



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

April 27, 2010

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-09-1298

Dear Mr. Reukauf:

I am responding to your letter of March 25, 2009, which referred for investigation aviation safety concerns raised by Robert Spahr (formerly Lowery), an Aviation Safety Inspector assigned to the Federal Aviation Administration's (FAA's) Allegheny Flight Standards District Office (FSDO). Mr. Spahr alleges that managers at the Allegheny FSDO and FAA's Eastern Division Regional Office have engaged in an overly collaborative relationship with certificate holders, resulting in lax enforcement of aviation safety regulations. I delegated investigative responsibility for this matter to the Office of Inspector General (OIG). Enclosed are the OIG's Report of Investigation and FAA Administrator Babbitt's response.

In summary, the OIG investigation substantiated by a preponderance of the evidence seven of the eight allegations made by Mr. Spahr, and identified numerous violations of Federal Aviation Regulations and FAA orders by the Allegheny FSDO and Eastern Region managers. Specifically, the investigation found that managers failed to ensure that timely and appropriate enforcement action was taken against three certificate holders:

- In December 2005, Allegheny FSDO managers improperly closed without action an Enforcement Investigative Report (EIR) against Erie Aviation for not following required maintenance procedures for the repairs to a Becker Avionics ST3100 handset. (Allegation 1)
- In January 2006, the Allegheny FSDO manager failed to take appropriate enforcement action against C. J. Systems and its Director of Aviation Quality for using an unapproved part and making false entries in the aircraft logbook. (Allegation 2)
- In September 2006, Allegheny FSDO managers improperly closed without action an EIR against C. J. Systems for intentionally operating an aircraft with four known mechanical discrepancies and failing to record entries concerning the discrepancies in the aircraft logbook. (Allegation 3)

William E. Reukauf

- Between April 2007 and March 2008, Allegheny FSDO managers failed to process an EIR against C. J. Systems in a timely manner. (Allegation 4)
- In November 2007, Allegheny FSDO managers improperly lowered a recommended civil penalty from \$400,000 to \$25,000 in an EIR against C. J. Systems for operating an aircraft with a known mechanical discrepancy. (Allegation 6)
- In December 2007, Allegheny FSDO managers failed to take appropriate action against C. J. Systems for operating aircraft with a Multi-Function Display that did not have FAA operational approval. (Allegation 7)
- In May 2009, the Allegheny FSDO manager improperly closed with a warning notice an EIR against Air Charter Service for operating an aircraft with three known mechanical discrepancies from May 2008 to February 2009. (Allegation 8)

In addition, although the OIG did not substantiate the allegation that in August 2007, the FAA Eastern Region Assistant Division Manager directed that an inspection of C. J. Systems be "non-punitive" and no enforcement action be initiated from the results of the inspection, the investigation found that Eastern Region managers were responsible for the failure to document C. J. Systems' violations in the inspection report. (Allegation 5)

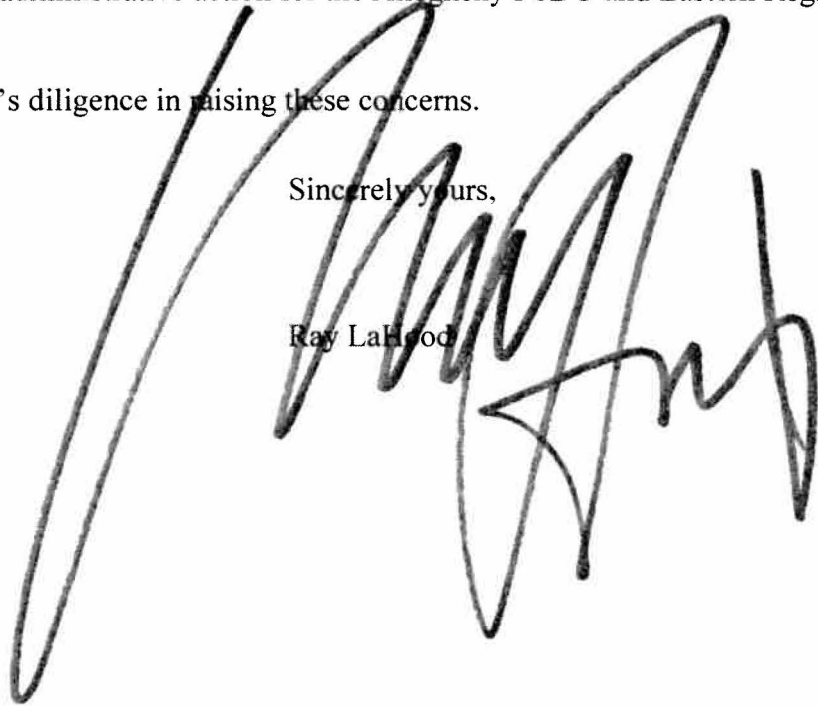
By the enclosed memorandum, FAA Administrator Babbitt accepted the OIG's findings, advising that a management official will be designated to review the findings to determine appropriate administrative action for the Allegheny FSDO and Eastern Region managers.

I appreciate Mr. Spahr's diligence in raising these concerns.

Sincerely yours,

Ray LaHood

Enclosures

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 fluid.

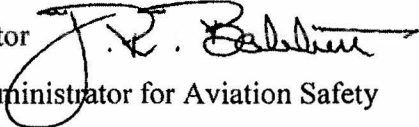


Federal Aviation Administration

Memorandum

Date: MAR 29 2010

To: Robert A. Westbrook, Acting Assistant Inspector General for Special Investigations and Analysis

From: J. Randolph Babbitt, Administrator 

Prepared by: Margaret Gilligan, Associate Administrator for Aviation Safety

Subject: Office of the Inspector General (OIG) Investigation # I08E000436SINV

I have reviewed the results of the subject investigation. The Agency will designate a manager to determine, in consultation with the Federal Aviation Administration's Office of Human Resource Management and Office of the Chief Counsel, the appropriate action, if any, regarding managers identified in the report. In this regard, we request from the OIG all items of proof relating to your findings in the report. We expect to make a determination on these matters by May 31.

If you have any questions or need additional information, please contact Michael McCafferty, AFS Executive Officer, by telephone at 202-267-3928 or by e-mail at michael.mccafferty@faa.gov.



U.S. Department of
Transportation
Office of the Secretary
of Transportation
Office of Inspector General

Memorandum

Subject: ACTION: OIG Investigation # I08E000436SINV, Date: February 22, 2010
Re: Allegheny Flight Standards District Office

From: Robert A. Westbrooks *Robert A. Westbrooks* Reply to: R. Engler
Attn. of: R. Engler
Acting Assistant Inspector General
for Special Investigations and Analysis, JI-3

To: Margaret Gilligan
Associate Administrator for Aviation Safety
Federal Aviation Administration, AVS-1

This report describes the findings of our investigation concerning the resolution of numerous enforcement matters by Allegheny Flight Standards District Office and Eastern Region managers. These concerns were first reported to the U.S. Office of Special Counsel (OSC) by a whistleblower in March 2009, and were subsequently referred to the Office of Inspector General for investigation. By law, we are required to provide a copy of our Report of Investigation and FAA's response to the Secretary, and the Secretary is required to submit the report and response to OSC.

Please review this report and respond to us in writing by March 8, 2010. Your response should include any comments, a statement of corrective action planned or taken as a result of our investigation (if any), and your timeframe for implementation of any planned corrective action.

If you have any questions or concerns about this report, please contact me at (202) 366-1415, or the Director of Special Investigations, Ronald Engler, at (202) 366-4189.



U.S. Department of Transportation
Office of Inspector General

REPORT OF INVESTIGATION	INVESTIGATION NUMBER #I08E000436SINV	DATE Feb. 22, 2010
TITLE Allegheny Flight Standards District Office	PREPARED BY: R. Curt Vaughan Senior Investigator Special Investigations and Analysis, JI-3 U.S. Department of Transportation Office of Inspector General	STATUS FINAL
	DISTRIBUTION AVS-1	APPROVED BY: JI-3

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1. Methodology of Investigation

BACKGROUND

The whistleblower is an Aviation Safety Inspector assigned to the Allegheny Flight Standards District Office (FSDO). His duties include conducting inspections, evaluations, and investigations of certificate holders to ensure compliance with aviation laws, rules, regulations, and policies.

On or about March 2009, he reported safety concerns to the U.S. Office of Special Counsel (OSC). Specifically, he alleged that since 2005 Allegheny FSDO managers and FAA Eastern Region managers have failed in at least eight instances to enforce violations of the Federal Aviation Regulations (FARs) against three certificate holders. One of the certificate holders, C. J. Systems Aviation Group, Inc., was the subject of 6 of 8 allegations. C. J. Systems was involved in 10 accidents and five fatalities in a two-year period ending November 2007. The company has since been sold to a new owner and has accordingly surrendered its FAA Part-135 repair station certificate.

OSC referred the investigation to U.S. Department of Transportation Secretary Ray LaHood on March 25, 2009. The Secretary delegated investigative responsibility to the Office of the Inspector General (OIG). Attachment 1 describes the methodology of our investigation.

SYNOPSIS

We substantiated by a preponderance of the evidence 7 of the 8 allegations made by the whistleblower, and identified numerous apparent violations of the Federal Aviation Regulations and FAA orders by the Allegheny FSDO and Eastern Region managers. Specifically, managers failed to ensure that timely and appropriate enforcement action was taken against three certificate holders.

Below are the details of our investigation.

DETAILS:

Allegation 1: In December 2005, Allegheny FSDO managers improperly closed without action an Enforcement Investigative Report (EIR) against Erie Aviation for not following required maintenance procedures for the repairs to Becker Avionics ST3100 handset.

FINDINGS

We substantiated this allegation.

On December 12, 2005, the whistleblower discovered that Erie Aviation, Inc., a FAR Part-145 Repair Station in Erie, PA, was performing maintenance on Becker ST3100 handsets, but was not following the procedure outlined in Becker Avionics Component Maintenance Manual. ST3100 handsets are used as a telephone for crew internal communication (cockpit and/or cabin) or for passenger announcements within the cabin. At the time of his discovery, he questioned several Erie Aviation employees regarding their procedure and notified them that they were supposed to be using the Becker Avionics procedure, not an altered procedure developed by Erie Aviation. The whistleblower subsequently initiated an Enforcement Investigative Report (EIR) to formally investigate the alleged violation. He alleges that he was directed by William Hess, then-Assistant Manager of the Allegheny FSDO, to close the EIR without further action. According to the whistleblower, shortly thereafter he was removed from the Erie Aviation certificate and assigned to the C. J. Systems Aviation Group certificate.

Title 14 C.F.R. § 43.13 requires that a person performing maintenance on an aircraft or appliance use “the methods, techniques, and practices prescribed in the current manufacturer’s maintenance manual or Instructions for Continued Airworthiness prepared by its manufacturer, or other methods, techniques, and practices accepted to the Administrator[.]” Similarly, Title 14 C.F.R. § 145.205 requires certified repair stations to follow applicable maintenance manuals.

FAA Order 2150.3A (*FAA Compliance and Enforcement Program*), Section 202(e) requires that enforcement investigations be “conducted promptly . . . [and] There must be an unbiased gathering of all facts, focused investigation, and accurate reporting.” Subsection (f) requires that, “Every apparent or alleged violation must be investigated and appropriately addressed.”

The evidence supports the whistleblower’s initial justification for opening an EIR: Erie Aviation mechanics were not following test procedures published in the prescribed maintenance manual.

We found that the component manufacturer, Becker Avionic Systems, subsequently issued an Acceptance Certificate to Erie Aviation, approving an Erie Aviation test procedure and authorizing them to use this procedure. This authorization, however, was not obtained until January 12, 2006 — one month after the issue was discovered and reported by the whistleblower. We found no evidence that Erie Aviation ever attempted to get the Acceptance Certificate until the matter was raised by the whistleblower.

The whistleblower believed other suspicious facts warranted an EIR. Erie Aviation provided the Acceptance Certificate to FAA by letter dated February 2, 2006, identified as “BTP-ST3100 Rev 2” (emphasis added). In an email to the whistleblower dated February 13, 2006, Jurgen Schiller, Becker Aviation Representative, advised that a “Rev 1” was never issued for the Acceptance Certificate. He explained that when Erie

requested the Acceptance Certificate, they “requested a Rev 1 without a certain document number and without an issue date.” Mr. Schiller went on to state, “[W]e complained [about] the test procedure and it was reworked by Erie. . . . Due to this rework ‘revision 2’ was allocated to the officially released document.” This information raises the possibility that Erie Aviation was attempting to conceal the fact that the certificate was not pursued until after the FAA investigation was begun.

Despite these facts, FSDO managers directed the EIR be closed without further action. In her OIG interview, FSDO Manager Wendy Grimm recalled the issue and stated that she relied on Assistant Manager Hess to make the decision regarding the EIR. Regarding the whistleblower’s subsequent reassignment to the C. J. Systems certificate, Ms. Grimm said the reassignment was unrelated to this EIR. She said that the whistleblower was reassigned to C. J. Systems because they needed his help on that certificate. C. J. Systems was a larger operation than Erie Aviation. The whistleblower received a level FG-14 promotion following this reassignment.

Mr. Hess told OIG investigators that at the time he did not believe any violation had occurred. He could not specifically recall directing the whistleblower to close the EIR without action, but he acknowledged that he “may have” directed it. When Mr. Hess was presented with evidence regarding the suspicious timeline in which Erie Aviation obtained the Acceptance Certificate, he agreed that if he had noticed this fact back then, he would have considered it as a problem for Erie Aviation. In his OIG interview, Mr. Hess acknowledged that further investigation was necessary in this case.

We found there was sufficient justification to pursue the EIR investigation. We conclude that both Ms. Grimm and Mr. Hess violated FAA Order 2150.3A by not ensuring that the allegation was thoroughly investigated and appropriately addressed.

Allegation 2: In January 2006, the Allegheny FSDO Manager failed to take appropriate enforcement action against C. J. Systems and its Director of Aviation Quality for using an unapproved part and making false entries in the aircraft logbook.

FINDINGS

We substantiated this allegation.

On December 9, 2005, an Allegheny FSDO inspector discovered that on January 23, 2005, the Director of Aviation Quality for C. J. Systems Aviation Group, Inc., a FAR Part-135 Helicopter Emergency Medical Services operator in West Mifflin, PA, directed C. J. Systems’ mechanics to replace a broken engine anticipator spring on an aircraft with an unapproved part. The Director had ordered his mechanics to remove a broken spring in the aircraft engine anticipator control system and replace it with two smaller springs

which were mated together to form the unapproved replacement spring. The engine anticipator control is designed to improve the aircraft engine response time. The anticipator function ensures a short engine governor response time when the power demand is varied. Failure of the anticipator spring results in the failure of the anticipator system.

Title 14 C.F.R. § 43.13(a) requires that persons performing maintenance on an aircraft engine “use the methods, techniques, and practices prescribed in the current manufacturer’s maintenance manual,” and “use the tools, equipment, and test apparatus necessary to assure completion of the work in accordance with accepted industry practices.” Subparagraph (b) requires that persons making repairs “shall do that work in such a manner and use materials of such a quality, that the condition of the aircraft, airframe, aircraft engine, propeller, or appliance worked on will be at least equal to its original or properly altered condition[.]”

Title 14 C.F.R. § 135.65 (c) requires that corrective action on an aircraft engine be recorded in the aircraft maintenance log.

FAA Order 2150.3A (*FAA Compliance and Enforcement Program*), Section 202 (e) requires that enforcement investigations be “conducted promptly . . . [and] [t]here must be an unbiased gathering of all facts, focused investigation, and accurate reporting.” Subsection (f) requires that, “Every apparent or alleged violation must be investigated and appropriately addressed.” This Order contains an Enforcement Decision Tool (EDT) to be used in determining the appropriate outcome in enforcement actions. Legal action is required if the conduct is determined to be intentional. Under this Order, “Deviations require division manager approval and will generally only be considered in cases where there was negligible or no safety risk involved.”

On December 27, 2005, the inspector initiated an EIR. He interviewed the C. J. Systems Director who admitted to directing the unauthorized repair. The Director explained he did so to prevent the aircraft from being out of service until the correct spring was received. The inspector found a false entry in the aircraft logbook stating that a broken spring was removed and a “serviceable” spring was installed. The inspector found that the improvised spring, which was installed on January 23, 2005, was replaced with an approved spring on January 25.

In a letter to the President and Chief Operating Officer of C. J. Systems dated January 9, 2006, the Director stated that his experience led him to conclude that his decision to use a “serviceable” spring was “acceptable” and he did not consider its use to be an “airworthiness issue.” Additionally, he noted that, “The only resulting effect of loss of the anticipator spring, again in my experience, is that the effected gas producer system is slower than normal to power inputs, usually during power reduction. This of course does

not justify an unauthorized interim repair.” Further, he noted, “In retrospect, I realize that performing this interim repair was unacceptable.”

The inspector evaluated the evidence and determined the Director’s conduct to be intentional. According to FAA Order 2150.3A, the Allegheny FSDO was required to forward this EIR to the Eastern Region legal office for review unless a “deviation” from the legal enforcement process was requested.

On January 23, 2006, FSDO Manager Grimm signed a memorandum to the Eastern Region Office requesting a deviation from the legal enforcement process. In her memorandum, Ms. Grimm stated that she met with the President/CEO of C. J. Systems on this matter, and had received a letter from C. J. Systems dated January 20, 2006, noting the corrective actions the company had implemented. According to C. J. Systems, they investigated the incident, scheduled training for maintenance technicians, and issued a letter of reprimand to the Director. David Bowden, Assistant Division Manager, FAA Eastern Region, approved the deviation request, authorizing the Allegheny FSDO to use administrative action in lieu of legal action.

On March 20, 2006, the Allegheny FSDO sent a "Warning Notice" letter to the C. J. Systems Director informing him that “the matter does not warrant legal enforcement action” and the letter would be “a matter of record for two years, after which the record of this matter will be expunged.” On March 21, 2006, Ms. Grimm directed the EIR to be closed.

In her OIG interview, Ms. Grimm stated she requested the deviation because the company gave the Director a letter of reprimand and agreed to conduct training for its mechanics. She said she thought that sent a “better message [to] prevent it from happening in the future.” By working with the company, Ms. Grimm said she felt that she could effect change within the company. She told investigators she realized that the company was under a lot of pressure to keep aircraft operational or face penalties from contracted hospitals. Ms. Grimm admitted she had no knowledge of the function of the engine anticipator control system or the consequence of a part failure.

In his OIG interview, Mr. Bowden initially could not recall this EIR. When shown a copy of a deviation memorandum containing his signature, he stated, “I signed it approved, so I agreed with the EDT.” Mr. Bowden was not familiar with the engine anticipator control system. After being informed of its function and the possible consequence of a part failure, Mr. Bowden remarked, “I’m as surprised as you that it didn’t go forward because to the best of my recollection there’s only been one time when I’ve been asked to deviate from an EDT by an office. And in that case I turned them down.” Later in the interview, Mr. Bowden commented, “So what happened here, I don’t know.”

Generally, deviations from legal enforcement action are permitted under FAA Order 2150.3A only in cases where there was “negligible or no safety risk involved.” We found the evidence in the EIR sufficient to establish that the Director’s conduct was intentional. The Director admitted his actions were intended to keep the helicopter operational until the approved part was received. We further found that neither Ms. Grimm nor Mr. Bowden was aware of the function of the engine anticipator control or the consequence of a part failure. In determining whether “negligible or no safety risk” was involved, it appears they relied solely on the opinion of the C. J. Systems Director, who based his opinion on his own personal “experience.”

We conclude that both Ms. Grimm and Mr. Bowden violated FAA Order 2150.3A by not ensuring that the allegation was completely investigated and appropriately addressed, and by not researching the possible safety risk prior to requesting and approving the deviation.

Allegation 3: In September 2006, Allegheny FSDO managers improperly closed without action an EIR against C. J. Systems for intentionally operating an aircraft with 4 known mechanical discrepancies and failing to record entries concerning the discrepancies in the aircraft logbook.

FINDINGS

We substantiated this allegation.

On May 22, 2006, the whistleblower inspected an aircraft belonging to C. J. Systems and discovered that the company had flown the aircraft with four mechanical discrepancies on 32 revenue flights from May 15 to May 18, 2006, and had not documented the discrepancies in the aircraft logbook until the repair parts were received and the repairs were made to the aircraft on May 18, 2006. The four mechanical discrepancies noted were: (1) Number two engine N1 gauge [shows rotational speed of first spool of the engine] was erratic, (2) transmission temperature gauge indicator needle was sticking, (3) Global Positioning System was intermittently inoperative, and (4) triple tachometer number two needle was intermittently inoperative.

On June 14, 2006, the whistleblower initiated an EIR. He obtained a Parts Requisition form dated May 15, 2006, that requested parts to repair three of the discrepancies and a Parts Requisition form dated May 16, 2006, that requested a part to repair the other discrepancy. Discussions between the whistleblower and a C. J. Systems pilot who flew the aircraft on May 18 (prior to the repairs being made) and the mechanic who made the repairs and entries in the aircraft logbook on May 18, confirmed that the discrepancies were known when the aircraft was flown. Aircraft logbook pages obtained by the whistleblower showed that no entries regarding the discrepancies were made until

May 18, when the mechanic made the repairs and wrote entries in the logbook describing each discrepancy and stating that the old parts were removed and replaced with new ones. The whistleblower concluded that C. J. Systems' actions had violated the FARs by intentionally operating the aircraft in an unairworthy condition and failing to properly document the discrepancies when first discovered. Using the guidance outlined in FAA Order 2150.3A (*FAA Compliance and Enforcement Program*), the whistleblower recommended a civil penalty of \$1,280,000 in the EIR.

Title 14 C.F.R. § 91.7 states, "No person may operate a civil aircraft unless it is in an airworthy condition." Title 14 C.F.R. § 91.213 requires that "no person may take off an aircraft with inoperative instruments or equipment installed," unless there is an approved Minimum Equipment List for the aircraft and the aircraft records include an entry regarding the inoperable instruments/equipment. Title 14 C.F.R. § 135.65 requires the pilot to enter "in the aircraft maintenance log each mechanical irregularity that comes to the pilot's attention during flight time." Title 14 C.F.R. § 135.143 prohibits the operation of "an aircraft under this part unless the required instruments and equipment in it have been approved and are in an operable condition."

FAA Order 2150.3A (*FAA Compliance and Enforcement Program*), Section 202f. requires that, "Every apparent or alleged violation must be investigated and appropriately addressed." Section 1002(b)(3) states, "If the regional division determines that the investigation was not adequately completed, it should return the file to the field office with specific instructions for further investigation."

We found that the EIR was approved by FSDO Manager Grimm and forwarded to the FAA Eastern Region, Jamaica, NY, on August 23, 2006. The Technical Branch Aviation Safety Inspector and the Legal Branch attorney concurred with the findings of the EIR. On August 31, 2006, Martin Ingram, Assistant Division Manager, Jamaica, approved the EIR.

Witnesses interviewed told us that just prior to this, the FAA restructured the region. The Allegheny FSDO went from reporting to Mr. Ingram (Jamaica, NY) to reporting to Assistant Division Manager David Bowden (Boston, MA). The EIR, which had already been reviewed and approved by Mr. Ingram, was then forwarded to Mr. Bowden for his review. The forwarding memorandum states the EIR was forwarded to Mr. Bowden "per his request."

We found that Mr. Bowden gave the EIR to William Williams, an Aviation Safety Inspector, Technical Branch, for review. After his review, Mr. Williams prepared a memorandum signed by Mr. Bowden on September 8, 2006, forwarding the EIR back to the Allegheny FSDO. The memorandum states, "The evidence in this case appears to be insufficient to support a \$1,280,000 civil penalty. It is evident that there were ongoing problems with these items[.]" The memorandum continues, "It is also evident these

items should have been entered in the air carrier's discrepancy log, but they were not. The operator did order all four parts and did replace them when received. Additionally, the flight log sheets for May 15, 16, and 17 do not indicate any of the above identified items were inoperable." The memo concludes, "They may have been intermittent, but if the pilots are asked, what will the answer be? The burden of proof is on the FAA. For that reason the evidence in this enforcement report fails to support the allegations, as the burden of proof beyond a reasonable doubt falls on the administrator."

According to the whistleblower, then-FSDO Assistant Manager Hess returned the EIR to him on September 15, 2006, with instructions to close it without further action. The whistleblower protested this order, as he strongly believed the evidence supported the EIR findings. Mr. Hess would not change his decision, and the whistleblower closed the EIR as directed.

In their OIG interviews, neither Mr. Hess nor Ms. Grimm had any recollection of this issue. In his OIG interview, Mr. Williams initially said he thought that if the case ever went to court, no pilot would admit to knowing about the discrepancies when flying the aircraft and not making required logbook entries. Further, he stated that if the discrepancies were known, then log entries would have been made. When it was pointed out to Mr. Williams that the whistleblower had spoken with a pilot who confirmed the discrepancies were known prior to his flight and the fact that no log entries were made was one of the violations, he modified his answer and stated that he thought the EIR was a good case. He recalled that his problem with the EIR was that he believed the recommended civil penalty was too excessive. Mr. Williams stressed to us that it was not his intention to tell the FSDO that the EIR was not a solid case.

During his OIG interview, Mr. Bowden initially had no recollection of the EIR. When presented with his September 8 memorandum, Mr. Bowden recalled the matter and stated that it was not his intention for the FSDO to close the case without action. He stated that the EIR was forwarded back to the FSDO for further investigative work.

We found Mr. Williams and Mr. Bowden's later recollections to be inconsistent with the September 8, 2006, memorandum. The memorandum characterized the evidence as "insufficient to support a \$1,280,000 civil penalty," while Mr. Williams later claimed the EIR was a good case. The memorandum provided no instructions to the FSDO, while Mr. Bowden later claimed he intended the FSDO to conduct further investigation.

The September 8 memorandum is also misleading. The memorandum concludes that "no pilot" would ever admit to knowing about the discrepancies. In fact, at least one pilot did admit to knowing about the discrepancies. Finally, the memorandum incorrectly concludes, "The evidence in this enforcement report fails to support the allegations, as the burden of proof beyond a reasonable doubt falls on the administrator." The standard of proof in any civil proceeding, however, is the lesser "preponderance of the evidence."

We conclude that Mr. Bowden violated FAA Order 2150.3A by returning the EIR to the FSDO without providing “specific instructions” for further investigation. Further, we conclude that Ms. Grimm and Mr. Hess violated FAA Order 2150.3A by not processing the EIR and closing it without seeking clarification from Mr. Bowden. The EIR had been originally reviewed and approved by the Jamaica region office before being forwarded to Boston. Notwithstanding this fact, we found no evidence that Allegheny FSDO managers made any attempt to clarify Mr. Bowden’s direction when he altered the decision made by the Jamaica region office.

Allegation 4: Between April 2007 and March 2008, Allegheny FSDO managers failed to process an EIR against C. J. Systems in a timely manner.

FINDINGS

We substantiated this allegation.

On April 11, 2007, the whistleblower inspected five C. J. Systems aircraft. He discovered that three of the aircraft had an email inserted in its aircraft record listing existing mechanical discrepancies for that specific aircraft. The emails were addressed to various senior C. J. Systems’ officials and maintenance personnel. The whistleblower noted that the discrepancies were not reflected in the respective aircraft logbooks.

The whistleblower initiated an EIR on April 13. He found that mechanics had forwarded the emails containing the list of discrepancies to C. J. Systems Aviation Group’s Repair Station so that the discrepancies could be addressed while the aircraft were at the repair station for scheduled maintenance. He obtained copies of the aircraft logbooks showing that the discrepancies were not documented in the logbooks, and he obtained copies of the work orders for the aircraft requesting the discrepancies be repaired. After evaluating the evidence, the whistleblower determined that the violations were intentional, and he prepared the EIR for a legal enforcement action. Using the guidance outlined in FAA Order 2150.3A (*FAA Compliance and Enforcement Program*), the whistleblower recommended a civil penalty of \$140,000.

Title 14 C.F.R. § 91.213 requires that “no person may take off an aircraft with inoperative instruments or equipment installed” unless there is an approved Minimum Equipment List for the aircraft, and the aircraft records must include an entry regarding the inoperable instruments/equipment. Title 14 C.F.R. § 135.25(a)(2) requires that an aircraft should not be operated unless it “is in an airworthy condition and meets the applicable airworthiness requirements[.]” Title 14 C.F.R. § 135.65(b) requires that the “pilot in command shall enter or have entered in the aircraft maintenance log each mechanical irregularity that comes to the pilot’s attention during flight time.”

FAA Order 2150.3A (*FAA Compliance and Enforcement Program*), Section 202(h) requires that FAA respond to violations in a “timely” manner. Section 203(c) states, “It is the expected agency norm that the investigation will be completed and the case will be initiated by counsel within 180 days.”

According to the internal FSDO EIR checklist, the EIR was completed in its final form on July 12, 2007, and forwarded to the FSDO managers for final review and approval. The final approval, however, did not occur until March 25, 2008, — over eight months later. David Milo, Allegheny FSDO Airworthiness Frontline Manager, signed the EIR approving it to be forwarded to the Eastern Region Office. Mr. Milo signed the EIR “for” FSDO Manager Grimm.

The whistleblower told OIG investigators that he recalled speaking with Mr. Milo about the EIR sometime around November 2007. Although he could not recall the exact conversation, he remembered that Mr. Milo had problems with the EIR.

In his OIG interview, Mr. Milo recalled the November 2007 conversation with the whistleblower. Mr. Milo remembered that he thought that some of the aircraft discrepancies listed by the whistleblower were not valid and had been explained to his satisfaction by C. J. Systems. Mr. Milo told investigators that he and the whistleblower could not settle their differences, but in the end, he signed the EIR as drafted by the whistleblower. Mr. Milo reported that the eight-month delay in approving the EIR was the result of his attempting to settle the differences with the whistleblower and a two-week absence for training. When asked how these two reasons could cause a delay of eight months, Mr. Milo acknowledged he did not process the EIR in a timely manner. Prior to joining the FAA in 2002, Mr. Milo was employed for 23 years with C. J. Systems.

In her OIG interview, Ms. Grimm said she did not know why the EIR was not processed in a timely manner.

We conclude that both Ms. Grimm and Mr. Milo violated FAA Order 2150.3A by not processing the EIR in a timely manner. The EIR was initiated in April 2007, but was not approved and forwarded until March 2008. Under FAA Order 2150.3A, the investigation should have been completed and a case initiated by the Regional Counsel’s Office within 180 days.

Allegation 5: In August 2007, the FAA Eastern Region Assistant Division Manager directed that an inspection of C. J. Systems would be “non-punitive” and no enforcement cases would be initiated from the results of the inspection.

FINDINGS

We were unable to substantiate this allegation, but we did find the whistleblower’s concerns to have a reasonable basis in fact.

In June 2006, the Eastern Region Division Manager ordered a Regional Aviation Safety Inspection Program (RASIP) Inspection on C. J. Systems. According to the RASIP briefing paper dated June 20, 2006, safety concerns at the FAA were elevated because of C. J. Systems’ high accident rate. Between July 2005 and June 2006, C. J. Systems’ aircraft had been involved in eight accidents, resulting in five fatalities.

The inspection was conducted to determine regulatory compliance and establish a systems safety baseline. The FAA inspection team utilized checklists to evaluate the functional areas of operations, training, airworthiness and safety for regulatory compliance and the incorporation of systems safety concepts. C. J. Systems was provided with a detailed report containing discrepancies and FAA recommended actions to correct each discrepancy.

A year later (August 2007), the FAA re-inspected C. J. Systems to ascertain the progress the company had made in correcting the discrepancies. The whistleblower was assigned to the 2007 inspection team. He claims that during his in-brief instructions, he was told the inspection was to be “non-punitive.” Although, he could not recall who said this, he remembered that he asked for clarification on this term. He was told that C. J. Systems would accompany FAA team members, but appropriate enforcement actions would be taken only if intentional violations were found. If the violation was not deemed intentional, then C. J. Systems would be allowed to self-disclose the violation as permitted in the FAA Voluntary Disclosure Reporting Program.

The whistleblower was assigned to a team led by William Williams, an inspector from the Eastern Region’s Boston office. While inspecting aircraft records, the whistleblower found that seven of ten records contained violations. He noted that in the case of all seven, aircraft parts had been ordered for an aircraft, but the discrepancy had not been entered in the aircraft logbook until the parts were received and the repairs made. He had previously conducted an investigation on C. J. Systems for the same violation on another aircraft so he was aware of the company doing this in the past. When he presented his findings to Mr. Williams, he was told that there would be no EIRs resulting from this inspection. According to the whistleblower, Mr. Williams told him to use the findings on another EIR that the whistleblower had worked. The whistleblower told us that Mr.

Williams' comment was a general one and he had no current EIR in which to add this evidence. The whistleblower was frustrated at Mr. Williams' response to his findings. He provided a copy of his findings to Mr. Williams and did nothing further with the violations. The whistleblower recalled that Gary Martin, a former Allegheny FSDO Aviation Safety Inspector, was present during his conversation with Mr. Williams.

We interviewed Mr. Martin, who confirmed that he was a witness to the conversation regarding the seven violations between the whistleblower and someone else, but he could not recall the identity of this person. In his OIG interview, Mr. Martin could not recall any pre-inspection guidance. He "faintly" recalled "something along the lines" of the inspection being non-punitive, but he was not certain that term was used. He did not remember being told that no EIRs would result from the inspection. He recalled that the inspection was a look to see what had been corrected from the previous inspection. He acknowledged that during the discussion between the whistleblower and the other person, someone mentioned adding the violations as more evidence to a current EIR, but Mr. Martin thought that it was the whistleblower who mentioned this.

In his OIG interview, Mr. Williams denied using the term "non-punitive" in regard to the inspection. He stated that the inspection was done in collaboration with C. J. Systems, so items found would be allowed to be self-disclosed by the company unless it was deemed an intentional violation. In that case, an enforcement action would be pursued. He did not recall any self-disclosures being made by company or any enforcement actions being initiated by the FAA. Mr. Williams recalled that when the whistleblower brought the seven violations to him, the whistleblower informed him that he was looking for evidence for an existing EIR that he was working. Mr. Williams informed the whistleblower that that was not the purpose of the inspection. Mr. Williams thought that the violations were old because he felt that he would have initiated an EIR if new intentional violations had been found by the whistleblower.

In our interview with David Bowden, Assistant Division Manager, FAA Eastern Region, (Boston), Mr. Bowden confirmed that he and Lawrence Fields, Division Manager, FAA Eastern Region (Jamaica) had decided to conduct the RASIP inspection in June 2006. He stated that the results were so poor that they considered revoking the company's Part-135 certificate. According to Mr. Bowden, C. J. Systems' attitude and desire to correct the discrepancies convinced him to give the company an opportunity to come into compliance. Mr. Bowden stated that he believed the company put forth a lot of work throughout the next year and he scheduled the August 2007 re-inspection to verify that C. J. Systems had corrected the 2006 inspection discrepancies. Mr. Bowden also recalled that Mr. Williams informed him that the whistleblower had deviated from the inspection guidance and was doing data collection for a current enforcement action. Further, Mr. Bowden reported being briefed that no violations were found during the inspection. He told us that if any non-compliance item had been found, he would have expected it to be documented in the inspection report, but the EIR would need to be initiated by the local

FSDO. Mr. Bowden stated that he was not present for the inspection, but he did not recall ever hearing the term “non-punitive” being used for this inspection.

In conclusion, although we were unable to substantiate by a preponderance of the evidence that the term “non-punitive” was communicated to the whistleblower, we found that his concerns had a basis in fact. Specifically, despite a well-documented history of non-compliance and the whistleblower’s findings of seven violations during the inspection, these violations were, in fact, not documented in the inspection report.

Allegation 6: In November 2007, Allegheny FSDO managers improperly lowered a recommended civil penalty from \$400,000 to \$25,000 in an EIR against C. J. Systems for operating an aircraft with a known mechanical discrepancy.

FINDINGS

We substantiated this allegation.

On May 18, 2007, a C. J. Systems pilot informed an Allegheny Aviation Safety Inspector that a C. J. Systems aircraft had been having a reoccurring failure of the Garmin GMX 200 Multi-Function Display (MFD). He told the inspector that the MFD had been shutting down and rebooting during flight. The MFD is an in-cockpit display that provides the pilot with a wide variety of information such as weather, current flight plan, aircraft traffic, moving map, terrain awareness information, airport information, navigational aids, and VFR/IFR charting functions.

On May 21, 2007, the whistleblower inspected the aircraft and found only three entries in the aircraft logbook (on April 12, 24, and 30, 2007) regarding the MFD failure. The first two listed the MFD as a discrepancy and noted corrective actions taken. The third stated that the MFD had shut down during flight.

The whistleblower initiated an EIR on May 30, 2007. Two pilots and one mechanic confirmed there was an on-going problem with the MFD shutting down and rebooting in flight, but the whistleblower found no other logbook entries concerning this problem. The aircraft arrived at the Allegheny County Airport for scheduled maintenance on May 15, 2007. The work order written up for the aircraft stated, “MX multi function display reboots on own” and “GMX 200 removed for repair.”

Using the date of the first logbook entry regarding the problem as a starting point, the whistleblower found that the aircraft was flown 195 times in an un-airworthy condition due to the known MFD failure. He determined that C. J. Systems actions were intentional and, therefore, required FAA legal enforcement action. Following the guidance outlined in FAA Order 2150.3A (*FAA Compliance and Enforcement Program*),

the whistleblower calculated a recommended civil penalty of \$400,000. In his EIR, the whistleblower noted that C. J. Systems' actions could have resulted in catastrophic results (death or severe damage).

The EIR was completed on August 16, 2007, and forwarded to FSDO management for review and approval. According to the Allegheny FSDO EIR checklist, the EIR was revised on November 30, 2007, and then signed/approved by Manager Wendy Grimm on December 10 with a recommended civil penalty of \$25,000.

Title 14 C.F.R. § 91.7 requires that no person may operate a civil aircraft unless it is in an airworthiness condition. Title 14 C.F.R. § 91.213 requires that no person may fly an aircraft with inoperative instruments or equipment installed unless there is an approved Minimum Equipment List for the aircraft, and the aircraft records must include an entry regarding the inoperable instruments/equipment. Title 14 C.F.R. § 135.25(a)(2) requires that an aircraft should not be operated unless it is in an airworthy condition and meets the applicable airworthiness requirements. Title 14 C.F.R. § 135.65(b) requires that all known mechanical discrepancies be entered into the aircraft logbook.

FAA Order 2150.3A (*FAA Compliance and Enforcement Program*), Section 202(h) requires that FAA respond to violations in a "timely" manner. Section 203(c) states, "It is the expected agency norm that the investigation will be completed and the case will be initiated by counsel within 180 days." The Order states in Section 207, "After determining that legal enforcement action is necessary, FAA personnel must consult the guidance set forth in the sanction guidance policy [found in Appendix 4 of the Order]."

In his OIG interview, the whistleblower stated that in November 2007, he had a discussion with David Milo, FSDO Airworthiness Frontline Manager, about the recommended civil penalty amount. Mr. Milo told him that it was too excessive and Mr. Milo lowered it to \$25,000.

When interviewed, Mr. Milo told the OIG that he thought that \$25,000 was a more appropriate civil penalty. He stated he did not consider the MFD discrepancy to be a safety issue. He initially claimed he did not consider the MFD an essential piece of equipment because all information displayed on it was displayed in other locations in the aircraft. He later admitted that he did not know this for certain. Also, during the interview, he agreed that the unit's intermittent failure caused it to be unreliable to the pilot. He stated that he did not use the FAA Order 2150.3A as a guide to determine his recommended \$25,000 civil penalty and that his decision was just a "gut feeling" for him. Further, he stated that the Eastern Region's later decision to increase the civil penalty [to \$205,000] "proves I had made poor judgment." Prior to joining the FAA in 2002, Mr. Milo was employed for 23 years with C. J. Systems.

In her OIG interview, Ms. Grimm stated that she could not recall why the recommended sanction amount was lowered from \$400,000 to \$25,000. She stated that she did not believe that safety was compromised by the failure of the MFD, but she acknowledged she does not know the purpose of the MFD.

We interviewed Zachary Berman, the FAA Eastern Region attorney who reviewed the civil penalty. Mr. Berman told investigators that the EIR confused him because the write-up documented a violation that deserved a much higher sanction than \$25,000. He recalled that he initially set the sanction amount at \$160,000, but increased it to \$790,000 after further consideration and discussion with FAA Headquarters. Later, it was brought to his attention that in order to apply a \$790,000 civil penalty, it must be proven that all 195 flights were Part-135 (commercially operated) flights. Because he was only able to document that a flight occurred and not the type of each flight, he decided to regard each flight as a Part-91 (general aviation) flight and he lowered the civil penalty to \$205,000.

We conclude that Ms. Grimm violated FAA Order 2150.3A by not ensuring the EIR was completed and forwarded in a timely manner. It is the expected agency norm that the investigation will be completed and the case will be initiated by counsel within 180 days. In this case, the violation was discovered on May 21, 2007, but the EIR was not signed until December 10, 2007, and forwarded on December 12, approximately seven months later. Also, we conclude that Ms. Grimm and Mr. Milo violated the Order by not applying the Order's guidance in determining the recommended sanction amount.

Allegation 7: In December 2007, Allegheny FSDO managers failed to take appropriate action against C. J. Systems for operating aircraft with a Multi-Function Display that did not have FAA operational approval.

FINDINGS

We substantiated this allegation.

In December 2007, during a records review of a C. J. Systems' aircraft, it was noted that the Garmin MX 20 MFD installation was completed on the aircraft without a Rotorcraft Flight Manual Supplement being operationally approved by the FAA, which caused it to be an unapproved installation. Further inspections on other C. J. Systems' aircraft found that a total of five aircraft had the unapproved installation. On December 20, 2007, a teleconference was convened between various Eastern Region FSDOs and Aircraft Certification Offices (ACOs). According to the whistleblower, the consensus of the group was that C. J. Systems would be required to disable the MFD system in the five aircraft until they obtained FAA approval for the installation.

Title 14 C.F.R. § 27.1(b) regarding changes to an aircraft type certificate requires that “each person who applies under Part 21 for such a certificate or change must show compliance with the applicable requirements of this part.” Title 14 C.F.R. § 135.25(a) (2) requires that an aircraft should not be operated unless it is in an airworthy condition and meets the applicable airworthiness requirements.

FAA Order 2150.3B (*FAA Compliance and Enforcement Program*) Chapter 2, paragraph 3.e. states that, “FAA investigative personnel [must] conduct investigations promptly. They must gather, and accurately and completely report all facts, and conduct their investigations in an unbiased and focused manner.”

The whistleblower’s notes of the teleconference and follow-up actions stated that on December 21, 2007, C. J. Systems was notified of the decision that the MFDs would have to be deactivated in the five aircraft until proper approval was obtained. C. J. Systems’ Director of Operations was displeased with this decision and requested to speak with someone higher in authority at the FAA. He subsequently spoke with Terry Pearsall in the FAA Headquarters Aircraft Maintenance Division, who determined that C. J. Systems could continue to use the unapproved MFDs in the aircraft, but C. J. Systems must install a placard in each aircraft providing guidance to the pilot as to the limitations being placed on the use of the MFD until proper operational approval could be obtained from the FAA.

A C. J. Systems’ letter dated December 27, 2007, to David Milo, FSDO Airworthiness Frontline Manager, discussed the issue and the measures that C. J. Systems would pursue in resolving the discrepancy. According to the letter, C. J. Systems agreed to install a placard in each affected aircraft regarding the MFD limitations.

On December 28, 2007, Mr. Milo responded to the C. J. Systems’ December 27 letter. He acknowledged and approved them to implement this action.

In our interviews, we obtained varying accounts recalled by several teleconference participants regarding the decisions of the teleconference and that of Mr. Pearsall. We found that neither the C. J. Systems’ letter nor Mr. Milo’s letter provided the specific wording to be used for the placard. Consequently, the fact that we were unable to determine exactly what was recommended by Mr. Pearsall and what information was eventually put on the placards, we were unable to substantiate whether C. J. Systems’ corrective action accomplished what was decided upon by Mr. Pearsall.

The whistleblower told us that he wanted to initiate an EIR to investigate the issue of C. J. Systems using the MFD in the aircraft without first obtaining FAA operational approval, but was told by Mr. Milo that he was not to initiate an EIR.

In his OIG interview, we asked Mr. Milo whether C. J. Systems operating the installed MFDs without FAA operational authority was a violation. He replied, “Yeah, it is. But .

. . . well, yes, it is absolutely.” When asked why an EIR was not done, he stated, “I honestly don’t remember.” We advised that the whistleblower claims Mr. Milo told him not to pursue an enforcement action, Mr. Milo replied, “If that’s what he said. I don’t remember that, but unfortunately it seems there’s a lot I don’t remember.”

In Ms. Grimm’s OIG interview, she agreed that C. J. Systems’ use of the MFD without FAA operational approval was a violation. When asked her why an EIR was not done, Ms. Grimm replied, “I don’t know. I’m sorry.” Further, she stated that, at the time, she felt that the proper resolution actions were taken.

We conclude that both Ms. Grimm and Mr. Milo violated FAA Order 2150.3B when they failed to ensure an investigation was initiated to look into C. J. Systems’ failure to obtain FAA operational approval before installing and using the MFDs in their aircraft.

Allegation 8: In May 2009, the Allegheny FSDO Manager improperly closed with a warning notice an EIR against Air Charter Service for operating an aircraft with 3 known mechanical discrepancies from May 2008 to February 2009.

FINDINGS

We substantiated this allegation.

On February 2, 2009, the whistleblower inspected an aircraft belonging to Air Charter Service, Inc., a FAR Part-135 operator located in Washington, PA, and found a handwritten note on the back of a work card that stated, “#1 RMI [Radio Magnetic Indicator] 10 degrees off, LT Spkr Inop [Left Speaker Inoperative], Autopilot Inop.” A Radio Magnetic Indicator is an aircraft navigational instrument coupled with a gyro compass or similar compass that indicates the direction of a selected Navigational Aid and indicates bearing with respect to the heading of the aircraft. The work card had been prepared by Pittsburgh Air Radio, an FAA-certified repair station located in West Mifflin, PA, on May 30, 2008, when the aircraft was undergoing a biannual avionics inspection. The whistleblower then reviewed the aircraft maintenance logbook back to May 7, 2008, but found no entries for the three discrepancies. Air Charter Service is a small operator with only one aircraft.

The whistleblower spoke with the owner/operator of Air Charter on the day of his discovery. She acknowledged that she was aware of the three discrepancies. According to the whistleblower, she stated the autopilot had been inoperative for some time, but she did not have the money to repair it. Further, she claimed that she had been told by an Allegheny FSDO Aviation Safety Inspector that she did not need the autopilot since she used two pilots on all flights. The owner was the co-pilot for most of the company’s flights.

On February 4, 2009, the whistleblower initiated an EIR. He confirmed that the Air Charter pilot was also aware of the three discrepancies. The whistleblower was able to obtain trip records only for the period January 8 through January 25, 2009, and found the aircraft was flown 18 times. On February 6, 2009, Air Charter repaired the RMI, the left speaker, and deactivated the autopilot. In his EIR, the whistleblower noted that the company had not previously made the repairs because it was the company's only aircraft and they would not generate revenue while it was out of service. He opined that the company only addressed the discrepancies because the FAA became aware of them. He stated that Air Charter was not operating at the highest level of safety and decisions such as these could lead to catastrophic events. He determined the company's actions as "intentional" and prepared the EIR for FAA legal enforcement action.

Title 14 C.F.R. § 135.25 (a)(2) requires that an aircraft should not be operated unless it is in an airworthy condition and meets the applicable airworthiness requirements. Title 14 C.F.R. § 135.65(c) requires that corrective action on an aircraft engine be recorded in the aircraft maintenance log.

FAA Order 2150.3B (*FAA Compliance and Enforcement Program*) Chapter 2, paragraph 3.e. states that, "FAA investigative personnel [must] conduct investigations promptly. They must gather, and accurately and completely report all facts, and conduct their investigations in an unbiased and focused manner."

FSDO Manager Wendy Grimm signed the EIR on May 20, 2009. She modified the FSDO recommendation to the Eastern Region Office from "Civil Penalty" to "Administrative Action," and changed the recommended sanction from "Dollars" to "Warning Notice."

In a memorandum dated May 27, 2009, Ms. Grimm forwarded the EIR to the Eastern Region Office. She addressed the changes that she made to the whistleblower's recommendations from legal to administrative action. She stated, "A mitigating factor in this case was that a previously assigned Principal Operations Inspector (now retired 3 years), had given tacit approval to the Operator to operate in a manner that led to the discovery of these violations." She stated that, "these violations were inadvertent rather than deliberate[.]" Further, she noted that she was basing her decision on the "previous violation history of the Operator, and also based upon the immediate actions that the Operator took upon coming to the understanding that they had committed violations of the regulations."

The whistleblower had researched the aircraft maintenance logbooks back to May 7, 2008, because this was just prior to the biannual inspection at Pittsburgh Air Radio. Due to the notes being made by Pittsburgh Air Charter on May 30, he knew that the discrepancies were present on that date, but the discrepancies had actually existed for an

undetermined period of time prior to that. He determined that the violations were intentional because the company was aware of the discrepancies, did not document them in the logbook, and continued to fly the aircraft. The whistleblower told our investigators that because flight records are required to be maintained for only 90 days, he was only able to confirm that the aircraft had been flown 18 times in the previous 90 days. He believes the actual number of flights would have been much greater if he had been able to document them back to at least May 30, 2008.

The whistleblower told us that he received a lot of resistance to his EIR decision/recommendations immediately from Airworthiness Frontline Manager David Milo and others in the office. He recalled some people complaining to him that his EIR would result in the company going out of business because the owner would be unable to pay a civil penalty. The whistleblower noted that the Region legal office determines the amount of the sanction and the purpose of a sanction is to penalize a company, not put it out of business. He informed us that Air Charter has been in business since 1979; therefore, he believed that it was not feasible to think that the company was unaware that they had to document mechanical discrepancies and thought they could continue to operate the aircraft with the discrepancies.

In his OIG interview, Mr. Milo identified the former inspector who spoke with the Air Charter owner as Dennis Ferencz, who retired in 2006. When asked if any FSDO staff had contacted Mr. Ferencz to confirm the alleged conversation with the owner, Mr. Milo responded that to his knowledge no one had contacted Mr. Ferencz, who still lives in the area. He stated that he did not think there was any need to contact him. Mr. Milo said he considered Air Charter a small operator who did not know they were doing anything wrong. He recalled the owner stating that she did not believe that the inoperative equipment was important to her.

In her OIG interview, Ms. Grimm stated that as far as she knew, no one from her office spoke with Mr. Ferencz to confirm any statements made to the Air Charter owner concerning the autopilot. We note that it is possible that the Air Charter owner was not truthful when she said former inspector Ferencz told her that she could operate with an inoperative autopilot. When this possibility was identified to Ms. Grimm, she stated, "I am well aware that people can be creative or defensive and what their stake in it is and I have to say that we did go on our belief that it [the owner's statement] was accurate." Ms. Grimm noted that her decision was also based on the number of years the company has been in business, and she felt that it had an excellent safety record and enforcement history.

We found Ms. Grimm's May 27 memorandum to be misleading and inaccurate. Her statement "the mitigating factor in this case was that a previously assigned Principal Operations Inspector (now retired 3 years), had given tacit approval to the Operator to operate in a manner that led to the discovery of these violations" appears to place

responsibility on the FAA for the operator's violations of failing to document all three mechanical discrepancies and operating the aircraft with the three discrepancies. In fact, the operator only stated that the former inspector told her that she did not have to have an operating autopilot as long as she flew with two pilots. There was no mention of the other two discrepancies in this alleged discussion. Even if the owner's statement was true, there was no mention of her not having to document the autopilot discrepancy in the aircraft logbook, which was also a violation.

Additionally, Ms. Grimm noted in the memorandum that "these violations were inadvertent rather than deliberate," but provided no explanation as to how she determined the violations were inadvertent. Again, the memorandum appears to place the blame on the former inspector for all of the operator's violations. Further, she noted that she was basing her decision on the "previous violation history of the Operator." According to FAA Order 2150.3B (*FAA Compliance and Enforcement Program*), a violation-free history "is the expected norm, not the exception and, therefore, is not a mitigating factor."

We determined that if the owner had spoken with the former inspector as she claimed, this discussion most likely took place three years or more before the whistleblower's discovery because the inspector retired in 2006. This means that the autopilot had been inoperative for a considerable amount of time before the biannual inspection on May 30, 2008.

We conclude that both Ms. Grimm and Mr. Milo violated FAA Order 2150.3B (*FAA Compliance and Enforcement Program*) by failing to ensure that a thorough investigation was conducted before recommending administrative action. We found that Ms. Grimm's conclusions in her May 27 memorandum were misleading and inaccurate. Most significantly, her vague statement that appeared to place blame on the FAA was not based in fact as she failed to verify the alleged discussion.

ATTACHMENT 1: METHODOLOGY OF INVESTIGATION

This investigation was conducted by a Senior Investigator. We reviewed numerous FAA records and other documents related to the eight allegations investigated. These documents included internal memoranda, internal emails, Enforcement Investigative Reports, manufacturer's maintenance manuals, letters to/from Part-135 operators and component manufacturers, internal Part-135 operator correspondence, and applicable aircraft records. Our research included various applicable FARs and FAA Orders. We interviewed various FAA officials at the Allegheny and Harrisburg Flight Standards District Offices, the FAA Eastern Region Division offices in Jamaica, NY and Boston, MA, and a former Allegheny FSDO Assistant Manager currently assigned to the New York FAA International Field Office, Jamaica. These witnesses included:

- Robert Spahr (formerly known as Robert Lowery), Aviation Safety Inspector, Allegheny FSDO
- Michael Matero, Aviation Safety Inspector, Technical Branch, FAA Eastern Region Division Office, Jamaica
- Michael DiPaolo, Airworthiness Supervisor, Technical Branch, FAA Eastern Region Division Office, Jamaica
- Zachary Berman, Attorney, Regional Counsel's Office, FAA Eastern Region Division Office, Jamaica
- Gary Martin, Aviation Safety Inspector, Harrisburg FSDO
- Lawrence Fields, Division Manager, FAA Eastern Region Division Office, Jamaica
- William Williams, Aviation Safety Inspector, Technical Branch, FAA Eastern Region Division Office, Boston
- William Hess, Airworthiness International Inspector, New York FAA International Field Office, Jamaica (his office is located at the FAA Certificate Management Office, Pittsburgh, PA)
- David Milo, Airworthiness Frontline Manager, Allegheny FSDO
- Wendy Grimm, Manager, Allegheny FSDO
- David Bowden, Assistant Division Manager, FAA Eastern Region Division Office, Boston