

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

2007 SEP 26 A 9:59

IN THE MATTER OF

TRI STATES AERO, INC.

DOCKET NO. CP07EA0007

(Civil Penalty Action)

DMS NO. FAA-2007-27917-14

**ADMINISTRATIVE LAW JUDGE'S ORDER GRANTING
MOTION FOR A PROTECTIVE ORDER**

Upon consideration of the Respondent's response to Complainant's motion for a protective order, I have decided to grant the motion and strike from Respondent's Notices of Deposition the purported requirement that the persons being deposed bring their W-2 forms for the past five years to the depositions.

There is no conceivable legitimate purpose that this requirement would serve. The Respondent says I should "[c]onsider . . . the issue of possible bias." The notion that "bias" (whatever that means in the context of this proceeding) can be detected from examination of one's W-2 statement is nonsensical.

It appears that the sole purpose of the requirement is to harass these potential witnesses.

There is no merit to the argument that the FAA's counsel lacks standing to protect potential witnesses for the agency from untoward harassment and embarrassment at a deposition. Section 13.220(f) of the Procedural Rules, 14 C.F.R. § 13.220(f), provides that a protective order may be sought by "a party." It does not require that the party seeking the protective order must be the persons whose deposition is to be taken. If the rule were read as Respondent suggests there would no one with standing to seek an order protecting potential witnesses who are not aligned with or

employed by a party from undue burden or harassment. That would truly be an absurd situation.

The Complainant's request for a protective order is granted. The requirement for the persons being deposed to bring five years' worth of their W-2 Forms to the deposition is stricken. Permanently.

IT IS SO ORDERED.



Isaac D. Benkin
Administrative Law Judge

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