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November 1, 2005

TO: Kate Breen, NAATS' President
FM: Arthur Fox, General Counsel
RE: Authority of NAATS' Officers

I understand that a few individuals have raised some governance issues following the FAA's transfer of Flight Service to Lockheed Martin. In particular, the question has been asked whether the current NAATS' officers, who were elected in the autumn of 2004 for a term of three years, can continue to hold office in light of the fact that their jobs were transferred by the FAA to Lockheed Martin on October 4, 2005.

The NAATS Constitution does not directly address this question. What it does say in Article 7, Section 3 is that, to be eligible to be a candidate for elective office, an individual must have been a "regular member in continuous good standing for two consecutive members prior to the time he or she will assume office" and "[h]ave met the requirements of full performance level in the flight service option." No one has questioned the fact that the current officers met those eligibility criteria at the time they were elected.

So the question becomes, once elected, can an officer lose his or her eligibility to serve out the three year term, particularly where the officer remains a regular member in good standing working in the Flight Service option, albeit for Lockheed Martin rather than the FAA. While some union constitutions do contain provisions that require officers to step down from office in specified circumstances, the NAATS' Constitution does not.

Therefore, just as the President of the United States is entitled to serve his full, 4-year term of office, unless impeached, absent an explicit constitutional restraint, it may be inferred that unless NAATS' current elected officers should resign, or be found guilty of misconduct pursuant to Article 12, they continue to be imbued with the authority of their office for the balance of their terms despite the fact they may now be employed by Lockheed Martin rather than the FAA.

Of course, some might contend that while the United States at least continues to exist, on October 4, 2005, NAATS ceased to exist as a legal entity, or "labor organization" as that term is defined in the law, everywhere except where its members continued to be employed by the FAA. However, that is simply not true in fact, or correct in the eyes of the law. NAATS as a legal entity, as a membership organization, and as a "labor organization" lives on so long as it has members that it represents, or "seeks to represent" in collective bargaining. And it must continue to operate within the confines of its Constitution.