



National Transportation Safety Board

Washington, D.C. 20594

Office of General Counsel

August 25, 2014

Captain Robert W. Travis
President
Independent Pilots Association
3607 Fern Valley Road
Louisville, KY 40219

RE: Independent Pilots Association's Failure to Abide by National Transportation Safety Board's Party Agreement in Investigation of UPS Flight 1354 Accident in Birmingham, AL, August 14, 2013, DCA12MA133

Dear Captain Travis,

As you know, the National Transportation Safety Board (NTSB) engages parties to participate in accident investigations. Those parties provide valuable technical assistance to the NTSB in its investigative activities. The unions that represent employees of operators play an important role in the NTSB accident investigation process and are routinely invited to participate as a party.

The NTSB is greatly concerned with the Independent Pilots Association's (IPA) failure to consult with us prior to its release on August 13, 2014, of a press statement entitled "UPS Pilots Call for End of Part 117 Carve-out on Anniversary of Fatigue Crash." The press release's statements concerning the UPS 1354 flight crew's fatigue impermissibly prejudices the results of the NTSB's continuing investigation of the accident and its forthcoming findings and probable cause statement regarding the accident. As discussed further below, the IPA's failure to share the release with the NTSB in advance directly violates NTSB regulations, applicable guidance, and the Certification of Party Representative agreement signed by Captain Stephen Whyte on August 15, 2013. As a result, although we recognize the fact-gathering portion of the UPS 1354 accident investigation is completed and both IPA and United Parcel Service (UPS) have provided their analysis and opinions regarding the accident facts in their party submissions to the investigation, the NTSB is hereby removing IPA's party status in this investigation.

As soon as possible after the September 9, 2014, Board Meeting on the UPS 1354 accident, Acting Chairman Hart and senior agency officials would like to meet with senior IPA officials to discuss further our expectations for IPA to again serve as a party in any future NTSB investigations. In addition, although we are mindful that IPA is no longer subject to our party requirements for the UPS 1354 accident investigation, we will continue to monitor closely any public statements IPA may issue prior to the upcoming Board Meeting. We will take into

account any such statements when we address, during our requested meeting, our expectations for IPA's ability to serve as a party in any future NTSB investigation. I request that IPA promptly contact me at (202) 314-6616 to schedule this meeting.

The NTSB's requirements for parties' participation in its accident investigations are codified in Title 49 *Code of Federal Regulations* Part 831, and, in particular, in section 831.11. Further, dissemination of accident information is governed by Title 49 *Code of Federal Regulations* Part 831, §831.13.

The document entitled "Information and Guidance for Parties to NTSB Accident and Incident Investigations," which was incorporated by reference in the Certificate of Party Representative agreement signed by Captain Whyte, elaborates further on the NTSB requirements with which IPA failed to comply:

- All participants in the investigation (i.e., party representatives, party coordinators, and/or the larger party organization), however, must be responsive to the direction of NTSB representatives and may lose party status if they do not comply with their assigned duties and activity proscriptions or instructions, or if they conduct themselves in a manner prejudicial to the investigation.
- Limitations on parties commenting publicly on possible findings of the investigation, including the probable cause of the accident, will remain in effect until after the Board adopts the final report. (Section VII)
- Prior to the NTSB's adoption of the final report, only appropriate NTSB personnel are authorized to publicly disclose investigative findings, and, even then, the release shall be limited to verified factual information identified during the course of the investigation. In addition, party participants or their respective organizations must refrain from providing opinions or analysis of the accident outside of the participants in the investigation. Failure to abide by these requirements may lead to removal of a party from the investigation. Any questions on this policy may be directed to the NTSB's investigator-in-charge (IIC) on an investigation, or to the NTSB's Public Affairs Office at 202-314-6100. (Section VIII)

Our limitations on parties' ability to make public statements concerning an accident prior to release of our Board's final report is an important safeguard for our investigative process. Parties' compliance with these and other NTSB requirements are essential to ensuring objective, rigorous, and complete accident investigations and preventing loss of public confidence in the NTSB's investigative process and its ability to develop recommendations to improve transportation safety. These limitations also prevent unfairness to other parties to the investigation. For all these reasons, we require parties seeking to disseminate information to the media to first consult with our IIC and the Office of Public Affairs, which will work with you on public statements.

Please be advised that we will place a copy of this letter in the public docket for the UPS 1354 accident investigation. In addition, please note that we are similarly concerned with UPS's violation of our party requirements. On August 14, 2014, a UPS representative submitted an online comment to Air Cargo World (ACW) in response to ACW's online publication of the IPA August 13, 2014, press release without prior consultation with us. As a result of UPS's action, the NTSB has also removed it as a party to the UPS 1354 accident investigation and requested to meet with senior UPS officials to discuss our expectations for the company to again serve as a party in any future NTSB investigations.

In closing, we wish to point out that the NTSB appreciates IPA's participation in the UPS1354 accident investigations and in previous accident investigations. We look forward to IPA's ability to participate meaningfully in future NTSB investigations.

Sincerely,

A solid black rectangular redaction box covering the signature of David K. Tochen.

David K. Tochen
General Counsel

cc: William Trent, Esq.