



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

Issued by the Department of Transportation  
On the Twenty-Third day of August, 2013

**Jean Benjamin et al.**

**Complainants**

**v.**

**JetBlue Airways Corp., and  
Superior Aircraft Services, Inc.**

**Respondents**

**DOT OST 2013-0095**

**Served August 23, 2013**

**ORDER TERMINATING PROCEEDINGS**

This order concerns alleged violations by JetBlue Airways Corporation (JetBlue) and Superior Aircraft Services, Inc., (SAS) of the Air Carrier Access Act, 49 U.S.C. § 41705 (ACAA) and the regulations found at 14 CFR Part 382. By this order, the Office of Aviation Enforcement and Proceedings (Enforcement Office) declines to institute a formal enforcement proceeding and thereby dismisses the instant case.

On May 7, 2013, the Service Employees International Union (SEIU) filed a formal complaint on behalf of Jean Benjamin, Jacques Casseus, Youvens Dervil, Edson Jocelyn, and Luckner Yacinthe [collectively Complainants] with the Assistant General Counsel for Aviation Enforcement and Proceedings, pursuant to 14 CFR 302.404, alleging violations of the ACAA and Part 382. Complainants alleged that JetBlue and SAS [hereinafter Respondents] (1) failed to provide training to proficiency concerning the requirements of Part 382, other applicable regulations, and US Airways' procedures, as required by 14 CFR 382.141(a)(1)(i)-(ii); (2) failed to provide training to proficiency concerning the use of boarding- and deplaning-assistance equipment and appropriate boarding- and deplaning-assistance procedures, as required by 14 CFR 382.141(a)(1)(iii); (3) failed to provide training with respect to awareness and appropriate responses to passengers with disabilities, as required by 14 CFR 382.141(a)(2); (4) failed to provide

training in recognizing requests for communication accommodations from individuals with hearing or vision impairments, as required by 14 CFR 382.141(a)(3); and (5) failed to provide equipment in sound working condition, as required by 14 CFR 382.51(b)(2).

JetBlue and SAS filed answers on May 28, 2013, and May 22, 2013, respectively, in response to the formal complaint pursuant to 14 CFR 302.405. Respondents stated that only three of the five Complainants, Jean Benjamin, Youvens Dervil, and Edson Jocelyn, actually provide services to JetBlue's passengers. According to the Respondents, the remaining Complainants are SAS employees assigned to other carriers. Respondents also stated that the Complainants received the required training in accordance with Part 382, which included boarding- and deplaning-assistance equipment and procedures, awareness of and appropriate responses to passengers with disabilities, and communication with individuals with visual and hearing impairments. The Respondents submitted a signed statement by Complainant Benjamin stating that he received the required training in 2012, and provided extensive training records demonstrating that Complainants Dervil and Jocelyn received the required training. Additionally, SAS submitted sworn statements by the remaining two Complainants that they received the required training. Furthermore, Respondents denied the allegation that they do not have appropriately maintained wheelchairs. Respondents requested that the Department dismiss the Complaint with prejudice.

The Enforcement Office has thoroughly considered the pleadings and supporting documents on file in this proceeding.<sup>1</sup> It takes allegations that an airline has failed to train its employees in accordance with Part 382 very seriously. The allegations regarding the insufficiency of training received by Complainants, however, are not supported by the evidence. The Complaint is misleading and meritless. The Enforcement Office has, therefore, determined that any further investigation into the Complainants' allegations is unjustified and unnecessary. Moreover, the Enforcement Office is placing SEIU on notice that if, in the future, SEIU files an unsubstantiated complaint that contains misleading statements or otherwise exhibits unprofessional conduct, the Enforcement Office will pursue action to bar the SEIU from practicing before the Department under 14 CFR 300.20.<sup>2 3</sup>

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<sup>1</sup> The Enforcement Office notes that the Complainants filed a Notice of Voluntary Discontinuance that is procedurally deficient for its intended purpose. Therefore, the office will not consider that document as a responsive pleading properly filed in this matter.

<sup>2</sup> SEIU filed similar complaints on behalf of complainants in June 2007 and February 2008, docket numbers OST-2008-0082 and OST-2008-0081, which were dismissed by the Enforcement Office for procedural deficiencies. In addition, SEIU improperly submitted a complaint in August 2009 but never formally filed it, even after the Enforcement Office sent a letter to the Complainants explaining the deficiencies.

<sup>3</sup> SAS also filed a motion for sanctions against SEIU on July 31, 2013, seeking attorney's fees. The Enforcement Office will dismiss that motion but as noted above will take action in the future under 14 CFR 300.20 against SEIU if appropriate.

ACCORDINGLY, I decline to institute a formal enforcement proceeding in this case and dismiss the sanctions motion filed by SAS.

This order is issued under the authority assigned in 14 CFR 302.406(a)(2) and shall be effective as the final action of the Department within 30 days after service. Copies will be served on all parties.

**BY:**

SAMUEL PODBERESKY  
Assistant General Counsel for  
Aviation Enforcement and Proceedings

**CERTIFICATE OF SERVICE**

I hereby certify that I have this date served the foregoing document on the following persons in accordance with the Department's Rules of Practice.

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Dated: August 23, 2013

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