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BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

DEPARTMENT OF TRANSPORTATION

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DOCKET SECTION

Application of)
)

VALUJET AIRLINES, INC.)
)

for a fitness redetermination,)
certificate reissuance and waiver)
from the 45-day advance notice)
provisions of 14 C.F.R. § 204.7)
)

Docket OST-96-1548-147

MOTION TO FILE OTHERWISE UNAUTHORIZED DOCUMENT
TO SUPPLEMENT THE OBJECTIONS OF ASSOCIATION OF
FLIGHT ATTENDANTS TO ORDER TO SHOW CAUSE

Communications with respect to this document should be addressed
to:

David Borer
Edward J. Gilmartin
Association of Flight
Attendants, AFL-CIO
1625 Massachusetts Ave., N.W.
Washington, D.C. 20036
(202) 328-5400

Robert S. Clayman
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GUERRIERI, EDMOND & CLAYMAN P.C.
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Suite 400
Washington, D.C. 20004
(202) 624-7400

Counsel For Association of
Flight Attendants, AFL-CIO

September 24, 1996

15 pgs.

BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

Application of

VALUJET AIRLINES, INC.

for a fitness redetermination,
certificate reissuance and waiver
from the 45-day advance notice
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Docket OST-96-1548

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FLIGHT ATTENDANTS TO ORDER TO SHOW CAUSE

MOTION

The Association of Flight Attendants, AFL-CIO ("AFA") moves for permission to file a fourth supplement to its objections to the Order to Show Cause issued by this Department on August 29, 1996. AFA's Objections were filed on September 5, 1996, and it filed supplements to its objections on September 12, 1996, September 13, 1996, and September 20, 1996. Several other interested parties have also filed objections. This fourth supplement should be permitted because material information crucial to the Department's review of all objections has come to light only since we filed our initial objections and the three subsequent supplements to those objections.

ARGUMENT

On September 23, 1996, the AFA received from the Department of the Air Force two letters, dated May 15, 1996, and June 6, 1996, from Department of Defense Commercial Airlift Review Board to Lewis H. Jordan, President of ValuJet Airlines. These letters were obtained from the Air Force via a Freedom of Information Act ("FOIA") request filed by the AFA. (AFA Exhibit 1 hereto, July 24, 1996, FOIA Request Letter from Jonathan Medwed to HQ AMC-FCMM (FOIA).)

The May 15th letter informs Mr. Jordan that the DoD Commercial Airlift Review Board ("CARB") is placing "ValuJet Airlines in temporary nonuse from the DoD Air Transportation Program" and is initiating suspension proceedings against the airline. (AFA Exhibit 2 hereto, May 15, 1996, Letter from John M. Ledden, SES, to Lewis H. Jordan.) As Mr. Ledden explains, "[t]he CARB action denies DoD personnel the use of ValuJet Airlines for official business passenger movement." (AFA Exhibit 2) Mr. Ledden goes on to list the reasons that the CARB decided to take the extraordinary step of denying military personnel permission to fly on ValuJet:

The CARB took this action after reviewing your accident and incident record culminating in the fatal accident 11 May 1996. This most recent accident has given the CARB serious concerns about the adequacy of your operations and maintenance activities....Furthermore, your accident and incident rates exceed those of other carriers of comparable size operating similar equipment.

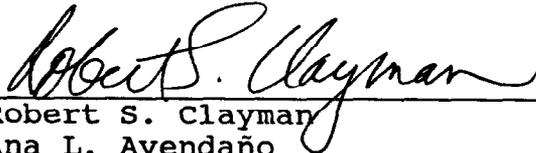
(AFA Exhibit 2) Mr. Ledden concluded his letter by setting out the procedures under which ValuJet could submit countervailing materials "concerning your ability to safely perform airlift services." (AFA Exhibit 2)

The second letter obtained in connection with the AFA's FOIA request is from CARB Chairman Edward F. Grillo, Jr., to Lewis Jordan. (AFA Exhibit 3 hereto, June 6, 1996, Letter from Major General Edward F. Grillo, Jr., to Lewis H. Jordan.) In this letter, General Grillo acknowledges receipt of a May 17th letter from Mr. Jordan in which ValuJet informed the CARB that the airline was not yet ready to appear before the Board to contest the May 15th decision to place ValuJet in the temporary nonuse category. (AFA Exhibit 3) Responding to ValuJet's May 17th letter, General Grillo writes that "the CARB proposes to place ValuJet in extended temporary nonuse until 15 November 1996, or until ValuJet appears before the CARB and a decision to end the temporary nonuse or suspend [sic] is made, whichever occurs first." (AFA Exhibit 3 (emphasis added)) As of today, ValuJet remains in the CARB "extended temporary nonuse" category.

Thus, the incompetence of ValuJet's management compelled another federal Department to relegate the airline to "nonuse" status. In light of this evidence and all of the other proof of managerial ineptitude shown during the period ValuJet was operating, the Department must find Jordan and Priddy unfit or

schedule a full oral evidentiary hearing for all of the reasons already set forth.

Respectfully submitted,



David Borer
Edward J. Gilmartin
Association of Flight
Attendants, AFL-CIO
1625 Massachusetts Ave., N.W.
Washington, D.C. 20036
(202) 328-5400

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Counsel For Association of
Flight Attendants, AFL-CIO

September 24, 1996

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Motion to File Otherwise Unauthorized Document to Supplement the Objections of Association of Flight Attendants to Order to Show Cause and Exhibits, was served this 24th day of September, 1996, to the following in the manner indicated:

Via Overnight mail:

Lewis H. Jordan
President and Chief Operating Officer
ValuJet Airlines, Inc.
Suite 126
1800 Phoenix Boulevard
Atlanta, GA 30349

Steven E. Markhoff
General Counsel
ValuJet Airlines, Inc.
Suite 126
1800 Phoenix Boulevard
Atlanta, GA 30349

Marshall Filler
Craig Weller
James Tello
Filler, Weller & Tello
117 North Henry Street
Alexandria, VA 22314

Jonathan L. Alpert
R. Christopher Rodems
Albert, Barker & Calcutt, P.A.
100 South Ashley, Suite 2000
Tampa, FL 33602

Via Hand-Delivery:

Berl Bernhard
Joseph L. Manson
William C. Evans
Russell E. Pommer
Verner, Liipfert, Bernhard, McPherson
and Hand, Chartered
Suite 700
901 16th Street, N.W.
Washington, D.C. 20005

Mr. David R. Harrington, Mgr.
Air Transportation Division, AFS-200
Office of Flight Standards
Federal Aviation Administration
800 Independence Ave., S.W.
Washington, D.C. 20591

Mr. John Cassady
Deputy Chief Counsel, AGC-2
Federal Aviation Administration
800 Independence Ave., S.W.
Washington, D.C. 20591

Mr. Richard Birnbach, Mgr.
Field Programs Div., AFS-500
Office of Flight Standards
Federal Aviation Administration
800 Independence Ave., S.W.
Washington, D.C. 20591

Mr. Tim Carmody, Actg. Dir.
Office of Airline Information, K-25
Department of Transportation
400 Seventh St., S.W.
Washington, D.C. 20590

Mr. Jim Zammar, Dir. Rev. Acctg.
Air Transport Association
1301 Penn. Ave., N.W., Ste. 1100
Washington, D.C. 20004

Via First-Class mail:

Manager
Flight Standards District Office
P. O. Box 20636
Atlanta, GA 30320

Eddie L. Thomas
Assistant Chief Counsel, ASO-7
Federal Aviation Administration
Southern Region Headquarters
P. O. Box 20636
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W. Michael Scarey, Mgr.
Flight Standards Div., ASO-200
Federal Aviation Administration
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Atlanta, GA 30320

Mr. Richard A. Nelson
Official Airline Guide
2000 Clearwater Drive
Oak Brook, IL 60521

Mr. Allan Muten, Asst. Treas.
Airlines Reporting Corp.
1530 Wilson Blvd., Ste. 800
Arlington, VA 22209



EXHIBIT LIST

<u>Exhibit</u>	<u>Description</u>
1	Letter from Jonathan Medwed, to HQ AMC-FCMM (FOIA), dated July 24, 1996.
2	Letter from John M. Ledden, SES, to Lewis H. Jordan, dated May 15, 1996.
3	Letter from Major General Edward F. Grillo, Jr., to Lewis H. Jordan, dated June 6, 1996.

AFA
EXHIBIT 1

GUERRIERI, EDMOND & CLAYMAN, P.C.

1331 F STREET, N.W.
WASHINGTON, D.C. 20004

(202) 624-7400
FACSIMILE: (202) 624-7420

JOSEPH GUERRIERI, JR.
JOHN A. EDMOND
ROBERT S. CLAYMAN
DEBRA L. WILLEN
HOLLY B. FECHNER
JEFFREY A. BARTOS
ANA L. AVENDAÑO*
AMYBETH GARCIA-BOKOR*

*NOT ADMITTED IN DC.

July 24, 1996

Via Overnight Mail

HQ AMC-FCMM (FOIA)
402 Scott Drive Room 132
Scott Air Force Base, Illinois
62225-5363

Re: Freedom of Information Act Request

To Whom It May Concern,

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I am requesting a copy of the August 1995 Department of Defense Inspection Report regarding whether ValuJet Airlines is fit to transport military personnel. In addition, I would like copies of all other Department of Defense Inspection Reports regarding ValuJet Airlines including the DOD's May 1996 revocation of certification of ValuJet.

If there are any fees for searching or copying these materials please bill the firm. If pre-payment is required please call me at (202) 624-7400 and I will arrange payment. If all or part of the request is denied, please inform me in writing of the reason for your denial. Thank you for your attention to this matter.

Sincerely,

Jonathan Medwed
Jonathan Medwed

AFA
EXHIBIT 2



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR MOBILITY COMMAND

15 MAY 1996

HQ AMC/DDO-T
402 Scott Drive, Unit 3A1
Scott AFB IL 62225-5302

Mr. Lewis H. Jordan
President
ValuJet Airlines
1800 Phoenix Blvd, Suite 126
Atlanta GA 30349

Dear Mr. Jordan

On 15 May 1996, the Department of Defense (DoD) Commercial Airlift Review Board (CARB) placed ValuJet Airlines in temporary nonuse from the DoD Air Transportation Program and initiated suspension proceedings. The CARB action denies DoD personnel the use of ValuJet Airlines for official business passenger movement.

The CARB took this action after reviewing your accident and incident record culminating in the fatal accident 11 May 1996. This most recent accident has given the CARB serious concerns about the adequacy of your operations and maintenance activities, notwithstanding our approval of ValuJet in February 1996. Furthermore, your accident and incident rates exceed those of other carriers of comparable size operating similar equipment. The CARB action also is based upon the FAA decision to increase the level of oversight of all ValuJet equipment and operations for the next 30 days.

No final suspension decision will be made until you have the opportunity to present materials for our consideration. A CARB suspension hearing is tentatively scheduled for the week of 20 May 1996, at Scott AFB IL or on a date mutually agreeable. You may appear in person, provide written materials or witnesses concerning your ability to safely perform airlift services. If you choose to personally appear, the meeting will be conducted as a hearing in accordance with the procedures at Attachment 1. Video teleconferencing between Scott AFB and Washington DC may be used to facilitate the CARB hearing.

Please contact Mr. Dennis Emmons at (618) 256-4801, if you have any questions.

Sincerely

A handwritten signature in black ink that reads "John M. Ledden".

JOHN M. LEDDEN, SES
Deputy Chairman
DoD Commercial Airlift Review Board

Attachment:
32 CFR 861

**AFA
EXHIBIT 3**



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR MOBILITY COMMAND

HQ AMC/DO
402 Scott Drive, Unit 3A1
Scott AFB IL 62225-5302

06 JUN 1996

Mr. Lewis H. Jordan
President and Chief Operating Officer
ValuJet Airlines
1800 Phoenix Boulevard, Suite 126
Atlanta GA 30349

Dear Mr. Jordan

Thank you for your letter of 17 May 1996, responding to the Commercial Airlift Review Board (CARB) decision to place ValuJet in temporary nonuse. We understand your concerns and your need to concentrate your energies on cooperating fully with the ongoing FAA surveillance to assure safe operations, assisting the safety board investigation, and addressing the needs of family members affected by the recent accident.

As you know, 32 CFR 861.4(h)(1)(iv) provides that temporary nonuse status automatically terminates if suspension proceedings are not commenced within 30 days after a carrier is placed in temporary nonuse unless the CARB and the carrier mutually agree to extend that status. In ValuJet's case, this period will end on 14 June 1996.

Since you apparently will not be ready to appear before the CARB until after 14 June 1996, the CARB proposes to place ValuJet in extended temporary nonuse until 15 November 1996, or until ValuJet appears before the CARB and a decision to end the temporary nonuse or suspend is made, whichever occurs first. Under the provisions of 32 CFR 861.4(d)(2), this may be done only with the consent of ValuJet. Please let us know whether you consent to this proposed extension of temporary nonuse status. If you do not consent, we will have to begin suspension proceedings in accordance with the regulation.

Please let me know if this proposed extension of temporary nonuse status is acceptable. If you have any further questions, call me direct at (618) 256-3316, or have your staff contact Mr. Dennis Emmons at (618) 256-4801.

Sincerely

EDWARD F. GRILLO, JR., Maj Gen, USAF
Chairman
DoD Commercial Airlift Review Board

