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In response to your invitation, it is an honor and privilege to provide my testimony concerning critical lapses in FAA safety oversight of airlines and abuses of Regulatory Partnership programs.

First If I may, I would like to introduce myself and state some of my credentials. My name is Robert Andre Naccache. After over twenty years of service in flight standards, I recently retired in November 2007 from the FAA as the assistant manager of the Southwest Airline Certificate Management Office (SWA CMO). During my tenure with the FAA, I served about two years in the geographic unit, one year in the international unit, six years as a Principal Operations Inspector for several domestic and international carriers, eight years as a Supervisor for the Certification and Surveillance Unit and three years as an Assistant Manager. While with the FAA I was awarded the Southwest Region's Field Inspector of the Year Award in 1994. I also twice received the Southwest Region's Supervisor of the Year Award for 2001 and 2003.

Prior to my career with the FAA, I was an airline transport pilot for seventeen years, flying the Boeing 707 and the Boeing 747 between Europe, Asia, Australia and the U.S. Before that I worked as an FAA certified flight instructor in general aviation for three years. This gives me over forty years of experience in the field of aviation.

I care a great deal about the FAA. It is an excellent agency unmatched anywhere else in the world. The majority of employees produce outstanding work for aviation safety. The FAA guidelines are well conceived and thought out. The air transport industry and the FAA created partnership programs as a means of addressing safety problems and to prevent potential safety hazards. However they need to be consistently and fairly implemented across the board. This has been the

problem in the SWA CMO. Of the FAA Partnership Programs the abuse of authority of the following two are discussed in my written testimony. They are: Voluntary Disclosure Reporting Program (VDRP), and a Memorandum of Understanding (MOU) addressing airman certification.

Mr. Mike Mills and I were assigned to the SWA CMO simultaneously as Manager and Assistant Manager respectively on November 14 and 15, 2004. It was not long until we noticed that there was a lack of substantiating data, records, correspondence and other supporting documentation related to certificate management. The Principals were not adhering to FAA policy and guidance in terms of enforcement action. Often a Letter of Concern (LOC), which is not placed into the Enforcement Information System (EIS), was sent to SWAA in lieu of a Letter of Investigation (LOI) which is recorded in the EIS. Therefore no record of enforcement process is available for those violations. My attempts to correct these issues were always met with intense resistance from the Principal Maintenance Inspector (PMI). As our concerns about the PMI and other inspectors' relationships with the carrier increased, the Manager tried in vain through numerous meetings and memos to correct the situation. Some of these Inspectors are still working at the SWA CMO. The PMI often circumvented the Manager by visiting the Regional Office without his knowledge. After communicating several times to the Regional Office about these issues, the Manager was told it was a personal problem between the PMI and himself. Ultimately the Regional Office prepared an Agreement of Cooperation which Management at the SWA CMO were told to sign. The last version of this agreement was signed in January 2007.

Two months later around the end of March, I was made aware by the Manager Mike Mills, and Supervisor Paul Cotti, that the PMI allowed SWAA to operate about forty-seven aircraft in violation of an Airworthiness Directive (AD) compliance. The operation of these aircraft continued for several days after the carrier provided the information through the VDRP. This operation continued with the knowledge of the PMI. I'm not sure whether the other two Principals knew or not. When asked about his reasoning, the PMI said that he had no concern with the airworthiness of those suspected aircraft. **This was a serious safety issue; cracks were found in the aircrafts' fuselages.**

At about the same time there was another case of SWAA operating aircraft without complying with a required inspection concerning the standby rudder power control unit (PCU). The investigation revealed that about seventy aircraft overflowed the inspection. After self-disclosing the violation through the VDRP, there was no indication that SWAA took any action to stop the operation of those aircraft as required, again with the knowledge of the PMI. The fact that those suspected aircraft continued operations in passenger revenue service in both these instances shows a non-adherence with the purpose of the VDRP by the carrier and the PMI. This should raise questions about abuse of the program.

One airworthiness inspector, Mr. Bobby Boutris, who became aware of these violations, tried to do the right thing and kept insisting to follow the agency guideline. He was shunned as a trouble maker and, for a period of several months, was suspended by the Regional Office from any work related to SWAA. This suspension came on account of an anonymous letter sent to SWAA and forwarded to the FAA Regional Office whereby an alleged SWAA mechanic made various accusations against him. I feel the timing of the anonymous letter is more than a little suspicious, since it came in the midst of the investigation concerning the above issues that may ultimately involve the PMI and/or others into question of regulatory actions or inactions. The veracity or motivation behind this anonymous letter needed to be considered.

The Manager sent repeated requests to the Regional Office for assistance. The last one, concerning the CPU issue, was sent the first week of May 2007. He was removed from his position a few days later and replaced by Mr. Bobby Hedlund, the Principal Operation Inspector (POI) at the time.

Six months later and shortly prior to my retirement, during the external ongoing investigation, the Regional Office directed the SWA CMO to open an enforcement action against SWAA for operating unsafe and un-airworthy aircraft.

On the Operation side, guidance and policy were not followed specifically in the approval of a Memorandum of Understanding (MOU) with the carrier concerning airman certification. I believe that this approval was a blatant abuse of authority by higher management leading to conflict of interest and unethical practices.

As found in Order 8400.10, (now Order 8900.1 issued 9/13/2007) the designated examiner program was originally established under the provision of FAR 183 for the purpose of delegating certification authority to select employees of FAR 121 and FAR 135 operators when the FAA experiences an exceptionally high demand for **airman certification** work. The primary objective of an examiner program is to make effective use of available inspector resources for airman certification and to relieve the FAA inspector from certification activities in order to perform oversight and management functions more efficiently. As a guideline, 40 complete airman certification or type rating actions on a specific aircraft type annually is usually sufficient activity to justify establishing such a program. The number 40 has been established because it roughly approximates one year of work for an inspector. Sometimes fewer than 40 certification actions per year can be accepted. For example, an operator's entry into international operations, multiple crew domiciles. Each situation may be considered separately to determine if establishing such a program is beneficial to the FAA and the operator.

As part of this program, the carrier must enter into an MOU, a written agreement between the operator and the FAA, which specifies how the program is to be conducted. The MOU must specify (1) that the operator may have the benefit of Aircrew Program Designees (APD, *an airline check airman*) authorized by the FAA to conduct certification on behalf of the administrator and (2) in return, the operator shall provide initial and recurrent training at their expense to the FAA inspector, know as Aircrew Program Manager (APM) who oversees the APD's activities.

The carrier's APD designation must be renewed every twelve months. **Order 8400.10 (now 8900.1) states that before renewing an APD Designation the FAA shall determine whether the designee's (APD) level of activity warrants a re-designation and whether the designee's (APD) services continue to be needed.** The examiner's level of activity may be determined from the FAA tracking system. Also the administrative steps for renewal are the same as those outlined in the order for the original designation, **which requires an observation by the FAA's APM of the carrier's designee (APD) candidate giving and oral exam and conducting a check ride for the issuance of a type rating certificate.** **During my three years at the SWA CMO as Assistant Manager, I do not know of any certificate issued through the SWAA approved training program.**

SWA policy is to hire pilots who are already certified and type rated through outside approved training programs. Only one type of aircraft is flown by SWAA, the Boeing 737.

In principle, SWAA does not conduct airmen certifications. Their check airmen only conduct line checks and proficiency checks. **Therefore in accordance with Order 8400.10 (now 8900.1), SWAA does not meet the qualifications required to participate in an Aircrew Examiner Program. In addition, SWAA does not qualify to enter into an MOU with the FAA, and so is not qualified to have the benefit of an APD.**

After being assigned to the SWA CMO as Assistant Manager, I discovered that despite the absence of any airman certification, SWA had been granted an examiner program by the Regional Office for many years. This program with SWAA is not in accordance with the FAA guidelines and with no benefit to the FAA since there are almost no **certification** activities at the carrier. To my knowledge this MOU is different from that of any other carrier in that instead of training only the APM, they agreed to provide extensive training (*over two months at their Dallas headquarters facility*) for all operations inspectors assigned to oversee their carrier. In some instances this training ended by the issuance of a type rating (in my estimate, a value of about \$15,000 per inspector). I believe this substantial benefit to the inspector is a direct conflict of interest. It may also lead to camaraderie between the inspectors and the air carrier beyond their professional relationship. This may be the reason that the order limits the training to the APM or his representative only, and not to other Inspectors, especially the POI or Manager.

I discussed this issue with the SWA CMO Manager, Mike Mills and we decided to send the MOU back to the Regional Office for cancellation. Unfortunately the Regional Office chose not to cancel the program but rather to maintain the status quo. I did not approve of this decision, but as an assistant manager it was out of my control.

In June 2005, a new Principal Operations Inspector (POI), Mr. Bobby Hedlund, was selected to the SWA CMO. Not long after his selection, and with the Regional Office's knowledge this POI, Mr. Hedlund, who approves all SWA programs,

manuals, and Operations Specifications, was one who took advantage of this program not approved in accordance with the Order 8400.10. (now 8900.1), as explained above. At the end of the training, Mr. Hedlund obtained an aircraft type rating on the Boeing 737 **at Southwest Airline's expense**. On May 8, 2007 the Regional Office replaced Mr. Mike Mills by Mr. Bobby Hedlund as the manager of SWA CMO. Despite the fact that Mr. Hedlund had spent a couple months in training with the carrier and obtained an aircraft type rating through them, he is now, as manager, overseeing the whole airline. I feel this is the most flagrant conflict of interest that I have ever witnessed in my 20 year career in the Federal Government. I believe that this ongoing situation at the SWA CMO should be questioned and dealt with appropriately. *(note: Except for the APM or his representative, all FAA Operations Inspectors, when required by the agency, obtain their training and aircraft type rating through the FAA training system, funded by the agency)*

In conclusion we need to make sure that the job is done in a manner consistent with FAA policy, guidance and directives. I believe that abuse of authority and regulatory partnership programs should never be allowed because this will lead to serious consequences.