



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
On the Eleventh day of March, 2014

Order Denying Motion for Clarification and

Dismissing Formal Complaint

**Docket OST 2012-0022
Docket OST 2013-0004**

Served March 12, 2014

**ORDER DENYING MOTION FOR CLARIFICATION AND
DISMISSING FORMAL COMPLAINT**

By this order, we dismiss the motion for clarification of Order 2013-11-16 and dismiss without prejudice the formal complaint of Petroleum Helicopters, Inc., Northern Pioneer Helicopters LLC, and Soloy Helicopters LLC (the Complainants). Based on our review of Order 2013-11-16 and the evidence presented by the Complainants in their formal complaint, the Department has determined that Order 2013-11-16 as originally issued is clear and that there is insufficient evidence to initiate a formal investigation.

The Motion for Clarification

On December 9, 2013, the Complainants filed a Motion for Clarification of Order 2013-11-16, a consent order issued by the Department against VIH Cougar Helicopters, Inc., (VIH Cougar) on November 22, 2013. The consent order found that VIH Cougar violated 14 CFR Part 298 and 49 U.S.C. § 41101 and assessed a civil penalty of \$300,000. Specifically, the Complainants requested that the Department provide clarifications on two points. First, Complainants ask whether Order 2013-11-16 precludes investigation into VIH Cougar's transfer of contracts to Construction Helicopters, Inc., (CHI) and/or CHI's current operations. Second, Complainants ask why the Department did not hold personally liable for violations of 49 U.S.C. § 41101 and 14 CFR Part 298 a Canadian citizen who once controlled VIH Cougar.

The Formal Complaint

In addition, the Complainants requested in their Motion that the Department treat that filing as a formal request for an investigation into VIH Cougar's transfer of contracts to CHI and/or CHI's current operations.

The Complainants are entities that have participated in the Department's licensing proceedings relating to VIH Cougar, an entity from which they assert they have suffered illegal competition. In the formal complaint, the Complainants first summarize Order 2013-11-16 and then allege that the violations addressed in that order are continuing. According to the Complainants, VIH Cougar and CHI are evading Order 2013-11-16, as well as violating 14 CFR Part 298 and 49 U.S.C. § 41101, through subterfuge. The Complainants request that the Department conduct an investigation into VIH Cougar's transfer of contracts to CHI and/or CHI's current operations.

Answer of VIH Cougar

In its answer of December 13, 2013, VIH asserts that the language of Order 2013-11-16 is clear and unambiguous and therefore the Department should deny the Complainants' motion in its entirety. VIH Cougar notes that the settlement was carefully negotiated between it and the Department and asserts that the Complainants filed their Motion merely to express their dissatisfaction with the outcome of those negotiations. VIH Cougar further asserts that the Motion contains no valid basis for challenging the Department's findings that were outlined in Order 2013-11-16

Decision

The Department believes that Order 2013-11-16 is unambiguous on its face and clarification of that order is unnecessary. The order was the result of an investigation conducted in accordance with the Department's standard procedures, and deliberate negotiations between the named parties. The order took into account all of the available facts surrounding the matter. Therefore, the Department sees no need for the clarification requested by the Complainants.¹

With regard to allegations that CHI is being illegally controlled by a foreign citizen, the Department has no evidence of prohibited non-U.S. citizen involvement in the operation of CHI. The Complainants' Motion similarly contained no evidence of ongoing violations of Order 2013-11-16 or of the statutes and regulations cited therein. As such, the Department dismisses the Complainants' formal complaint filed in the captioned dockets.

¹ The Department does note that, as with all consent orders, violations occurring after issuance of the order are not covered under the settlement agreement.

ACCORDINGLY, pursuant to the authority provided in 14 CFR 302.406, I dismiss the motion for clarification of Order 2013-11-16 and formal complaint of Petroleum Helicopters, Inc., Northern Pioneer Helicopters LLC, and Soloy Helicopters LLC, in Dockets DOT-OST-2012-0022 and DOT-OST-2013-0004.

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