

SERVED: March 28, 2013

NTSB Order No. EA-5658

UNITED STATES OF AMERICA  
**NATIONAL TRANSPORTATION SAFETY BOARD**  
WASHINGTON, D.C.

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 27<sup>th</sup> day of March, 2013

_____	)	
MICHAEL P. HUERTA,	)	
Administrator,	)	
Federal Aviation Administration,	)	
	)	
Complainant,	)	
	)	Dockets SE-19421
v.	)	SE-19422
	)	
ROBERT D. TINLIN and	)	
MICHAEL WHITE,	)	
	)	
Respondents.	)	
_____	)	

**OPINION AND ORDER**

**1. Background**

Respondents appeal the oral initial decision of Administrative Law Judge Stephen R. Woody, issued March 1, 2013.<sup>1</sup> By that decision, the law judge determined the Administrator proved respondents violated 14 C.F.R. § 43.12(a)<sup>2</sup> by falsifying a job procedure card applicable

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<sup>1</sup> A copy of the law judge's initial decision, an excerpt from the hearing transcript, is attached.

<sup>2</sup> Section 43.12(a) provides as follows:

to an Airbus A-319 aircraft indicating they inspected the keel beam side panel of the aircraft in accordance with the requirements of an applicable Airworthiness Directive. We grant respondents' appeal of this emergency order of revocation, on procedural grounds.<sup>3</sup>

#### A. *Facts*

Respondents, as long-time employees working as mechanics at U.S. Airways, performed work on an Airbus A-319 aircraft (hereinafter, N705UW) on January 7, 2010. Respondents both stamped a job procedure card indicating (1) Respondent White removed the yellow electric pump and yellow power accumulator, and (2) Respondent Tinlin conducted a "detailed visual inspection in the area around the rivets at both sides of the keel beam side panel below the wing center box."<sup>4</sup> Inspectors from the Federal Aviation Administration (FAA) certificate management office in Pittsburgh, Pennsylvania, who oversee the certificate under which U.S.

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(continued..)

(a) No person may make or cause to be made:

(1) Any fraudulent or intentionally false entry in any record or report that is required to be made, kept, or used to show compliance with any requirement under this part;

(2) Any reproduction, for fraudulent purpose, of any record or report under this part; or

(3) Any alteration, for fraudulent purpose, of any record or report under this part.

<sup>3</sup> This case proceeds pursuant to the Administrator's authority to issue immediately effective orders under 49 U.S.C. §§ 44709(e) and 46105(c), and in accordance with the Board's Rules of Practice governing emergency proceedings, codified at 49 C.F.R. §§ 821.52–821.57 as amended, 77 Fed. Reg. 63252-53 (Oct. 16, 2012). The Administrator, however, has returned respondents' mechanic certificates to them, because the Chief Administrative Law Judge granted respondents' petition for review of the Administrator's emergency determination under 49 C.F.R. § 821.54(e). In an order dated February 5, 2013, the Chief Administrative Law Judge found the passage of three years between the alleged violations and the Administrator's issuance of the emergency orders "would appear to negate the notion that respondents represent an imminent or ongoing threat to public safety, even if all of the factual allegations set forth in the Administrator's orders are true." Order Granting Respondents' Emergency Pet. at 6.

<sup>4</sup> Exh. A-3 at 5. The job card also states, "[f]or the inspection, use a magnifying glass (10X)." Id.

Airways operates, visited the hangar on January 14, 2010, and reviewed a sampling of job procedure cards applicable to N705UW. The inspectors found the aircraft awaiting a leak check, and they found it in a filthy condition; specifically, the area in which the keel beam side panel was located was covered with a corrosion inhibiting compound and appeared dark and dirty.<sup>5</sup>

Upon viewing the aircraft, FAA inspectors David Kriznik and Klaus Ploschnitznig inquired of Respondent Tinlin concerning the requirements of the job card.<sup>6</sup> Both inspectors testified Respondent Tinlin told them the pump and accumulator should have been removed, pursuant to the requirements set forth on the job card. In addition, Inspector Kriznik recalled Respondent White told the inspectors they did not remove the pump, yet he stamped the job card indicating he had removed both the pump and accumulator.<sup>7</sup> The inspectors stated Respondent Tinlin's response to their inquiry of whether he had used a magnifying glass that would magnify an image ten times, as the job card required, was unclear; Respondent Tinlin initially told them he did use such a magnifying glass, but then stated he *should have* used one.<sup>8</sup> Inspector Ploschnitznig asked Respondent Tinlin to re-create the inspection, so the inspectors could understand how he had accomplished it. Inspector Ploschnitznig stated Respondent Tinlin could not have used a magnifying glass for the inspection, because the yellow pump blocked access to

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<sup>5</sup> Tr. 85-86, 88, 438.

<sup>6</sup> Neither Respondent Tinlin nor Respondent White testified at the hearing; however, Inspectors Kriznik and Ploschnitznig recalled their interviews with respondents, and offered notes from the interviews.

<sup>7</sup> Tr. 121-22.

<sup>8</sup> Tr. 164-65; see also tr. 399, 536 (Inspector Ploschnitznig's testimony that Respondent Tinlin did not use a magnifying glass for the inspection the FAA inspectors asked him to conduct, but instead retrieved from his toolbox a loupe, which is an instrument typically used to inspect gemstones).

the area against which Respondent Tinlin would need to hold the magnifying glass.<sup>9</sup> Respondent Tinlin did not immediately know where the inspection area was located, but found it after familiarizing himself with the station diagram and job card.<sup>10</sup>

The job card specifying the inspection requirements for the Airbus A-319 is designed to implement Airworthiness Directive (AD) 2004-13-06, which requires a “detailed inspection” of the keel beam side panel area.<sup>11</sup> The AD incorporates by reference Service Bulletin A320-53-1060, which states the yellow pump and accumulator should be removed to facilitate the inspection of the area.<sup>12</sup> At the hearing, Inspectors Kriznik and Ploschnitznig, as well as Director of Quality Control and Chief Inspector for U.S. Airways John Coleman, explained ADs and service bulletins as follows: the FAA issues ADs, and requires compliance with them as though they are a regulation.<sup>13</sup> Service Bulletins, however, are issued by manufacturers, and their terms are only mandatory if FAA incorporates them into an AD by reference. Mr. Coleman explained job cards are documents an operator creates to ensure compliance with an AD; in this regard, he stated, “U.S. Airways policy is all ADs that come in are reviewed by ... the AD Configuration Group ... the AD Configuration Group then determines what actions U.S. Airways has to take and ... [puts them] into a job card so that the AD doesn’t have to be pushed down to the floor

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<sup>9</sup> Tr. 405, 443-44.

<sup>10</sup> Tr. 117, 534-35.

<sup>11</sup> Exh. A-7.

<sup>12</sup> Exh. A-8.

<sup>13</sup> Tr. 60 (Inspector Kriznik’s testimony stating ADs are mandatory and, if a mechanic cannot comply with an AD, he or she may apply to the FAA for an alternate method of compliance).

level.”<sup>14</sup> Mr. Coleman also stated U.S. Airways has a procedure through which mechanics may request changes to a job card, if they believe it to be inaccurate.

In addition to the foregoing, the witnesses at the hearing emphasized the critical nature of the keel beam on the Airbus A-319. Inspector Kriznik described the keel beam as “basically the backbone of the aircraft for structural support”; he also described the side panels of the keel beam as “an integral part of the keel beam.”<sup>15</sup> The service bulletin Airbus issued concerning inspection of the keel beam side panels indicates Airbus found “cracks propagating from around the rivets in the frames, as specified, between frame 40 and 42 at a certain amount of flights.”<sup>16</sup> For this reason, Airbus issued the service bulletin instructing mechanics to inspect the keel beam side panel for tiny cracks around the rivets. If a mechanic found any cracks, the aircraft required immediate repair.

#### *B. Procedural Background*

The Administrator issued the emergency revocation order, which became the complaint in this case, on January 24, 2013, alleging respondents violated section 43.12(a) by falsifying the job procedure card when they stamped the card, indicating the removal of the pump and accumulator, as well as the detailed visual inspection, had been accomplished. The case proceeded to hearing before the law judge on February 27, 28, and March 1, 2013.

#### *C. Law Judge’s Oral Initial Decision*

At the conclusion of the hearing, the law judge issued a decision finding the Administrator proved by a preponderance of the evidence that respondents falsified the job

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<sup>14</sup> Tr. 306.

<sup>15</sup> Tr. 64-65.

<sup>16</sup> Tr. 67 (referring to Exh. A-8).

procedure card by indicating they removed the pump and accumulator, and conducted a detailed visual inspection of the area. The law judge stated U.S. Airways has no procedure for accomplishing the inspection of a keel beam side panel without removal of the pump and accumulator. The law judge supported each of his findings with specific factual determinations, and summarized each witness's testimony. The law judge indicated he afforded little weight to former Board Member John Goglia's testimony on behalf of respondents, because the testimony was based on Mr. Goglia's re-created inspection of a keel beam side panel on an Airbus A-321, rather than an A-319. The law judge rejected respondents' contention that the job card is not a required "record" under § 43.12(a); in this regard, the law judge stated he considered the job card a document to which § 43.12(a) applies because it is required to show compliance with an AD and service bulletin.<sup>17</sup> The law judge determined the Administrator fulfilled the three prongs of the Hart v. McLucas falsification test,<sup>18</sup> and based this determination on a thorough discussion of the facts supporting it.<sup>19</sup> In closing arguments, the parties only briefly discussed the laches issue; the law judge did not address the issue in his decision.

#### *D. Issues on Appeal*

Respondents appeal the law judge's decision.<sup>20</sup> First, as a procedural matter, respondents contend the doctrine of laches precludes the Administrator's complaints against them.

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<sup>17</sup> Initial Decision at 701.

<sup>18</sup> To prove a respondent intentionally falsified a document, the Administrator must prove the respondent (1) made a false representation, (2) in reference to a material fact, and (3) had knowledge of its falsity. Hart v. McLucas, 535 F.2d 516, 519 (9th Cir. 1976).

<sup>19</sup> Initial Decision at 706-708.

<sup>20</sup> Respondents have filed a motion requesting oral argument. We conclude oral argument is not necessary in this case. See 49 C.F.R. § 821.48(e).

Concerning the merits of the case, respondents argue the law judge erred in determining the job card was a required document to which § 43.12(a) applies. Respondents also argue the law judge erred in determining a detailed visual inspection could not have been performed with the pump and accumulator in place. Respondents further assert U.S. Airways maintenance practices at the time they conducted the inspection at issue allowed them to leave the pump and accumulator adjacent to the keel beam side panel, yet still conduct an adequate inspection of the side panel, as the AD, service bulletin, and job card required; concerning U.S. Airways maintenance practices, respondents contend the law judge erred in excluding certain evidence relevant to those practices. Finally, respondents assert the law judge erred in imposing the sanction of revocation of both respondents' mechanic certificates with airframe and powerplant ratings.

## **2. Decision**

On appeal, we review the law judge's decision *de novo*, as our precedent requires.<sup>21</sup>

### *A. Doctrine of Laches*

Respondents argue the doctrine of laches precludes the Administrator from pursuing this case, because the Administrator's allegations arise from events occurring more than three years before the issuance of the Administrator's orders. The doctrine of laches is an equitable doctrine "by which a court denies relief to a claimant who has unreasonably delayed in asserting the claim, when that delay has prejudiced the party against whom relief is sought."<sup>22</sup> The United States Court of Appeals for the District of Columbia Circuit has defined the doctrine as "an

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<sup>21</sup> Administrator v. Smith, NTSB Order No. EA-5646 at 8 (2013), Administrator v. Frohmuth and Dworak, NTSB Order No. EA-3816 at 2 n.5 (1993); Administrator v. Wolf, NTSB Order No. EA-3450 (1991); Administrator v. Schneider, 1 N.T.S.B. 1550 (1972) (in making factual findings, the Board is not bound by the law judge's findings).

<sup>22</sup> Black's Law Dictionary 891 (8<sup>th</sup> ed. 2004).

equitable defense that applies where there is (1) lack of diligence by the party against whom the defense is asserted, and (2) prejudice to the party asserting the defense.”<sup>23</sup>

### 1. *Board Jurisprudence*

In response to respondents’ argument concerning the doctrine of laches, the Administrator asserts the doctrine rarely applies to our cases, because we previously stated we apply the doctrine only in the context of the stale complaint rule. The stale complaint rule, which is codified in our Rules of Practice, precludes the Administrator from pursuing a case more than six months after the discovery of an alleged violation, unless the Administrator presents an issue involving a respondent’s alleged lack of qualifications to hold a certificate.<sup>24</sup> Prior to the Court of Appeals for the District of Columbia Circuit decision in Manin,<sup>25</sup> we considered the stale complaint rule to subsume the doctrine of laches for purposes of FAA certificate enforcement actions over which we had jurisdiction.<sup>26</sup>

Manin rejected the Board’s prior interpretation. Citing older cases, the Court stated, “Board case law establishes that the laches defense may be available even when the stale complaint rule is inapplicable.” The Court indicated prior Board cases required consideration of the laches defense “if an airman could establish actual prejudice in his defense which is

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<sup>23</sup> Manin v. Nat’l Transp. Safety Bd., 627 F.3d 1239, 1241 (D.C. Cir. 2011) (quoting Pro Football, Inc. v. Harjo, 565 F.3d 880, 882 (D.C. Cir. 2009)).

<sup>24</sup> 49 C.F.R. § 821.33.

<sup>25</sup> Supra note 22.

<sup>26</sup> See, e.g., Administrator v. Adcock, NTSB Order No. EA-4507 at 5 (1996); see also Administrator v. Robertson, NTSB Order No. EA-5315 at 6-7 (2007); Administrator v. Culliton, NTSB Order No. EA-5178 at 5 (2005).

attributable to the Administrator's delay.”<sup>27</sup> As a result of the Court's opinion in Manin, we issued an opinion and order on remand, indicating we would consider the respondent's laches defense to the extent he could establish he suffered an actual prejudice as a result of the Administrator's delay in pursuing the case.<sup>28</sup>

In our Manin opinion following the Court's remand, we indicated we would evaluate a laches defense on the basis of whether the respondent asserting the defense has established he or she suffered actual prejudice as a result of the delay.<sup>29</sup> Assuming a respondent is required to show both actual prejudice and that the Administrator lacked diligence in pursuing the case, we find respondents here provided adequate evidence to fulfill both prongs.

## *2. Lack of Diligence*

As stated above, we find the facts on the record before us show a lack of diligence on the part of the FAA in pursuing this case. Respondents and the Administrator agree respondents conducted the inspection of N705UW and stamped the job card on January 7, 2010. FAA Inspectors Kriznik and Ploschnitznig identified January 7, 2010, as the date of discovery of the alleged violation. The record establishes the inspectors visited respondents on January 14, 2010, and requested Respondent Tinlin demonstrate how he had conducted the detailed visual inspection pursuant to the job card. The record also indicates the inspectors interviewed respondents during the January 14, 2010, visit, and again on March 4, 2010.

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<sup>27</sup> Id. (citing Administrator v. Wells, 7 N.T.S.B. 1247, 1249 (1991); Administrator v. Peterson, 6 N.T.S.B. 1306, 1307 n.8 (1989)).

<sup>28</sup> Administrator v. Manin, NTSB Order No. EA-5586 at 7-8 (2011).

<sup>29</sup> Id.; see also Administrator v. Wells, 7 NTSB 1247, 1249-50 (1991); Administrator v. Peterson, 6 N.T.S.B. 1306, 1307 n.8 (1989).

Shortly after the inspectors' visit and the discovery of the alleged violations, U.S. Airways terminated respondents' employment. After a brief period of time in which respondents and their employer engaged in a grievance process, U.S. Airways reinstated respondents' employment.<sup>30</sup> The Administrator issued the emergency orders that are the subject of this case on January 24, 2013. During this interim period of three years, respondents have been working as mechanics at U.S. Airways, and both have even served as inspectors for the Designated Quality Inspection Control Program ("DQC Program") at U.S. Airways since 2010.<sup>31</sup>

Concerning the Administrator's reason for the three-year delay, the Administrator's attorney mentioned in closing argument that the Administrator was contemplating other actions involving maintenance at U.S. Airways; it appears such other actions delayed the Administrator's pursuit of the cases against Respondents Tinlin and White.<sup>32</sup> The Administrator's brief, in reply to respondents' appeal, does not discuss the Administrator's purpose in waiting three years to take action against respondents' certificates.

### *3. Actual Prejudice*

Respondents assert they suffered actual prejudice as a result of the Administrator's lengthy delay in pursuing the cases against them. For example, respondents argue personnel at U.S. Airways' Pittsburgh maintenance facility have changed; therefore, they assert such changes have inhibited their ability to identify witnesses to testify in their defense about the culture of the maintenance department at U.S. Airways at the time of the alleged violations. If the

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<sup>30</sup> Exhs. R-26, R-27; Tr. 349.

<sup>31</sup> Tr. 355. Mr. Coleman explained U.S. Airways mechanics who serve as inspectors in the DQC program fulfill additional responsibilities and are paid more. Mr. Coleman described obtaining the status of a DQC inspector is considered an "upgrade." Tr. 352.

<sup>32</sup> Tr. 660.

Administrator had issued the orders shortly after the January 7, 2010 inspection, respondents likely would have been able to locate witnesses concerning whether U.S. Airways considered respondents conduct permissible in conducting the inspection.

Respondents also assert the FAA inspectors' notes from the March 4, 2010 interviews with respondents were discarded, and were necessary because discrepancies existed between the January 14 and March 4 interviews with respondents. Respondents also contend N705UW was returned to service and unavailable to respondents for inspection in preparation for their defense; respondents state, "[h]ad charges been timely brought, the very aircraft at issue could have been viewed by all parties."<sup>33</sup>

The Administrator contends respondents have not established they suffered actual prejudice. The Administrator acknowledges the inspectors' notes from the March 4, 2010 meeting were destroyed shortly after the meeting. The Administrator also disputes respondents' contentions that changes in personnel at U.S. Airways and their inability to review N705UW have prejudiced them; the Administrator asserts such arguments are based on speculation.

We find the Administrator's lengthy delay in pursuing the cases against respondents was prejudicial to respondents' defenses. At the hearing, some of the Administrator's witnesses' memories were understandably unclear, particularly with regard to the inspectors' interactions and conversations with respondents and the notes they took documenting the interactions.<sup>34</sup> In addition, the Administrator does not dispute respondents did not have an opportunity to review N705UW in preparation for their defense; in this regard, respondents raised an issue concerning the validity of the instructions on the job card, and whether the job card incorrectly identified

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<sup>33</sup> Appeal Br. at 24.

<sup>34</sup> Tr. 115, 120, 210, 417.

certain areas as having “rivets” that required inspection. We do not suggest every aircraft that is the subject of a certificate enforcement action under 14 C.F.R. part 43 must be indefinitely sequestered to allow for potential preparation of a defense. However, the passage of three years between the time the Administrator discovers a possible maintenance violation and the time the Administrator issues an order is a considerable delay, especially when aircraft are frequently repaired, returned to service, and subsequently unavailable. Respondents’ inability to view the aircraft at issue here precluded them from developing their defense concerning the validity of the instructions on the job card.

*B. Other Issues*

Having disposed of respondents’ appeal by determining the doctrine of laches precluded the Administrator from pursuing the cases against them, we do not reach the other issues respondents raised in their appeal. Our disposition of respondents’ appeal is based solely on the procedural issue of the Administrator’s delay in commencing this case.

**ACCORDINGLY, IT IS ORDERED THAT:**

1. Respondents’ appeal is granted; and
2. The law judge’s decision is reversed.

HERSMAN, Chairman, HART, Vice Chairman, and SUMWALT, ROSEKIND, and WEENER, Members of the Board, concurred in the above opinion and order.

UNITED STATES OF AMERICA  
 NATIONAL TRANSPORTATION SAFETY BOARD  
 OFFICE OF ADMINISTRATIVE LAW JUDGES

\* \* \* \* \*

In the matter of:

MICHAEL P. HUERTA,  
 ADMINISTRATOR,  
 FEDERAL AVIATION ADMINISTRATION,

Complainant,

v.

ROBERT D. TINLIN and  
 MICHAEL WHITE,

Respondents.

\* \* \* \* \*

Docket No.: SE-19421  
 SE-19422  
 JUDGE WOODY

Vol. 3

U.S. Tax Court  
 Moorhead Federal Building  
 Courtroom 1108  
 1000 Liberty Avenue  
 Pittsburgh, Pennsylvania

Friday,  
 March 1, 2013

The above-entitled matter came on for hearing, pursuant  
 to Notice, at 8:00 a.m.

BEFORE: STEPHEN R. WOODY  
 Administrative Law Judge

## APPEARANCES:

On behalf of the Administrator:

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On behalf of the Respondents:

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## ORAL INITIAL DECISION AND ORDERS

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ADMINISTRATIVE LAW JUDGE WOODY: All right. This is a proceeding under the provisions of 49 United States Code Section 44709 and the provisions of the Rules of Practice in Air Safety Proceedings of the National Transportation Board. This matter has been heard before this Administrative Law Judge, and as required by the Board's rules in emergency cases, I am issuing an Oral Initial Decision.

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Pursuant to notice, this matter came on for hearing on February 27, 2013 in Pittsburgh, Pennsylvania. The Administrator was represented by Christian Lewerenz, Esquire, and Jose Nieves,

1 Esquire, of the Eastern Region, Federal Aviation Administration.  
2 Respondents were represented by Mr. Jeffrey Bartos, Esquire, and  
3 Mr. Paul Knupp, III, Esquire. The parties were afforded full  
4 opportunity to offer evidence, to call, examine and cross-examine  
5 witnesses and make arguments in support of their respective  
6 positions.

7 I will not discuss all the evidence in detail. I have,  
8 however, considered all the evidence, both oral and documentary.  
9 That which I do not specifically mention is viewed by me as being  
10 corroborative or as not materially affecting the outcome of the  
11 decision.

12 The Respondents here, Mr. Robert E. Tinlin and Mr. Mark  
13 White, have appealed the Administrator's Emergency Order of  
14 Revocation that was dated January 24, 2013. Pursuant to the  
15 Board's Rules, the Administrator re-filed a copy of that order on  
16 February 7, 2013 with respect to each of these Respondents which  
17 serves as the complaint in these cases. The Administrator ordered  
18 the emergency revocation of Respondents' mechanics certificates  
19 with airframe and powerplant ratings based on Respondents'  
20 violation of Federal Aviation Regulation Section 43.12(a)(1); more  
21 specifically, Respondent Robert Tinlin was alleged to have made a  
22 fraudulent or intentionally false entry on a Job Procedure  
23 Card E2B53302 related to performance of a detailed visual  
24 inspection of keel beam side panel for aircraft, November-705-  
25 Uniform-Whiskey. Respondent Mark White was alleged to have made a

1 fraudulent or intentionally false entry on that same job procedure  
2 card related to removal and reinstallation of the yellow electric  
3 pump and yellow power accumulator in relation to an inspection of  
4 the keel beam side panel for that same aircraft, November-705-  
5 Uniform-Whiskey.

6           The Administrator moved for admission of Exhibits A-1  
7 through A-14, which were admitted into evidence without objection.  
8 Respondents' Exhibits R-4, 6, 7, 9, 15, 21, 28 to 31, 33, 36, 37,  
9 38 and 39 were admitted into evidence, some of which were admitted  
10 over the Administrator's objections. Exhibits R-8 and R-12 were  
11 not admitted into evidence. A number of other potential exhibits  
12 identified by the Respondents and the Administrator in prehearing  
13 submissions were not offered or admitted into evidence. So to the  
14 extent that there may be gaps in the numbers for the exhibits,  
15 that would explain the gaps in the numbers for the exhibits.

16           The Administrator presented testimony of Mr. David  
17 Kriznik, Mr. Klaus Ploschnitznig -- excuse me; I apologize if I  
18 mispronounce it -- and Mr. John Coleman. Mr. Kriznik is an  
19 assistant partial program manager for the FAA with U.S. Airways  
20 Certificate Management Office in Pittsburgh, has been employed by  
21 the FAA since 2006. He holds a mechanic's certificate with A&P  
22 rating since 1989. Prior to being employed by the FAA, he held a  
23 variety of aircraft maintenance-related positions including as  
24 plant mechanic, relief lead inspector, and as controller and  
25 maintenance control supervisor and manager. These positions were

1 with Northwest Airways, U.S. Airways and MidAtlantic Airways. In  
2 January of 2010, he was the assistant partial program manager, or  
3 APPM, for Airbus A319, 320 and 321 for U.S. Airways.

4 In January 2010, U.S. Airways had presented a plan to  
5 the FAA for escalating the interval between heavy inspections for  
6 the A319, 320 and 321 aircraft. From 72 to 80 months, Mr. Kriznik  
7 was involved in evaluating whether the proposed escalation could  
8 be accomplished with the aircraft making it to the next interval  
9 in safe and airworthy condition. As part of that evaluation, he  
10 was involved with sampling aircraft that met certain maintenance  
11 criteria to get a general feel for the condition of the aircraft.  
12 As part of that, Mr. Kriznik's office asked to sample several job  
13 procedure cards for aircraft N705UW currently undergoing  
14 maintenance. They requested all open job procedure cards. That  
15 included review of Job Procedure Card Number E2B53302.

16 The aircraft had been in the hangar approximately 15  
17 days before the sampling of the job procedure cards. With respect  
18 to Job Procedure Card E2B53302, Mr. Kriznik could tell the  
19 aircraft had not been cleaned because it was still covered with  
20 corrosive inhibiting compound. Mr. Kriznik went to the work booth  
21 to check the status of the job procedure card and learned it had  
22 been signed off up to the leak and function check.

23 In general, job procedure cards take instructions for  
24 continued airworthiness and maintenance tasks from the  
25 manufacturer; the job procedure card mirrors maintenance tasks and

1 steps to complete maintenance from the manufacturer. The aircraft  
2 maintenance manual is also available. The job procedure card may  
3 refer to the aircraft maintenance manual for instructions on  
4 certain tasks. The individual job procedure cards are not  
5 required to be approved by the FAA. A job procedure card may be  
6 changed by the carrier, here U.S. Airways, to comply with changes  
7 to the aircraft maintenance manual. The FAA ensures current  
8 aircraft maintenance manual, the current manual, is being used by  
9 maintenance personnel.

10           The PPM or assistant PPM has specific responsibility for  
11 oversight of aircraft manufacturer and/or models, for example,  
12 particular Airbus models. With respect to airworthiness  
13 directives, U.S. Airways has a specific team to evaluate and  
14 produce job procedure cards from those airworthiness directives.  
15 The airworthiness directives are issued by the FAA to correct  
16 unsafe conditions. Airworthiness directives are mandatory; that  
17 is, they have to be complied with. They must be followed as  
18 written. If one cannot comply fully with an airworthiness  
19 directive as written, then you can apply for an AMOC, or alternate  
20 means of compliance, which must be approved by the FAA.

21           Exhibit A-7 is the airworthiness directive pertaining to  
22 Airbus A319 and 320 keel beam side panel inspection for cracks.  
23 This airworthiness directive refers to the pertinent service  
24 bulletin for means of compliance. The service bulletin is issued  
25 by the manufacturer to provide notice of a problem and how to fix

1 it in order to address and correct maintenance discrepancies. A  
2 service bulletin is not mandatory unless made so by an  
3 airworthiness directive. Here, the service bulletin for the keel  
4 beam side panel inspection was made mandatory by an airworthiness  
5 directive. And the airworthiness directive incorporates by  
6 reference Service Bulletin A320-53-1060, Revision 1.

7           The keel beam itself is critical to the structural  
8 integrity of the aircraft. It runs the length of the aircraft.  
9 It is the backbone of the aircraft for structural support.  
10 Exhibit A-8 is a copy of the service bulletin referred to in the  
11 airworthiness directive. It is stamped "MANDATORY MANDATORY  
12 MANDATORY." It notes that during structural fatigue testing  
13 cracks have been found in keel beams. It includes a diagram for  
14 areas to be inspected. It also notes that if cracks were found  
15 structural integrity is lost. It provides repair guidelines to  
16 restore structural integrity. The service bulletin describes the  
17 need for a detailed visual inspection, or DVI, and specifies that  
18 a 10-power magnifying glass be used so as to look for minute  
19 cracks not visible to the naked eye.

20           Exhibit A-8 also includes preparation guidelines which  
21 are actions needed to properly configure the aircraft for  
22 inspection, that is, a checklist of items needed to be done prior  
23 to the DVI. These preparation tasks include removing a yellow  
24 electric pump and yellow power accumulator. Removal is to gain  
25 access to perform the inspection as described in the service

1     bulletin.

2                 Exhibit A-3 is Job Procedure Card Echo-2-Bravo-53302.  
3     That number is a unique identifier for keel beams side panel  
4     inspection. Mr. Kriznik testified his investigation found the  
5     area of the keel beam dirty and filthy. It did not appear to meet  
6     preparation guidelines for the inspection. Specifically, it still  
7     had corrosion inhibiting compound. After looking at the aircraft  
8     and observing that it was filthy, he went to retrieve the job  
9     procedure card before going back to the aircraft. At that point  
10    he reviewed the aircraft conditions in relation to the status of  
11    the job procedure card. At that point the only open item was  
12    hydraulic leak check, which is not unusual. Importantly, the job  
13    procedure card indicated the keel beam side panel inspection had  
14    been completed. Specifically, the job procedure card indicated  
15    the electric pump and accumulator had been removed as signified by  
16    Mr. White's stamp and employee number on the card.

17                There was also a stamp on the job procedure card  
18    indicating that the detailed visual inspection was done for both  
19    left and right sides by Mr. Tinlin as indicated by his stamp as  
20    DQC and his employee number. Also, the stamp in Item 4 indicated  
21    the pump and accumulator had been reinstalled by Mr. White per his  
22    stamp. Mr. Kriznik was not able to tell whether the pump and  
23    accumulator had been removed and reinstalled. They were installed  
24    when he observed them. He only observed that the area was not  
25    cleaned, and corrosive inhibiting compound was still there.

1           Based on his observations on January 14, 2010, he  
2 requested permission to interview four individuals, including the  
3 Respondents. He interviewed the Respondents on January 15. His  
4 January 15 interview, Mr. White focused on a different job  
5 procedure card than the one in issue here. He also interviewed  
6 Mr. Tinlin on January 15 with others, including a union  
7 representative, present. Handwritten notes from that interview  
8 were taken by Mr. Klaus Ploschnitznig. After the interview,  
9 Mr. Tinlin was given a chance to clarify anything that was in the  
10 notes. He observed Mr. Tinlin reviewing the document before  
11 signing it.

12           Mr. Tinlin signed the notes indicating his agreement.  
13 Mr. Ploschnitznig asked Mr. Tinlin if he wanted to go to the  
14 aircraft to demonstrate how he performed the detailed visual  
15 inspection, to which he agreed. Mr. Tinlin was initially unsure  
16 where the inspection area was on the job procedure card. He was  
17 permitted to retrieve a diagram from the aircraft maintenance  
18 manual and then able to locate the inspection area.  
19 Mr. Ploschnitznig repeatedly asked Mr. Tinlin if he could show  
20 exactly how and where he inspected the keel beam side panels.  
21 Mr. Ploschnitznig also eventually asked Mr. Tinlin to go get a  
22 light magnifying glass and mirror for purposes of the inspection.  
23 Mr. Tinlin tried to access the area by going around a pump. He  
24 stated it was very hard to do. The pump and accumulator were  
25 installed when Mr. Tinlin was trying to do this.

1           Mr. Tinlin did not say anything about being unable to do  
2 the inspection because the pump and accumulator were installed.  
3 He also did not address removing the pump or accumulator before  
4 inspecting.

5           The inspectors met with Mr. Tinlin again on March 4,  
6 2010. Mr. Tinlin confirmed that neither the pump nor accumulator  
7 had been removed for the inspection.

8           There was some confusion or conflict about whether the  
9 magnifying glass had been used. Initially, Mr. Tinlin indicated  
10 it had been but later made statements that drew that into  
11 question. Mr. White was also interviewed on March 4, 2010, and he  
12 also said the electric pump and power accumulator had not been  
13 removed to do the detailed visual inspection.

14           The interviews on March 4 were conducted by  
15 Mr. Ploschnitznig, Mr. Islar and Mr. Kriznik. Also present was  
16 Aviation Safety Technician Michelle Zutko (ph). Zutko was there  
17 only to take and type up interview notes. All the investigators  
18 were asking questions and taking notes as well. The  
19 investigators' handwritten notes and Ms. Zutko's notes were also  
20 reviewed and compiled into one sequential set of notes. Those are  
21 Exhibit A-6 and A-9 respectively. The final product was signed by  
22 Mr. Ploschnitznig, Mr. Islar and Mr. Kriznik. Mr. Kriznik could  
23 not recall if there were material differences between Ms. Zutko's  
24 notes and what ultimately was prepared. When he signed A-6 and  
25 A-9, he also reviewed Ms. Zutko's notes which are at Exhibit R-39.

1           The interviews were in response to Respondents' request  
2 after receiving letters of investigation that were dated February  
3 4, 2010. At one point during the interview, Mr. White said he  
4 understood that you have to go to engineering if you need or want  
5 to deviate from the job procedure card. The MPPM clearly states  
6 that you have to get permission for any deviation. In this case,  
7 since there was a controlling airworthiness direction, the company  
8 would have to request an AMOC. Neither Mr. White or Mr. Tinlin  
9 sought any permission to deviate or sought an AMOC. Mr. White  
10 said he stamped the job procedure card indicating the pump and  
11 accumulator had been removed and reinstalled. He conceded there  
12 was nothing confusing about the job procedure card. Mr. White was  
13 not sure how Mr. Tinlin did the inspection or could without the  
14 pump and accumulator removed. Mr. White also indicated he had  
15 done the keel beam side panel inspection job before and did  
16 remember seeing the pump on the ground.

17           During the March 4 interview, Mr. Tinlin was given a  
18 chance to review his prior statement. He admitted the pump and  
19 accumulator needed to be removed. He also said he could do an  
20 adequate inspection around the pump and accumulator. Mr. Tinlin  
21 said he thought he could find the answer in the airworthiness  
22 directive. He was given an opportunity to review the  
23 airworthiness directive. He did at one point say that he used a  
24 magnifying glass. However, later questions were raised about  
25 whether he actually used it. He noted that the airworthiness

1 directive used the term "may" in reference to the magnifying  
2 glass.

3           Mr. Tinlin was given a copy of the service bulletin to  
4 review. He indicated he had not seen it before. Mr. Tinlin did  
5 say everything on the service bullet and job procedure card was  
6 clear. Mr. Kriznik did not recall Mr. Tinlin identifying any  
7 ambiguities on the service bulletin or the job procedure card.  
8 Mr. Tinlin agreed that the 10-power magnifying glass should be  
9 used for the DVI. He also confirmed in his earlier interview that  
10 the stamp on the job procedure card for the detailed visual  
11 inspection was his. Mr. Kriznik could not recall if Mr. Tinlin  
12 discussed procedures that would permit deviation from the job  
13 procedure card. Mr. Tinlin stated the pump and accumulator were  
14 not removed because of pressure exerted on maintenance to get jobs  
15 done quickly.

16           On cross-examination, Mr. Kriznik agreed that he had not  
17 personally done a DVI of the keel beam side panel of an Airbus  
18 A319. He could not recall being at eye level with the keel beam  
19 side panel. It is roughly 2½ feet from eye level to the keel beam  
20 side panel when standing under the aircraft on the ground.  
21 Mr. Kriznik indicated that it does happen that airlines have  
22 mistakes on job procedure cards. U.S. Airways has procedures for  
23 employees to try to correct job procedure cards.

24           Exhibit A-3 is the job procedure card for compliance  
25 with service bulletin 2004-13-6. Page 1 of Exhibit A-3 is not

1 stamped or marked in the "accomplished by" blank. An engineering  
2 order is created by engineering to address how to accomplish a  
3 particular task. An EO can go to a specific fleet or engine.  
4 Exhibit A-3 could be an engineering order also. Exhibit A-3 is  
5 only stamped completed through Item 4-D. In the overall, job  
6 procedure cards remained open when collected from U.S. Airways.  
7 It is normal to see a job procedure card in such a status at the  
8 point that it was provided. U.S. Airways has to keep the job  
9 procedure card open until it is 100 percent complete.

10 On the job procedure card up through Item 3-A, there is  
11 nothing to indicate either Respondent was certifying the other's  
12 work. Each certified his own work.

13 There are some tasks on job procedure cards that have to  
14 be done in sequence. Mr. Kriznik was not sure if that is the case  
15 with removal and/or reinstallation of the pump and accumulator.

16 The inspection area between Frame 40 and Frame 42 is  
17 approximately 4 feet. On this aircraft, one side contains a  
18 yellow electric pump and accumulator. The other side contains a  
19 blue accumulator. On the right-hand side, there are some  
20 electrical and hydraulic lines also in the area. The air  
21 conditioning pack exhaust is also near the inspection area. The  
22 job procedure card does not call for removal of those items for  
23 inspection. Evidence was that the pump and the accumulator were  
24 not removed. Neither Mr. White or Mr. Tinlin said Mr. Tinlin did  
25 not do the inspection.

1           On January 15, 2010, Mr. Tinlin was called into a  
2 meeting at 6:40 a.m. which was at the completion of his  
3 nightshift. The interview had been discussed with Mr. Michner the  
4 prior day on January 14. Some U.S. Airways representatives were  
5 also present for that meeting. Mr. Kriznik agreed that he had  
6 used the term "filthy mess" to describe the aircraft in earlier  
7 testimony. He would describe the keel beam side panel area as  
8 dirty with corrosive inhibiting compound, and there were areas  
9 around the keel beam inspection area that were filthy with grime.  
10 Photos were taken on January 14 and 15. Afterwards, photos were  
11 reviewed and assembled in the enforcement package.

12           Only Mr. Tinlin went into the inspection area of the  
13 keel beam side panel. Neither Mr. Kriznik nor Mr. Ploschnitznig  
14 were at eye level. Both were standing on the ground behind and  
15 about 2½ feet below Mr. Tinlin. Mr. Ploschnitznig asked  
16 Mr. Tinlin to show what he had done in inspecting and how he had  
17 gotten to the area. Mr. Tinlin said it was tough to do the  
18 inspection with the pump and accumulator in the way. Exhibit A-5  
19 uses the words "very difficult." Mr. Kriznik recalls there being  
20 several descriptive terms used. He agreed there are lots of tough  
21 jobs for an A&P mechanic. He did not record Mr. Tinlin saying the  
22 inspection could not be done.

23           The photo at Exhibit A-13, page 7, appears to be from  
24 below the pump. Exhibit A-13-11 is a photo of part of the keel  
25 beam inspection area. This area looks clean enough to do an

1 inspection. Mr. Kriznik does not know how much clearance there is  
2 between the pump and the ceiling to do an inspection. Other  
3 photos show the AC pack exhaust and the electrical wiring and  
4 conduit which all stay in the aircraft during inspection. The  
5 keel beam side panel inspection was re-accomplished by U.S.  
6 Airways, and no cracks were found.

7           Exhibit A-6 is a compilation of notes from the March 4,  
8 2010 interview. Mr. Islar, Mr. Ploschnitznig himself were present  
9 and taking handwritten notes. Ms. Zutko was also present and did  
10 typewritten notes which are at Exhibit R-39.

11           Mr. Kriznik is not sure why there are differences  
12 between Ms. Zutko's typed notes and the final version of  
13 Exhibit A-6; perhaps someone else had different notes. Ms. Zutko  
14 was not in the meeting when the compilation was done, and no one  
15 went to ask her for clarification.

16           The airworthiness directive on its face does not say  
17 anything about removing the pump and accumulator; however, it does  
18 incorporate and refer to the service bulletin which a mechanic can  
19 obtain through engineering. U.S. Airways policies permit some  
20 inspection through corrosive inhibiting compound, especially now  
21 with the change to salmon-colored compound. Corrosive inhibiting  
22 compound was not salmon colored at the time of this inspection.  
23 At any rate, according to the job procedure card, the area was  
24 required to be cleaned before inspecting.

25           The hydraulic leak test had not been performed when

1 Mr. Kriznik picked up the job procedure card in question but  
2 inspection task had been completed. There was no indication  
3 Mr. White or Mr. Tinlin were going to go back and re-accomplish  
4 the task previously stamped. There's no discussion in the  
5 interviews or otherwise during the investigation to suggest they  
6 were going to redo the task. But for the investigation, the card  
7 would have remained the same. U.S. Airways has an engineering  
8 group that is available 24/7 to handle line maintenance issues.

9           Next, Mr. John Coleman testified that he is presently  
10 the chief inspector and director of quality control for U.S.  
11 Airways, a position he's held since 2005. He has responsibility  
12 for overseeing inspections and delegated quality control duty  
13 performance. Delegated quality control I'll refer to as DQC. His  
14 duties include regulatory compliance, aircraft inspections and  
15 individual qualifications. He reports to the managing director.  
16 Mr. Coleman is acquainted with both Respondents. He first met  
17 them in approximately 2003 when they were inspectors, and he was  
18 their supervisor. He supervised them in 2003 and 2004. He has no  
19 prior or current social relationship with Mr. Tinlin. He  
20 previously had a social relationship with Mr. White but no longer  
21 has one.

22           Inspectors are full-time positions while DQC designees  
23 are part-time. DQCs are mechanics that perform inspection tasks  
24 when needed. Inspectors receive more detailed and extensive  
25 training and are paid slightly more.

1           Mr. Coleman learned that Respondents were charged with  
2 FAR violations through FAA communication, then later during the  
3 disciplinary process. Respondents were originally terminated then  
4 later through the grievance process were reinstated. Mr. Coleman  
5 is familiar with job procedure cards in general and has reviewed  
6 Job Procedure Card Echo-2-Bravo-53302. This job procedure card  
7 contains instructions to perform tasks and the means to sign off  
8 on tasks. Engineering orders are issued by the engineering  
9 department for performance of tasks. The reference to AD on the  
10 card means there is an airworthiness directive associated with the  
11 card. An airworthiness directive is issued by the FAA and is  
12 mandatory to perform. At U.S. Airways, all ADs are reviewed by  
13 the AD configuration group.

14           Mr. Coleman is not aware of or had any error on this job  
15 procedure card brought to his attention. If there is an error, it  
16 could be brought to the supervisor and changes made. A Form  
17 ME0022 is the form used to seek alteration of a job procedure  
18 card. He is not aware of either Respondent seeking to change the  
19 job procedure card.

20           On the job procedure card, the mechanic stamps the tech  
21 column when he accomplishes a task. He could use either a stamp  
22 or a signature. Stamps are controlled by a department and are  
23 different shapes. Mechanics' stamps are round and have their  
24 employee number inside. There is never an employee number  
25 assigned to more than one person.

1           On Job Procedure Card Echo-2-Bravo-53302, Item 2(I) and  
2   2(J) are stamped indicating the tasks, which are removal of  
3   electric pump and accumulator, were completed. That is Mark  
4   White's stamp. Those items were removed for access to perform  
5   inspection on the structure. Item 3(A), the detailed visual  
6   inspection, has to be completed by the inspection department,  
7   either an inspector or a DQC. The stamp indicates it was  
8   performed by Robert Tinlin. DQC is handwritten because he does  
9   not have a separate inspector's stamp. Item 4(A) and 4(B),  
10   installation of the pump and accumulator, are stamped completed by  
11   Mark White.

12           U.S. Airways currently has no procedure to accomplish  
13   the inspection without removal of the pump and accumulator. If  
14   deviation is needed, it would have to be through an engineering  
15   authorization, or EA. None was requested or granted. Any  
16   deviation has to be through an EA. If one deviates from the  
17   detailed visual inspection, he would also need an EA. The job  
18   procedure card says use a 10-power magnifying glass. There is no  
19   reason to believe the detailed visual inspection can be  
20   accomplished without using the magnifying glass.

21           Job procedure card is to detect cracks in the keel beam  
22   side panel because if cracks are present there, this indicates a  
23   failure of a structural member. This could lead to overall  
24   failure of the aircraft structure. Exhibit A-3, page 7, indicates  
25   the job procedure card is in progress, remaining tasks are

1 operational checks, and the process is not yet to the point where  
2 ops checks would be done. It is fair to say that stamped entries  
3 are complete. The job procedure card is laid out in sequential  
4 order, and that is how it's accomplished. U.S. Airways re-  
5 accomplished this inspection when a discrepancy was brought to its  
6 attention. The detailed visual inspection was performed after  
7 removal of the pump and accumulator. There is no tolerance at  
8 U.S. Airways for stamping the job procedure card if the work is  
9 not accomplished.

10           At the time of this incident, both men had A&P mechanics  
11 certificates. Although Mr. Coleman is an A&P mechanic, he has not  
12 accomplished the work on the job procedure card in issue. He has  
13 observed others perform the work, and that was during the re-  
14 inspection in this case. It took approximately two shifts to  
15 accomplish the work. To the best of his knowledge, the blue  
16 accumulator and pump were in place on the other side during the  
17 re-inspection.

18           Photos at Exhibit A-13, page 11 depict Hi-Loks. These  
19 are similar in function to rivets but are not rivets. He assumes  
20 the Airbus aircraft maintenance manual differentiates between  
21 rivets and Hi-Loks.

22           U.S. Airways provides a 10-power magnifying glass to its  
23 mechanics. Mechanics can use their own magnifying glass. He is  
24 not aware of any telescoping magnifying glass or any magnifying  
25 mirrors.

1           Mr. Coleman became aware of this incident through the  
2   FAA letter of investigation. He was involved in the evaluation of  
3   the problem and comprehensive fix going forward. The problem was  
4   accomplishment of the inspection without removal of the pump and  
5   accumulator. The fix was counseling and training on pump and  
6   accumulator removal, and termination of the employees.

7           The LOI or letter of investigation at U.S. Airways or to  
8   U.S. Airways is Exhibit R-37, and that is the initial one. There  
9   have been several iterations. Mr. Coleman was involved in  
10  preparation of a response to the LOI. He provided an opinion on  
11  what the problem was and how it could be corrected. There  
12  currently are no procedures to deviate from the job procedure  
13  card. Mr. Coleman does not believe that it was a practice by  
14  mechanics in 2010 to deviate from job procedure cards.

15          Mr. Coleman saw the re-inspection which he believes was  
16  performed by an inspector. He personally observed removal of the  
17  pump and accumulator, and that was the only part of the inspection  
18  that he observed. He did see people in the inspection area but  
19  did not actually witness the inspection.

20          When using a magnifying glass, a glass is typically  
21  within 10 to 12 inches of an individual's face and close to the  
22  object to be inspected.

23          Mr. Tinlin has worked for U.S. Airways since 1980 and  
24  Mr. White since 1987. Neither was disciplined for performance  
25  issues prior to termination on January 25, 2010 related to this

1 incident. Both were reinstated on February 5, 2010. Prior to  
2 this incident, neither had been disciplined to his knowledge.  
3 Neither has been subject to enforcement action before or after  
4 this incident. Both are working as full-time mechanics since  
5 February of 2010, and both are performing DQC duties. Both men  
6 have also previously served as full-time inspectors.

7           Mr. Coleman is responsible for appointing DQCs. He can  
8 also revoke DQC designation whenever he deems necessary and has  
9 done so in the past. Both Respondents have been DQCs since being  
10 reinstated in February 2010. He recently revoked both  
11 Respondents' DQC status because he could not confirm the status of  
12 their A&P certificates. The FAA website advises to "check with  
13 the Administrator" on the status of their A&P license. The FAA  
14 did not recommend that he revoke or not designate either  
15 Respondent as a DQC. Until recently, neither Respondent has had  
16 his DQC status revoked.

17           Mr. Coleman was not involved in Respondents'  
18 disciplinary process, did not attend a disciplinary hearing and  
19 was not involved in the settlement process.

20           Next, Mr. Klaus Ploschnitznig testified, testified that  
21 he is the FAA's partial program manager for U.S. Airways Airbus  
22 A319, 320 and 321 and with the Certificate Management Office here  
23 in Pittsburgh. He was previously the PPM for U.S. Airways Boeing  
24 757. He's been employed by the FAA since 1989 and has served in a  
25 variety of positions. Prior to being employed by the FAA, he was

1 an avionics systems technician for four years on active duty in  
2 the United States Air Force and for four years after leaving the  
3 Air Force. He was recognized as an expert in fields of air  
4 carrier continuous airworthiness maintenance program and  
5 maintenance programs and policies.

6 Mr. Ploschnitznig indicated the keel beam is a primary  
7 structural component of the aircraft in issue with the keel beam  
8 box receiving significant stress. Job procedure card is stamped  
9 with the initials AD, which stands for airworthiness directive.  
10 He's seen that stamp on other job procedure cards as well. He  
11 indicated the airworthiness directive and the service bulletin  
12 make the detailed visual inspection mandatory. A DVI is defined  
13 in the airworthiness directive and also U.S. Airways Maintenance  
14 Policy and Procedures Manual, or MPPM. The job procedure card  
15 called for a 10-power magnifying glass as a detailed visual aid.  
16 He assumes the use of a magnifying glass is because the  
17 manufacturer wants to be sure even the most minute cracks can be  
18 discovered. He has used the magnifying glass. He saw other  
19 witnesses use the magnifying glass and agrees with those  
20 demonstrations which require the individual to be in close  
21 proximity to the glass and the area under observation.

22 Mr. Tinlin demonstrated how he inspected the keel beam  
23 side panel area, and Mr. Ploschnitznig asked if he had a  
24 magnifying glass. Mr. Tinlin took a loupe from his toolbox and  
25 showed it to the investigator. A loupe is similar to what a

1 jeweler uses to view gemstones and is required to be very near the  
2 user's eye socket and the object being observed.

3 Mr. Ploschnitznig has not used the loupe in aviation context but  
4 has done so in other situations. He has personally observed the  
5 keel beam side panel inspection area. He does not believe the  
6 loupe could be used with the pump and accumulator installed  
7 because you can't get close enough. Based on his observations  
8 with the pump and accumulator installed, a magnifying glass could  
9 be used to view part but not all of the inspection area. Based on  
10 his observation, he could not get access to the inspection area  
11 over the top of the pump. He could barely get his fist in there.  
12 He could not see or access the entire area of inspection.

13 Regardless, the airworthiness directive requires removal of the  
14 pump and accumulators to do the detailed visual inspection. Other  
15 than Respondents, no other source indicated that you can do the  
16 detailed visual inspection without removing the pump and  
17 accumulator.

18           According to Mr. Coleman's testimony, the re-inspection  
19 of the keel beam side panel area with removal of the pump and  
20 accumulator took at least 16 hours. There is no evidence that  
21 U.S. Airways advised Respondents not to do job procedure card  
22 steps because they saved time or money. The job procedure card is  
23 the only approved means of compliance with the airworthiness  
24 directive at U.S. Airways.

25           Mr. Ploschnitznig interviewed Mr. Tinlin twice.

1 Mr. Tinlin said he and Mr. White researched the Internet to find  
2 the airworthiness directive. During the March 4, 2010 interview,  
3 Mr. Tinlin presented the airworthiness directive and said it  
4 indicated that you, quote, "may use 10-power magnifying glass."  
5 Thus, he didn't think it was mandatory. Mr. Tinlin never  
6 indicated any difficulties or confusion with the job procedure  
7 card or that he or Mr. White made any attempts to change the job  
8 procedure card. Mr. Ploschnitznig assumes that as a long-term A&P  
9 mechanic since 1980 that Mr. Tinlin would be familiar with job  
10 procedure cards. He assumed the same about Mr. White based on his  
11 lengthy experience.

12           During the March 4, 2010 interview of Mr. White,  
13 Mr. Ploschnitznig asked him where does the Maintenance Policies  
14 and Procedures Manual or other U.S. Airways process say to go to  
15 the FAA website to inquire about an airworthiness direction? Now  
16 Mr. White indicated Mr. Tinlin thought he could do the detailed  
17 visual inspection without removing the pump or accumulator.  
18 Mr. White also indicated he knew he needed to seek engineering  
19 approval for any deviation from the job procedure card.

20           During his March 4 interview, Mr. Tinlin said he thought  
21 he could do the detailed visual inspection without removing the  
22 pump and accumulator. He also said he should have removed the  
23 pump, and it was a mistake.

24           When Mr. Ploschnitznig spoke with Mr. Tinlin on  
25 January 15, he asked Mr. Tinlin to describe what he did during the

1 inspection. He also gave Mr. Tinlin an opportunity to demonstrate  
2 at the aircraft. At first, Mr. Tinlin was somewhat confused and  
3 vague, just indicating that he did the whole thing. Then he got a  
4 station diagram, and after some additional consideration, he was  
5 able to point to the area of the keel beam. Mr. Tinlin was asked  
6 to show exactly how he did the inspection. He got a stool or  
7 something to elevate him to approximately eye level and  
8 demonstrated by reaching around the pump. He said, "It's tough  
9 but you can do it." Mr. Ploschnitznig asked if Mr. Tinlin had a  
10 magnifying glass, and he went through his toolbox and retrieved a  
11 loupe. Mr. Tinlin also indicated this was the first time he had  
12 done the inspection.

13           Exhibit A-12 is another job procedure card for the same  
14 task. Mr. Tinlin signed off on the task on this job procedure  
15 card as well. Only Mr. Tinlin's stamp is on tasks indicating that  
16 he removed the pump and accumulator. That job procedure card was  
17 completed in late October 2009.

18           Mr. Ploschnitznig is not aware of any attempt by  
19 Mr. White or Mr. Tinlin to change the job procedure card. When  
20 Mr. Ploschnitznig went into the keel beam area to observe the  
21 inspection areas, he was not quite at eye level because the  
22 aircraft was on jacks. Even so, the ceiling of the wing structure  
23 would prevent getting his eyes over the top of the pump to see the  
24 entire inspection area. There is not enough clearance.

25           Photos at Exhibit A-13 were taken on January 14 and 15,

1 2010. Most, if not all, were taken by Mr. Ploschnitznig and  
2 before the re-inspection was accomplished by U.S. Airways.  
3 Mr. Ploschnitznig described photos with the yellow pump and  
4 accumulator installed. He identified areas with corrosive  
5 inhibiting compound that would have to be cleaned in order to do  
6 the detailed visual inspection. He noted that he could barely put  
7 his hand behind the pump and could not get close enough to use a  
8 magnifying glass. Even if he did not use a magnifying glass, he  
9 was not able to see the entire inspection area. He noted that he  
10 could see the upper portion of the inspection area but not the  
11 entire area. There are some photos where the camera was elevated  
12 into the area, but Mr. Ploschnitznig indicated he could not have  
13 placed his head there. The photo at Exhibit A-13, page 11, does  
14 show an area that is more accessible than some others. He could  
15 see many of the fasteners in this area. Exhibit A-13-12 shows an  
16 inspection area that is not obscured but requires cleaning of  
17 corrosive inhibiting compound before inspection could be done.

18           Exhibit A-5 is handwritten notes prepared  
19 contemporaneously with the interview of Mr. Tinlin on January 15,  
20 2010. Mr. Tinlin was given an opportunity to review the notes.  
21 He had no questions, and there was no discussion before Mr. Tinlin  
22 signed it.

23           In Mr. Ploschnitznig's opinion, the job procedure card  
24 was not accomplished as directed on the card by either Mr. White  
25 or Mr. Tinlin. Similarly, he is of the opinion that the mandatory

1     airworthiness directive, as described in the job procedure card,  
2     was not complied with by either Mr. White or Mr. Tinlin. The job  
3     procedure card does not call for removal of the blue pump or  
4     accumulator, wire harness or the hydraulic filter.

5     Mr. Ploschnitznig did not witness the re-inspection by U.S.  
6     Airways and was not there for the original inspection.

7             Mr. Ploschnitznig recalls his meeting with Mr. Tinlin on  
8     January 15, 2010. It began in the office, and then they went to  
9     the aircraft. At the aircraft, Mr. Ploschnitznig asked Tinlin to  
10    show him the areas inspected. He did not expect Mr. Tinlin to do  
11    a full-blown inspection. It was not intended as a test.  
12    Mr. Tinlin did not use a magnifying glass when demonstrating, and  
13    Mr. Ploschnitznig did not expect him to.

14            Mr. Ploschnitznig indicated the fasteners behind the  
15    accumulator pressure gauge were approximately 1 to 1½ inches  
16    apart, which is not easily seen in photograph at Exhibit A-13,  
17    page 4. The area behind the gauge is also tight. Photo Exhibit  
18    A-13, page 11, shows an area that looks pretty clean.  
19    Mr. Ploschnitznig would estimate approximately five inches from  
20    the ceiling to the top of the pump. The photo in Exhibit R-15 is  
21    of the same general area except in a different aircraft, a Model  
22    A321, and taken just recently. The inspection area depicted in  
23    Exhibit A-13, page 11, continues just below the area visible in  
24    the photo, just above the base of the elliptical cutout. When  
25    Mr. Ploschnitznig took the photos, his body was not as high as it

1    could be, partly limited by his height on the ladder.  There were  
2    no findings from the re-inspection of the keel beam side panel by  
3    U.S. Airways.

4               Mr. Ploschnitznig concluded in January 2010 that the job  
5    procedure card was not complied with.  He gathered facts and  
6    communicated to principal inspectors.  He prepared PowerPoint  
7    slides and presented those on approximately January 20, 2010.  
8    Unbeknownst to him, prior to the first presentation, the U.S.  
9    Airways representative was also present in Phoenix with his  
10   assistant office manager during the presentation.  He was  
11   surprised by that.  The photos and the slides were designed to  
12   give an opportunity to focus on potential problems, not to  
13   assemble evidence for an enforcement investigative file.

14              Mr. Ploschnitznig completed the enforcement  
15   investigative report and forwarded to original counsel sometime in  
16   2010, after March.  Office policy is to try to complete the EIR  
17   within 45 days of discovery, which would have been in January  
18   2010.  Mr. Ploschnitznig had the photo at Exhibit A-13, page 11,  
19   at the time that he assembled the PowerPoint, but it was not  
20   included in the slideshow.  That was not because it showed the  
21   area was clean and the inspection could be done.  The slideshow  
22   focused on various issues, not just on the keel beam side panel  
23   inspection.  He is aware of FAA enforcement manual provisions that  
24   direct use of photos that are fair and accurate.

25              In the three years since the incident in question,

1 Respondents have continued to work as mechanics and perform DQC  
2 duties. During that time, Mr. Ploschnitznig is not aware of any  
3 other enforcement actions against either of them. He has not  
4 spoken with U.S. Airways about why they're still performing DQC  
5 duties, but that is not something he would normally be involved  
6 in.

7 U.S. Airways did take action, but ultimately the  
8 Respondents were reinstated. Exhibit A-12 is keel beam side panel  
9 inspection on different aircraft. The inspection is the same, but  
10 the job procedure card is different in some respects. Item 5-A on  
11 the detailed visual inspection contains different language from  
12 the job procedure card at Echo-2-Bravo-53302. There are some  
13 mistyping and language left off which could have resulted in a  
14 detailed visual inspection not being completed correctly and  
15 completely.

16 In interviews with Mr. Tinlin in January and March, he  
17 indicated he did the detailed visual inspection. Even though the  
18 job procedure card at Exhibit A-12 was different, neither  
19 Mr. Tinlin nor Mr. White raised an issue about inspecting Area A  
20 as well as Area B or being confused by the form.

21 Aviation is a trust-based system. Inspection is not  
22 tangible. It only becomes tangible when the tech stamps the job  
23 procedure card certifying that he did the task assigned. The FAA  
24 trusts airmen to do the job honestly and completely. He does not  
25 believe that Exhibit R-21 is an accurate representation of an

1     Airbus Model A319.

2             Respondents presented testimony of Mr. Blaine Smith,  
3     Mr. John Goglia and also called Mr. John Coleman as a witness  
4     whose testimony I previously summarized. Mr. Smith testified that  
5     he presently is a lead mechanic for U.S. Airways, a position he's  
6     held since 2001. He's previously been a mechanic and inspector  
7     and has been employed by U.S. Airways for 32½ years. As a lead  
8     mechanic, he hands out job cards to his crew and manages  
9     paperwork. He's also performed tasks as a mechanic and inspector  
10    in the past. He works dayshift in a different hangar than the  
11    Respondents who work nightshift. He is familiar with the job  
12    procedure card at Exhibit A-3. He's assigned work using the  
13    document in 2008. He advised U.S. Airways of the need to reverse  
14    the order of tasks for reinstalling the pump and accumulator to  
15    make the task more easily accomplished. He talked to his  
16    production foreman, and no changes have been made to date.

17            Mr. Smith recalls a meeting in 2009 with Gary Spina,  
18    former director of heavy maintenance. The meeting was conducted  
19    in hangar 5 for all maintenance personnel on dayshift. Mr. Spina  
20    indicated if the work was not completed quicker, then the  
21    maintenance function at Pittsburgh may be eliminated. Mr. Spina  
22    left U.S. Airways in mid 2010. Since that time, paperwork  
23    compliance has improved with a new system, better tracking and  
24    mandatory compliance meetings.

25            Exhibit R-15 and R-21 are photos from two weeks ago of

1 the keel beam side panel area in an Airbus Model A321. R-15 shows  
2 the yellow pump and keel beam panel. You can see the inspection  
3 area from the job procedure card. You can also see the inspection  
4 area in Exhibit R-21.

5 Mr. Smith is not and has never been a lead mechanic for  
6 the Respondents. He does not work the same shift as Respondents.  
7 The meeting with Mr. Spina was for daylight crew and not night.  
8 Mr. Smith is not now an inspector and was not in January 2010. He  
9 did not assign, observe or oversee any work completed on the job  
10 procedure card at Exhibit A-3. He has supervised and observed  
11 completion of tasks on similar job procedure cards while mechanics  
12 under his supervision remove the pump and accumulator because  
13 that's what the job procedure card directs. Exhibit A-3 is made  
14 mandatory under an airworthiness directive.

15 A stamp on the job procedure card means work is  
16 complete. If he did not complete a task, he would not put his  
17 stamp on it. That applies to removal of the pump and accumulator,  
18 performance of detailed visual inspection, and installation of the  
19 pump and accumulator.

20 Mr. Smith has also seen the service bulletin applicable  
21 to this airworthiness directive and job procedure card. He asked  
22 for and received it from engineering. Engineering is available  
23 24/7.

24 A mechanic has no discretion but to perform tasks on the  
25 job procedure card. U.S. Airways does not have a policy to stamp

1 a card if the procedure is not done. U.S. Airways does not expect  
2 you to falsify documents. During the meeting with Mr. Spina, he  
3 did not say to falsify job procedure card tasks. The meeting was  
4 about meeting standards. Although a mechanic is supposed to  
5 legally stamp a card only when a task is complete, sometimes  
6 individuals do jobs through experience and common sense.

7           Next, Mr. John Goglia was called to testify and  
8 testified that he's presently self-employed as an aviation safety  
9 consultant. He has an extensive history as an A&P mechanic  
10 beginning in 1969. He's worked for several air carriers in  
11 maintenance-related positions, including U.S. Airways, but not  
12 since 1995. At that time, he was appointed a member of the  
13 National Transportation Safety Board and served for two terms.  
14 His background includes teaching and writing in the area of  
15 aviation safety and service on a number of committees addressing  
16 aircraft maintenance documentation issues. His background and  
17 experience are more fully set forth in his CV at Exhibit R-4. He  
18 was recognized as an expert in the field of aviation safety and  
19 maintenance, including air carrier maintenance and inspections,  
20 practices and procedures, and FAA and industry efforts to deal  
21 with maintenance-related issues.

22           He has not conducted any inspections on Airbus aircraft  
23 because U.S. Airways did not have any during his time there. He  
24 has inspected the keel beam of Boeing aircraft most recently in  
25 1990 or '91. Mr. Goglia has not overseen maintenance of Airbus

1 aircraft, including keel beam side panel inspections, nor has he  
2 observed a keel beam side panel inspection on an Airbus aircraft.

3 He is familiar with job procedure cards, and in his time  
4 at U.S. Airways he helped develop some. A job procedure card is a  
5 task document with step-by-step guidance for completing tasks. A  
6 job procedure card must be accepted but not approved by the FAA.  
7 There is no requirement to vet or test a job procedure card before  
8 deploying it. He is not aware of any vetting process for job  
9 procedure cards at U.S. Airways.

10 Many originate in the engineering department without  
11 input from personnel on the maintenance floor. Oftentimes, this  
12 results in a workaround for tasks that can't be performed on the  
13 card as written. With a workaround, individuals take the intent  
14 of the card and work to accomplish the task. Human factors can  
15 also factor in. Norms, which he also referred to as, "the way we  
16 do it around here," can develop. Once a small workaround is  
17 allowed by management, it starts to spread to larger issues, and  
18 major items may be ignored. Exhibit R-30 is a FAA Team bulletin.  
19 Its intended audience is certificate holders. This bulletin  
20 addresses incorrect maintenance manual procedures.

21 Mr. Goglia is familiar with detailed visual inspections.  
22 A detailed visual inspection requires gaining access and often  
23 supplemental lighting or equipment. In some cases, a detailed  
24 visual inspection requires judgment.

25 The purpose of a job procedure card is almost always

1 specified on the front. Mechanics want to understand why they are  
2 doing a task. If a job procedure card contains unnecessary tasks,  
3 a typical response is to devise a workaround. The purpose of the  
4 job procedure card in Exhibit A-3 is to conduct a detailed visual  
5 inspection of keel beam side panel.

6 In preparation for the hearing, Mr. Goglia was able to  
7 review two Airbus A321 aircraft. He did so at the U.S. Airways  
8 maintenance hangar. On the first, he viewed the keel beam area  
9 looking up from the floor. On the second, he was able to climb on  
10 the stand and into the keel beam side panel inspection area. He  
11 measured the distance from the ceiling to the top of the electric  
12 pump as seven inches. He was able to get his head into that area  
13 and see the inspection areas. The job procedure card discusses  
14 inspecting rivets, but there are very few rivets in that area.  
15 There are numerous other fasteners. Airbus has extensive  
16 discussions in its aircraft maintenance manual about rivets and  
17 other fasteners. He did not see rivets behind the pump. In his  
18 opinion, he could do a detailed visual inspection of the  
19 inspection area with the pump and accumulator installed. That  
20 opinion is based only on his observation two days ago of the A321  
21 aircraft.

22 Mr. Goglia never interviewed or spoke to any real extent  
23 with the Respondents. He read notes of their interviews in  
24 preparation for the hearing. He also reviewed exhibits. He also  
25 did not interview U.S. Airways management or employees. None of

1 the witnesses or interview notes raise an issue related to rivets  
2 or fasteners. When Mr. Goglia assessed the aircraft, he did not  
3 use a loupe or a magnifying glass. The job procedure card says a  
4 magnifying glass must be used for a detailed visual inspection.  
5 When he opined that he could do a detailed visual inspection, he  
6 did not use a magnifying glass or loupe in coming to that opinion.

7           Mr. Goglia never reviewed the keel beam side panel area  
8 in an A319 aircraft or in aircraft tail number November-705-  
9 Uniform-Whiskey in particular. He can't say fasteners are in the  
10 same location on the aircraft in question or that the area is  
11 configured the same.

12           Mr. Goglia is not recommending that it is okay to make  
13 an entry on a job procedure card saying work was performed when it  
14 was not. He agrees a job procedure card is the means of  
15 compliance to complete the airworthiness direction, and it is not  
16 okay not to perform steps in completing the job procedure card.  
17 Respondents never told Mr. Goglia they were doing a workaround or  
18 that they were working the intent of the card, so he has no idea  
19 about those things. He also did not talk to U.S. Airways  
20 representatives to gather specific information about the culture  
21 there.

22           Having reviewed and summarized the testimony of the  
23 witnesses, I'll now discuss the evidence as it pertains to the law  
24 applicable to this case. Now first, as a preliminary matter, I'll  
25 address Respondent's argument that the job procedure card at issue

1 here does not constitute a record or report that is required to be  
2 made, kept or used to show compliance with a requirement under  
3 Part 43 of the Federal Aviation Regulations. He cites no  
4 authority or precedent for this contention but argues that because  
5 the job procedure card had not been closed out completely, it does  
6 not constitute a report or record under Federal Aviation  
7 Regulation 43.12(a)(1).

8 I disagree. There is ample testimony from essentially  
9 all witnesses called that the job procedure card is the means of  
10 compliance with the airworthiness direction and the service  
11 bulletin, that stamping of the card by the mechanic signifies  
12 completion of the assigned task and constitutes the means of  
13 recording that necessary maintenance tasks have been accomplished.  
14 Thus, I find no merit in that argument.

15 With that in mind, I turn to the elements of the alleged  
16 violations. With respect to the alleged violations of Federal  
17 Aviation Regulation Section 43.12(a)(1), the elements of  
18 intentionally false statement are, one, a false representation;  
19 two, in reference to a material fact; three, made with knowledge  
20 of its falsity. These elements are based on the case of *Hart v.*  
21 *McLucas*. Citation is 535 F.2d 516, 519. That's a Ninth Circuit  
22 case from 1976.

23 Next I'll address each of these elements and the  
24 underlying evidence for each as it pertains to the allegations  
25 against each Respondent. Now with respect to falsity as it

1   pertains to Respondent White, there's no questions that the  
2   entries on the job procedure card indicating the pump and  
3   accumulator have been removed and reinstalled are false.  
4   Mr. White admitted as much in his interview with the  
5   investigators. He admits not removing the pump or accumulator,  
6   despite his stamp indicating the work was done by him. The fact  
7   that in discussions with Mr. Tinlin he learned that Mr. Tinlin  
8   believed that he could accomplish the inspection without removal  
9   of the items does not change the fact that Mr. White stamped the  
10  job procedure card indicating he had performed those tasks when he  
11  had not. Thus, the representations by Mr. White on the job  
12  procedure card are false.

13               With respect to the alleged false representations by  
14  Mr. Tinlin, the evidence establishes that he stamped the job  
15  procedure card indicating he had accomplished a detailed visual  
16  inspection of the keel beam side panel per the job procedure card.  
17  The job procedure card clearly and unambiguously states the  
18  electric pump and accumulator are to be removed prior to  
19  conducting the inspection. Both Respondents indicated no  
20  confusion or questions concerning the job procedure card.  
21  Mr. Coleman as well as Respondents' witnesses Mr. Smith and  
22  Mr. Goglia testified that the steps in the job procedure card are  
23  mandated by the airworthiness directive, and it is not okay to  
24  skip steps or tasks and stamp a task as complete.

25               The fact that Mr. Tinlin was aware of the requirement to

1 first remove the pump and accumulator in order to accomplish the  
2 detailed visual inspection is established by the fact that he had  
3 approximately two months prior to this inspection completed a  
4 similar job procedure card for a keel beam side panel inspection  
5 on a different aircraft. That's noted at Exhibit A-12. And in  
6 that instance, Mr. Tinlin was assigned the task of removing and  
7 reinstalling the pump and accumulator which he accomplished  
8 according to Mr. White's statement to investigators at Exhibit  
9 A-9.

10           The job procedure card also requires use of a 10-power  
11 magnifying glass. There's been conflicting evidence regarding  
12 whether one was used by Mr. Tinlin or not. In his January 2010  
13 statement to investigators, he said he was sure he used a  
14 magnifying glass because the job procedure card calls for one.  
15 But in his subsequent interview in March, he indicated the  
16 airworthiness directive says a magnifying glass "may be used,"  
17 which he read as not being mandatory. It is unclear why, had he  
18 used the magnifying glass, he would feel compelled to later point  
19 out to inspectors that the airworthiness directive does not make  
20 its use mandatory. I can think of no reason to provide such  
21 justification if he used the magnifying glass as originally  
22 suggested. Even assuming that he used the magnifying glass, it is  
23 clear from the demonstrations by witnesses that the use requires  
24 close proximity to the inspection area, and as testified by  
25 Mr. Coleman and others, the prior removal of the pump and

1 accumulator is for the purpose of providing such ready access to  
2 the inspection area to accomplish the intensive inspection that is  
3 required. The requirement for very close proximity is also  
4 especially true if using a loupe rather than a standard magnifying  
5 glass, which is the only device Mr. Tinlin produced from his  
6 toolbox when asked if he had a magnifying glass.

7           Further, as credibly testified to by Mr. Ploschnitznig,  
8 while some areas of the keel beam side panel could be inspected  
9 adequately without removing the pump and accumulator, there were  
10 areas that could not be accessed in order to do so or to do an  
11 adequate detailed visual inspection. Mr. Ploschnitznig's  
12 description, as confirmed by Mr. Kriznik's observations of  
13 Mr. Tinlin's struggles to demonstrate how he reached around the  
14 pump to inspect certain areas is further confirmation of this  
15 fact.

16           While Mr. Goglia testified that he was able to get his  
17 head into the area over the pump and opined that he could inspect  
18 the keel beam side panel area, the weight afforded his testimony  
19 is tempered by the fact that the keel beam side panel area he  
20 observed was in a different aircraft than the one at issue, which  
21 was a different model number. There was no convincing evidence  
22 that the space in the area in question was comparable to the  
23 aircraft at issue, nor did he attempt to use a magnifying glass to  
24 perform the detailed visual inspection contemplated by the job  
25 procedure card. Thus, I'm unable to give significant weight to

1 Mr. Goglia's testimony. By contrast, Mr. Ploschnitznig's  
2 testimony regarding access to the inspection area was based on his  
3 observation of the specific aircraft and tail number that are at  
4 issue here. Thus, I give his testimony more weight in this  
5 regard. Mr. Tinlin also admitted in his March interview that the  
6 pump should have been removed before doing the inspection. Thus,  
7 I find that the first element is established by the evidence as it  
8 pertains to Mr. Tinlin as well.

9           The second issue is whether or not those representations  
10 which I found to be false were material. We had testimony from  
11 several witnesses, Mr. Coleman, Mr. Kriznik, Mr. Ploschnitznig and  
12 perhaps others, regarding the keel beam being a critical  
13 structural component of this aircraft. The inspection and  
14 associated documentation at issue here is for the purpose of  
15 assessing and documenting even minute cracks in the keel beam. It  
16 is important to do the detailed intensive inspection to comply  
17 with the airworthiness directive and to ensure the continued  
18 airworthiness of the aircraft. If not fully and carefully  
19 examined and repaired as necessary, then structural failure and  
20 potentially catastrophic consequences could result. And there is  
21 no question this is the type of information relied upon by the FAA  
22 to determine whether mandatory maintenance tasks had been complied  
23 with and to evaluate continued airworthiness of the aircraft for  
24 Part 121 operations. Therefore, with respect to both Respondents,  
25 I conclude that the false representations were material.

1           The last element is knowledge of the falsity of the  
2   representations. With regard to Mr. White, by his own admission  
3   to investigators, he knew the pump and accumulator had not been  
4   removed and reinstalled, and he knew that his entries on the job  
5   procedure card indicating otherwise were false. He also indicated  
6   he was not confused by the card. He admitted that he knew the  
7   procedure for changing or deviating from the job card, yet he  
8   deviated without seeking necessary approval. That he relied on  
9   Mr. Tinlin's assertion that he could perform the inspection  
10   without removal of the equipment does not excuse his knowingly  
11   false entries on the job procedure card.

12           With regard to Mr. Tinlin, as noted above, removal of  
13   the pump and accumulator are necessary tasks to be accomplished  
14   before detailed visual inspection could be accomplished in  
15   accordance with the job procedure card and the airworthiness  
16   directive. That Mr. Tinlin was aware of this fact is demonstrated  
17   by his prior performance of such tasks on another aircraft just  
18   months prior to the inspection here as well his admission to  
19   investigators that he knew the pump and accumulator should be  
20   removed first, and not doing so was a mistake. This alone is  
21   strong evidence of his knowledge of the falsity of his  
22   representations on the job procedure card.

23           However, addressing counsel's argument that he honestly  
24   believed he could perform the required detailed visual inspection  
25   without removal of the pump and accumulator and, in fact, did so,

1 it is necessary to critically evaluate the credibility of the  
2 testimony and other evidence regarding completion of the detailed  
3 visual inspection. Although I had no opportunity to personally  
4 evaluate the testimony of Mr. Tinlin at this hearing, there are a  
5 number of discrepancies that raise issues with respect to  
6 credibility of information he provided. In discussions with  
7 investigators, Mr. Tinlin indicated he had not performed this job  
8 before when, in fact, he had, per Exhibit A-12. In his initial  
9 interview with investigators in January, there is no mention of  
10 reliance on the airworthiness directive rather than the job  
11 procedure card. That was raised for the first time in March.  
12 This explanation is contrary to his admission that he knew the  
13 pump and accumulator should be removed and to his performance of  
14 those tasks on another similar job previously.

15           He admitted having no confusion regarding the job  
16 procedure card, yet provided no reasonable explanation to  
17 investigators as to why he had gone to the FAA website to research  
18 the airworthiness directive. As noted, he initially indicated to  
19 investigators that he had used a magnifying glass as directed by  
20 the job procedure card. However, in March, when discussing his  
21 reliance on the airworthiness directive rather than the job  
22 procedure card, he noted that the airworthiness directive did not  
23 make use of the magnifying glass mandatory, thereby drawing into  
24 question whether such a device was used. These inconsistencies  
25 draw into question the reliability of information provided by the

1 Respondent and his credibility in this matter.

2 By contrast, as noted above, there was credible  
3 testimony from Mr. Ploschnitznig and Mr. Kriznik regarding their  
4 observation of Mr. Tinlin's difficulties demonstrating where and  
5 how he performed the inspection and his troubles attempting to  
6 maneuver in the confined space around the pump and accumulator, as  
7 well as the credible testimony of Mr. Ploschnitznig regarding the  
8 configuration of the inspection area in and around the pump and  
9 accumulator and the inability to perform a thorough detailed  
10 visual inspection with that equipment in place.

11 Based on the foregoing, I find the misrepresentations  
12 made by Mr. White and Mr. Tinlin on the job procedure card were  
13 made with knowledge of their falsity.

14 FINDINGS OF FACT AND CONCLUSIONS OF LAW

15 Based on the foregoing, I make the following findings as  
16 to specific allegations in the complaint. With respect to the  
17 complaint regarding Respondent Robert Tinlin, I find that he is  
18 the holder of Airman Mechanic Certificate Number 003460534 with  
19 airframe and powerplant ratings.

20 I find that he did, on or about January 7, 2010, make an  
21 intentionally false entry in a record or report that is required  
22 to be made, kept or used to show compliance with any requirement  
23 under Part 43 of the Federal Aviation Regulations. And more  
24 specifically, I find that he did, on or about January 7, 2010,  
25 place his stamp on U.S. Airways Job Procedure Card Echo-2-Bravo-

1 53302, inspection of keel beam side panels, indicating that he had  
2 performed a detailed visual inspection of a U.S. Airways Airbus  
3 319-112 Aircraft Identification Number November-705-Uniform-  
4 Whiskey, hereafter Aircraft November-705-Uniform-Whiskey, in the  
5 area around the rivets of both sides of the keel beam side panel  
6 below the wing center box at Stringer 42 between Frame 40 and  
7 Frame 42 and in part of the area of the upper elliptical cutout at  
8 Stringer 42 left hand, right hand forward of Frame 41 in Area A  
9 and Area B as shown in Figure 1, detail D of the job procedure  
10 card.

11 I find that performance of the detailed visual  
12 inspection require removal of the yellow electric pump and yellow  
13 power accumulator on Aircraft November-705-Uniform-Whiskey. I  
14 find that at the time that Respondent placed his stamp on Job  
15 Procedure Card Echo-2-Bravo-53302, as described in Paragraph 3,  
16 yellow electric pump and yellow power accumulator on Aircraft  
17 November-705-Uniform-Whiskey had not been removed. I find thusly  
18 that he was unable to perform a detailed visual inspection, and I  
19 find that he did not perform a detailed visual inspection.

20 With respect to Respondent Mark White, I make the  
21 following specific findings. He is the holder of Airman Mechanic  
22 Certificate Number 003222057 with airframe and powerplant ratings.  
23 He did, on or about January 7, 2010, make an intentionally false  
24 entry in a record or report that is required to be made, kept or  
25 used to show compliance within the requirement of Part 43 of the

1 Federal Aviation Regulations. That more specifically, on or about  
2 January 7, 2010, he placed his stamp on U.S. Airways Job Procedure  
3 Card Echo-2-Bravo-53302, inspection of keel beam side panels,  
4 indicating that he had removed the yellow electric pump, yellow  
5 power accumulator on U.S. Airways Airbus 319-112 Identification  
6 Number November-705-Uniform-Whiskey when, in fact, he had not.

7 I find that on or about January 7, 2010, he placed his  
8 stamp on U.S. Airways Job Procedure Card Echo-2-Bravo-53302  
9 indicating that he had reinstalled the yellow electric pump and  
10 yellow power accumulator on Aircraft November-705-Uniform-Whiskey  
11 when, in fact, he had not. I find that removal and installation  
12 of the yellow electric pump and yellow power accumulator was  
13 necessary to accomplish an inspection of the keel beam side panels  
14 per Job Procedure Card Echo-2-Bravo-53302.

15 Based upon those enumerated findings, I conclude that  
16 Respondent Mark White violated Section 43.12(a)(1) of the Federal  
17 Aviation Regulations in that he made intentionally false entries  
18 on Job Procedure Card Echo-2-Bravo-53302, a record or report  
19 required to be made, kept or used to show compliance with any  
20 requirement of Part 43 of the Federal Aviation Regulations.

21 I conclude that Respondent Robert D. Tinlin violated  
22 Section 43.12(a)(1) of the Federal Aviation Regulations in that he  
23 made intentionally false entries on Job Procedure Card No. Echo-2-  
24 Bravo-53302, a record or report required to be made, kept or used  
25 to show compliance with any requirement under Part 43 of the

1 Federal Aviation Regulations.

2           Having found that the Administrator has proven all of  
3 the allegations in the Administrator's complaints by a  
4 preponderance of the reliable, probative and credible evidence, I  
5 now turn to the sanction imposed by the Administrator in this  
6 case. On August 3, 2012, Public Law 112-153, known as Pilot's  
7 Bill of Rights, was signed into law by the President of the United  
8 States. The law applies to all cases before the National  
9 Transportation Safety Board involving reviews of actions of the  
10 Administrator of the Federal Aviation Administration to deny  
11 airmen medical certification under 49 USC Section 44703 or to  
12 amend, modify, suspend or revoke airman certificates under  
13 49 United States Code Section 44709. The law became effective  
14 immediately upon its enactment.

15           This Pilot's Bill of Rights specifically strikes from 49  
16 United States Code Section 44709 and 44710 language that in cases  
17 involving amendments, modifications, suspensions or revocation of  
18 airman certificates, the Board is bound by all validly adopted  
19 interpretations of laws and regulations the Administrator carries  
20 out and of written agency policy guidance available to the public  
21 relating to sanctions to be imposed under this section, unless the  
22 Board finds an interpretation is arbitrary, capricious or  
23 otherwise not according to law.

24           Now while I am no longer bound to give deference to the  
25 Federal Aviation Administration by statute, that agency is

1 entitled to judicial deference due all other federal  
2 administrative agencies under the Supreme Court decision in *Martin*  
3 *v. Occupational Safety and Health Review Commission* at 499 U.S.  
4 144, 111 S.Ct. 1171. In applying the principle of judicial  
5 deference to the interpretation of laws, regulations and policies  
6 that the Administrator carries out, I must analyze and weigh the  
7 facts and circumstances in each case to determine if sanctions  
8 selected by the Administrator is appropriate.

9           In the case before me, the Administrator has argued that  
10 the appropriate sanction, based on sanction guidelines and past  
11 precedent, is revocation of the Respondents' mechanic  
12 certificates. The Administrator cites the trust instilled in  
13 mechanics to complete assigned tasks and to ensure continued  
14 airworthiness and the core breach of trust that such falsification  
15 of records represents. The Administrator further suggests the  
16 revocation is appropriate in any case, whereas here the violation  
17 goes to lack of qualifications.

18           Respondent argues that the lengthy delay between the  
19 investigation and the enforcement action during which time the  
20 Respondents have continued to perform maintenance duty without  
21 further incident mitigate in favor of lesser sanction in this  
22 case. They also cite to prior disciplinary action by their  
23 employer resulting in suspension and loss of two weeks' pay as  
24 well as their work environment in which they argue exerted  
25 pressure to complete tasks as quickly as possible as mitigating

1 factors. Although Respondents suggested pressure to get jobs done  
2 quickly, there is no evidence that they were told to falsify  
3 maintenance tasks and no evidence of a policy to do so. The only  
4 evidence in this regard is to the contrary. Mr. Coleman testified  
5 there is no tolerance for falsifying job procedure cards at U.S.  
6 Airways. Even Mr. Smith who testified to pressure to complete  
7 tasks faster testified that falsifying maintenance tasks was not  
8 okay.

9 I have no doubt that there was some pressure to complete  
10 maintenance tasks as quickly as possible, and while I am not  
11 unsympathetic to such pressures, that does not excuse Respondents'  
12 actions, namely, cutting corners and not performing tasks clearly  
13 set forth in the job procedure card made mandatory by an  
14 airworthiness directive. If such actions are acceptable here,  
15 then similarly situated maintenance personnel could simply bypass  
16 established tasks they believe to be unnecessary and perform only  
17 those tasks they believe appropriate. Nor do I find the personnel  
18 action taken by U.S. Airways to be mitigating. Minimal action by  
19 their employer is wholly separate and apart from this action.

20 Although there has been a significant time lapse between  
21 the investigation and enforcement action, there is little or no  
22 evidence before me of prejudice to Respondents from that delay.  
23 They have maintained their mechanics' certificates and still do to  
24 this day. They have continued to be employed with U.S. Airways.  
25 The delay was rightfully considered in evaluating the

1 Administrator's emergency determination which is the appropriate  
2 forum in which to consider it.

3           Further, Board precedent firmly establishes that even  
4 one intentional falsification compels a conclusion that the  
5 falsifier lacks the necessary care, judgment and responsibility  
6 required to hold any airman certificate. That precedent stems  
7 from the case of *Administrator v. Berry*, NTSB Order EA-2689, and  
8 that was decided in 1988. Since 1988, the Board has found and  
9 continues to find that even one intentional falsification compels  
10 the conclusion that the falsifier lacks the necessary care,  
11 judgment and responsibility required to hold any airman  
12 certificate.

13           I find, therefore, that the sanction sought by the  
14 Administrator is appropriate and warranted in the public interest  
15 in air commerce and air safety. Therefore, I find that the Orders  
16 of Revocation, the complaints herein, must be and shall be  
17 affirmed as issued.

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ORDER

IT IS ORDERED that the Emergency Order of Revocation,  
the complaint herein, be, and is hereby, affirmed, that Respondent  
Mark White's Airline Mechanic Certificate No. 003222057 with  
airframe and powerplant ratings be, and hereby is, revoked.  
Entered this 1st day of March, 2013 at Pittsburgh, Pennsylvania.

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STEPHEN R. WOODY

Administrative Law Judge

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ORDER

IT IS ORDERED that the Emergency Order of Revocation,  
the complaint herein, be, and is hereby, affirmed, that Respondent  
Robert D. Tinlin's Airline Mechanic Certificate No. 003460534 with  
airframe and powerplant ratings be, and hereby is, revoked.  
Entered this 1st day of March, 2013 at Pittsburgh, Pennsylvania.

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STEPHEN R. WOODY

Administrative Law Judge

1           ADMINISTRATIVE LAW JUDGE WOODY: Now in light of my  
2 findings and my ruling here, I see no reason to enter a ruling on  
3 the motion for judgment on the pleadings, and thus, I have not  
4 addressed that and won't address that in substance at this point.

5                           APPEAL

6           ADMINISTRATIVE LAW JUDGE WOODY: Now Mr. White and  
7 Mr. Tinlin, I need to advise you of your appeal rights. I know  
8 your counsel is well familiar with these, but it's important that  
9 you understand particularly in this case, because this is  
10 processed under the guidelines that we follow for emergency  
11 proceedings, and your appeal rights and the timeline for doing  
12 that is very abbreviated. So what I'm going to do is I'm going to  
13 ask the court reporter to hand a copy of -- I'm going to provide  
14 three copies: one for the Administrator, one for each of the  
15 Respondents. I'll also hand a copy of this to the court reporter  
16 to place into the record.

17                                   (Whereupon, the document referred to  
18 as ALJ-1 was marked for  
19 identification and received into  
20 evidence.)

21           ADMINISTRATIVE LAW JUDGE WOODY: Mr. Bartos, do you  
22 desire for me to go into further detail, or do you intend to  
23 advise your clients?

24           MR. BARTOS: I will advise them. Is it possible to get  
25 a copy of what they've been handed as well for myself?

1 ADMINISTRATIVE LAW JUDGE WOODY: Of the appeal rights?

2 MR. BARTOS: Yes.

3 ADMINISTRATIVE LAW JUDGE WOODY: Absolutely.

4 MR. BARTOS: I'm aware of them, but I want to make sure  
5 I have the same document.

6 ADMINISTRATIVE LAW JUDGE WOODY: All right. Absolutely.  
7 I'll ask the court reporter to hand this to you.

8 I appreciate everyone's patience as I worked through  
9 this afternoon. I know it's been a long several days, and let me  
10 ask the parties this. Is there anything that you believe in the  
11 nature of an administrative issue that we need to take up or  
12 anything that you heard that you believe needs to be addressed at  
13 this point with respect to my decision?

14 MR. LEWERENZ: No, sir. Thank you.

15 ADMINISTRATIVE LAW JUDGE WOODY: Mr. Bartos?

16 MR. BARTOS: No, Your Honor.

17 ADMINISTRATIVE LAW JUDGE WOODY: Fine. Thank you.

18 All right. Mr. White and Mr. Tinlin, I wish you the  
19 best of luck going forward.

20 UNIDENTIFIED SPEAKER: Thank you.

21 ADMINISTRATIVE LAW JUDGE WOODY: If there's nothing  
22 further, then we will adjourn this hearing. Thank you.

23 (Whereupon, at 6:45 p.m., the hearing in the above-  
24 entitled matter was adjourned.)

25

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Robert D. Tinlin and Mark White

DOCKET NUMBER: SE-19421 and SE-19422

PLACE: Pittsburgh, Pennsylvania

DATE: March 1, 2013

was held according to the record, and that this is the original,  
complete, true and accurate transcript which has been compared to  
the recording accomplished at the hearing.

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George K. Harris  
Official Reporter

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Karen Ehatt  
Transcriber