



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

August 13, 2009

William E. Reukauf
Associate Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036

Re: OSC File No. DI-08-1623

Dear Mr. Reukauf:

This is in response to a letter of April 28, 2008, from former Special Counsel Scott Bloch concerning whistleblower allegations of Federal Aviation Administration (FAA) management improprieties involving air carrier inspections in the FAA's Southwest Region Flight Standards Division, Fort Worth, Texas. The complainant, Douglas Peters, Aviation Safety Inspector and Partial Program Manager in FAA's Certificate Management Office (CMO) for American Airlines (AAL), expressed concern that FAA senior management inappropriately intervened in inspection matters after he found AAL non-compliant with an Airworthiness Directive (AD) requiring Boeing 757 rudder mechanism inspections.

In particular, Mr. Peters alleged that senior FAA management (a) inappropriately deviated from normal AD determination procedures in addressing AAL's non-compliance; (b) abruptly ordered all FAA inspectors at AAL's Tulsa, Oklahoma, maintenance facility to cease inspections; and (c) inappropriately agreed to a proposal by AAL to allow the airline to continue operating aircraft in non-compliance with a separate AD involving MD-80 aircraft wiring. Mr. Peters expressed his belief that FAA senior management took these actions in order to help the airline avoid service disruptions, despite its AD non-compliance.

Former Secretary of the U.S. Department of Transportation Mary Peters delegated responsibility for investigating Mr. Peters' concerns to the Department's Inspector General, who has concluded his investigation and provided me the enclosed memorandum report containing his findings. In brief, while the Office of Inspector General (OIG) investigation did not wholly substantiate Mr. Peters' allegations, it found merit to Mr. Peters' concerns about FAA management actions in response to inspector findings of airline non-compliance with ADs.

As addressed in the enclosed OIG investigative report, the OIG found that FAA's then regional management took the unusual step of directing a second outside opinion be obtained before declaring that AAL was in non-compliance with an AD; the ensuing 2-day delay enabled AAL to take action to preclude the grounding of its aircraft. The OIG also found that regional management summarily ordered FAA's inspection team to cease work and vacate AAL's

maintenance facility. While regional management provided justification and OIG did not find these actions improper, per se, they nonetheless fostered a perception with Mr. Peters and other inspectors of inappropriately helping AAL avoid service disruption.

The OIG did not substantiate that FAA agreed to AAL's proposal to allow continued operation of its aircraft in non-compliance with an AD.

The then Regional Flight Standards Division Manager and then Manager of the CMO for AAL no longer occupy those key management positions. In addition, beyond the pending FAA regulatory enforcement actions for AAL's non-compliance with the two ADs, a series of other reviews and associated actions have been conducted, or are ongoing, to address AD compliance and FAA oversight issues involving major air carriers (including AAL). These include:

1. In April 2008, the then-Acting Administrator commissioned an AD Compliance Review Team, consisting of FAA inspectors, executives, and airline and industry association representatives, to review and recommend improvements to the AD process. The review team's report, containing multiple recommendations, was recently finalized and is pending review by Administrator Randy Babbitt.
2. In May 2008, former Secretary Peters appointed an Independent Review Team (IRT) to examine FAA's safety culture and approach to safety management. The IRT, of which Administrator Babbitt was a member, interviewed FAA whistleblowers during its review, including Mr. Peters. The IRT issued a report containing multiple recommendations, to be implemented by the end of 2010.
3. During a June 2009 hearing before the Senate Committee on Commerce, Science and Transportation, the Inspector General testified that since Southwest Airlines' AD non-compliance, the OIG has identified multiple vulnerabilities in FAA's oversight of safety. The OIG found that seven other major carriers (including AAL) missed inspections in critical maintenance areas, including AD Management and the Continuing Analysis and Surveillance System. The OIG's ongoing audit concerning FAA's Air Transportation Oversight System addresses these vulnerabilities.

Transportation safety is the top goal of the Department. Transparency and accountability are also imperative, particularly with respect to the Department's safety regulatory compliance and enforcement efforts. Moreover, Administrator Babbitt and I are committed to a safety culture for FAA's inspector workforce in which management values inspector feedback, is transparent in its decisionmaking, and places the safety of the flying public above all considerations. In that regard, I am asking Administrator Babbitt to update me on his efforts in these critical areas.

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I appreciate Mr. Peters' repeated diligence in raising his concerns.

Sincerely yours,

Ray LaHood

A large, stylized handwritten signature in black ink, appearing to read 'Ray LaHood', is written over the typed name. The signature is highly cursive and somewhat abstract, with a large loop at the top and a long, sweeping tail.

Enclosures: 2



Memorandum

**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

Office of Inspector General

Subject: ACTION: OIG Investigation #08HR001H001,
Re: FAA Oversight of American Airlines

Date: June 25, 2009

From: Calvin L. Scovel III *C. L. Scovel III*
Inspector General

Reply to
Attn of:

To: The Secretary

In accordance with the statutory requirements of the U.S. Office of Special Counsel (OSC), this presents our investigative results stemming from whistleblower concerns raised by Douglas Peters, Partial Program Manager at the Federal Aviation Administration's (FAA) Certificate Management Office (CMO) for American Airlines (AAL) in Fort Worth, TX. Mr. Peters made his disclosures to OSC, which, in turn, referred his allegations to then-Secretary Peters by letter dated April 28, 2008 (OSC File No. DI-08-1623). Former Secretary Peters delegated investigation of Mr. Peters' disclosures to our office.

Mr. Peters alleged that in March 2008, FAA senior management inappropriately intervened in inspection matters after he found AAL non-compliant with an Airworthiness Directive (AD) requiring Boeing 757 rudder mechanism inspections¹.

¹ FAA issues Airworthiness Directives (ADs) to address unsafe conditions on aircraft, aircraft engines, propellers, and appliances. An AD is issued and the airlines are notified of the existence of a known unsafe condition which is likely to exist or develop in other products of the same type design. ADs specify inspections that must be carried out, conditions and limitations that must be complied with, and any actions that must be taken to resolve an unsafe condition. AD requirements are mandatory and set forth at 14 CFR Part 39.

AD 2006-07-23 applies to all Boeing 757 aircraft, and requires repetitive carrier inspection to measure the freeplay of each of the three power control units that move the rudder, repetitive lubrication of rudder components, and any corrective actions as necessary. FAA issued this AD to prevent excessive vibration of the airframe during flight, which could result in divergent flutter and possible loss of control of the airplane.

In particular, Mr. Peters alleged that senior FAA management (a) inappropriately deviated from normal AD determination procedures by ordering a second outside opinion before declaring AAL non-compliant with an AD; and (b) abruptly ordered all FAA inspectors at AAL's Tulsa, OK, maintenance facility to cease inspections. Additionally, during a subsequent interview with us, Mr. Peters alleged that FAA officials inappropriately accepted a written proposal from AAL allowing continued operation of its aircraft in non-compliance with a separate AD involving MD-80 aircraft wiring². Mr. Peters expressed his belief that FAA senior management took these actions to help AAL avoid service disruptions despite AD non-compliance.

Results in Brief

For the second time in as many years, our investigation found merit to Mr. Peters' concerns about FAA management actions in response to inspector findings of airline non-compliance with ADs³. In the present case, in March 2008, Mr. Peters found evidence that AAL was operating its Boeing 757 fleet in non-compliance with the rudder inspection AD, which would constitute a violation of Federal Aviation Regulations.

² FAA issued AD 2006-15-15 in July 2006 in response to both the TWA 800 accident over Long Island in 1996 and the Swiss Air 111 accident in 1998. Following the TWA 800 accident, Boeing identified wire bundles in the wheel-well of the MD-80 which passed in close proximity to the fuel tank, and when fuel vapors were present, created a potential safety risk. Following the Swiss Air 111 accident in 1998 (involving an MD-11) the National Transportation Safety Board (NTSB) recommended addressing the inspection and examination of wiring on MD-11 airplanes for loose wire connections, inconsistent wire routings, broken bonding wires and cracked insulation. These findings, coupled with the TWA 800 accident, ultimately caused Boeing to issue a series of Service Bulletins in 2004 and 2005 after receiving reports from operators of instances of electrically shorted wires in the wheel-wells and reports of arcing/shorted wires, which could result in a wheel-well fire and hazard to the adjacent fuel tank.

³ In March 2008, we validated whistleblower allegations raised by FAA inspectors Bobby Boutris and Douglas Peters that FAA's Principal Maintenance Inspector (PMI) for FAA's Southwest Airlines Certificate Management Office (SWA CMO) knowingly allowed SWA to operate aircraft in passenger revenue service in an unsafe or unairworthy condition, by overflying a critical Boeing 737 fuselage cracking inspection mandated by an AD. These circumstances were examined during three Congressional hearings at which we testified, in April 2008. In March 2009, SWA paid a \$7.5 million civil penalty for its non-compliance with the AD. Additional FAA actions have included administrative action for former Southwest Region Flight Standards Division Manager Thomas Stuckey. His appeal of certain FAA administrative actions is pending before the Merit System Protection Board.

After identifying the apparent AD non-compliance, Mr. Peters sought verification from FAA's Aircraft Certification Office (ACO) in Seattle, WA, which issued the AD, that AAL's internal maintenance procedures in fact failed to meet the requirements of the AD, and that AAL had not previously received an Alternate Means of Compliance (AMOC)⁴ allowing it to deviate from the AD. Mr. Peters' action in consulting the ACO was not unusual given the technical nature of the evident non-compliance.

After an ACO engineering official and an ACO airworthiness attorney supported Mr. Peters' finding of AAL's non-compliance with the B-757 rudder AD, Mr. Peters notified AAL of the non-compliance, with the expectation that AAL would cease operating the 124 affected aircraft until those aircraft could be properly inspected. However, Tom Stuckey, FAA's then-Southwest Region Flight Standards Division Manager, took the unusual (but not improper) step of requesting that a second, higher-level ACO review be conducted before reaching an actual non-compliance determination.

Although ACO management ultimately concurred with the assessment of Mr. Peters and ACO staff, the ensuing two-day delay enabled AAL to obtain an AMOC, thereby precluding the grounding of the affected aircraft. The AMOC satisfactorily resolved the AD and FAA officials asserted that the additional ACO review was warranted because ACO management had not initially reviewed the matter. However, because this further ACO review deviated from customary practice and affected aircraft continued to operate, this action fostered an appearance with Mr. Peters and other inspectors that FAA senior management inappropriately helped AAL avoid removing aircraft from service. We note that while the nature of this non-compliance was ultimately found to pose a personal safety hazard to AAL's mechanics, the airline's non-compliance was not found to pose a safety-of-flight risk to the affected aircraft.

Additionally, we confirmed that shortly after inspectors identified repeated instances of AAL's non-compliance with ADs (i.e., the B-757 rudder inspection AD, and a more serious AD involving MD-80 aircraft wiring—resulting in over 330 MD-80 aircraft being grounded), FAA management ordered the entire inspection team to cease inspections and immediately vacate AAL's Tulsa, OK, maintenance facility. Then-CMO Manager Greg Lander told us he concurred with direction from

⁴ An Alternate Means of Compliance (AMOC) is a different way, other than the one specified in an AD and/or manufacturer's Service Bulletin, to address the unsafe condition on an aircraft. Applications for AMOCs are regulated by FAA through 14 CFR Part 39, and pursuant to the provisions of the individual AD. See also FAA Order 8110.103, Alternate Means of Compliance (AMOC), effective date: 9/28/07.

Mr. Stuckey to recall the team due to reported AAL complaints about inspector conduct. Mr. Stuckey denied giving such direction, did not recall learning of any complaints about inspectors, and told us he was unaware the team had been directed to cease its inspections until his interview with us. In any event, under the circumstances at the time, and given that the team had not completed inspections to its satisfaction, this action fostered an appearance with Mr. Peters and other inspectors of FAA management suppressing inspections in order to help AAL avoid operational disruption. (We note that, as referenced in footnote 2 above, Mr. Stuckey is no longer Regional Flight Standards Division Manager. Also, Mr. Lander is no longer CMO Manager.)

Finally, we found that although AAL submitted a proposal to FAA which would have allowed the airline to continue to operate the non-compliant MD-80 aircraft in violation of Federal Aviation Regulations, we did not find evidence to conclude that FAA officials accepted this proposal. Instead, the evidence indicates that FAA intended to ground the MD-80 fleet had AAL not voluntarily grounded the aircraft.

Based on AAL's non-compliance with the B-757 rudder inspection AD, FAA initiated an enforcement action in April 2008, which is being actively pursued at this time. This enforcement action includes evidence Mr. Peters recently discovered reflecting that in March 2008, AAL knowingly operated at least two B-757 aircraft, in passenger revenue service, in non-compliance with the rudder inspection AD, implicating violation of Federal Aviation Regulations. Further, FAA is actively pursuing four enforcement cases for AAL's non-compliance with the MD-80 wiring AD.

Beyond FAA's regulatory enforcement actions, a series of other reviews and associated actions have been carried out to address AD compliance and FAA oversight issues involving major air carriers, to include AAL. These reviews and actions include the following:

- In April 2008, then-Acting FAA Administrator Robert Sturgell commissioned an AD Compliance Review Team⁵, which included FAA inspectors, executives, and airline and industry association representatives, to review and recommend improvements in the process of drafting, reviewing, and integrating ADs for commercial carriers, the AMOC process, and the audit and enforcement of AD compliance. The review team's report, containing multiple recommendations, was recently finalized and is pending review by new Administrator Randy Babbitt.

⁵ This team was created based, in large part, on our findings regarding Southwest Airlines' AD non-compliance.

Once the new process is approved, FAA will report to Congress pursuant to direction from the Senate Appropriations Committee.

- On May 1, 2008, then-Secretary Mary Peters appointed an Independent Review Team (IRT) to examine FAA's safety culture and approach to safety management. The IRT, of which FAA Administrator Babbitt was a member, interviewed FAA whistleblowers, including Mr. Peters, during its review. The IRT provided a report to the Secretary on September 2, 2008, containing 13 substantive recommendations. Secretary Peters committed to implementing each of the IRT's recommendations.
- On May 19, 2009, following its investigation of a September 2007 AAL accident in St. Louis, MO, the National Transportation Safety Board (NTSB) recommended to AAL that it evaluate its Continuing Analysis and Surveillance System (CASS) program⁶ to determine (1) why it failed to identify certain deficiencies in its maintenance program; and (2) why it failed to discover a lack of compliance with company procedures.
- In June 2009, we testified before the Senate Committee on Commerce, Science, and Transportation, Subcommittee on Aviation Operations, Safety, and Security. We noted that since Southwest Airlines' AD non-compliance, we identified multiple vulnerabilities in FAA's oversight of safety. We determined that seven other major carriers—including AAL—missed inspections in critical maintenance areas, including AD Management, the CASS program, and the Engineering/Major Repairs and Alterations Program. Our ongoing audit concerning FAA's Air Transportation Oversight System (ATOS) will include addressing these vulnerabilities.

Methodology

OIG investigative staff traveled on multiple occasions to Fort Worth, TX, to conduct interviews and review records at FAA's Certificate Management Office (CMO) for AAL, and at FAA's Southwest Region Flight Standards Division Office. In addition, we traveled to Seattle, WA, to interview personnel assigned to the FAA's Aircraft Certification Office (ACO).

⁶ FAA requires air carriers to maintain a CASS, which monitors and analyzes performance and effectiveness of their inspection and maintenance programs. This air carrier quality assurance program includes surveillance, controls, analysis, corrective action and follow-up.

In sum, we conducted multiple interviews including inspectors, managers, engineers, and legal counsel. We reviewed numerous records, including emails, maintenance logs, FAA Orders, Boeing Service Bulletins, applicable Airworthiness Directives, FAA guidance for issuing Alternate Means of Compliance (AMOCs), other applicable FAA Orders, as well as other FAA memoranda and internal FAA reports. Our interviews included the following:

- Douglas E. Peters, Aviation Safety Inspector and CMO Partial Program Manager
- Thomas Stuckey, former Southwest Region Flight Standards Division Manager
- Douglas Anderson, Senior Airworthiness Counsel, Northwest Mountain Regional Counsel's Office
- Ali Bahrami, Manager, Airplane Transport Directorate, Northwest Mountain Region
- Bob Breneman, Acting Manager, Airframe Branch, Seattle ACO
- Steve Fox, Senior Aerospace Engineer, Airframe Branch, Seattle ACO
- Greg Lander, former CMO Manager, currently assigned as an Attorney in the Southwest Regional Counsel's Office
- Christopher J. Di Cesare, Principal Maintenance Inspector (PMI), CMO
- Kermit Teppen, Assistant Unit Manager, CMO
- Andrew Blosser, Aviation Safety Inspector, CMO
- Robert Keefer, Aviation Safety Inspector, CMO
- Yolanda Bernal, Counsel, Southwest Regional Counsel's Office

Background

On March 13, 2008, Jim Ballough, then-Director of FAA's Flight Standards Service issued FAA Notice 8900.36, *Special Emphasis Validation of Airworthiness Directives Oversight*. This Notice was issued in response to an upcoming April 3, 2008, House Committee on Transportation and Infrastructure hearing regarding lapses in FAA oversight resulting in safety violations at Southwest Airlines (SWA), and an ongoing OIG investigation into associated whistleblower allegations. Our investigation focused specifically on SWA's failure to follow a critical AD and an FAA supervisor's role in allowing the airline to continue flying in violation of the AD.

This Notice provided instructions for completing a two-phase "special emphasis" inspection to validate FAA's oversight of air carrier compliance with ADs.

Phase I instructed inspectors of all 14 CFR Part 121 carriers⁷ to identify ten ADs for each aircraft fleet operated by the air carrier. FAA's inspectors were to examine appropriate paperwork (e.g., maintenance logs) for at least one aircraft for each of the ADs selected, to determine whether the air carrier had complied with the respective AD. The inspector was then to perform a physical inspection of the aircraft, at their discretion, to certify the air carrier's compliance with the AD. Inspectors were required to complete Phase I by March 28, 2008.

The first inspection of records pertaining to AAL's compliance with the B-757 rudder AD (2006-07-23, affecting all 124 aircraft in AAL's B-757 fleet) commenced on March 26, 2008. During this same period of time, other FAA inspectors were reviewing records pertaining to the MD-80 wiring AD (2006-15-15, affecting all 367 of AAL's MD-80 aircraft.)

On March 25, 2008, FAA inspectors notified AAL that they had concerns with their compliance with the MD-80 wiring AD, after inspecting ten aircraft at AAL's maintenance base in Tulsa, OK. During their initial audit of this particular AD, FAA inspectors found AD non-compliance related to the clamping, bundling, and sheathing of electrical wiring that surrounds the auxiliary hydraulic pump on AAL's MD-80 aircraft, representing approximately 45% of its entire fleet.

On March 26, 2008, the day of Mr. Peters' discovery of AAL's non-compliance with the B-757 rudder AD, AAL had canceled 338 flights, more than 10% of its schedule, in response to the FAA inspection finding of non-compliance with the MD-80 wiring AD. The following day, March 27, 2008, AAL canceled 119 more flights in response to its non-compliance with the MD-80 AD.

On April 7, 2008, when FAA inspectors attempted to verify that AAL had completed the corrective action required to bring the MD-80 aircraft into AD compliance, they instead found that the aircraft remained in non-compliance. As a result of this non-compliance, AAL ended up grounding 367 aircraft (its entire fleet of MD-80 aircraft), canceling over 3,100 flights, adversely affecting over 350,000 passengers.

Without the Phase I audit, which FAA implemented following SWA's AD non-compliance, it is unlikely that FAA would have discovered the problem with the MD-80 wiring for months to years. No physical inspections were conducted or scheduled

⁷ Part 121 covers the major passenger airlines and cargo carriers that fly large transport category aircraft in revenue service. Part 121 includes all passenger aircraft operated on scheduled revenue service with ten or more seats.

for MD-80s to ensure compliance with the MD-80 wiring AD prior to its random selection as part of the system-wide audit.

Findings

1. FAA management action involving the B-757 rudder inspection AD, while not improper, fostered an appearance with Mr. Peters and other inspectors of an intentional effort to provide relief to AAL, which was already experiencing considerable schedule disruption due to its non-compliance with the MD-80 wiring AD.

a. B-757 Rudder AD (2006-07-23)

On March 26, 2008, while conducting inspections at AAL's Tulsa, OK, maintenance facility, Mr. Peters observed that AAL was not in compliance with AD 2006-07-23 pertaining to B-757 rudder inspections, because AAL had not followed instructions in a specific Boeing Service Bulletin as required by the AD. Instead, AAL issued its own Engineering Change Order (ECO),⁸ which did not match the required AD steps. On March 26, 2008, prior to making a non-compliance notification, Mr. Peters first sought the opinion of FAA's Seattle Aircraft Certification Office (ACO) senior aerospace engineer Steve Fox, who was assigned to the specific section that wrote and issued AD 2006-07-23. In addition, he verified that the carrier did not have an existing Alternate Means of Compliance (AMOC) to deviate from the AD, and sought the opinion of an airworthiness attorney, Doug Anderson, within the enforcement division of the Northwest Mountain Regional Counsel's Office. Each official confirmed the non-compliance. After discussing the findings with his supervisor, CMO PMI C.J. Di Cesare, later that same day, and with Mr. Di Cesare's concurrence, Mr. Peters informed AAL of the non-compliance. He fully expected that AAL would cease operating the affected aircraft until they could be inspected, or that AAL could provide records proving such an inspection had already occurred.

⁸ Pursuant to FAA Order 8110.103, Appendix A, if the air carrier writes its own procedures for complying with the AD, by concerning the AD and manufacturer's Service Bulletin referenced in the specific AD to an Engineering Change Order (ECO), the carrier will need to request an AMOC unless the carrier transfers the exact AD language to their own ECO and those instructions precisely represent all of the AD requirements and compliance issues. If the Service Bulletin requires the accomplishment of all steps, or that the steps be conducted in a certain sequence, then an ECO which alters the steps or the sequence would require an AMOC.

When notified, AAL disputed Mr. Peters' findings, insisting that they were compliant with the AD; however, they refused to provide Mr. Peters with a required AD Summary List,⁹ which would have indicated the date compliance was established with each of the 124 affected aircraft. Moreover, when Mr. Peters notified then-Flight Standards Division Manager Tom Stuckey of his findings, Mr. Stuckey instructed Mr. Peters to tell AAL it "appears they are in non-compliance." Mr. Peters advised Mr. Stuckey that he had already notified the PMI and the carrier of his findings. Despite Mr. Peters' prior consultation with the Seattle ACO, and its concurrence with Mr. Peters' finding of AD non-compliance, Mr. Stuckey told Mr. Peters that he needed to await further instructions from the Seattle ACO.

Bob Breneman, Acting Manager of the Seattle ACO Airframe Branch was aware of the earlier consultation between Mr. Fox and Mr. Peters. Mr. Breneman sent an email from home that evening to multiple staff members stating that he had been briefed by Mr. Fox about the issue, and that the airline was told they were non-compliant with the AD. He wrote, "This will result in AAL grounding all their 757s until they accomplish one of these two actions...I would not be surprised if you receive some calls asking if we could support an AMOC for AAL since they will have a very large fleet of airplanes on the ground."

Mr. Breneman stated that approximately two hours later, he was directed by Northwest Mountain Region Transport Standards Staff Manager Mike Kaszycki to send Mr. Peters an email which in essence stated that the opinions of Mr. Fox and Mr. Anderson were not the Seattle ACO's official conclusion, and that official technical compliance determination would commence in the morning. Despite the ACO being assigned to render such a determination, Mr. Breneman added that his office does not ordinarily make findings related to compliance or non-compliance, that those findings are the responsibility of the CMO. He said the matter in this instance was technically complex in nature, and the ACO staff needed an engineering team to review the steps to ensure that there was indeed non-compliance. He denied that his email was intended to stall for time in order to provide relief to AAL.

Mr. Stuckey told us he requested that the ACO make the determination due to other instances during the Phase I audit in which inspectors had informed AAL or other

⁹ An AD Summary List is the current status of applicable airworthiness directives, including the date and methods of compliance, and, if the airworthiness directive involves recurring action, the time and date when the next action is required. See 14 CFR Part 121.380 Operating Requirements Subpart L: Maintenance Recording Requirements. See also FAA Order 8900.1 CHG 2, Volume 3 Chapter 31 Operator Recordkeeping for Part 121 and 135 Certificate Holders.

carriers that they were non-compliant with an AD, and then had to reverse their finding due to erroneous interpretations. Despite this explanation, Mr. Stuckey could not cite specific instances of such an error when interviewed, nor was Mr. Peters or any other individual we interviewed aware of any such concern. Mr. Stuckey told us that his inspectors were not engineers, and therefore did not always understand the critical AD steps, and that was the reason he requested that the personnel who wrote the AD actually review American's process to determine whether it met the intent of the AD. Because Mr. Fox was a senior engineer within the office that wrote the AD, we question why his evaluation was insufficient.

Mr. Blosser told us that inspectors do make mistakes, but it is up to the carrier to prove the inspector wrong (by providing records and other items of proof), rather than one FAA office validating a determination made by another FAA office.

Thus, we do not find Mr. Stuckey's explanation wholly convincing, given the number of aviation professionals who had already indicated their belief that AAL was in non-compliance. By deferring the decision to the ACO, which had no enforcement capability, Mr. Stuckey's actions, whether intentionally done to provide relief to the carrier, or done to validate (or invalidate) Mr. Peters conclusions, nevertheless, fostered, at a minimum, the appearance that FAA was attempting to provide relief to the carrier, and divert additional media scrutiny on an agency already besieged with negative publicity.

The following day, prior to requesting an AMOC, AAL sought a Service Bulletin compliance determination from Boeing. Boeing advised AAL that their process did not fully incorporate all the required Service Bulletin steps (a requirement of the AD), and therefore an AMOC was needed.

The Seattle ACO's "official" determination ultimately reached the same conclusion that Mr. Fox and Mr. Anderson had arrived at on March 26, 2008. Seattle ACO management determined that AAL was technically non-compliant with the AD because AAL's instructions to its mechanics for conducting a required inspection did not follow each step exactly according to the Boeing Service Bulletin instructions. While AAL's improper instructions to its mechanics could have caused injury to the mechanics, the airline's non-compliance did not pose a safety-of-flight risk to the affected aircraft.

Shortly after receiving the ACO's official determination, as well as Boeing's assessment, AAL requested an AMOC from the Seattle ACO. In addition, the PMI officially notified AAL that they were indeed non-compliant with the rudder AD. AAL reported to FAA that it had grounded four aircraft for which it could not produce compliance records until it received an AMOC, which then brought the four

grounded aircraft into compliance on March 28, 2008. However, Mr. Peters recently determined, through review of actual aircraft logbook pages, that AAL operated at least two of these four Boeing 757 aircraft after being told for the second time that they were in non-compliance with the AD. This latter finding has been incorporated into FAA's ongoing enforcement action, which was filed on April 8, 2008.

b. MD-80 Wiring AD (2006-15-15)

During the same time period as the events unfolded regarding the rudder inspection AD (March 26-28, 2008), inspectors from the CMO determined that AAL was also non-compliant with AD 2006-15-15, involving wiring on the MD-80 aircraft. In fact, on the day of Mr. Peters' discovery of American Airlines' non-compliance with the rudder AD (March 26, 2008), AAL had canceled 338 flights, more than 10% of its schedule, in response to AD non-compliance concerns identified by FAA inspectors. The following day, AAL canceled 119 more flights in response to the MD-80 wiring concerns.

AAL requested an AMOC from the Los Angeles ACO on March 27, 2008, which was granted on March 28, 2008, based upon AAL's report to the CMO and the ACO that its personnel had re-inspected the entire MD-80 fleet to ensure compliance. Based upon this statement, AAL was granted an AMOC by the Los Angeles ACO based solely on its requested approval to use an alternative type of safety wire. No other modifications to the requirements of the AD were mentioned.

However, when FAA inspectors examined 17 aircraft at the Dallas-Fort Worth (DFW) Airport on April 7 and 8, 2008, to verify the reported compliance, the inspectors found that 16 of the 17 aircraft were still non-compliant with the AD. Based on these findings, Principal Avionics Inspector (PAI) William Satterfield and the PMI refused to support additional AMOCs for AAL, and the carrier ultimately grounded its entire fleet of MD-80 aircraft, consisting of 367 aircraft, canceling 3,100 flights affecting 350,000 passengers during the period April 8-12, 2008.

This non-compliance occurred during the same time period as Mr. Peters' findings regarding the rudder inspection AD. Had FAA not carried out the Special Emphasis audit following SWA's AD non-compliance, it is unlikely that FAA would have discovered these AAL's AD non-compliance for months or even years. As discussed in the Results in Brief above, FAA's new Administrator is reviewing recommendations formulated by various review teams intended to identify and correct such deficiencies.

In addition, as discussed in detail below, we found that FAA officials directed the entire AD inspection team (some 18 members) to immediately depart the American

maintenance facility mid-day on March 27, 2008, despite being in the midst of continuing inspections and compliance determinations relative to both the B-757 rudder inspection AD and MD-80 wiring AD.

2. ***Shortly after inspectors identified repeated instances of AAL's non-compliance with ADs (i.e., the B-757 rudder inspection AD and the MD-80 wiring AD), FAA management ordered the inspection team to cease inspections and immediately vacate AAL's maintenance facility. Given that the team had not completed inspections to its satisfaction, this fostered an appearance of FAA management suppressing inspections in order to help AAL avoid continued service disruption.***

Mr. Teppen told us that mid-day on March 27, 2008, he received direction from Mr. Stuckey, related via then-CMO Manager Greg Lander (who, at that time, had been detailed part-time to the Southwest Region Division Office to assist in Phase I duties), that all inspectors were directed to immediately cease their work at AAL's Tulsa facility and immediately return to Fort Worth.

Mr. Lander told us that he gave the directive to Mr. Teppen to pull the team back from Tulsa at the direction of Mr. Stuckey. Mr. Lander told us that Mr. Stuckey received multiple telephone calls from Mr. Ballough in which Mr. Ballough related that AAL officials were complaining about derogatory comments made by unknown FAA inspectors performing inspection work in Tulsa. Mr. Lander said given the atmosphere up there, the return was intended to be a short break until tempers had cooled off. He stated the remaining work could be accomplished in Fort Worth, via fax and .pdf copies of records sent via email.

Mr. Stuckey denied having any knowledge of the team being pulled back from Tulsa. He stated, "I did not order the team back early. Why would I do that? I knew they were not done doing the inspections." Mr. Stuckey confirmed however, that he was "upset" because information was leaking to the press, but his sole direction was that inspectors ensure that they were in a private location prior to discussing inspection findings. Mr. Stuckey did not recall any phone calls or complaints from AAL officials or inquiries from Mr. Ballough related to unprofessional inspector comments or behavior.

However, Mr. Peters and Mr. Keefer both told us when they were informed by Mr. Teppen of the directive, they were told that Mr. Stuckey was angry about earlier leaks to the media concerning the MD-80 wiring issue, and that Mr. Stuckey had stated, "We've done enough damage to them [AAL] today." Mr. Peters and Mr. Keefer both understood this to mean that Mr. Stuckey was concerned about the amount of non-compliance that the inspectors were finding, and the number of planes that AAL was grounding (or should have grounded.) Mr. Peters believed the actual

reason the team was directed to leave the site was to stall FAA inspections until AAL could obtain an AMOC for any non-compliances found, thus preventing them from having to interrupt their flight revenue service, avoid further negative publicity, and eliminate any additional embarrassment for the FAA.

Mr. Peters and Mr. Keefer told us they could not have completed the work remotely from Fort Worth. While they could have reviewed the AD Summary List had AAL provided it as required, the actual physical inspection of aircraft to verify the AD compliance had to occur in Tulsa. (They were conducting a random sampling to verify compliance.) Had the inspectors attempted to conduct such inspections in Fort Worth, they would have had to conduct inspections at the gate on aircraft operating in revenue service. Such inspections would have interrupted AAL's flight schedule. Therefore, the two thought the best course would have been to inspect out-of-service aircraft located in Tulsa, which were already undergoing other maintenance work.

Mr. Teppen told us that he did not recall Mr. Stuckey making that specific statement regarding "enough damage" to AAL, and that the sole reason the team was ordered to return to Fort Worth immediately was due to information being leaked from an unknown source to the media. He added that the inspectors' return to Fort Worth did not impact any remaining inspection work, telling us that remaining work would have been able to be completed remotely.

After receiving the notice to immediately vacate the premises, Inspector Andy Blosser told us that while he and Mr. Teppen drove back to Fort Worth together, that a second complaint had been filed by AAL [to unknown individuals at FAA] about an unknown inspector's alleged derogatory comments about the carrier, and that those complaints were the reason the team had been directed to return. Mr. Blosser learned only after returning to work the following week (beginning March 31, 2008) that other inspectors were told the team was returning due to the leak of information to the media.

Mr. Blosser, who was working on the MD-80 wiring issue (AD 2006-15-15) in Tulsa, during the exact time frame that Mr. Peters was working the rudder inspection AD issue, told us that during the morning hours of March 27, 2008, Mr. Teppen had received a complaint about Mr. Blosser from AAL personnel. Originally, Mr. Blosser had attempted to photograph the concerns he had regarding improper wire bundling based upon direction previously received from then-CMO Manager Greg Lander. AAL refused to allow Mr. Blosser to take the photographs without a camera pass. Mr. Blosser, after waiting for a lengthy period of time became frustrated and departed to speak to his supervisor (Mr. Teppen). AAL personnel who overheard Mr. Blosser express his frustration at the delay, complained to their

company officials. These officials subsequently complained to Southwest Region officials about Mr. Blosser's behavior.

Mr. Blosser told us the inspectors might have been able to do their work remotely from Fort Worth, and that given what he now believes was a continual leak of information to the media, the return in and of itself was "not necessarily" a bad thing; however, once the inspectors returned to Fort Worth, nothing else happened. Mr. Blosser reported that on the Friday March 28, 2008, the inspectors completed travel vouchers and other administrative duties after having been gone for the entire week.

Mr. Blosser told us the following week, March 31-April 2, 2008, was "business as usual." He told us that nobody at either the CMO or at the Region referenced the ongoing investigations, had follow-up meetings, or continued to work on the reviews and inspections regarding Phase I of the audit, as they had been doing the previous week. He said, "It was like the issues were done. It didn't matter that everything we touched in Tulsa was bad [meaning non-compliant]. We were done doing anything" in regards to following-up on identified problems in Tulsa, in particular, with regard to the MD-80 wiring issue.

3. Although AAL submitted a proposal to FAA requesting continued operation of MD-80 aircraft while not compliant with the wiring AD, we did not find evidence to conclude that FAA officials accepted this proposal.

Mr. Blosser told us he and other inspectors spent April 3, 2008, watching the T&I Committee hearing on lapses in FAA oversight regarding Southwest Airlines. That night, while ruminating over the statements and responses made by former Associate Administrator Nick Sabatini and former Flight Standards Service Director Jim Ballough to the T&I Committee members, he decided that he was going to "push" the wiring issue. He returned to work the next day, where he requested and received permission from Principal Avionics Inspector (PAI) Bill Satterfield to schedule compliance inspections of AAL's MD-80s for the following week, Monday, April 7, 2008.

In order not to disrupt American's schedule, Mr. Blosser inspected 10 out-of-service aircraft at AAL's Dallas-Fort Worth maintenance hangar. Of the 10 aircraft he inspected on April 7, 2008, nine were found to be non-compliant despite AAL's assertions that all aircraft had been brought into compliance on March 28, 2008. Mr. Blosser showed Mr. Satterfield photographs of the nine non-compliant aircraft taken earlier in the morning, and Mr. Satterfield concurred with Mr. Blosser's concern. Mr. Blosser told us had he not decided to re-visit the MD-80 issue with

supervisors after watching the April 3, 2008, hearing, there “was no doubt in my mind the issue would have withered and died on the vine after March 27, 2008.”

On April 7, 2008, late in the afternoon AAL personnel provided a written proposal to FAA CMO and Southwest Region officials outlining a proposal in which AAL indicated that, in its view, none of the issues identified by the inspectors regarding the non-compliant MD-80 aircraft were considered safety-of-flight issues, thus they would continue to operate the aircraft while taking steps to correct the non-compliance. AAL’s proposal contained 6 items that AAL asserted would be accomplished within a set time period to bring the airline into compliance with AD 2006-15-15. This untitled document requested 60 days to bring the aircraft into compliance.

All the inspectors we interviewed referred to this proposal as “the Hokey 6,” telling us that it was in essence a proposal requesting permission from the FAA to continue to operate the aircraft in known non-compliance with an Airworthiness Directive. The inspectors we interviewed expressed concern that such unauthorized sanction would be the very same type of improper approval granted to Southwest Airlines, which became the subject of the April 3, 2008, hearing before the House Transportation & Infrastructure Committee.

In a May 2, 2008, letter to then-Secretary Mary Peters, AAL Executive Vice-President of Operations Robert W. Reding wrote that American’s April 7, 2008, proposed plan for re-inspection of the fleet would have occurred from April 7, 2008-April 14, 2008, and if required, immediate corrective action would have been taken. His letter states, “The FAA officials [at the Southwest Region] expressed no objection to this plan.” The PMI and other individuals we interviewed stated that there were too many areas of non-compliance of a safety nature, such as maintenance personnel not properly performing the wiring work. He indicated this compliance was not simply a matter of paperwork that did not match, and thus he would not have agreed to such a proposal.

However, Mr. Blosser believed that CMO personnel were being pushed by unknown FAA officials to accept the plan. He said Mr. Satterfield, under instructions from Regional officials, told him he would not be allowed to tell the airline they were in non-compliance with AD 2006-15-15. When Mr. Blosser objected, managers at the CMO agreed to send multiple inspectors (excluding Blosser) to inspect more aircraft. The team determined a nearly 70% non-compliance rate, and AAL was told to ground their entire fleet or face a formal grounding order. Thus on April 8, 2008, American ultimately grounded 367 aircraft, its entire MD-80 fleet, due to the non-compliance with AD 2006-15-15.

Mr. Stuckey told us he had no knowledge of the reported agreement between FAA and AAL to continue operating in non-compliance with an AD. Mr. Lander told us that AAL had a conversation with Bob Talmadge (Acting CMO Manager while Mr. Lander was detailed to the Southwest Region Division Management Team). Mr. Lander reported that Mr. Talmadge had concerns regarding his discussion with AAL, and that he and Mr. Talmadge wanted AAL to understand they could not continue to operate in non-compliance. Thus, within an hour of the meeting, an email and letter were sent to AAL advising them that FAA would not allow them to continue non-compliant operation. Mr. Lander said there was never any intention by anyone in the FAA to allow AAL to continue to operate in non-compliance.

Moreover, Mr. Reding's letter to then-Secretary Peters stated that AAL officials received a telephone call from FAA's Southwest Regional Counsel's office advising AAL that FAA was prepared to take action to ground the entire MD-80 fleet. Mr. Reding's letter further stated that a follow-up phone call from FAA two hours later advised AAL that FAA was going to exercise its authority to ground the MD-80 fleet if AAL did not do so voluntarily.¹⁰ In sum, the evidence does not reflect that FAA granted AAL verbal permission, or otherwise, to continue operating its MD-80 aircraft in non-compliance with the wiring AD.

If I can answer any questions, please contact me at x61959, or my Deputy, David Dobbs, at x66767.

¹⁰ FAA seldom imposes grounding orders, and a grounding order must not be issued unless it is clear to the inspector that, if operated in this condition, the aircraft would be subject to the probable danger of accident and likely to cause injury to persons or damage to property. See FAA Order 8900.1 Chg 22, Volume 8, Chapter 5.

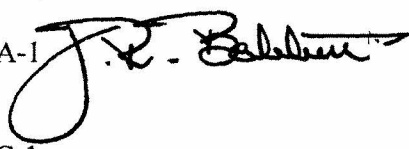


Federal Aviation Administration

Memorandum

Date: August 4, 2009

To: Calvin L. Scovell, III, Inspector General, J-1

From: J. Randy Babbitt, Administrator, AOA-1
Ext. 73111 

Prepared by: J. David Grizzle, Chief Counsel, AGC-1
Ext. 73222

Subject: ACTION OSC Whistleblower Disclosure Case #DI-08-1623
Re: FAA Oversight of American Airlines (Peters)

This responds to the request from the Office of General Counsel that I review Office of Inspector General's results of investigation related to Whistleblower Disclosure Case #DI-08-1623. I have reviewed the report for OIG Investigation #08HR001H001, dated June 25, 2009, and accept its findings.

If you have any further questions, please contact Jerry Mellody, Assistant Chief Counsel for Personnel and Labor Law, 202-385-8231.