

DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
OFFICE OF HEARINGS
WASHINGTON, D.C.

OFFICE OF CHIEF COUNSEL
HEARING DOCKET

1999 SEP 23 P 3: 15

65709

In the Matter of Sky Trek International Airlines Inc

+AA-99-6130-2
1998EA210037

Judge Not Assigned

CP99EA0046

COMPLAINT

The Federal Aviation Administration (FAA), by counsel, hereby files its Complaint, pursuant to Rule 208 of the Rules of Practice (14 C.F.R. 13.208), and states as follows:

I

Respondent, Sky Trek International Airlines Inc, was advised through a Final Notice of Proposed Civil Penalty that the FAA proposed to assess a civil penalty in the amount of \$16,000. On September 1, 1999, Respondent submitted a written demand for a hearing.

II

1. SKY TREK INTERNATIONAL AIRLINES INC ("Sky Trek") is the holder of Air Carrier Certificate No. S84A484H.
2. Sky Trek is the operator of a Boeing 727 civil aircraft, identification number N259US.
3. On or about March 18, 1998, the flight crew operating N259US reported a maintenance discrepancy that the distance measuring equipment (DME) located on the cockpit left-hand side (DME #1) was not functioning properly, i.e., inoperable.

4. **In response to the discrepancy reported on or about March 18, 1998,** maintenance personnel working for or on behalf of Sky Trek deferred maintenance on the DME # 1.
5. Sky Trek's operations specifications permit it to defer maintenance on specified equipment in accordance with the Minimum Equipment List (MEL) approved for Sky Trek.
6. Sky Trek's operations specifications require it to maintain an MEL tracking system to ensure that deferred maintenance items do not exceed the maximum time limits for deferral and that aircraft are not released for service in an unairworthy condition.
7. In accordance with Sky Trek's MEL, maintenance on an inoperable DME instrument may be deferred up to ten days following the report of a maintenance discrepancy, excluding the day the malfunction was reported.
8. Aircraft N259US is required, absent relief provided through the MEL procedures, to have a redundant DME in operable condition.
9. The loss of redundancy that the additional DME would provide reduces the ability of the crew to deal with potential adverse operating conditions, including the potential loss of the other DME.
10. On or about March 22, 1998, the flight crew operating N259US again reported that the DME #1 was not functioning properly, i.e., inoperable.
11. **In response to the discrepancy reported on or about March 22, 1998,** maintenance personnel working for or on behalf of Sky Trek again deferred maintenance on the DME # 1.
12. Subsequent to the deferral related to the March 22, 1998, discrepancy report, no further maintenance action was recorded in the maintenance records for N259US through and including March 30, 1998.
13. Subsequent to the deferral related to the March 18 and 22, 1998, discrepancy reports, Sky Trek did not seek to extend the repair interval for the DME # 1.

14. On or about May 15, 1998, the flight crew operating N259US reported the same malfunction with the DME #1 that had been previously reported in March as described above.
15. Following the initial maintenance discrepancy report regarding the DME # 1 on or about March 18, 1998, proper maintenance action was not taken until the unit was repaired May 25, 1998.
16. The flight crew members of aircraft operated by Sky Trek are responsible for being aware of all operational and technical issues involving a deferred maintenance item.
17. The flight crew members of aircraft operated by Sky Trek are responsible for being aware of the maximum period during which an aircraft may be operated with an inoperable instrument in accordance with MEL procedures.
18. On or about March 29, 1998, Sky Trek released for revenue service and operated N259US on five flights under Part 121 when the deferral period for the malfunctioning DME # 1 had expired.
19. On or about March 29, 1998, Sky Trek released for revenue service and operated N259US on five flights under Part 121 when the DME #1 was still inoperative.
20. On or about March 29, 1998, Sky Trek released for revenue service and operated N259US on five flights under Part 121 when the DME #1 had not been properly cleared as required under Sky Trek's maintenance procedures.
21. When N259US was released for service for each of the five flights on or about March 29, 1998, the aircraft was not airworthy due to the uncleared status of the DME # 1.
22. On or about March 30, 1998, Sky Trek released for revenue service and operated N259US on three flights under Part 121 when the deferral period for the malfunctioning DME #1 had expired.
23. On or about March 30, 1998, Sky Trek released for revenue service and operated N259US on three flights under Part 12 1 when the DME # 1 was still inoperative.
24. On or about March 30, 1998, Sky Trek released for revenue service and operated N259US on three flights under Part 12 1 when the DME

#1 had not been properly cleared as required under Sky Trek's maintenance procedures.

25. When N259US was released for service for each of the three flights on or about March 30, 1998, the aircraft was not airworthy due to the uncleared status of the DME #1.
26. As a result of the foregoing, maintenance personnel working for or on behalf of Sky Trek failed to maintain the MEL tracking system required by Sky Trek's Operations Specifications.

III

By reason of the foregoing facts and circumstances, Respondent violated the following section(s) of the Federal Aviation Regulations:

1. Section 119.5(l), which states that no person may operate an aircraft under this part, part 121 of this chapter, or part 135 of this chapter in violation of an air carrier operating certificate, operating certificate, or appropriate operations specifications issued under this part.
2. Section 121.153(a)(2), which states that no certificate holder may operate an aircraft unless that aircraft is in an airworthy condition and meets the applicable airworthiness requirements, including those relating to identification and equipment.

3. Section 12.628(a)(5), which states that no person may take off an airplane with inoperable instruments or equipment installed unless the airplane is operated under all applicable conditions and limitations contained in the Minimum Equipment List and the operations specifications authorizing use of the Minimum Equipment List.

N

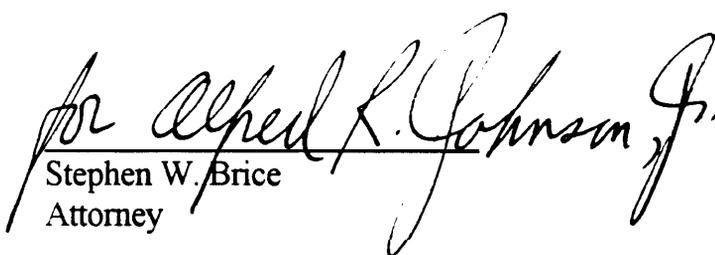
1. Pursuant to 49 U.S.C. §46301(a)(2), Respondent is subject to a civil penalty not to exceed \$11,000 for each of the violations alleged.
2. Under the facts and circumstances of this case, a civil penalty of \$16,000 is appropriate.

WHEREFORE, the FAA, by counsel, respectfully requests that the Administrative Law Judge enter an order that Respondent be assessed a civil penalty in the amount of \$16,000.

Respectfully submitted,

Loretta E. Alkalay
Regional Counsel

By:


Stephen W. Brice
Attorney

NOTE:

The Rules of Practice for this proceeding are set forth in Part 13, Subpart G, of the Federal Aviation Regulations (14 C.F.R Part 13).

The Rules of Practice provide that Respondent must file a written answer to this Complaint, or a written Motion to Dismiss if appropriate, not later than 30 days after the date shown on the Certificate of Service. A general denial is deemed a failure to file an answer (Section 13.209(e)).

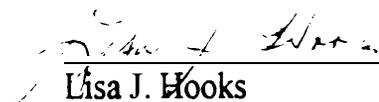
CERTIFICATE OF SERVICE

I hereby certify that the foregoing Complaint and Notice of Appearance has been placed this date in the United States mail, postage prepaid, by Certified Mail - Return Receipt Requested addressed as follows:

Aaron A. Goerlich
Boros & Garofalo, P.C.
1201 Connecticut Ave. NW Ste. 700
Washington, DC 20036

Hearing Docket (Original and one copy)
Federal Aviation Administration
800 Independence Avenue, SW
Room 924A
Washington, DC 20591

Date: SEP 16 1999



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