U.S.C. 41307, issuance of foreign authority to the applicant is subject to Presidential review.

⁹ If an oral evidentiary hearing or discovery procedures are requested, the objector should state in detail why such a hearing or discovery is considered necessary, and what material issues of decisional fact the objector would expect to establish through a hearing or discovery that cannot be established in written pleadings. The objector should consider whether discovery procedures alone would be sufficient to resolve material issues of decisional fact. If so, the type of procedure should be specified (see Part 302, Rules 19 and 20); if not, the reasons why not should be explained.

changes in its ownership, management, or operations, it must first comply with the requirements of section 204.5 of our rules.¹⁰

Finally, we remind the carrier about the requirements of section 204.7 of our rules. This section provides, among other things, that if, for any reason, the company ceases conducting all operations for which a fitness determination is required, it may not resume certificated operations unless its fitness has been redetermined.¹¹ If the company does not resume operations within one year of the cessation, its authority shall be revoked for dormancy.

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue an order making final our tentative findings and conclusions stated above and award certificates to Custom Air Transport, Inc., authorizing it to engage in interstate and foreign charter air transportation of persons, property, and mail, subject to the attached specimen Terms, Conditions, and Limitations.

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or the certificate award set forth here to file such objections with Department of Transportation Dockets, 400 7th Street, S.W., Washington, D.C. 20590, in Dockets OST-97-2255 and OST-97-2256, and serve them upon all persons listed in Attachment A no later than 15 days after the service date of this order; answers to objections shall be filed no later than 10 days thereafter.

3. If timely and properly supported objections are filed, we will accord full consideration to the matters or issues raised by the objections before we take further action.

4. In the event that no objections are filed, and if Custom Air Transport, Inc., has provided satisfactory evidence of the necessary financing commitment as discussed herein, we will consider all further procedural steps to be waived and we will enter an order making final our tentative findings and conclusions and will issue certificates that will contain exact copies of the attached specimen Terms, Conditions, and Limitations.¹²

5. We will serve a copy of this order on the persons listed in Attachment A.

¹⁰ Custom may contact our Air Carrier Fitness Division to report proposed substantial changes in its operations, ownership, or management, and to determine what additional information, if any, will be required under section 204.5. If the carrier fails to file the information or if the information fails to demonstrate that the carrier will continue to be fit upon implementation of the substantial change, the Department may take such action as is appropriate, including enforcement action or steps to modify, suspend, or revoke the carrier's certificate authority.

¹¹ The carrier must file a notice of its intent to resume operations at last 45 days prior to said resumption. This notice shall contain updated fitness information.

¹² Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.

6. We will publish a notice of this order in the Federal Register.

By:

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

SPECIMEN

Attachment



Terms, Conditions, and Limitations

CUSTOM AIR TRANSPORT, INC.

is authorized to engage in interstate charter air transportation of persons, property, and mail between any point in any State, territory, or possession of the United States or the District of Columbia, and any other point in any of those entities.

This authority is subject to the following provisions:

(1) The authority to operate under this certificate will not become effective until six (business) days after the Department has received the following documents; provided, however, that the Department may stay the effectiveness of this authority at any time prior to that date:

(a) A copy of the holder's amended Operations Specifications authorizing passenger operations from the Federal Aviation Administration (FAA).

(b) A certificate of insurance on OST Form 6410 evidencing passenger liability insurance coverage meeting the requirements of 14 CFR 205.5(b).

(c) A statement of any changes the holder has undergone in its ownership, key personnel, operating plans, financial posture, or compliance history, since the date of the Show Cause Order in this case.

(d) A revised list of pre-operating expenses already paid and those remaining to be paid, as well as independent verification that the holder has available to it funds sufficient to cover any remaining pre-operating expenses and to provide a working capital reserve equal to the operating costs that would be incurred in three months of operations.

(2) Pending receipt of effective authority, the holder may not accept payment of any kind (i.e., cash, check, or credit card), issue tickets for the operations proposed under this certificate, or enter into contracts with charter operators, and any advertisement by the holder must prominently state: "This service is subject to receipt of government operating authority."

(3) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other

reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.

(4) The holder's authority is effective only to the extent that such operations are also authorized by the FAA.

(5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

(6) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.

(7) The holder is not authorized to engage in air transportation operations between points within the State of Alaska.

(8) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(9) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may not recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

SPECIMEN

Attachment



Terms, Conditions, and Limitations

CUSTOM AIR TRANSPORT, INC.

is authorized to engage in foreign charter air transportation of persons, property, and mail:

Between any place in the United States and any place outside thereof.

This authority is subject to the following provisions:

(1) *The authority to operate under this certificate will not become effective until six (business) days after the Department has received the following documents; provided, however, that the Department may stay the effectiveness of this authority at any time prior to that date:*

(a) *A copy of the holder's amended Operations Specifications authorizing passenger operations from the Federal Aviation Administration (FAA).*

(b) *A certificate of insurance on OST Form 6410 evidencing passenger liability insurance coverage meeting the requirements of 14 CFR 205.5(b).*

(c) *A statement of any changes the holder has undergone in its ownership, key personnel, operating plans, financial posture, or compliance history, since the date of the Show Cause Order in this case.*

(d) *A revised list of pre-operating expenses already paid and those remaining to be paid, as well as independent verification that the holder has available to it funds sufficient to cover any remaining pre-operating expenses and to provide a working capital reserve equal to the operating costs that would be incurred in three months of operations.*

(2) *Pending receipt of effective authority, the holder may not accept payment of any kind (i.e., cash, check, or credit card), issue tickets for the operations proposed under this certificate, or enter into contracts with charter operators, and any advertisement by the holder must prominently state: "This service is subject to receipt of government operating authority."*

(3) *The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other*

reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.

(4) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Department of Transportation issued under them or for the purpose of requiring compliance with them.

(5) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.

(6) The holder's authority is effective only to the extent that such operations are also authorized by the FAA.

(7) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

(8) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this certificate.

(9) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(10) In the event that the holder ceases all operations for which it was found "fit, willing, and able," its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may not recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

SERVICE LIST FOR CUSTOM AIR TRANSPORT, INC.

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