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THE WHITE HOUSE

WASHINGTON

April 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Civil Aeronautics Board Decisions  
in Guy-American Airways, Inc.;  
Rainbow Air, Inc.; and British  
American Air, Inc.

Richard Darman's office has asked for comments by close of business today on the above-referenced CAB decisions, which were submitted for Presidential review as required by § 801(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(a). Under this section, the President may disapprove, solely on the basis of foreign relations or national defense considerations, CAB actions involving either foreign air carriers or domestic carriers involved in foreign air transportation. If the President wishes to disapprove such CAB actions, he must do so within sixty days of submission (in these cases, by May 14, 20, and 20 respectively).

The orders here have been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President not disapprove, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have not identified any foreign relations or national defense reasons for disapproval. Since these orders involve domestic carriers, the proposed letter from the President to the CAB Chairman prepared by OMB includes the standard sentence designed to preserve availability of judicial review.

The Guy-American order revokes that carrier's entire authority, due to a Department of Transportation emergency order citing numerous safety violations. The Rainbow Air order authorizes that carrier to operate a foreign charter service, and the British American Air order authorizes service between California and Hawaii, on the one hand, and Hong Kong and the Benelux countries, on the other. OMB describes these orders as "routine, noncontroversial matters."

A memorandum for Darman is attached for your review and signature.

THE WHITE HOUSE

WASHINGTON

April 10, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING *FFF/RAH*  
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions  
in Guy-American Airways, Inc.;  
Rainbow Air, Inc.; and British  
American Air, Inc.

Our office has reviewed the above-referenced CAB decisions and related materials, and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove these orders or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

FFF:JGR:aea 4/10/84  
cc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

April 10, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions  
in Guy-American Airways, Inc.;  
Rainbow Air, Inc.; and British  
American Air, Inc.

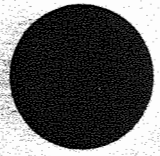
Our office has reviewed the above-referenced CAB decisions and related materials, and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove these orders or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

FFF:JGR:aea 4/10/84  
cc: FFFielding/JGRoberts/Subj/Chron

## WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- O - OUTGOING
- H - INTERNAL
- I - INCOMING  
Date Correspondence Received (YY/MM/DD) 1/1



Name of Correspondent: Richard Darman

MI Mail Report      User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: CAB Decision Re: Guy-American Airways, Inc. - Rainbow AIR, Inc.

| ROUTE TO:                  | ACTION                     | DISPOSITION               |  |
|----------------------------|----------------------------|---------------------------|--|
| Office/Agency (Staff Name) | Action Code                | Tracking Date<br>YY/MM/DD | Type of Response Code<br>Completion Date<br>YY/MM/DD |
| <u>CUHOU</u>               | ORIGINATOR                 | <u>84,04,10</u>           | <u>1 1</u>   |
| <u>CMAT 18</u>             | Referral Note:<br><u>D</u> | <u>84,04,10</u>           | <u>584,04,10</u><br><u>C.O.B</u>                     |
| _____                      | Referral Note:             | <u>1 1</u>                | <u>1 1</u>   |
| _____                      | Referral Note:             | <u>1 1</u>                | <u>1 1</u>   |
| _____                      | Referral Note:             | <u>1 1</u>                | <u>1 1</u>   |

**ACTION CODES:**

- A - Appropriate Action
- I - Info Copy Only/No Action Necessary
- C - Comment/Recommendation
- R - Direct Reply w/Copy
- D - Draft Response
- S - For Signature
- F - Furnish Fact Sheet  
to be used as Enclosure
- X - Interim Reply

**DISPOSITION CODES:**

- A - Answered
- C - Completed
- B - Non-Special Referral
- S - Suspended

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- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: \_\_\_\_\_

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## WHITE HOUSE STAFFING MEMORANDUM

DATE: 4/9/84 ACTION/CONCURRENCE/COMMENT DUE BY: 4/10 - c.o.b.

SUBJECT: CAB DECISION RE: GUY-AMERICAN AIRWAYS, INC.; RAINBOW AIR, INC.  
AND BRITISH AMERICAN AIR, INC.

|                | ACTION FYI                          |  |            | ACTION FYI                          |                          |
|----------------|-------------------------------------|--|------------|-------------------------------------|--------------------------|
| VICE PRESIDENT | <input type="checkbox"/>            | <input type="checkbox"/>               | McFARLANE  | <input type="checkbox"/>            | <input type="checkbox"/> |
| MEESE          | <input type="checkbox"/>            | <input type="checkbox"/>               | McMANUS    | <input type="checkbox"/>            | <input type="checkbox"/> |
| BAKER          | <input type="checkbox"/>            | <input type="checkbox"/>               | MURPHY     | <input type="checkbox"/>            | <input type="checkbox"/> |
| DEAVER         | <input type="checkbox"/>            | <input type="checkbox"/>               | OGLESBY    | <input type="checkbox"/>            | <input type="checkbox"/> |
| STOCKMAN       | <input type="checkbox"/>            | <input type="checkbox"/>               | ROGERS     | <input type="checkbox"/>            | <input type="checkbox"/> |
| DARMAN         | <input type="checkbox"/> P          | <input checked="" type="checkbox"/> SS | SPEAKES    | <input type="checkbox"/>            | <input type="checkbox"/> |
| FELDSTEIN      | <input type="checkbox"/>            | <input type="checkbox"/>               | SVAHN      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| FIELDING       | <input checked="" type="checkbox"/> | <input type="checkbox"/>               | VERSTANDIG | <input type="checkbox"/>            | <input type="checkbox"/> |
| FULLER         | <input type="checkbox"/>            | <input type="checkbox"/>               | WHITTLESEY | <input type="checkbox"/>            | <input type="checkbox"/> |
| HERRINGTON     | <input type="checkbox"/>            | <input type="checkbox"/>               | _____      | <input type="checkbox"/>            | <input type="checkbox"/> |
| HICKEY         | <input type="checkbox"/>            | <input type="checkbox"/>               | _____      | <input type="checkbox"/>            | <input type="checkbox"/> |
| JENKINS        | <input type="checkbox"/>            | <input type="checkbox"/>               | _____      | <input type="checkbox"/>            | <input type="checkbox"/> |

**REMARKS:**

May we have your comments on the attached CAB decision by c.o.b. tomorrow, April 10. Thank you.

**RESPONSE:**

Richard G. Darman  
 Assistant to the President  
 Ext. 2702



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

APR 9 1984

ACTION

MEMORANDUM FOR: ASSISTANT TO THE PRESIDENT  
AND DEPUTY TO THE CHIEF OF STAFF

SUBJECT: Civil Aeronautics Board Decisions:

Guy-American Airways, Inc.  
Docket 42004  
Date due: May 14, 1984

Rainbow Air, Inc.  
Docket 41781  
Date due: May 20, 1984

British American Air, Inc.  
Docket 41321  
Date due: May 20, 1984

You will find attached a memorandum for the President about the above international aviation cases. The interested executive agencies have reviewed the Board's decisions and have no objection to the proposed orders.

These are routine, noncontroversial matters. No foreign policy or national defense reasons for disapproving the Board's orders have been identified. I recommend that the President sign the attached letter to the Chairman which indicates that he does not intend to disapprove the Board's orders within the 60 days allowed by statute. Otherwise, the Board's orders become final on the 61st day.

Original signed by  
Constance Horner

Constance Horner  
Associate Director  
Economics and Government

Attachments:

Memorandum to the President  
CAB letters of transmittal  
CAB orders  
Letter to the Chairman





EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

APR 9 1984

ACTION

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions:

Guy-American Airways, Inc.

Docket 42004

Date due: May 14, 1984

Rainbow Air, Inc.

Docket 41781

Date due: May 20, 1984

British American Air, Inc.

Docket 41321

Date due: May 20, 1984

The Civil Aeronautics Board (CAB) proposes to take the following actions with regard to the above international aviation cases:

- Revoke the certificate of authority of Guy-American Airways, Inc., for routes to certain points in Europe and the Caribbean and any other operating authority the Board may have issued to Guy-American. In February 1983, the Department of Transportation (DOT) issued an emergency order of revocation, due to numerous safety violations. This Board action is pursuant to the DOT revocation.
- Issue a certificate to Rainbow Air, Inc., authorizing it to engage in foreign charter air transportation.
- Issue a certificate to British American Air, Inc., authorizing it to engage in foreign air transportation of persons, property, and mail. The authority allows the carrier to provide scheduled foreign air transportation between points in California and Hawaii, on the one hand, and points in Hong Kong, the Netherlands, Luxembourg, and Belgium, on the other hand.

The Departments of State, Defense, Justice, and Transportation and the National Security Council have not identified any foreign policy or national defense reasons for disapproving the orders in whole or in part.

The Office of Management and Budget recommends that you approve the Board's decisions by signing the attached letter to the Chairman which indicates that you do not intend to disapprove the Board's orders within the 60 days allowed by statute for your



review. Also, OMB recommends that you state in your letter that no national defense or foreign policy reason underlies your actions. This will preserve whatever opportunity is available under the statute for judicial review.

~~Original signed by  
Constance Horner~~

Constance Horner  
Associate Director  
Economics and Government

**Attachments:**

CAB letters of transmittal  
CAB orders  
Letter to the Chairman

Options and Implementation Actions:

- ( ) 1) Approve the Board's orders and preserve whatever opportunity is available for judicial review (DOS, DOD, DOJ, DOT, NSC, OMB).  
-- Sign the attached letter to the Chairman.
- ( ) 2) Approve the Board's orders and do nothing to preserve whatever opportunity is available for judicial review.  
-- Implementation materials to be prepared.
- ( ) 3) Disapprove the Board's orders.  
-- Implementation materials to be prepared.
- ( ) 4) See me.

THE WHITE HOUSE

WASHINGTON

Dear Mr. Chairman:

I have reviewed the orders proposed by the Civil Aeronautics Board in the following cases:

Guy-American Airways, Inc.  
Docket 42004

Rainbow Air, Inc.  
Docket 41781

British American Air, Inc.  
Docket 41321

I have decided not to disapprove the Board's orders. No foreign relations or national defense reason underlies my actions.

Sincerely,

The Honorable Dan McKinnon  
Chairman  
Civil Aeronautics Board  
Washington, D.C. 20428

~~FOR OFFICIAL USE ONLY~~

UNITED STATES OF AMERICA  
CIVIL AERONAUTICS BOARD  
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board  
at its office in Washington, D.C.  
on the 19th day of March, 1984

-----  
BRITISH AMERICAN AIR INC. : Docket 41321  
FITNESS INVESTIGATION :  
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ORDER DECLINING REVIEW

British American Air, Inc. has applied for a certificate to engage in scheduled foreign air transportation of persons, property and mail. <sup>1/</sup> In a Recommended Decision served February 16, 1984, Chief Administrative Law Judge Elias C. Rodriguez found that British American is a citizen of the United States and is fit, willing and able to engage in the air transportation for which it seeks authority. <sup>2/</sup> In addition, he also finds that British American's application presents no control or interlocking relationships subject to the Board's jurisdiction under sections 408 and 409 of the Act.

The applicant and the Bureau of International Aviation have not filed exceptions to the decision with the Board. As we see no reason to take review on our own initiative, we will decline review of the R.D., which is attached as an appendix.

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<sup>1/</sup> British American asks for authority to provide scheduled foreign air transportation between Burbank, Los Angeles, Long Beach, Ontario and San Francisco, California and Honolulu, Hawaii, on the one hand, and points in Hong Kong; the Netherlands, including Amsterdam; Luxembourg; and Belgium, including Brussels; on the other hand.

<sup>2/</sup> By Order 83-10-67, October 17, 1983, which instituted this proceeding, we found that the grant of foreign scheduled authority between a point or points in the United States and a point or points in the Benelux Countries and Hong Kong was consistent with the public convenience and necessity.

~~FOR OFFICIAL USE ONLY~~ *mf 8/6/05*

ACCORDINGLY:

1. We decline review of the Recommended Decision in Docket 41321;
2. We find that British American Air, Inc. is fit, willing and able to engage in foreign air transportation of persons, property and mail and to conform to the provisions of the Act and the rules, regulations and requirements of the Board;
3. We issue to British American Air, Inc. a certificate of public convenience and necessity in the form attached;
4. The authority granted here shall become effective five days after the Board has received from the FAA a copy of the applicant's Air Carrier Operating Certificate and Operations Specifications 3/; Provided, however, that the Board may stay the effectiveness of this authority prior to that date;
5. The certificate shall be signed on the Board's behalf by its Secretary, and shall have the seal of the Board affixed;
6. Except to the extent granted, we deny all other pending motions, petitions, applications and requests in Docket 41321 insofar as they relate to British American Air's application for foreign authority; and
7. This order shall become effective on the 61st day after its submission to the President of the United States, or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under section 801(a) of the Act, whichever occurs earlier, unless he disapproves it under that section.4/

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR  
Secretary

(SEAL)

All Members concurred.

3/ Generally speaking, an acceptable FAA safety report consists of (a) a letter to the Board from the FAA stating that it has issued an Air Carrier Operating Certificate and Operations Specifications to the carrier and (b) copies of the carrier's Air Carrier Operating Certificate and Operations Specifications. When the certificate has become effective, the Board's Secretary will issue a notice to that effect, with a copy of the certificate, including its effective date, attached.

4/ This order was transmitted to the President on MAR 21 1984  
The 61st day is MAY 21 1984

UNITED STATES OF AMERICA  
CIVIL AERONAUTICS BOARD  
WASHINGTON, D. C.

-----  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

for Route  
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BRITISH AMERICAN AIR, INC.

is authorized, subject to the following provisions, the provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the orders, rules, and regulations issued under it, to engage in foreign air transportation of persons, property, and mail as follows:

Between a point or points in the United States, on the one hand, and a point or points in the Netherlands, Luxembourg, Belgium, and Hong Kong, on the other hand.

The authority is subject at all times to the following terms, conditions and limitations:

(1) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any orders of the Board issued under them, or for the purpose of requiring compliance with them.

(2) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign government such operating rights as may be necessary.

(3) The holder may continue to serve regularly any point through the airport it last used regularly to serve that point before the effective date of this certificate. Upon compliance with such procedures as may be prescribed by the Board, the holder may, in addition, regularly serve any point it is authorized to serve through any convenient airport.

(4) The holder's authority to engage in the transportation of mail is limited to carriage on a nonsubsidy basis, i.e., on a service mail rate to be paid entirely by the Postmaster General.

The exercise of the privileges granted by this certificate shall be subject to such other reasonable terms, conditions and limitations that the Board may from time to time prescribe in the public interest.

This certificate shall be effective on

The Civil Aeronautics Board has directed its Secretary to execute this certificate and to affix the Board's seal on March 19, 1984.

PHYLLIS T. KAYLOR  
Secretary

(SEAL)

UNITED STATES OF AMERICA  
CIVIL AERONAUTICS BOARD  
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board  
at its office in Washington, D.C.  
on the 15th day of March, 1984

----- :  
RAINBOW AIR, INC. FITNESS INVESTIGATION : Docket 41781  
----- :

ORDER ISSUING CERTIFICATE

By Order 84-3-66, adopted March 15, 1984, the Board declined review of the findings, conclusions and recommendations contained in the Recommended Decision of Administrative Law Judge John M. Vittone and issued a certificate to Rainbow Air, Inc. authorizing it to engage in interstate and overseas charter air transportation.

By this order, we are issuing a companion certificate authorizing Rainbow to engage in foreign charter air transportation. Instead of repeating our findings and conclusions in Order 84-3-66, we incorporate them here by reference.

ACCORDINGLY:

1. The Board issues a certificate of public convenience and necessity, in the attached form, authorizing Rainbow Air, Inc., to engage in foreign charter air transportation;
2. The authority granted here shall become effective five days after the Board has received from the FAA a copy of the applicant's Air Carrier Operating Certificate and revised Operations Specifications: Provided, however, that the Board may stay the effectiveness of this authority prior to that date.<sup>1/</sup>
3. The certificate shall be signed on the Board's behalf by its Secretary, and shall have the seal of the Board affixed;
4. This order shall become effective on the 61st day after its submission to the President of the United States, or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under section 801(a) of the Act, whichever occurs earlier, unless he disapproves it under that section.<sup>2/</sup>

1/ Generally speaking, an acceptable FAA safety report consists of (a) a letter to the Board from the FAA stating that it has issued an Air Carrier Operating Certificate and Operations Specifications to the carrier and (b) copies of the carrier's Air Carrier Operating Certificate and Operations Specifications. When the certificate has become effective, the Board's Secretary will issue a notice to that effect, with a copy of the certificate, including its effective date, attached.

2/ This order was transmitted to the President on  
The 61st day is

*and 8/6/05*



5. Except to the extent granted here or in Order 84-3-66, the Board denies all other pending motions, petitions, applications and requests in Docket 41781.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR  
Secretary

(SEAL)

All Members concurred.

UNITED STATES OF AMERICA  
CIVIL AERONAUTICS BOARD  
WASHINGTON, D.C.

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CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
FOR CHARTER AIR TRANSPORTATION  
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RAINBOW AIR, INC.

is authorized, subject to the following provisions, the provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the orders, rules and regulations issued thereunder, to engage in foreign charter air transportation of:

1. Persons, property and mail between any point in any State of the United States or the District of Columbia or any territory or possession of the United States and
  - (a) Any point in Canada;
  - (b) Any point in Mexico;
  - (c) Any point in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign point located in the Gulf of Mexico or Carribbean Sea;
  - (d) Any point in Central America or South America;
  - (e) Any point in Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via transpacific routing; and
  - (f) Any point in Greenland, Iceland, the Azores, Europe, Africa and Asia as far east as (and including) India.

This authority is subject to the terms, conditions, and limitations prescribed by the Board's Regulations for charter air transportation, and to the following additional terms, conditions, and limitations:

- (1) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements, and with any orders of the Board issued under them or for the purpose of requiring compliance with them.
- (2) The exercise of the authority granted here is subject to there first being obtained from the appropriate foreign governments such operating rights as may be necessary.

- (3) The exercise of the privileges granted by this certificate is subject to such other reasonable terms, conditions, and limitations as the Board may prescribe in the public interest.

This authority shall be effective on .

The Civil Aeronautics Board has directed its Secretary to execute this certificate and to affix the Board's seal on March 15, 1984.

PHYLLIS T. KAYLOR  
Secretary

(SEAL)

UNITED STATES OF AMERICA  
CIVIL AERONAUTICS BOARD  
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board  
at its office in Washington, D.C.  
on the 15th day of March, 1984

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RAINBOW AIR, INC. : Docket 41781
FITNESS INVESTIGATION :
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Application of :
RAINBOW AIR, INC. : Docket 41884
for an exemption pursuant to §416 of :
the Federal Aviation Act as amended :
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ORDER DECLINING REVIEW AND DISMISSING EXEMPTION APPLICATION

Rainbow Air, Inc. filed an application for a certificate authorizing it to engage in interstate, overseas and foreign charter air transportation of persons, property and mail.<sup>1/</sup> This proceeding was instituted by Order 83-10-112, October 31, 1983, to determine whether (1) Rainbow is a citizen of the United States, (2) Rainbow is fit, willing and able to perform the service and (3) Rainbow's certification presents any control or interlocking relationships under sections 408 and 409 of the Act which require Board action.

In a Recommended Decision served February 13, 1984, Administrative Law Judge John M. Vittone found that Rainbow is a citizen of the United States and that it has established its fitness.<sup>2/</sup>

1/ Rainbow asks for authority to provide interstate and overseas charter air transportation between any point in any state of the United States or the District of Columbia, or any territory or possession of the United States and any other point in any state of the United States or the District of Columbia, or any territory or possession of the United States. It asks for authority to provide foreign charter air transportation between any point in any state of the United States or the District of Columbia, or any United States territory or possession, on the one hand, and points in (1) Canada, (2) Mexico, (3) Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Carribean Sea, (4) Central America and South America, (5) Australasia, Indonesia, and Asia as far west as longitude 70 degrees east via transpacific routing and (6) Greenland, Iceland, the Azores, Europe, Africa and Asia as far east as (and including) India.

2/ Judge Vittone found that the application presents no control or interlocking relationships within the meaning of sections 408 and 409 of the Act. By Order 83-10-112, we found that the requested foreign charter authority was consistent with the public convenience and necessity.

The applicant and the Bureau of International Aviation have not filed exceptions to the decision with the Board.<sup>3/</sup> As we see no reason to take review on our own initiative, we will decline review of the R.D., which is attached as an appendix.

Rainbow's application for an exemption in Docket 41884 has been mooted by the authority granted here.

ACCORDINGLY:

1. We decline review of the Recommended Decision in Docket 41781;
2. We find that Rainbow Air, Inc. is fit, willing and able to engage in interstate, overseas and foreign charter air transportation of persons, property and mail and to conform to the provisions of the Act and the rules, regulations and requirements of the Board;
3. We issue to Rainbow Air, Inc. a certificate of public convenience and necessity in the form attached, authorizing it to engage in interstate and overseas charter air transportation;
4. The authority granted here shall become effective five days after the Board has received from the FAA a copy of the applicant's Air Carrier Operating Certificate and Operations Specifications <sup>4/</sup>; Provided, however, that the Board may stay the effectiveness of this authority prior to that date;
5. The certificate shall be signed on the Board's behalf by its Secretary, and shall have the seal of the Board affixed;
6. Except to the extent granted, we deny all other pending motions, petitions, applications and requests in Dockets 41884 and 41321 insofar as they relate to Rainbow's application for interstate and overseas authority;
7. We accept into the record the post-hearing exhibits filed by Rainbow on March 12, 1984; and
8. We dismiss Rainbow's exemption application in Docket 41884.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR  
Secretary

(SEAL)

All Members concurred.

<sup>3/</sup> By Order 84-3-32, March 6, 1984, we asked Rainbow to file post-hearing exhibits providing certain information required by Part 204 which had not been included with its original application. This information, which was filed by Rainbow on March 12, supports Judge Vittone's findings.

<sup>4/</sup> Generally speaking, an acceptable FAA safety report consists of (a) a letter to the Board from the FAA stating that it has issued an Air Carrier Operating Certificate and Operations Specifications to the carrier and (b) copies of the carrier's Air Carrier Operating Certificate and Operations Specifications. When the certificate has become effective, the Board's Secretary will issue a notice to that effect, with a copy of the certificate, including its effective date, attached.

UNITED STATES OF AMERICA  
CIVIL AERONAUTICS BOARD  
WASHINGTON, D.C.

-----  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
FOR CHARTER AIR TRANSPORTATION  
-----

RAINBOW AIR, INC.

is authorized, subject to the following provisions, the provisions of Title IV of the Federal Aviation Act of 1958, as amended, and the orders, rules, and regulations issued under it, to engage in interstate and overseas charter air transportation (including inclusive tour charters) of persons, property, and mail:

Between any point in any State of the United States or the District of Columbia or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia or any territory or possession of the United States.

This authority is subject to the terms, conditions and limitations prescribed by the Board's Regulations for charter air transportation and to the following additional conditions:

- (1) The holder is not authorized to engage in air transportation between points within the State of Alaska.
- (2) The holder is not authorized to engage in all-cargo service as defined in section 101(11) of the Act.
- (3) The exercise of the privileges granted by this certificate is subject to any other reasonable terms, conditions and limitations that the Board may from time to time prescribe in the public interest.

This certificate shall be effective on .

The Civil Aeronautics Board has directed its Secretary to execute this certificate and to affix the Board's seal on March 15, 1984,

PHYLLIS T. KAYLOR  
Secretary

(SEAL)

UNITED STATES OF AMERICA  
CIVIL AERONAUTICS BOARD  
WASHINGTON, D.C.

Adopted by the Civil Aeronautics Board  
at its office in Washington, D.C.  
on the 9th day of March, 1984

-----  
Continuing Fitness Determination of :  
: GUY-AMERICA AIRWAYS, INC. :  
: : Docket 42004  
pursuant to section 401(r) of the :  
Federal Aviation Act of 1958, as :  
amended :  
-----

ORDER

By Order 84-2-81, adopted February 17, 1984, we directed interested persons to show cause why we should not (1) find that Guy-America Airways, Inc. has failed to comply with the requirement that it continue to be fit, willing and able to provide the service for which it currently holds authority and (2) revoke that authority.

The order directed persons objecting to our tentative findings and conclusions set forth in that order to file their objections within 15 days. In addition, the order provided that, in the event no objections were filed, all further procedural steps would be deemed waived and the Secretary would enter an order which would (1) make final our tentative findings and conclusions and (2) revoke all authority which we have granted Guy-America.

No objections to Order 84-2-81 have been filed.

ACCORDINGLY:

1. We make final our tentative findings and conclusions set forth in Order 84-2-81;

2. We revoke Guy-America's certificate for Route 290 and any other operating authority we may have issued to Guy-America; and

3. Unless disapproved by the President of the United States under section 801 of the Act, this order shall become effective on the 61st day after submission to the President or upon the date of receipt of advice from the President that he does not intend to disapprove the Board's order under that section, whichever occurs earlier.<sup>1/</sup>

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR  
Secretary

(SEAL)  
All Members concurred.

<sup>1/</sup> This order was transmitted to the President on

*and 4/6/85*





UNITED STATES OF AMERICA  
 CIVIL AERONAUTICS BOARD  
 WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board  
 at its office in Washington, D.C.  
 on the 17th day of February, 1984

-----  
 Continuing Fitness Determination of :  
 :  
 GUY-AMERICA AIRWAYS, INC. : Docket 42004  
 :  
 pursuant to section 401(r) of the :  
 Federal Aviation Act of 1958, as :  
 amended :  
 -----

ORDER TO SHOW CAUSE

Section 401(r) of the Federal Aviation Act directs that the requirement that each applicant for a certificate must be found to be fit shall be a continuing requirement applicable to each such air carrier with respect to the transportation we authorize it to perform. Section 401(r) further provides that we shall modify, suspend or revoke such certificate or other authority for failure of an air carrier to comply with the continuing requirement that the air carrier be fit, willing and able, or for failure to file such reports as we deem necessary to determine whether the air carrier is fit.

By Order 83-3-19, March 3, 1983, we instituted the Guy-America Airways, Inc., Fitness Investigation to determine whether Guy-America continues to be fit, willing and able to perform the air transportation for which it currently holds authority and whether it is fit, willing and able to perform other air transportation for which it sought authority. Our instituting order noted that the Federal Aviation Administration had, on February 16, 1983, issued an emergency order of revocation to Guy-America, citing the carrier with violations of 20 sections of the Federal Aviation Regulations during the period June 1981 through February 1983. <sup>1/</sup>

<sup>1/</sup> On February 18, 1983, the FAA amended its emergency revocation to hold in abeyance the total revocation imposed by the emergency order and to specify limitations, requirements and penalties imposed on Guy-America. On March 25, 1983, the FAA issued an amended order reinstating the emergency revocation.

ACCORDINGLY:

1. We direct all interested persons to show cause why we should not issue an order (1) finding that Guy-America Airways, Inc. is not fit, willing and able under section 401(d) of the Federal Aviation Act to provide the service for which it holds authority and (2) revoking that authority;

2. We direct all interested persons having objections to the issuance of an order making final the proposed finding that Guy-America is unfit and revoking its authority to file such objections with the Docket Section, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, and serve them on all persons listed in Attachment A to this order no later than March 8, 1984; answers to objections will be due on March 19, 1984;

3. We will accord full consideration to the matters and issues raised in any timely and properly filed objections before we take further action; 3/

4. In the event no one files an objection, we will deem all further procedural steps waived, and the Secretary will enter an order making final the tentative findings and conclusions set forth here;

5. We will publish a notice of this order in the Federal Register.

By the Civil Aeronautics Board:

PHYLLIS T. KAYLOR  
Secretary

(SEAL)

All Members concurred.

---

3/ Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.

Order 84-2-81  
Attachment A

GUY-AMERICA SERVICE LIST

New York State  
Department of Transportation  
Aviation Bureau  
1220 Washington Avenue  
Albany, N.Y. 12232

Puerto Rico Ports Authority  
Aviation Department  
Puerto Rico Int'l. Airport  
GPO Box 2829  
San Juan, P.R. 00936

Guy-America Airways, Inc.  
118-27 Queens Blvd.  
Forest Hills, NY 11375

Mr. Rick Cremer, AFO-220  
Air Carrier Branch  
Federal Aviation Administration  
800 Independence Avenue, S.W.  
Washington, D.C. 20591

Issac J. Dornfield  
General Manager  
The Port Authority of New York  
and New Jersey  
JFK International Airport  
Jamaica, NY 11430

THE WHITE HOUSE

WASHINGTON

May 29, 1984

MEMORANDUM FOR RICHARD A. HAUSER

FROM:

JOHN G. ROBERTS 

SUBJECT:

Civil Aeronautics Board Decisions  
in Denham Aircraft Services; Airmark  
Corporation; New Gateways to Brazil Case

This memorandum is addressed to Mr. Hauser because of the involvement of Eastern Air Lines, Inc., in one of the subject decisions.

Richard Darman's office has asked for comments by close of business today on the above-referenced CAB decisions, which were submitted for Presidential review as required by § 801(a) of the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1461(a). Under this section, the President may disapprove, solely on the basis of foreign relations or national defense considerations, CAB actions involving either foreign air carriers or domestic carriers involved in foreign air transportation. If the President wishes to disapprove such CAB actions, he must do so within sixty days of submission (in these cases, by June 18, 30, and July 6 respectively).

The orders here have been reviewed by the appropriate departments and agencies, following the procedures established by Executive Order No. 11920 (1976). OMB recommends that the President not disapprove, and reports that the NSC and the Departments of State, Defense, Justice and Transportation have not identified any foreign relations or national defense reasons for disapproval. Since these orders involve domestic carriers, the proposed letter from the President to the CAB Chairman prepared by OMB includes the standard sentence designed to preserve availability of judicial review.

In the Denham case, the CAB, over the dissent of Chairman McKinnon, overruled the decision of the Administrative Law Judge that Denham was not managerially and economically fit to engage in foreign charter service. In the Airmark case the Board issued a foreign charter certificate to that carrier. Finally, in the Brazilian route case, the Board suspended American's authority over certain Brazilian

routes, activated Capitol's back-up authority, and rejected applications for such authority from Arrow and Eastern. OMB describes these orders as "routine, noncontroversial matters."

A memorandum for Darman is attached for your review and signature. The memorandum notes that Mr. Fielding did not participate in the review of this matter.

Attachment

THE WHITE HOUSE

WASHINGTON

May 29, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER <sup>151</sup>  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions  
in Denham Aircraft Services; Airmark  
Corporation; New Gateways to Brazil Case

Our office has reviewed the above-referenced CAB decisions and related materials, and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

We also have no legal objection to OMB's recommendation that the President not disapprove these orders or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

Mr. Fielding did not participate in the review of this matter.

RAH:JGR:aea 5/29/84  
cc: RAHauser/JGRoberts/✓Subj/Chron

THE WHITE HOUSE

WASHINGTON

May 29, 1984

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: RICHARD A. HAUSER  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Civil Aeronautics Board Decisions  
in Denham Aircraft Services; Airmark  
Corporation; New Gateways to Brazil Case

Our office has reviewed the above-referenced CAB decisions and related materials, and has no legal objection to the procedure that was followed with respect to Presidential review of such decisions under 49 U.S.C. § 1461(a).

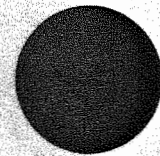
We also have no legal objection to OMB's recommendation that the President not disapprove these orders or to the substance of the letter from the President to the CAB Chairman prepared by OMB.

Mr. Fielding did not participate in the review of this matter.

RAH:JGR:aea 5/29/84  
cc: RAHauser/JGRoberts/Subj/Chron



**WHITE HOUSE  
CORRESPONDENCE TRACKING WORKSHEET**



- O - OUTGOING
- H - INTERNAL
- I - INCOMING  
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Richard Dorman

MI Mail Report      User Codes: (A) \_\_\_\_\_ (B) \_\_\_\_\_ (C) \_\_\_\_\_

Subject: CAB Decision re: Denham Aircraft Services; Airmark Corporation; New Gateways to Brazil Case

| ROUTE TO:<br>Office/Agency (Staff Name) | ACTION<br>Action Code | Tracking Date<br>YY/MM/DD | DISPOSITION      |                             |
|---|-----------------------|---------------------------|------------------|-----------------------------|
|   |                       |                           | Type of Response | Completion Date<br>YY/MM/DD |
| <u>Clifford</u>                         | ORIGINATOR            | <u>840525</u>             |                  | <u>1 1</u>                  |
| <u>Clifford 18</u>                      | <u>D</u>              | <u>840525</u>             | <u>S</u>         | <u>840529</u>               |
|   |                       | <u>1 1</u>                |                  | <u>1 1</u>                  |
|   |                       | <u>1 1</u>                |                  | <u>1 1</u>                  |
|   |                       | <u>1 1</u>                |                  | <u>1 1</u>                  |

**ACTION CODES:**

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure
- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - For Signature
- X - Interim Reply

**DISPOSITION CODES:**

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

**FOR OUTGOING CORRESPONDENCE:**

- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: \_\_\_\_\_

Keep this worksheet attached to the original incoming letter.  
Send all routing updates to Central Reference (Room 75, OEOB).  
Always return completed correspondence record to Central Files.  
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

## WHITE HOUSE STAFFING MEMORANDUM

DATE: 5/25/84 ACTION/CONCURRENCE/COMMENT DUE BY: 5/29/84

SUBJECT: CAB DECISION RE DENHAM AIRCRAFT SERVICES; AIRMARK CORPORATION;  
NEW GATEWAYS TO BRAZIL CASE

|                | ACTION FYI                          |   |            | ACTION FYI                          |                          |
|----------------|-------------------------------------|---|------------|-------------------------------------|--------------------------|
| VICE PRESIDENT | <input type="checkbox"/>            | <input type="checkbox"/>                      | McMANUS    | <input type="checkbox"/>            | <input type="checkbox"/> |
| MEESE          | <input type="checkbox"/>            | <input type="checkbox"/>                      | MURPHY     | <input type="checkbox"/>            | <input type="checkbox"/> |
| BAKER          | <input type="checkbox"/>            | <input type="checkbox"/>                      | OGLESBY    | <input type="checkbox"/>            | <input type="checkbox"/> |
| DEAVER         | <input type="checkbox"/>            | <input type="checkbox"/>                      | ROGERS     | <input type="checkbox"/>            | <input type="checkbox"/> |
| STOCKMAN       | <input type="checkbox"/>            | <input type="checkbox"/>                      | SPEAKES    | <input type="checkbox"/>            | <input type="checkbox"/> |
| DARMAN         | <input type="checkbox"/>            | <input checked="" type="checkbox"/> <b>BS</b> | SVAHN      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| FELDSTEIN      | <input type="checkbox"/>            | <input type="checkbox"/>                      | VERSTANDIG | <input type="checkbox"/>            | <input type="checkbox"/> |
| FIELDING       | <input checked="" type="checkbox"/> | <input type="checkbox"/>                      | WHITTLESEY | <input type="checkbox"/>            | <input type="checkbox"/> |
| FULLER         | <input type="checkbox"/>            | <input type="checkbox"/>                      | _____      | <input type="checkbox"/>            | <input type="checkbox"/> |
| HERRINGTON     | <input type="checkbox"/>            | <input type="checkbox"/>                      | _____      | <input type="checkbox"/>            | <input type="checkbox"/> |
| HICKEY         | <input type="checkbox"/>            | <input type="checkbox"/>                      | _____      | <input type="checkbox"/>            | <input type="checkbox"/> |
| McFARLANE      | <input type="checkbox"/>            | <input type="checkbox"/>                      | _____      | <input type="checkbox"/>            | <input type="checkbox"/> |

**REMARKS:**

May we have your comments by close of business May 29. Thank you.

**RESPONSE:**

1984 MAY 25 PM 2:48

Richard G. Darman  
 Assistant to the President  
 Ext. 2702



MAY 25 1984

ACTION

MEMORANDUM FOR: ASSISTANT TO THE PRESIDENT  
AND DEPUTY TO THE CHIEF OF STAFF

SUBJECT: Civil Aeronautics Board Decisions:

Denham Aircraft Services  
Corp. II  
Fitness Investigation  
Docket 41441  
Date due: June 18, 1984

Airmark Corporation  
Fitness Investigation  
Docket 41919  
Date due: June 30, 1984

New Gateways to Brazil Case  
Docket 39251  
Date due: July 6, 1984

Attached is a memorandum for the President about the above international aviation cases. The interested executive agencies have reviewed the Board's decisions and have no objection to the proposed orders.

These cases are routine, noncontroversial matters. No foreign policy or national defense reasons for disapproving the Board's orders have been identified. I recommend that the President sign the attached letter to the Chairman which indicates that he does not intend to disapprove the Board's orders within the 60 days allowed by statute. Otherwise, the Board's orders become final on the 61st day.

Original signed by  
Constance Horner

Constance Horner  
Associate Director  
Economics and Government

Attachments:

Memorandum to the President  
CAB letters of transmittal  
CAB orders  
Letter to the Chairman

Amf 8/6/03

UNITED STATES OF AMERICA  
CIVIL AERONAUTICS BOARD  
WASHINGTON, D. C.

Adopted by the Civil Aeronautics Board  
at its office in Washington, D. C.  
on the 18th day of April, 1984

-----  
DENHAM AIRCRAFT SERVICES CORP. II :  
FITNESS INVESTIGATION : Docket 41441  
-----

ORDER

Denham Aircraft Services Corp. II applied for a certificate authorizing it to engage in foreign charter air transportation of persons, property and mail. 1/

We instituted this investigation by Order 83-8-54, August 12, 1983, to determine whether (1) Denham is a citizen of the United States, (2) Denham is fit, willing and able to perform the service and (3) Denham's certification presents any control or interlocking relationships under sections 408 and 409 of the Act which require Board action.

In a Recommended Decision served January 11, 1984, Administrative Law Judge John M. Vittone found that Denham is a citizen of the United States, but that it has not established its fitness. He also found that its application presents no control or interlocking relationships within the meaning of sections 408 and 409 of the Act so long as Denham Electronics and Accessories, a fixed-base aeronautics business owned by the same individuals who own the applicant, remains a dormant corporation.

1/ Denham is located in Miami and initially intends to operate passenger charter flights from the East Coast of the United States to England, France, Germany, and Switzerland about twice a week using one DC-8 aircraft. Recommended Decision, p. 4. Denham's application also includes a request for overseas charter authority. This appears to be inadvertent since Denham does not propose to provide any overseas charter authority. Moreover, section 201.4(b) of our regulations prohibits the inclusion of requests for overseas authority in an application for foreign authority. We shall therefore treat Denham's application as requesting only the foreign charter authority for which it has properly applied and upon which it has based its case. If Denham desires overseas or interstate charter authority, it is free to submit a separate application for it.

Amf 8/6/05

UNITED STATES OF AMERICA  
CIVIL AERONAUTICS BOARD  
WASHINGTON, D.C.

Adopted by the Civil Aeronautics Board  
at its office in Washington, D.C.  
on the 26th day of April, 1984

|                       |   |                      |
|-----------------------|---|----------------------|
| -----                 | : |                      |
| AIRMARK CORPORATION   | : |                      |
| FITNESS INVESTIGATION | : | Docket 41919         |
| -----                 | : |                      |
| -----                 | : |                      |
| APPLICATIONS OF       | : |                      |
| AIRMARK CORPORATION   | : | Dockets 41741, 41742 |
| -----                 | : |                      |

ORDER ISSUING CERTIFICATE

By Order 84-4-95, adopted April 26, 1984, the Board declined review of the Recommended Decision of Administrative Law Judge Ronnie A. Yoder, and issued a certificate to Airmark Corporation, authorizing it to engage in interstate and overseas charter air transportation pursuant to section 401 of the Act.

By this order, we are issuing a companion certificate authorizing Airmark to engage in foreign charter air transportation. Instead of repeating our findings and conclusions in Order 84-4-95, we incorporate them here by reference.

ACCORDINGLY:

1. The Board issues a certificate of public convenience and necessity, in the attached form, authorizing Airmark Corporation to engage in foreign charter air transportation;
2. The authority granted here shall become effective five days after the Board has received from the FAA a copy of the applicant's Air Carrier Operating Certificate and revised Operations Specifications: Provided, however, that the Board may stay the effectiveness of this authority prior to that date;
3. The certificate shall be signed on the Board's behalf by its Secretary, and shall have the seal of the Board affixed;



Conf 010103

UNITED STATES OF AMERICA  
CIVIL AERONAUTICS BOARD  
WASHINGTON, D.C.

Adopted by the Civil Aeronautics Board  
at its office in Washington, D.C.  
on the 20th day of April, 1984

-----  
NEW GATEWAYS TO BRAZIL CASE : Docket 39251  
-----

-----  
Application of :  
 :  
 ARROW AIR, INC. : Docket 41769  
 :  
 for a certificate of public :  
 convenience and necessity pursuant :  
 to section 401 of the Federal :  
 Aviation Act of 1958, as amended :  
 (Miami-San Juan Brazil/Argentina) :  
-----

-----  
Application of :  
 :  
 EASTERN AIR LINES, INC. : Docket 41721  
 :  
 for amendment of its certificate :  
 of public convenience and :  
 necessity for Route 131 (Miami- :  
 San Juan-Panama City-Brazil) :  
-----

FINAL ORDER

By Order 84-3-118, we tentatively found and concluded that the certificate authority of American Airlines, Inc. (American) to serve Dallas/Ft. Worth, Texas-Rio de Janeiro/Sao Paulo, Brazil should be suspended, that Capitol Air's (Capitol) back-up certificate authority to serve San Juan, Puerto Rico-Brasilia/Rio de Janeiro, Brazil should be activated, and that the certificate applications of Arrow Air, Inc. (Arrow) in Docket 41769 and Eastern Air Lines, Inc. (Eastern) in Docket 41721 to serve Brazil should be dismissed. We directed all interested persons to show cause why we should not issue an order making final our tentative findings and conclusions. Objections to our tentative decisions were due on April 5, 1984, and answers to objections were due on April 10, 1984.

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