

January 30, 2011

Mr. Clay Foushee  
Director, Office of Audit and Evaluation  
Federal Aviation Administration  
800 Independence Avenue SW  
Washington, DC 20591

Dear Mr. Foushee,

I received a copy of my FAA Whistleblower Case File Number WB1049 and have reviewed the documentation.

I would like to request that your office respond to a list of questions (see below) specific to my FAA Whistleblower Case. Would you please respond to these questions or forward my request to the appropriate department within the FAA.

1. Would you explain the process by which DOL OSHA investigator Michael Moon submitted my FAA Whistleblower Protection Program information to the FAA on December 15, 2009. Specifically, was my information entered into an online system, mailed to the FAA's Whistleblower Protection Program, emailed?
2. Would you explain why my WB1049 case was not assigned for the reasons "No Specific Details" and "Also not assigned because of no contact info. Awaiting more info." (See Exhibit 1)
3. Would you explain why my WB1049 case was documented as having been submitted and received on 12.15.2009 but the "Date FAA Received Complaint" date on the case file tracking sheet shows a date of "02/24/2010". (See Exhibit 1)
4. Would you explain why my WB1049 case file, showing "Date FAA Received Complaint: 02/24/2010" also shows "FAA Closed Date: 02/24/2010". Specifically, why was my case closed the same day it was received by the FAA? (See Exhibit 1)
5. My case file includes two different case tracking records. Would you explain why the first case file shows a "FAA Closed Date: 02/24/2010" and the second case file shows a "FAA Closed Date: 07/12/2010". (See Exhibit 1 and Exhibit 2)

6. My understanding of the FAA's Whistleblower Protection Program is that Whistleblower complaints are to be investigated by the FAA without intervention by the air carrier or airport authority for which the alleged safety violations may have occurred. Specific to the FAA's Whistleblower Protection Program, would you explain the FAA's Standard Operating Procedure for investigating Whistleblower complaints.
7. Would you explain why the FAA's Memphis Airport District Office, MEM-ADO, investigator James T. Castleberry chose not to follow **Tina Amereihn**, Director, Office of Quality, Integration, and Executive Services, AQS-1's specific instructions to **Catherine Lang**, Acting Associate Administrator for Airports, ARP-1 to:

"Please **specifically address**, at a minimum, the following allegations that are raised in the complaint: 1. Runway structural irregularities (see complaint attachment). Additional safety issues revealed during the investigation should also be specifically addressed in the report." (See Exhibit 3)

8. My OSHA and FAA Whistleblower complaint included an overwhelming amount of evidence (documentation, photographs, and videos) of the damaged walls currently supporting Runway 9/27 at Memphis International Airport. Would you explain why the FAA's Office of Airports Division inspectors did not inspect the walls directly beneath Runway 9/27 and why they did not inspect the runway surface directly above the damaged tunnel. (See Exhibit 4)
9. Would you explain why the FAA's Memphis Airport District Office, MEM-ADO, investigator James T. Castleberry chose to defer to the Memphis Shelby County Airport Authority's commissioned Kimley-Horn engineering report rather than inspect the tunnel and runway for himself. (See Exhibit 4)
10. Would you explain why James Castleberry's report did not explain that Kimley-Horn and Associates were an existing paid contractor for the Memphis Shelby County Airport Authority and were in no way to be considered as an "independent" evaluation firm. (See Exhibit 4)
11. The Kimley-Horn evaluation of the Hurricane Creek Tunnel stated that there was a wall that was showing a crack due to a faulty concrete mold when the walls were built in 1985. Would you explain why James Castleberry did not report that not only was this wall directly beneath Runway 9/27, but also that all five tunnel walls directly beneath Runway 9/27 were damaged in the same manner. (See Exhibit 4)
12. Would you explain why James Castleberry's report did not explain why the walls directly below Runway 9/27 were actually built after the original tunnel was installed in 1985. (See Exhibit 4)
13. Would you explain why James Castleberry chose not to review any of my documentation, nor reference any of my documentation in his report. (See Exhibit 4)

14. Would you explain why FAA Whistleblower Protection Program Manager, Ron Rifenberg, never returned any of my five calls to his office between May 7, 2010 and May 10, 2010.
15. Would you explain why FAA Whistleblower Protection Program Manager, Ron Rifenberg, chose to close my WB1049 case on May 11, 2010 because "it appears that it does not contain any safety specific allegations that are necessary to initiate an investigation." (See Exhibit 5)
16. Would you explain why FAA Whistleblower Protection Program Manager, Ron Rifenberg, chose to reopen my WB1049 case one week later on May 18, 2010. (See Exhibit 6)
17. Would you confirm that FedEx Express Engineers and Memphis International Airport Engineers are permitted to assess, classify, and designate that runways are safe at Memphis International Airport (superseding the authority of the FAA).

Thank you for your cooperation. Please submit your responses to my address below. You may contact me by telephone if you have any questions.

Guy Cobb  
1419 Tree Haven Cove  
Cordova, Tennessee 38016  
(901)598-1876

Exhibit 1

Geographic Location of Discrimination:

State (U.S. Only): Province (Non-U.S.):

Complaint

Sent From :

Alleged safety violation: To whom did you report it and what alleged discriminatory personnel action resulted from your report. Be as specific about names, dates, and events as space permits.



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Administration

Not Assigned  Assigned

Reason Not Assigned:  
No Specific Details

Special Instructions:  
Also not assigned because of no contact info.  
Awaiting more info.

Transfer To Safety Hotline

CB  AIP  OIG  
 ACB  ASN  RO

Underlying Facts:

Organization Assignment:

Date FAA Received Complaint:	Date of AQS100 Assignment:	Date Returned from AQS-1:	Form Letter:	Date Acknowledgment Letter Sent:	Date Assignment Letter Sent:	Date Finding Letter Sent:	Date No-Finding Letter Sent:	Date OSHA Notification Letter Sent:
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02/24/2010

Additional Information:  
Additional Information:  
Date Received Date Sent: Service: Special Handling:

OSHA RO: OSHA RO Manually Assigned:  
FAA RO: FAA RO Manually Assigned :  
ACE

FAA Safety Due Date (45 Days From Date Assigned): Extended Due Date:

Awaiting Documentation?

Yes  No

FAA Response Date:

FAA Status:  
 Open  Closed

FAA Closed Date: 02/24/2010

FAA Safety Action:

Destroy Date: 02/24/2013

OSHA Tracking

Exhibit 2

**Alleged Adverse Personnel Action**

Alleged Adverse Personnel Action

Alleged Adverse Personnel Action: Discharge Short Explanation:  
 Discrimination Date: mm/dd/yyyy 90 Days Expires on:  
 11/13/2009 02/11/2010 (File with OSHA before this date)  
 Geographic Location of Discrimination:  
 State (U.S. Only): Province (Non-U.S.):

**Complaint**

Complaint

Sent From :  
 Alleged safety violation: To whom did you report it and what alleged discriminatory personnel action resulted from your report. Be as specific about names, dates, and events as space permits.



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Cobb attachments (c).pdf

**Admin**

Administration

Not Assigned  Assigned

Special Instructions:  
 Also not assigned because of no contact info.  
 Awaiting more info.  
 After call from AQS-100, complainant submitted substantive info which was completely absent from the initial submission.

CB  AIP  OIG Underlying Facts:  
 ACB  ASN  RO

Organization Assignment: ARP

Date FAA Received Complaint:	Date of AQS100 Assignment:	Date Returned from AQS-1:	Form Letter:	Date Acknowledge ment Letter Sent:	Date Assignment Letter Sent:	Date Finding Letter Sent:	Date No-Finding Letter Sent:	Date OSHA Notification Letter Sent:
02/24/2010	05/18/2010	08/01/2010	Other	05/19/2010			07/28/2010	07/28/2010

Additional Information:  
 Additional Information:  
 Date Received: Date Sent: Service: Special Handling:

OSHA RO: OSHA RO Manually Assigned:  
 FAA RO: FAA RO Manually Assigned :  
 ACE



**Federal Aviation  
Administration**

**Memorandum**

Date:

To: Catherine Lang, Acting Associate Administrator for Airports, ARP-1

From: Tina Amereihn, Director, Office of Quality, Integration, and Executive Services, AQS-1

Prepared by: Ron Rifenberg

Subject: Whistleblower Complaint, WB1049, Federal Express Corporation

In accordance with the Whistleblower Protection Program (WBPP), 49 U.S.C. section 42121, the attached complaint alleges a violation or noncompliance of a Federal Aviation Administration (FAA) order, regulation, or standard by Federal Express Corporation. Please investigate the air carrier related safety aspects.

Investigators must contact the complainant by most expeditious means possible (phone, e-mail, etc.) to verify allegations found in the complaint, determine if there is any additional supporting evidence, if any witnesses or other employees can corroborate the alleged violation(s), and if other employees are experiencing the same or similar problems.

This complaint has been filed with the U.S. Department of Labor and the Occupational Safety and Health Administration is conducting a separate investigation concerning the allegations of discrimination. It contains confidential information that is intended only for use on a "need-to-know" basis. Unauthorized disclosure of such information may constitute a violation of the Privacy Act (5 U.S.C. section 552a) and FAA rules of conduct. Questions concerning disclosure of some or all information contained in the whistleblower complaint should be directed to the responsible regional counsel's office.

Please specifically address, at a minimum, the following allegations that are raised in the complaint:

1. Runway structural irregularities (see complaint attachment).

Additional safety issues revealed during the investigation should also be specifically addressed in the report.

Use whistleblower complaint number WB1049 in the national use block of all PTRS activities associated with this complaint.

CONCURRENCES
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INITIALS/SDG 5/27/10
DATE 5-27-10
ROUTING SYMBOL AQS-100
INITIALS/SDG CJF
DATE 5/28/10
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## Federal Aviation Administration

### Memorandum

Date: June 29, 2010  
To: Ron Rifenberg, WBPP Manager, AQS-100  
From: Winsome A. Lenfert, Manager, Airports Division, ASO-600  
Prepared by: James T. Castleberry  
Subject: Whistleblower Complaint, WB1049, Federal Express Corporation

2010 JUL 12 PM 12:09  
RECEIVED  
FEDERAL AVIATION  
ADMINISTRATION  
WINSOME A. LENFERT  
MANAGER  
AIRPORTS DIVISION  
ASO-600

The Memphis-Shelby County Airport Authority (MSCAA) received federal funding for the rehabilitation of Runway 9/27. This project included rehabilitation of the runway pavement. Part of the Whistleblower Complaint alleges the culvert under Runway 9-27 is structurally deficient and in danger of collapse. This memorandum addresses that part of the complaint.

The culvert is owned by the Memphis - Shelby County Airport Authority. FAA's Southern Region Airports Division, ASO-600 made contact with the whistleblower on May 25, 2010. On May 27, 2010, FAA's Memphis Airports District Office, MEM-ADO, contacted the airport authority and found:

1. As part of the Runway 9/27 reconstruction design effort in 2008, the design consultant AFRAM analyzed the design of the Hurricane Creek box culvert.
2. The box culvert is a four (4) barrel box culvert with each box being 14-feet wide and 13.5-feet tall. The structure was constructed in 1985.
3. At approximately 1,580 feet long, the Hurricane Creek Box Culvert connects into an existing four (4) barrel box culvert on FedEx property at the north side of Taxiway V. On the south end of the structure, it connects into a reinforced concrete open drainage channel.
4. In December 2009, the airport authority received questions and concerns from the whistleblower over the structural integrity of the Hurricane Creek box culvert based on his visual observations from 2006. The whistleblower is a former employee of FedEx and toured the culvert as part of a business continuity plan that he was working on in 2006. The airport authority allowed the whistleblower to review thousands of documents related to the reconstruction of Runway 9/27 and the report prepared by AFRAM in 2008.
5. In 2010 the airport authority contracted with engineering consultant Kimley-Horn (K-H) and in mid May they completed a more thorough review of the structural integrity of the culvert. They conducted an onsite inspection of the culvert and performed the following:
  - a. Visual Observation

- i. Review existing design drawings
    - ii. Walk-through of all four (4) barrels of the existing structure the full length of airport responsibility (from the south inlet to the interface with the FedEx culvert)
  - b. Structural Testing from Inside Culvert
    - iii. Concrete cores of the base slab/footing, interior wall, and exterior wall
    - iv. Radiographic (X-ray) testing of interior wall
    - v. Ground Penetrating Radar (GPR) scans of the footing, interior wall, exterior wall, and top slab
    - vi. Alkali-Silica Reaction (ASR) testing of the cores
  - c. Structural Testing from Above Culvert
    - vii. Concrete cores of the top slab
    - viii. Ground Penetrating Radar (GPR) scans of the top slab
    - ix. Alkali-Silica Reaction (ASR) testing of the core
  - d. Structural Analysis of the Culvert for Airbus A380-800F and Boeing 777F aircraft
6. K-H concluded that the culvert was in good condition and was structurally sound and could handle current air traffic. Quoting directly from the report:
  - a. "The culvert has been in service for 25 years and is in good condition. We have conducted a visual inspection of the culvert and structural analysis to rate the capacity of the culvert for Airbus A380-800F and Boeing 777F aircraft. The structural analysis is focused on three separate sections of the culvert, at Runway 9-27 and Taxiways A and V."
  - b. "Based upon our structural analysis, the Hurricane Creek Box Culvert can sustain the loading of the A380-800F and Boeing 777F at Runway 9-27 and Taxiways A and V. We did not observe any deterioration in the culvert that would indicate the structure is inadequate to carry either aircraft."
7. K-H also stated in the report that the "Hurricane Creek Box Culvert can continue to provide satisfactory service for the foreseeable future" and recommended a few minor maintenance items which the airport authority plans to complete.
8. The whistleblower attended the airport authority's Board May meeting and expressed his concerns. K-H presented a summary of the results of the report at the Board meeting.
9. At the whistleblower's request, the airport authority mailed him a copy of the final report.

The MEM-ADO also received and reviewed the K-H report. K-H is a qualified professional engineering consultant. Our review of the report does not question the professional opinion of the consultant.

In follow on emails, the whistleblower also claims the airport authority is withholding or hiding information and seeking funds to seismic retrofit the culvert. Based on our knowledge and what we observed, we have no evidence to support the whistleblower's claim that the Airport Authority is withholding information. The Memphis area is in a designated earthquake risk zone. New studies show the risk may be larger than previously predicted. Based on this new data, scientists recommend seismic studies in the Memphis area. This effort does not in any way say the culvert is structurally deficient for normal operations. MEM-ADO accepts the airport authority's assessment of the issue and has no plans for on-site visits.



U.S. Department  
of Transportation  
Federal Aviation  
Administration

MAY 11 2010

Mr. Guy Cobb  
9010 Country Downs Cove  
Cordova, TN 38016

Dear Mr. Cobb;

This letter is to inform you that the Federal Aviation Administration (FAA) received your complaint dated November 30, 2009, concerning FedEx.

After reviewing your complaint, it appears that it does not contain safety specific allegations that are necessary to initiate an investigation.

Thank you for bringing this matter to our attention.

Sincerely,

Ron Rifenberg  
Manager, Whistleblower Protection Program

INCIDENTS
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U.S. Department  
of Transportation  
Federal Aviation  
Administration

800 Independence Ave., SW.  
Washington, DC 20591

Mr. Guy Cobb  
9010 Country Downs Cove  
Cordova, TN 38016

RE: WB1049

Dear Mr. Cobb:

This letter is to acknowledge the Federal Aviation Administration's (FAA) receipt of your complaint against Federal Express Corporation alleging violations of the Whistleblower Protection Program 49 U.S.C. § 42121.

This Program requires the Administrator of the FAA to receive notice from the Secretary of Labor of all air carrier whistleblower complaints relating to any alleged violation of an order, regulation, or standard of the FAA or any other provision of Federal law relating to air carrier safety.

Your complaint has been forwarded to the FAA's Office of Airports for investigation of any safety issues mentioned in your complaint with instructions to report back to this office with the preliminary results of their investigation within 45 days. If more information from you is required during this investigation, an FAA investigator from that office will contact you.

Please refer to whistleblower complaint number WB1049 in all future correspondence concerning this complaint.

Thank you for bringing this matter to our attention.

Sincerely,

Ron Rifenberg  
Manager, Whistleblower Protection Program

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COMPLIANCE
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