



The Hon John Anderson  
Minister for Transport and  
Regional Services  
Parliament House  
CANBERRA ACT 2600

Dear Minister, *John*

Re: **Polar Aviation Pty Ltd of Port Hedland**  
**Owner Mr Clark Butson**

I am writing to you out of my profound concern about the treatment by Civil Aviation Safety Authority (CASA) of Mr Clark Butson and the Polar Aviation Company of Port Hedland. I am advised that Mr Butson has had his Chief Pilot's rating revoked and his Chief Flying Instructor (CFI) approval taken away.

Mr Butson appealed these matters to the Administration Appeals Tribunal (AAT) and I understand that CASA offered Mr Butson a deal under which Polar Aviation would be permitted to continue trading provided Mr Butson signed an Enforceable Voluntary Undertaking and dropped the appeal to the AAT.

It is now a matter of record that the AAT upheld Mr Butson's appeal and as I stated in the opening sentence of this letter I wish to express my profound concern about the manner in which CASA has dealt with Polar Aviation which appears to have been unreasonable to say the least. In support of this contention I have appended a letter from Mr Butson to the Manager of Corporate Affairs at CASA detailing his complaints about the modus operandi of CASA. (*document 6*)

REFER *005/170*  
*005/193*

Page 1



**SENATOR ALAN EGGLESTON**

Liberal Senator  
for Western Australia  
Deputy Government Whip in the Senate  
Chair: Senate Legislation  
Committee on Environment,  
Communications,  
Information Technology and the Arts

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By way of background I enclose a copy of a letter (*document 1*) from Mr Terry Farquharson, Area Manager, West Area delegate of CASA to Mr Butson dated January 31<sup>st</sup> 2005 in which CASA seeks to have Mr Butson sign an Enforceable Voluntary Undertaking requiring withdrawal of the appeal to AAT in return for CASA issuing an AOC to the Company.

Item 7 of this letter lists the alleged breaches of requirements by Polar Aviation and as examples draw your attention to the first and last items in the list.

The first item refers to 'Polar Aviation' not using a Competency Based Training (CBT) system in their flying school.

Mr Butson advises that in fact Polar Aviation has spent a considerable amount of time in having a CBT Manual for training developed in-house and further that CASA was aware of this so making item 10 of the letter, a redundant demand.

CASA acknowledges (at a seminar in Perth in September 2004) that less than 5% of flying schools use CBT, thus the insistence of CASA that the Polar Aviation Flying School operate under this system seems discriminatory. Mr Butson states that when requested to name other schools using CBT, CASA has been unable to do so.

With respect to the last point under Item 7 concerning failure to comply with weight and balance limitations, I am advised by Mr Butson that these allegations have been disproved when the data was re-analysed.

In respect of other breaches I enclose a copy of Polar Aviation's response to the "Show Cause Action and Decisions by CASA" which makes disturbing reading. (*document 2*)

I write this letter not just as a Senator on behalf of a constituent but also from the perspective of during my time in Local Government on the Port Hedland Town Council of having been the Chairman of the Port Hedland Airport Management Committee for several years.

As you would know Port Hedland is a busy airport both with general aviation and also has several daily Jet services and apart from the occasional 747 the airport has the capacity to take very large Jet freighters which deliver components from overseas for the mining operations in the Pilbara.

In terms of that experience I wish to record that Polar Aviation was always well regarded in General Aviation in the Pilbara and Mr Butson was considered to have high professional standards.

Polar Aviation have an established base in the town of Newman (comprising a large [indeed the only] hanger and a pilot house, company vehicle etc) and were awarded the "Best Business with a Regional Focus" by the Pilbara Development Commission in 2004.

Mr Butson has a strong personality however I would have expected that personality factors would not enter into what should have been an objective audit assessment of Aviation Company by CASA. Regrettably, according to Mr Butson this aspect of 'personality factors' has been a feature of the correspondence between CASA and Polar Aviation.

It seems relevant that as stated in Mr Butson's letter to the Manager of Corporate Affairs in CASA (*document 6 page 2*) whereas and I quote 'the audit of Polar Aviation in 2003 identified no areas of significant failing' in the 2004 audit after two heated arguments between Mr Butson and CASA officials the present situation developed in which CASA appears determined to revoke the Chief Pilot position and to permit any other person to act as Chief Flying Instructor other than a highly qualified Mr Butson on the matter of the Flying School alone.

This after 23 years of unblemished operation.

Given that, I am concerned about the comment in Polar Aviation's response to the "Show Cause Action and Decision by CASA" that there are too many "Instances of erroneous statements". This must raise questions about the objectivity and professionalism of the CASA officers responsible for the audit of Polar Aviation. ||

For your information I also enclose four other documents relevant to this matter all under the signature of Mr Butson these being as follows;

- Document 3: A general statement about Polar Aviation dated 1.2.2005
- Document 4: A copy of a Memorandum to CASA from the Chief Pilot of Polar Aviation Pty Ltd concerning the Aviation Safety report 04/6190 dated 14<sup>th</sup> June 2004
- Document 5: Response from Polar Aviation to "Show Cause Action and decision" by CASA in regard to the Flying School dated 22.3.2005
- Document 6: Letter from Mr Butson to CASA Executive Manager Corporate affairs complaining about the behaviour of CASA officials and detailing background events leading to this dispute. Important to read.

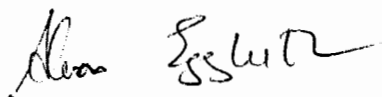
As stated I am very disturbed about the manner in which Polar Aviation has been dealt with by CASA and by the potential damage to the commercial reputation of this respected company.

Even though Polar Aviation has been successful in having the CASA decision overturned by the AAT I would be grateful if you would investigate this matter fully and consider directing CASA to drop their appeal against the AAT decision in the Federal Court. This vindictive pursuit of Mr Butson by CASA has gone too far already.

I will look forward to your reply.

With kind regards.

Yours sincerely,



**DR ALAN EGGLESTON**  
**SENATOR FOR WESTERN AUSTRALIA**  
**DEPUTY GOVERNMENT WHIP IN THE SENATE**

April 27<sup>th</sup>, 2005

c.c.

Chair, Federal Rural Committee: Senator Jeannie Ferris  
Chair, Western Australian Rural Committee: Mr Kevin McMenemy  
Chair, Coalition Transport Policy Committee: Senator Bill Heffernan  
Shadow Transport Minister in Western Australia: Hon John Day MLA



**Australian Government**  
**Civil Aviation Safety Authority**

SENDER TO KEEP  
RP20425454  
DOCUMENTS  
1-5

File Ref: 05/462  
TRIM Ref: IN05/295

31 January 2005

Mr E John Maitland  
Grundy Maitland & Co  
Lawyers  
Suite 410  
530 Little Collins Street  
MELBOURNE VIC 3000

Dear Sir

By Facsimile: (03) 5428 8778

**RE: POLAR AVIATION PTY LTD AND CLARK BUTSON**

I refer to the cancellation decisions, your clients AAT applicants and application for its AOC that are currently being considered by CASA.

I advise that Chief Pilot nominate Mr Matthew Coram has been found to be acceptable as the company Chief Pilot. I am working towards the issue of an AOC to the company, a draft copy of which is attached.

~~In order to resolve all outstanding~~ enforcement issues between CASA and your clients I would like an agreement reached which included an Enforceable Voluntary Undertaking ("EVU") to be made by the company, ~~the withdrawal of the current AAT applications~~ between these parties in consideration for the issue by CASA of an AOC to the company, in the form of the attached draft.

I have prepared a draft EVU that I would like to see made by your client and accepted by CASA, a copy of which is enclosed. Please let me know by return mail whether this EVU and agreement would be acceptable to your client.

I am not the CASA delegate who issues AOCs. I have however discussed the matter with the delegate and have alerted him to the terms of this proposed agreement. Should your client be willing to proceed on this basis I would recommend issue of the AOC on this basis. A term of the proposed agreement would be that you would withdraw the AAT applications on behalf of your clients forthwith after CASA issues the AOC to the company.

I await your advice on behalf of your clients to this proposed agreement.

Yours faithfully

Terry Farquharson  
Area Manager West Area

Encl:

West Area Office 130 Fauntleroy Avenue Redcliffe WA 6104 PO Box 1082 Cloverdale WA 6985  
Telephone 08 9366 2801 Facsimile 08 9366 2810

RECEIVED PLS

- 2 MAY 2005



CASA-EVU

**CIVIL AVIATION ACT 1988**

**UNDERTAKING TO THE CIVIL AVIATION SAFETY AUTHORITY GIVEN FOR  
THE PURPOSES OF SECTION 30DK OF THE CIVIL AVIATION ACT 1988**

**BY**

**POLAR AVIATION PTY LIMITED (ACN 007 986 834)**

**BACKGROUND**

1. The Civil Aviation Safety Authority (CASA) is a statutory body corporate established by section 8 of the *Civil Aviation Act 1988* (the Act) and is responsible for conducting the safety regulation of civil air operations in Australia and the operation of Australian aircraft outside Australia.
2. Polar Aviation Pty Ltd (ACN007 986 834) ("the company") was at all material times the holder of AOC W073061, which authorised operations in the charter and aerial work categories, a copy of which is annexed as Annexure A.
3. At all material times Clark Andrew Butson ("Mr Butson") was the sole managing director, shareholder and Chief Pilot and Chief Flying Instructor of the company.
4. By letters dated 14 January 2005 CASA cancelled AOC No. W073061 and its approval for Mr Butson as the company's Chief Pilot and Chief Flying Instructor.
5. By applications dated 19 February 2005 the company and Mr Butson applied to the Administrative Appeals Tribunal for review of these 3 cancellation decisions (collectively called "the cancellation decisions").
6. Pursuant to section 31A of the Act the decision cancelling the company's AOC was stayed.

7. The facts and circumstances set out in the cancellation decisions relate to a large number of alleged regulatory breaches dating back to 2002, dealing with matters (among other things) of:
- Competency Based Training
  - Emergency Procedures Proficiency Certificates
  - Life Jacket availability and serviceability
  - Records of Recency and Flight and Duty Times
  - Training of Flight Crew
  - Failure to monitor Pilot Logbooks
  - Lack of Defect Reporting on maintenance releases
  - Operating with an invalid or expired maintenance release
  - Failure to comply with directions specified in Airworthiness Directives
  - Failure to comply with conditions specified in approvals
  - Failure to comply with flight and duty limitations
  - Failure to comply with weight and balance limits for company aircraft
8. The nub of the compliance problems of the company identified by CASA in a series of audits since February 2002 and set out in the cancellation decisions was that company pilots were not complying with the company's operations manual and that Mr Butson as Chief Pilot and Chief Flying Instructor was not appropriately controlling and monitoring flight crew training and operational matters, flying training standards and record keeping including the recording of maintenance defects as required under paragraph 2.2 of Appendix 1 to section 82.0 of CAO and paragraph 9 of condition 2, Schedule 4 to AOC W073061 annexed hereto and marked Attachment A.
9. The company admits that its conduct set out in the cancellation decisions breached provisions of the CAR and CAO as alleged in those decision letters.
10. The company has taken steps to implement fully competency based training for its flying school and computer based systems to monitor operational approvals and record keeping.
11. The company and CASA considers that with the approval by CASA of Mr Matthew Coram as the company's Chief Pilot in lieu of Mr Butson and with the effective implementation of these changes, the issue of an AOC, but excluding the authority to conduct flying training aerial work operations from the authorisations covered, would be warranted provided that Mr Butson is precluded from day to day involvement in the role, responsibilities and functions of the Chief Pilot and Operations Manager.

## UNDERTAKINGS

12. Whilst this EVU is in force the company hereby undertakes for the purposes of section 30DK of the Act that it will
- (a) not authorise, permit or allow Clark Andrew Butson to perform the role, or have any of the responsibilities or functions of the company's Chief Pilot set out in paragraph 2 of Appendix 1 to CAO 82.0 or the company's Operations Manager as set out in the company's Operations Manual definition annexed hereto and marked Annexure B;
  - (b) at the end of each calendar month, submit to CASA's West Area Office a listing of maintenance tasks performed on aircraft operated by the company. The listing is to include defect rectification, unscheduled and scheduled maintenance and is to be submitted to the Team Leader Airworthiness, West Area.
  - (c) at the end of each calendar month, submit to CASA's West Area Office a report detailing the IFR and VFR recency and flight and duty times of all company pilots. The report is to be submitted to the Team Leader Flying Operations, West Area.
  - (d) within one week of resuming operations, refresh/retrain all company pilots on the completion and use of company weight and balance procedures, as specified in the Operations Manual. Evidence that this training has been completed is to be provided to the Team Leader Flying Operations, West Area.
  - (e) require the completion of load/trim sheets for all operations in the charter and aerial work categories, excluding flying training operations. The originals of these documents are to be submitted to the Team Leader, Flying Operations, West Area at the end of each calendar month.
  - (f) acquire and display appropriate Dangerous Goods posters at passenger terminals, as required by the Operations Manual.
  - (g) provide CASA with any proposed changes to the Operations Manual and receive acceptance of these changes prior to implementation.
  - (h) include in the Operations Manual a procedure that will ensure that the operational implications of modifications to aircraft operated by the company are assessed and, if necessary, are included in the manual for reference by company flight crew.



**MACHINERY PROVISIONS**

13. This Undertaking applies for a period of 6 months from the date the Undertaking is accepted by CASA.
14. The company undertakes not to vary or withdraw this Undertaking other than:
  - (a) by making an application in writing to CASA setting out the terms of, and the reasons for, the variation or withdrawal; and
  - (b) with the written consent of CASA.
15. The company acknowledges that CASA may apply to the Federal Court of Australia for an order under subsection 30DK (7) of the Act if CASA considers that the company has breached a term of this Undertaking.

IN WITNESS of these undertakings and its agreement the common seal of Polar Aviation Pty Ltd (ACN 007 986 834) was hereunto affixed in the presence of:

.....  
Director

.....  
Secretary/Director

January 2005

ACCEPTED by the Civil Aviation Safety Authority under section 30DK of the Act

.....  
Terry Farquharson  
Area Manager, West Area  
Delegate of CASA

January 2005

(2)

# Polar Aviation Pty Ltd

PO Box 772  
**PORT HEDLAND WA 6722**

To Whom It May Concern :

# Polar Aviation Pty Ltd

PO Box 772  
PORT HEDLAND WA 6722

## Re : CASA and Polar Aviation – Show Cause Action and Decisions by CASA

Australian Company Number (ACN) 007 968 834  
Australian Business Number (ABN) 90 007 968 834  
Company ARN 073 061  
Company AOC (W073 661-11)

### Executive Summary

Polar Aviation have had an AOC with Air work, Charter and a flying school for upwards of 23 years. During that time there has never been any accidents and only two incidents when only a pilot was on board. In the aviation industry, such is an enviable record. From the audit of May 2004 CASA have engineered every conceivable strategy to undermine Polar Aviation as an effective air charter company and flying school with a constant theme of being disinterested in safety and (by implication) obsessed with commercial considerations. The assault upon Polar Aviation has been well planned.

The collective documentation from CASA contains too many instances of erroneous statements that might be otherwise dismissed as unintentional errors. Polar Aviation is the only flying school that has received an RCA and a Show Case notice for not having a compliant CBT programme yet it has become well known that only 5% flying schools in Australia are compliant. Indeed CASA, recognising the need for education of instructors in this area, commences this month with 'around the country' seminars on CBT for Instructors.

Polar Aviation embarked on a number of innovations in January 2004; many of these were to use the company web site as an operational hub for all manner of operational activity. Converting the Operations Manual to (web based) HTML format was only one of many undertakings. Since 9 May CASA FOIs have been aware of the work-in-progress of this one aspect alone. However, the attitude of CASA is to seek to injure the company at every opportunity with irregularities in the Operations Manual – which will exist until final proofing is complete. Polar Aviation has been complemented by CASA for introducing a single method of determining 'weight and balance' but has been undermined for attempting to develop and present an effective Operations Manual.

The administrative work load this year, undertaking the new innovations and coping with CASA's truculent manner in regard to RCAs, Show Cause Notices etc. have compromised the progress of company in many of its revised administrative reforms including its progress towards CBT and completion of the Operations Manual. Nevertheless the MD and the Operations Manager have completed their Cert IV in Workplace Training and Assessment. Such will be a requirement for instructors in the future. At the CASA seminar for instructors in Sept/04 only on ground based instructor had this qualification; about 350 were in attendance.

The AOC was due to expire on 31 January 2005. An undertaking by the Manager of the CASA West Office to the company's legal adviser assured Polar Aviation of a renewed AOC for three years should the company nominate an alternative Chief Pilot. A new Chief Pilot was accepted by CASA on 29 January/05. On the 2<sup>nd</sup> February CASA revised its decision and gave notice that the AOC would not be renewed.

## Chronology of Events

Date	Event
12-14 May 2004	Audit of Polar Aviation (14 RCAs)
end June	Response to 14 RCAs
9 July	Rejection of RCAs
16 July / 21 July	Show Cause Notice presented : AOC / CP and CFI (SCNs)
23 July	Rejection of extension of time to 31 August to prepare for SCN
13 August	CASA agrees to extension to 31 August for submission of SCNs for G.Maitland
13 September	3 RCAs remaining
27 September	CASA responds to the SCN to G.Maitland
18 October	Polar Aviation attends meeting in Perth
9-12 November	Audit of Polar Aviation
18 January	CASA cancels AOC, CP and CFI
20 January	CASA agrees to renew AOC with appointment of new/another CP
29 January	CASA accepts Matthew Coram as new Chief Pilot
31 January	CASA will only renew AOC if Polar withdraws AAT action and agrees to a punitive EVU
1 February	CASA agrees to renew AOC with 'general undertaking' in place of an EVU
2 February	CASA refuses to renew AOC (and claims a 'revised decision')

## Organisation of this Document

This document commences with a 'Background to the Events' will continue with a 'Description of Events' followed by a 'Context of the Operation'. A review of the CASA 'Show Cause Notices' (SCNs) and correspondence pertaining to the revocation of the Air Operators Certificate (AOC), Chief Pilot (CP) and Chief Flying Instructor (CFI), respectively, will follow subsequently. Where necessary, items of correspondence have been included in the Appendix.

The Background to the Events attempts no more than a general overview whereas the Description of the Events is an anthology from the Audit in 2003 to the present. The document uses the Context of the Operation as an opportunity to describe relevant aspects of the company's operations as a long term participant in the industry and as a significant employer in the north west of Australia.

## Background to the Events

The company web page ([www.polaraviation.com.au](http://www.polaraviation.com.au)) provides information to the public and also is utilised as an internal source of information and a 'hub' for internal processes for company personnel. The introduction to the company, via the web page, notes that Polar Aviation Pty Ltd commenced operations in the Pilbara, specifically Port Hedland, 22 years ago with one Cessna 172 aeroplane. The Company has always owned its own aeroplanes. Within five years the company had extended its fleet to a Cessna 210 and a Cessna C310 twin engine aeroplane. The current company fleet comprises a Cessna 206, a Cessna 210N and a Piper Lance PA32-300RT which are regarded in the industry as "fast singles". Currently, in addition to those aeroplanes mentioned the company possesses a two Baron B58s, and a Baron E55. These aeroplanes are considered, in the industry, as fast heavy duty piston twins. A Piper PA28 is utilised for flying training. In other words the Company has four singles and four fast twins available for charter operations along with a training aeroplane.

The Company has a number of regular charters to and from remote pastoral, indigenous and mining communities in an attempt to ameliorate the difficulties experienced due to the distances to prominent towns (not necessarily in the Pilbara) such as Karratha, Port Hedland, Newman, Broome, Pannawonica, Kununurra and Meekatharra to name just a few. The service to Kununurra is weekly and, amongst other commitments, the Company also has a contract to collect samples of drinking water from remote communities.

Search and Rescue requests (marine and terrestrial) are also observed by the Company; at about three to four per year.

As with any organisation which holds an Air Operators Certificate (AOC) CASA undertakes regular (12 month) audits and the audits to date have been generally favourable for the company. Indeed the CASA Report of the (May) 2004 Audit of Polar Aviation opened with the remark that "the facilities at Polar Aviation are generally adequate". However, during the course of the May 2004 audit the Chief Pilot was involved in three very heated arguments with an auditor concerning, safety considerations under CAO 20.11, twin engine training and departing and arrivals at Broome airport over water. It is unfortunate that the arguments got out of hand but (the auditor in question had no experience in the subject topics) it is fair to say that the audit team left the premises of Polar Aviation "smarting". This administrative matter, effecting the three decisions (revoking the Chief Pilot Authority and Chief Flying Instructor (CFI) from the MD of the company and the effect upon the AOC), have been constructed to "get" the MD in his (now) former capacities as Chief Pilot and Chief Flying Instructor of Polar Aviation.

Polar Aviation has received correspondence from CASA which is possibly libellous. In the last few months company pilots have been intimidated and threatened by CASA personnel (possibly in jest – CASA might argue) but the point is that the conduct from CASA has been unbecoming and below Public Sector Standards. A letter to Polar Aviation by the Business Development Manager, Mr Peter John, on the 4 February/05 is equally offensive.

The statements made by Mr Marcolin (General Manager, Aviation, of CASA) in respect of the Revocation and Cancellation Notices (January 2005) take no account of the substantial changes which have occurred within Polar Aviation within the last 10-12 months. Indeed Mr Marcolin claims that no change has occurred.<sup>1</sup> What Mr Marcolin describes as an "inadequate response" to an RCA (4<sup>th</sup> paragraph of Cancellation of Air Operators Certificate") is, inter alia, a refusal on the part of the Company to be coerced into a limited "CASA view" of the situation.

This action of CASA's was not anticipated. There was a meeting of seven CASA personnel and two representatives from Polar Aviation in Perth on 18 October 2004 and the mood of the meeting gave Polar Aviation confidence that the matters would be resolved relatively quickly with a return to normality. However, on the 18 January 2005 CASA effectively "grounded" Polar Aviation

## Description of Events

The Audit reports for 2003 and 2004 will be treated in some detail below (under their respective headings) but nevertheless it is necessary to refer to them under this heading. The Audit report for 2003 (dated 6 August) was generally favourable. Indeed (p.2 of the report) states

"The inspection team were generally satisfied with a number of aspects of the operation however there were several areas identified that require attention – the main ones being :

- Operations Manual Part E – Flying Training
- CAO 20.11 Emergency Procedures certificates
- Logging of flight time, instrument flight time and instrument approach recency; and

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<sup>1</sup> Inter alia para 270, 284, 286 & 287 - Cancellation of Chief Pilot 14 January/05

- Flight crew records"

The Audit for 2004 occurred over the period 12-14 May. The Audit commenced with an 'Entry Interview'. This interview consumed in excess of two hours. Polar Aviation emphasized the following changes within the organisation to the auditors :

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# Polar Aviation Pty Ltd

PO Box 772  
PORT HEDLAND WA 6722

To Whom It May Concern :

Polar Aviation flies in the order of 4,500 hours annually. The gross revenue, net of GST, is \$700 per hour for a twin engine aeroplane and \$450 per hour for a single. The company has four twin aeroplanes and four single engine aeroplanes which includes an aeroplane used for flying training. This aeroplane earns a gross rate of \$200 per hour. Erring on the light side the company grosses \$47,500 per week.

The company has fixed costs of insurance per aeroplane, rent on hanger space, licenses and insurance for two vehicles (a car and a van), IT infrastructure, telephones, air conditioning and wages to seven employees which results in an aggregate of \$15,500 per week. There are also the significant repayments on two aeroplanes valued at \$200,000 and \$850,000 respectively. This brings the fixed cost to close to \$20,000 per week.

On the 18 January Polar Aviation received an advice to the effect that the Managing Director had had his capacity of Chief Pilot revoked. This action occurred without warning or any kind of consultation. Until late PM on the 29 January, when a new Chief Pilot had been accepted by CASA, the company was unable to operate. The AOC of Polar Aviation was to expire on 31 January 2005. Notwithstanding the announcement in a letter to the company's legal representatives, Grundy Maitland, that the AOC is conditional on Polar Aviation accepting an EVU and discontinuing all AAT action against CASA the AOC had not been "signed" (according to the Mgr. of the CASA West Office) and so whatever the sentiments of Polar Aviation in respect of this development the company was grounded effective midnight that day (31 January).

On the 4<sup>th</sup> February at 16:50 CASA permitted the use of the AOC of King Leopold Air for two Polar single engine aeroplanes and two Polar pilots (consistent with the AOC and induction of King Leopold Air Pty Ltd.). Notwithstanding this concession Polar Aviation is not permitted to utilise any of its twin engine aeroplanes or the services of three other pilots. This factor alone has had the consequence of a competitor being enlisted to conduct a regular charter to the value of \$6,000.

The company was grounded for 12 days over January (18-29) and for the days 1-4 February; 4 days. Since the 5<sup>th</sup> to even date the company has not been able to utilise three pilots or its twin engine aeroplanes (5 days).

The current situation is untenable. Polar Aviation has some household names as customers and these organisations are developing contingency plans. A victory in the Courts when the business and customers are lost is no victory at all. A business that has been operating for almost 23 years which has an exemplary safety record and has eight employees is in jeopardy on account of a signature with excessive and unconstitutional authority. It is imperative for viability of Polar Aviation that the company be issued with an AOC immediately if only for the duration of the legal proceedings; i.e. to have the decisions of CASA either rescinded or endorsed.

Clark Butson  
MD  
9 February 2005

# APPENDIX



## Memorandum

To : FOI – Civil Aviation Safty Authority  
Mr Gary Presneill, Mr Terry Robinson

From : Chief Pilot : Polar Aviation Pty Ltd

Subject : Aviation Safety Report (04/6190)

Date : 14 June 2004

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Further to the telephone conversation of this morning with Terry Robinson, I wish to make a comment in regard to the observations contained in the Executive Summary – Summary – as they pertain to the Flying School.

Terry Robinson was indeed handed a CD as described. However, as was emphasized at the 'Entry Interview' and on at least three subsequent occasions that the competency-based briefings as they pertain to the Flying School are complete for GFPT and exist as documents in Microsoft Word Format.

The briefings in HTML format, as contained on the said CD have only been partially converted. Indeed, it was made clear that this aspect remained as 'work in progress'. Further more the content on the CD in regard to flying training had (of course) not been proofed.

Kyle Hargraves joined Polar Aviation earlier this year and, amongst other flying duties, developed the Web site which was given to Terry Robinson (by Kyle Hargraves). The principal purpose of presenting the CD was to ensure that the Auditors had a copy of the company's Operations Manual.

Developing the Web site and converting the Operations Manual to HTML has been a significant undertaking for Polar Aviation and it was freely admitted, during many discussions that there exist opportunities for improvement.

Kyle briefed the auditors on the location of the training materials (i.e. the location of the network drive) but it seemed that little examination, if any, occurred on this aspect of the Audit. I, as Chief Pilot, cannot recall any discussion in respect of the Flying School in the course of the recent audit.

With regard to the subject of Competency Based Training Kyle has a number of University degrees and amongst them a Graduate Diploma in Education from a Western Australian University and a teaching background ranging from the University to the High school sector. The TAFE sector has enlisted competency based techniques for many years and Kyle is conversant with such methods. It was also pointed out, during the 'Entry Interview' that the NSW and Victorian TAFE sectors are considering dispensing with competency based training as, indeed, they have dispensed with non-graded assessment.

With regard to my sentiments on the (competency-based) matter I deem you to misquote me in the last paragraph of the section titled 'Background' of the Executive Summary. Suffice to say that I do admit to having no confidence in such methods when proven flying training methods have been in existence for seventy five years or more. I trust this observation clarifies the matter.

The Company would take the view that for CASA to - effectively – unilaterally prevent the Flying School from operating would amount to a significant denial of Natural Justice. The Company is quite happy to make the flying training materials available to CASA and receive any comment. Specifically, we would require definitive examples as to how and where the training materials were deficient in respect to competency based training.

I believe it was generally accepted that the Auditors were favorably impressed with the concept of electronic media for Operations Manuals and Training materials. This is the direction the Airlines are struggling with in regard to modernising their methods.

We expect to be able to provide you with a formal response to your Audit by the week of the 19 July 2004.

Clark Butson

# Polar Aviation Pty Ltd

PO Box 772  
PORT HEDLAND WA 6722

## **Re : CASA and Polar Aviation Show Cause Action and Decisions by CASA in regard to the Flying School**

Australian Company Number (ACN) 007 968 834  
Australian Business Number (ABN) 90 007 968 834  
Company ARN 073 061  
Company AOC (W073 661-11)

### **Executive Summary**

On the 21 July 2004 Polar Aviation received notice of 'proposed action' to revoke the Chief Flying Instructor (CFI) Approval. This 'action' is known as a Show Cause Notice (SCN). On 18 January 2005 such action, by CASA, occurred. The principal justifications for revoking the CFI Approval was the failure to produce Competency Based Training (CBT) materials and inadequate responses to previous Requests for Corrective Action (RCAs).

We understand that there are in fact very few flying schools, Australia-wide (indeed the nominal CASA figure is 5%), who have a complete competency based flying syllabus. With the exception of the Royal Aero Club at Jandakot (the most advanced large volume "trainer" institution) we are hard pressed to identify any other flying school in Western Australia who is CBT compliant; and so, incidentally, is CASA - despite numerous appeals to CASA from Polar Aviation to identify the CBT compliant schools that the company may liaise with them.

As to the RCA issued for not possessing CBT training materials the two Flight Operations Inspectors (FOIs ) who re-audited Polar Aviation in November 2004 were not aware of any other flying school who had received an RCA for non-CBT training materials; much less a SCN. With regard to the progress of Polar Aviation in this task it is disappointing to observe that the programme that was in place and fully addressed at a meeting in Perth at the CASA office on 18 October has received no mention whatsoever.

Notwithstanding that the training materials of Polar Aviation have been completely rewritten and are now CBT compliant CASA have made it clear that the MD of Polar Aviation, Mr Clark Butson, will not be reinstated as CFI short of a directive from the Administrative Appeals Tribunal (AAT). Furthermore, despite requests, CASA have offered no indication as to a date in respect of their acceptance (or otherwise) of the training materials submitted.

Until the suspension of the Flying School (18 January 2005) the flying training occurred on a regular basis. The principal licenses were GFPT, PPL and NVFR. Hundreds of local residents (and some whose main place of residence was the greater Perth area) have learnt to fly with Polar Aviation. Until the closure of the control tower in 1998 Port Hedland was the only aerodrome other than Perth/Jandakot where a student could obtain controlled airspace (CTA) experience.

Clark Butson, the MD of the company, who held the CFI appointment has 18 thousand hours of flying experience and 8 thousand hours of instruction. He has held a Grade 1 instructor rating for decades.

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<sup>1</sup> Email of 15 March (in Appendix)

Needless to say two generations of new pilots have hired the training aeroplane for trips to Karratha, Broome or wherever. Once again there was never an accident with a polar trained student flying the trainer aeroplane in a command capacity after the completion of their license. This situation contrasts with the experience of flying schools generally.

### **An Analysis of the SCN – Flying School**

The Show Cause Notice (of 21 July 2004, SCN) identifies a number of perceived justifications for revoking the CFI and, inter alia, they are as follows :

1. that on 18 November 1999 the CFI was advised of the need to update the company Operations Manual so that flying training operations took account of the day VFR syllabus v.2 July 1999 – in other words redesign flying training around competency based training (CBT)
2. Polar Aviation failed to respond to a RCA issued 21 February 2002 on this matter.
3. Para 11 of the SCN records correspondence from John Dolby (of the CASA West Office) sending “an example Competency Based Training (“CBT”) [sic] CPL training course on a CD ROM to assist you in developing your own CBT course..”
4. Para 12 observes that a copy of the Polar Aviation Operations Manual was provided to auditors on CD in the course of the audit of May 2004; the paragraph also records that Part E of the Operations Manual was not CBT compliant.
5. Para 16 of the SCN emphasises that in regard to the conditions on the AOC the CFI of a school must : “ensure that the school’s operations are conducted in accordance with the Civil Aviation Act and Civil Aviation Regulations. Para 21 observes a breach of CAR 215 (2) on account of the training materials not being CBT compliant; in fact the regulation pertains to provisioning of an operations manual with provides for the “safe conduct of flight operations” and the requirement for compliance with the instructions in the operations manual.
6. Para 23 attempts to introduce a non sequitur by claiming that the current materials do not offer sufficient training to the student and do not examine the elements in the Day VFR syllabus.
7. Para 25 attempts to make something of the alleged remark by the MD of Polar Aviation to the effect that the MD (and then CFI) “would prefer to cease Flying School operations rather than adopt the current style of CBT” training methods. Para 26 records the receipt of an email of 14 June (04) where the matter was clarified.

Aspects of the ‘Entry Interview’ at the commencement of the audit in May 2004 were also reiterated in the said email. However, what was expressed as matter of fact and work in progress prior to the audit were enlisted as a club the effect further assault upon the flying school of Polar Aviation.

Para 28 notes the “many years of warnings and assistance from CASA” and yet the breaches of the regulations continue and para. 29 observes “you appear to be not complying with one or more specific requirements of condition 1 of the Polar Aviation AOC”

### **An Assessment by Polar Aviation of the SCN**

One could “nit-pick’ the various paragraphs of the SCN but it would be tedious to do so; nevertheless some observations are in order. In particular the “assistance” that CASA provided to Polar Aviation by way of the aforementioned CD ROM amounted to a collated set of flying sequences with references to particular elements of the Day VFR syllabus; the CD ROM most certainly could not be described as a CBT suite suitable for inclusion into a company’s Operations Manual. Beyond this measure of “assistance” there is no record and the former CFI (and MD of the company) has no memory of any other item of correspondence which would have materially improved or transformed training materials to CBT characteristics.

A merger of two TAFE colleges in the Pilbara during 2003 created, in effect, a redundancy in the management structure of one College. Kyle Hargraves<sup>2</sup> was offered a position with Polar Aviation during 2003 and assumed duties at the end of January 2004. The position of Operations Manager was formalised over August 2004.

Various decisions of a material nature were discussed in regard to the overall management of Polar Aviation during early February; it was agreed that the Polar Aviation Web page ought to be a “hub” for public and staff in regard to information and of course this initiative would be extended to flying training. By the end of April the Operations Manual had been converted so as to be accessible, by staff and others with a legitimate interest, on the Polar Web site and the flying training materials were to follow. These events were discussed at length by all participants at the ‘Entry Interview’ at the audit of May 2004.

A copy of the Polar Web page (on CD), comprising the Operations Manual and GFPT briefings to date was given to Mr Terry Robinson at the conclusion of the Exit Interview of the May 04 audit. It was emphasised upon handing the CD to the auditor there was a considerable amount of work pending in regard to attaining a level satisfactory to Polar Aviation – but (it was also emphasised) the fundamental structure was in place. In particular the briefings for GFPT were complete.

On the 14 June 2004 the MD received a communication from the West Office (Perth CASA Office) of the intention to close the flying school of Polar Aviation. Polar Aviation responded in writing<sup>3</sup> on even date reminding the FOIs of the particulars of the Entry Interview and qualifications in regard to the CD given to Mr Terry Robinson. Within a day CASA reversed its decision.

In respect of paragraph 25 of the SCN, it would seem that the opinions of the CFI in regard to CBT have a direct bearing as to whether a school is permitted to conduct flying training. It was pointed out, subsequently, that the MD had no confidence in CBT and its introduction into flying training did not justify compromising methods which had served the industry well for seventy years. The topic was also discussed that the Entry Interview (May 2004) in the context of the apprenticeship system where multiple, non-trivial and integrated cognitive actions are requisite for effective commissioning of any task which cannot be treated in CBT format and this opinion is supported by a considerable amount of research literature in Education.

As to the sentiments pertaining to the effectiveness of CBT it is notable the Universities resisted this strategy successfully in the late 80s. The TAFEs did adopt it and indeed adopted the hypothesis that such training would reduce the range of attributes or knowledge across students for any particular course. In other words any student would be close to the “mean” or average via CBT; in statistical terms the variance or standard deviation (the two are related) would be diminished. However, over 12 years the opposite has occurred. Large company employers have also noted this unfortunate trend and there is now, within TAFE, various proceedings to dispense with CBT – just when the aviation industry is about to embrace it !

The Operations Manager attended the seminar for Instructors in Perth during September 2004. The (CASA) presenter of the session on CBT, Mr Ian Dix, observed to a large audience that 5% of the Nation is compliant (and by corollary 95% is not compliant). The somewhat high-handed attitude (expressed as effecting ‘administrative action’ in an RCA and the comments in para. 28 and 29) may be justified if 95% of the flying schools were compliant but it amounts to an act of persecution of Polar Aviation in the circumstances.

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<sup>2</sup> having very strong academic qualifications, experience in CBT, excellent IT knowledge and managerial skills along with 300 hours of aeronautical experience

<sup>3</sup> See Appendix

The briefings promised by CASA and to be organised by CASA on CBT of which mention was made at the seminar during September 04 occurred in Western Australia on 1 and 2 March 2005. The CASA West Office was kind enough to send Polar Aviation a copy of the materials that were distributed at the two day briefing. Although informative and useful as a guide to construct a CBT course Polar Aviation offers the opinion that the materials, notwithstanding the time to prepare them, would in fact be of little benefit to an organisation who did not have a member of staff conversant with CBT methods. This opinion will be vindicated should there be a high proportion of flying schools (e.g. 65%) that remain non CBT compliant by the end of 2005. We (Polar Aviation) conjecture such to be the case.

Following what Polar Aviation deemed to be a reasonable interval of time the company sought an estimate<sup>4</sup> as to when the training materials might be approved and when the MD might be reinstated as CFI. In the course of a discussion with an West Office FOI the collective view was that a period of four hours would be sufficient to determine the adequacy of a suite of training materials. However, in the course of a week, no reply has been forthcoming on the subject.

### **Additional Comments on the SCN – CFI**

Paragraph 30 of the SCN is entirely consistent with para.31 (which quotes the CAO reference (40.0 4.4a) of the SCN. The company, thanks to its solicitors, has also been made aware of the common law (duty of care) consideration in this regard. However, having rejected Part-E of the Operations Manual as inadequate (and not CBT compliant) CASA in para 32 seeks to enlist an Appendix contained in Part-E to justify its position. Paragraph 33 wanders off on yet another non sequitur. Given that for any single aeroplane less than a maximum takeoff weight of 5,700 kgs a pilot endorsed on one such aeroplane is endorsed on all such aeroplanes 0.3 hours is entirely adequate. Such aeroplanes which possess a retractable undercarriage differ only in the manner of emergency undercarriage extension; given that this briefing and training occurred para. 35 is completely without foundation. Given local knowledge para 36 is an inadequate assessment of the accident; the pilot was a known drug user; the amount of alcohol in his body, apparently, couldn't be determined – yet the assessment makes no mention of this aspects as contributing to the accident.

On 4 February 2005 the Team Leader (FOI), Mr John Dolby, wrote to the MD of Polar Aviation and requested names and ARNs of all persons who had received twin endorsement training at Polar Aviation – on the basis that the training that they had received was deficient. For good measure the CAO reference (40.0 4.4a) was quoted once again. We harbour the speculation that the company's reply to the request may have effected a revelation upon Mr Dolby when it became apparent that the disagreements between the MD and the FOIs on asymmetric training were hypothetical. In any event only company personnel have been given twin endorsements by Polar Aviation and such endorsements have always included engine failures; typically as an engine was about to be replaced.

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<sup>4</sup> see the email in the appendix

## **Concluding Observations.**

Polar Aviation has submitted a complete set of training materials for evaluation and acceptance by CASA yet the Regulator has declined to provide a date for consideration of the materials (much less acceptance) despite a follow-up email of Friday 18 March. It is also clear, given the (CASA figure) of industry non-compliance of 95% one would have to conclude that Polar Aviation has been "singled-out" in regard to having a RCA served on it and especially a SCN. The email of Mr Dolby (15 March) provides some evidence in respect of a vendetta against the MD as CFI; CASA does have the discretion to reinstate Mr Butson but has made it clear that Mr Butson will be reinstated only via a directive from the ATT.

We would request of the AAT that Mr Butson be reinstated as CFI immediately or failing that course of action that a 'stay' be placed on the order by CASA to revoke the CFI of Polar Aviation pending whatever additional information the AAT may require.

Clark Butson

MD

22 March 2005

# Polar Aviation Pty Ltd

ABN : 90007 986 834

## Response to the Tender for a weekly air service to Remote Areas

This document and the enclosures constitute the submission by Polar Aviation in respect of the tender document issued by the Department Of Transport And Regional Services, reissued May 2004, for the provision of a weekly air service to remote areas of Australia.

Any reference in this submission to the clause 'the tender' or 'the tender document' means the tender as referred to in the previous paragraph.

Any reference in this submission to the clause 'the Department' means the (Commonwealth) Department Of Transport And Regional Services.

References to Polar Aviation or the Company means Polar Aviation Pty Ltd.

### TENDER EVALUATION CRITERIA

**Tenderers are required to clearly specify the Region for which their tender is submitted. Separate answers to evaluation criteria are required for each Region.**

The submission by Polar Aviation in respect of this tender is for Region 1 : Pilbara (WA) ; that is for all eleven locations contained in Region 1 in Attachment B of the Tender Document.

- 1. In relation to aviation safety regulatory considerations:** meet the Commonwealth's civil aviation safety regulations, as administered by the Civil Aviation Safety Authority (CASA), for air passenger transport services
  - and specifically, meet all civil aviation safety regulations requirements for carrying passengers, including the preparation and lodgement of a Safety Case with CASA for aerodromes that fail to meet all CASA requirements for passenger air services.

Polar Aviation is audited by the Civil Aviation Safety Authority (CASA) annually. The company also liaises with the CASA Perth-based flight operations inspector (FOI) as necessary throughout the year. Regular internal audits are also undertaken throughout the year by the Chief Pilot.

Polar Aviation has had discussions with CASA in regard to regular public transport (RPT) operations not related to this undertaking. However, in consideration of this undertaking and in respect of the Company's operations and standing the Company would have no difficulty in having its Air Operators Certificate (AOC) changed to reflect any new status pertaining to RPT flights (if required).

The Company's Operations Manual has been rewritten to include RPT services including the relevant check and training requirements. Currently, a significant majority of operations of the company (e.g. 90%) are otherwise than as described in CAR 217 which relates, in the main, to RPT operations.

Flights which contain tourists are booked through the Tourist Office and therefore the Tourist Office becomes a party to the Charter. In this regard activities extending to tourism may be considered a 'closed charter'.

With regard to aerodrome surveys, Polar Aviation paid for the survey of the strips in question for a RPT service during 2003. Some of the strips were not at the recommended ASDA (CAAP 92-1) but may be upgraded this year.

- 2. Give priority on RASS routes to the needs of the RASS community**



- and provide their written policy and undertaking on giving priority on RASS routes to RASS-community related traffic. These policies and procedures must be approved by DOTARS;

Polar Aviation would continue to give priority on RASS routes to the needs of the RASS community should Polar Aviation be re-awarded the Contract for Weekly Air Services to the RASS (Pilbara) community. Indeed, Polar Aviation services the majority of Ports in the Pilbara under the current contract. The company invites visits and inspections by **DOTARS** at any time.

Polar Aviation maintains a close relationship with all the communities identified for RASS in the Pilbara as part of its regular operations.

3. **Provide a business plan, budget and evidence of financial viability** and ability to conduct the required RASS services in accordance with sound commercial business practices.

The submission is attached as "Business Plan of Polar Aviation 2004-2006"

4. Demonstrate their **strong aviation safety record**;

Polar Aviation commenced operations in the Pilbara region in 1982. Over the 22 years of operation, and with an average of 4,500 hours being flown by the company since 1985, the Company's safety record has never been compromised.

The Company has a specific induction programme for new employees and aspects of operations, especially as they pertain to safety, are reiterated on a weekly basis. Points of safety policy as they relate to weather, duty times, passenger and freight handling and moving of aircraft are reinforced on a regular and frequent basis via briefings and references to the Company Operations Manual.

5. Demonstrate their ability to **commence a full RASS service** (i.e. provide a scheduled weekly air service to the specified ports on a specified day of the week) from the commencement of the term of the agreement or as soon as practicable thereafter, including under appropriate interim arrangements if significant delays are anticipated in securing a passenger transport licence or having the community aerodromes endorsed on a current licence, in accordance with civil aviation safety regulations.

Polar Aviation is proud to advise that it has the current contract for most of the RASS service in the Pilbara. In addition the Company provides charter services to RASS communities and adjacent communities on a frequent basis for the convenience of external parties, based at any of the major towns in the Pilbara, who have business with the remote communities. Very often such charters to remote areas are undertaken at one hours notice depending upon other commitments and unexpired duty time of pilots.

The company has two fast single engine aeroplanes and four fast twin aeroplanes at its disposal which it owns outright. It also owns a training aeroplane. Although this submission is based upon two of the aeroplanes undertaking the majority of the service of course any of the six aeroplanes [seven if one includes the training aeroplane] could be enlisted as required. In other words the Department may rest assured that Polar Aviation has the resources to be able to undertake all aspects of the contract over the term of the contract.

- The operator's tender documents must specify which ports are included in the tender bid.

As noted above, Polar Aviation wishes to be considered for Region 1 (Pilbara) and all ports within that region.

- RASS scheme services in this Region must be able to provide for the carriage of passengers and goods;

Polar Aviation understands such to be the case. As noted above, Polar Aviation is already servicing the majority of ports in the Pilbara, under the current contract, and is in fact providing charter services (passenger and goods/freight) to adjacent communities on a frequent basis.

6. Provide evidence of relevant and adequate **insurance cover** for operational risks associated with carriage of passengers and goods for profit (including mechanical breakdown of equipment and public liability);

Polar Aviation has accessed its Public Liability as adequate to five million Australian dollars. The company is happy to extend the cover to twice this amount should it obtain the service to the Pilbara. Appealing to its 22 years of operation the Company considers itself to be adequately insured and does comply to all legal requirements in this regard.

Polar Aviation is also engaged in RASS operations under the current contract

7. Demonstrate their **operational expertise** and experience in providing services of this nature in remote areas of Australia, including details of suitable aircraft types and qualified and experienced personnel:

As noted above, Polar Aviation has been providing air charter services to the Pilbara region for 22 years. Most of this work has been directed to servicing remote communities and equally remote mine sites. Search and Rescue operations are also undertaken by the company; on average about three to four instances per year. For the last twenty years annual company flying hours have been about 4,500. The Company, and hence the personnel of the Company, are thoroughly familiar with the region and the aeronautical needs of the region.

With regard to single engine aeroplanes the Company has a Cessna 210N and a Piper Lance PA32-300RT which are regarded in the industry as "fast singles". As to twin aeroplanes the Company has one Cessna 310R and two Baron 58 and one Baron 55. These aeroplanes are considered, in the industry, as fast heavy duty piston twins. A Piper PA28 is utilised for flying training and could be applied to charter operations. However, except for local 'scenic' flights it has not been necessary to enlist the training aeroplane in other charter operations.

With regard to personnel in the region, generally, it is well known that there is a high labour turn-over anywhere in "the north" across all occupations; indeed the professions tend to 'turn-over' slightly faster than skilled trades and less so for semi-skilled trades.

Referring to Company personnel, in addition to the Commercial Pilot qualification the pilots have 'instrument' (i.e. Command Instrument) ratings. At any point in time, generally, there are two pilots who hold instructor ratings. Pilots who do not hold a twin engine aeroplane endorsement generally commence the endorsement within six months of joining the company.

- and including the maintenance and operation of aircraft and associated equipment to relevant Australian standards, including civil aviation safety regulations;

The Company, because it owns its aeroplanes, has an interest in maintaining its aeroplanes to a high standard. The Civil Aviation Regulations are adhered to by the Company and all personnel are cognitive of their responsibilities in this regard. The company ensures that in addition to (mandatory) mechanical maintenance the aeroplanes are repainted and the upholstery is maintained to a high order.

As to workshops the Company has a fully equipped workshop at Port Hedland and its own full-time aircraft maintenance engineer as well as a third year apprentice. The hanger at Newman is very large has been used to remove engines for overhaul and install new engines as well as undertaking any other required maintenance.

8. Have a clear **understanding of the transport needs of communities** in these remote areas and appreciation of the importance of air travel; and

Polar Aviation has been serving the air charter needs of remote communities for over two decades. The accumulated experience in attending to almost every conceivable need of the remote communities, at all hours and in all weathers (subject to prevailing regulations of course) has provided the company with a very firm understanding of air transport needs of communities.

9. Demonstrate that they will establish adequate **aerodrome “positive” reporting systems** with RASS communities

As a near everyday occurrence the aeroplanes of Polar Aviation land on many of the airstrips of pastoral stations and indigenous and mining communities. Therefore the Company has a good understanding of the quality of the majority of strips at any point in time. The Company has also been active in liaison with all communities and the East Pilbara Shire in regard to ensuring that the strips are at an acceptable standard. For the Company this is a ‘work in progress’ or ‘ongoing’ activity.

The East Pilbara Shire resolved (June 2003) to maintain all air strips within the Shire region free of charge.

10. Australia Post and the RASS infrastructure

It is noted that Australia Post may choose to utilise the RASS scheme. Polar Aviation would be happy to accommodate Australia Post but would construct the assumption that any diminished contribution by the Commonwealth would be offset with a contribution from Australia Post.

11. The design of “runs” to facilitate the ports in the Pilbara Region

The following ‘run tables’ is a copy of what has been provided in the Business Plan. However, options are discussed in the Business Plan itself.

### Proposed Servicing Schedule for all ports in the Pilbara (Region 1)

Group 1	Destination	Track	Distance		Time		Arrival	Departure
			km	N. Miles	Hours	Minutes		
Port Hedland	Yarrie	097	167	90	0.6	36	8:45	9:15
	Warrawagine	112	56	30	0.2	12	9:30	9:45
	Hillside	235	170	92	0.6	37	10:30	11:00
	Port Hedland	332	172	93	0.6	37	11:40	
<b>Totals</b>			565	305	2.0	122		

Group 2	Destination	Track	Distance		Time		Arrival	Departure
			km	N. Miles	Hours	Minutes		
Newman	Jigalong	085	100	54	0.4	22	7:45	8:00
	Cotton Creek	070	194	105	0.7	42	8:45	9:00
	Kunawarritji / Well 33	080	230	124	0.8	50	9:55	10:20
	Punmu	282	176	95	0.6	38	11:00	11:25
	Balfour Downs	250	244	132	0.9	53	12:25	12:45
	Newman	240	130	70	0.5	28	13:15	
<b>Totals</b>			1074	580	3.9	232		

Distance	Time	Arrival	Departure
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Group 3	Destination	Track	km	N. Miles	Hours	Minutes		
Newman	Prairie Downs	258	69	37	0.2	15	14:50	15:05
	Turee Creek Stn	265	56	30	0.2	12	15:15	15:30
	Tangadee Stn	158	93	50	0.3	20	16:00	16:20
	Newman	040	141	76	0.5	30	17:00	
<b>Totals</b>			357	193	1.3	77		

## 12. Opportunities for Women in the Work Force (Deed : Para 4.11)

Over the years Polar Aviation has employed suitably qualified females as pilots. However, in recent years, Polar Aviation has not received an application from a female for a position as pilot; no doubt attributable, in part, to the remoteness of the region. Nevertheless, the company undertook to apprentice a female school-leaver as an Aircraft Engineer. This member of staff has completed two years of her apprenticeship and a recent news-clipping is attached to this submission.

### GST Requirements

Polar Aviation (Pty Ltd) has an Australian Business Number (90007 986 834) has is fully conversant with the GST legislation.

### The total annual contribution required from DOTARS.

As conveyed in the Business Plan the total hourly GST included costs of the aeroplanes intended to undertake the work is \$571.54 for 2004-5 and \$591.02 for 2005-6. Polar Aviation will undertake the weekly service for a consideration of \$4,450 per week, **exclusive** of GST for the period of the contract. This amount is slightly less than the average of the hourly calculated amounts. Clearly the weekly amount, including GST, is **\$4,895**.

The total annual contribution from DOTAS will be \$254,540 **inclusive of GST** notwithstanding the average annualised amount of \$ 256,927 calculated in the spreadsheet.

For the sake of compliance with the pro-forma spreadsheet an estimate of two passengers per week as calculated. However given the variations in remote communities such a calculation cannot be relied upon. Therefore, for the purpose of this undertaking, the conservative approach is to assume no passengers or freight on the day of the appointed visit to a community.

This information is reproduced in Schedule 1 of the Deed.

# **POLAR AVIATION PTY LTD**

PO Box 772  
PORT HEDLAND WA 6722

Executive Manager : Corporate Affairs  
Attention : Ms Nicola Hinder  
Civil Aviation Safety Authority  
GPO Box 2005  
CANBERRA ACT 2601

Dear Madam,

## **Re : Complaints Against the Civil Aviation Safety Authority**

Contained in this letter are a number of instances whereby the Civil Aviation Safety Authority has, in variation to Public Sector Standards, conducted itself in a non-businesslike manner and with indifference to general Public Sector principles of treating the public, and in particular Polar Aviation Pty Ltd, equitably and fairly. An Appendix has been constructed for supporting documentation.

Polar Aviation Pty Ltd conducts charter and air work operations in the Pilbara region of Western Australia under an AOC which was reinstated by the Administrative Appeals Tribunal (AAT) on 11 February 2005.

Polar Aviation has been involved in a number of administrative matters with the Civil Aviation Safety Authority (CASA) since June 2004. During July 2004, Polar Aviation received three Show Cause Notices in regard to the Air Operators Certificate (AOC), the Chief Pilot (CP) and the Chief Flying Instructor (CFI) authorisations.

The principal complaints which Polar Aviation wishes to be make known to the CASA are as follows :

1. Failure to rescind the decision to revoke the Chief Flying Instructor (CFI) privileges given that all aspects of the Show Cause Notice (SCN) have been resolved (as contained in the Appendix to this complaint)
2. Failure to provide Polar Aviation with an AOC given that, quoting from the CASA website, "On 11 February 2005, the Administrative Appeals Tribunal extended Polar Aviation Pty Ltd's AOC until the hearing of the application for review of CASA's decision to cancel the AOC."
3. Of those matters subsequent to which we define and advise of the company's complaints.

Polar Aviation will require that the decision of CASA to revoke the Chief Pilot position with Clark Butson as incumbent be rescinded in due course.

## **History to the Events.**

The CASA audits businesses in the possession of an AOC annually or at least it intends such audits annually. The audit of Polar Aviation for 2003 identified no areas of significant failing and was, in fact, quite favourable. However, during the audit of May 2004 the MD of Polar Aviation, Mr Clark Butson, was involved in two very heated arguments concerning asymmetric training and life jackets respectively with one of the Flight Operations Inspectors (FOIs) in particular. The dislike of the MD of Polar Aviation seems to have been contagious within the West Office of CASA because it has manifested itself in a number of communications with Polar Aviation since the May audit.

## **Failure to Observe Public Sector Standards**

In para. 8 of a letter from Mr Gary Presneill (of CASA) dated 7 September 2004 Mr Presneill sees fit to express his personal beliefs on the capability of the then CP where he claims that the safety culture will remain unchanged at Polar Aviation "while Clark remains as Chief Pilot".

On Monday 7 February 2005, Polar Aviation has occasion to object to remarks made in a correspondence from CASA, specifically by Mr Peter John – the Business Development Manager, dated 4 February (TRIM 00/6711-03) where Mr John refers to the "alter-ego" of Mr Butson, the MD of Polar Aviation and by implication is not a fit person to hold an AOC. The email concluded by advising that such a representation was well outside Public Sector Standards. In response to the email Mr John advised that he identified no irregularity vis a vis Public Sector Standards (which we deem an extraordinary reply from a person with a management responsibility in the Public Sector).

On the evening of 11 November 2004 on the lawn of the company pilots' house, Mr Gary Presneill (of the West Office) advised the two recently employed pilots (of a matter of days) who are based in Newman, a town in the Pilbara, that they "ought to get some rest because tomorrow you're in for a roasting from CASA".

During the audit of November 9-12/04 the FOIs claimed to have "discovered" details of a flight in which the aeroplane (ILD) was out of balance. That evening Polar personnel reworked the problem and found the aeroplane to be in balance. Upon being so advised the FOIs undertook to provide Polar Aviation with their arithmetic working but such was not submitted other than an near-illegible photocopy. Reworking the problem on a trim sheet recently prepared for ILD by Spectrum Technology clearly conveys that the aeroplane was in balance for all stages of the flight.

During the same audit the FOIs made a great deal of "discovering" some proofing errors in the Company Operations Manual (which is WEB based as an innovation). A simple email or an SMS from the Regulator to these minor matters would have assisted Polar Aviation in making the necessary corrections. However, these quite trivial items, which were clearly known to the auditors well prior to the audit, were enlisted as additional material to berate Polar Aviation in subsequent correspondence and we deem this action, among others, as evidence that the current attitude of the Regulator towards Polar Aviation is one of the utmost animosity. We complain accordingly.

These events which illustrate the ad-hominem feud against the MD of Polar Aviation provide no basis for effective and constructive auditing (which Polar Aviation are on record on many instances of inviting of the Regulator) and indeed such an attitude is dysfunctional to the overall objectives of CASA as recently conveyed by the CEO [of CASA] in an interview published in Australian Aviation October 2004.

## Artifice by CASA

At an AAT Hearing of 5 April (in Perth) the solicitor for CASA, Mr Adam Anastasi, sought to criticise the current Chief Pilot for Polar Aviation for “conducting private flights when the company [Polar] did not have an AOC. The solicitor in question was unmistakably motivated to identify any failing within Polar Aviation – to the extent that the solicitor’s enthusiasm for the task clearly overtook his professional knowledge and judgment in (possibly unintentionally) misleading the Tribunal; the (legal) fact is that the position of CP only exists when an AOC is in existence. Given that the MD owns most of the aeroplanes his decision to fly them is his alone in any circumstances and the matter of private flights has no bearing upon the capacity of the CP in the absence of an AOC. In any event, private flights as a matter of definition are unremunerated events.

However, we [Polar Aviation] also complain of the intentional misleading of the AAT by the solicitor for CASA on 5 April 2005. The solicitor for CASA gave the Tribunal to understand that CASA would assist Polar Aviation in any way it could (or sentiments to that effect). In particular the solicitor for CASA recommended to the solicitors for Polar Aviation, Grundy Maitland – of Melbourne, that they meet to develop a statement of “agreed facts”. Given this undertaking the MD of Polar Aviation contacted the Manager of the CASA West Office, Mr Terry Farquarson, and put the proposition to Mr Farquarson that the West Office identify specific areas of concern and put those to Polar Aviation at a meeting at some convenient date in the near future; thus appealing to the historical experience that both parties considered the meeting of October 18 a success. However, on Friday 8 April it was conveyed to Polar Aviation that Mr Anastasi had advised Mr Farquarson that a meeting “would not be profitable” or a sentiment very close to that effect; in other words a “reversal” to the original undertaking by CASA’s solicitor.

Polar Aviation also learned on Wednesday 13 April that on the 4th April Mr Anastasi has sought leave of the Federal Court (Western Australia) to have the decision of the AAT to “stay” the decision of CASA not to renew the AOC rescinded. In other words the solicitor for CASA, contrary to his declaration to the AAT, has every intention of ensuring that Polar Aviation ceases business and thus deliberately misrepresented his attitude to the AAT.

Mr Anastasi also misled the AAT on 5 April 2005 by declaring that the audit of 9-12 November was effected by a resolution at the meeting on 18 October 2004 between CASA and Polar Aviation. In fact Mr Gary Presneill advised Polar Aviation of the meeting on the 13 (p.653 of the [so called] “T” documents which were prepared by CASA) October and various emails are in existence which consider the planning of this meeting – all dated prior to the 18 October – and not included in the “T” documents (as they ought to be for the sake of completeness). Thus we complain of the misleading and possibly deceitful (or devious at least) remarks of the solicitor for CASA

### **The submission of 900 pages, in four volumes, by CASA to the AAT (the “T” documents).**

CASA has compiled a four volume (almost) 900 page submission to the AAT for the purposes of justifying the decisions CASA made in regard to the company’s AOC, and the revoking of the CP and CFI authorisations of the MD of Polar Aviation. Mr Anastasi declared to the AAT, on the 5 April, that he had no desire to spend three weeks “wading through” the submission (which begs the question of justifying its compilation in the first place).

The first half of the submission treats matters, somewhat superficially, which have been resolved and acquitted in any event. The second half fails to treat the topics with any degree of care and most of the correspondence that CASA have included is highly selective. Often only first drafts have been included (e.g. the Agenda of 18 October) and the editing of the meeting is obvious on any reading.

The latter section of the document also contains (CASA) inter-office correspondence on matters which have been acquitted. On this basis the company also complains of the inconvenience of being obliged to analyse a document which CASA has no interest in presenting (in any detail) and has (therefore clearly) enlisted this subterfuge to deceive the AAT and the investigative process into believing that there are material matters of safety against Polar Aviation.

### **Abuse of CAR 301**

A number of requests have been made under CAR 301 for documents. A request for copies of log books occurred on or about 11 March and Polar Aviation complied with this request as per the detail in the letter. Some weeks later the personal log books of all pilots were requested under the same authority. It should also be pointed out that no pilot is happy to have his log book (being his personal property) out of his sight for any reason at all.

It would seem that the 900 page compilation by CASA is not sufficient for its purposes and despite the matter having been registered in the AAT CASA continues with its activities which are disruptive to operations and deleterious to morale without the least need to justify its actions.

### **Cooperation with CASA and Implementing Internal Improvements**

The documents contained in the Appendix (blue pages) provide considerable background on the events to date. However we emphasise that Grundy Maitland (solicitors to the company) gave Polar Aviation to understand, on the 10 August 2004, that Grundy Maitland "gained the impression from the discussions with Mr Terry Farquharson this morning that CASA will not take the drastic administrative action to cancel your AOC and approvals if you work with them to make some operational and procedural changes as discussed".

From February 2004 significant revisions to work practices occurred notwithstanding that the 2003 Audit (by CASA) was quite favourable. We complain that at the 'Entry Interview' of the May 2004 Audit these innovations were discussed in detail yet were not reported upon in terms of the Audit. Indeed material submitted to CASA during May as an "indication" of what was occurring was utilised as a weapon in subsequent correspondence to undermine all initiatives and work in progress. Later correspondence (c. November 2004) from CASA contained some references to internal revisions of procedures but the overall sentiment was condescending.

Although encouraged by the attitude of Mr Marcolin, CASA GM of GA, in his letter of 9 September to Grundy Maitland – especially in the section he chose to 'head' as "Mitigating Factors" Polar Aviation is dismayed at the inclusion of the phrase "antiquated systems" (second paragraph of the section). This assessment utterly contradicts the CASA Audit Report for 2003 and hence the observation permits the conjecture that Mr Marcolin was "fed" less than objective assessments of Polar Aviation by the West Office over the course of the proceedings for 2004.



The innovations as demonstrated by Polar Aviation at the meeting of 18 October evidently had the effect of "surprise" upon some of the CASA attendees although they were common knowledge to others. The Chair made very favourable comments and invited Polar Aviation to "take us [CASA] along with you on subsequent innovations". At the conclusion of the meeting no items remained outstanding other than the matter of developing training materials to be Competency Based Training (CBT) compliant and CASA was in receipt of an envisaged completion date for the work.

### **Competency Based Training and the CFI Revocation**

During February 2002 the CBT training materials, developed by Polar Aviation, were sent to the CASA West Office for assessment. We complain that to the best of the collective knowledge of the Company no other flying school had received a Request for Corrective Action (RCA) on this matter. Indeed the FOIs undertaking the audit in November 2004 could make no recollection of any flying school in WA having received an RCA for non-compliance in CBT (and hence no criticism in regard to inadequate training of students – as had been the case for Polar) much less a Show Cause Notice or closure of the Flying School via the loss of the CFI authorisation.

Only in September 2004 and again in March 2005 did CASA provide flying schools in WA (as part of a national programme) with a seminar devoted to assisting flying schools to create materials for a CBT syllabus. A CD released by CASA containing a sequence of training activities "did the rounds" c. 2000-1 but it could not be considered as composite in regard to CBT. This latter (considerable) improvement is the least, in terms of content and explanation that is required in respect of being of assistance to flying schools providing a member of staff is adequately qualified.

In 2004 CASA acknowledged industry compliance to be 5% nationally. Indeed, it is acknowledged that the materials provided at the seminar of 2005 assume the reader has qualified with a (TAFE) Certificate 4 in Workplace Training and Assessment. In the course of a "show of hands" at the September/04 seminar not one practicing flying instructor, of which 200+ were assembled, had such a qualification. Clearly, all except the large flying schools, most schools are awaiting a complete syllabus to be developed for them to buy. Accordingly, we complain of the harsh treatment that the company has received from the Regulator on this account and to being "singled-out" in the first place.

The case for returning the CFI approval to the MD of Polar Aviation appears in the Appendix and we complain that CASA have ignored all appeals in this regard. Indeed CASA, in the course of emails, has conveyed that they will accept an application for CFI from any suitably qualified person providing it is isn't the MD of Polar Aviation. We also complain of this extreme and single-minded view that CASA has adopted.

### **Additional Evidence of being "Singled-Out"**

Polar Aviation, on 2 December 2004, received an RCA (309 437) which required the company to ensure that each Aircraft Directive (AD) and each manufacturer's Service Bulletin had been applied to each aeroplane in the company fleet irrespective of when the aeroplane was purchased by the company. It would seem that CASA are besotted with the eight aeroplanes owned by Polar Aviation yet are indifferent to the condition of any other aeroplane in Western Australia or possibly Australia because the company understands that this RCA has not been issued to any other operator. Although this task at Polar is 98% complete (at considerable internal cost), once again, we complain of the high-handed attitude of CASA of Polar being "singled-out" and this behavior does not accord with the principle of equity or fairness. The internal cost would be more comfortably accommodated if it was understood that the action was to be applied to the entire industry in a detailed timetable to prepare other AOC holders and owners – as it ought.

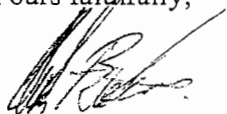
### **The Denial of Natural Justice.**

During July 2004 there was an attempt by CASA to close the flying school without notice or justification (compared to the remainder of the industry). A memo from Polar Aviation (contained in the Appendix) seemed to have effect of reversing this decision by CASA. However, on 31 January, the day of the expiry of the company's AOC, CASA [05/462 – TRIM IN05/295] sought to eliminate the rights of Polar Aviation in proceeding to the AAT on any matter. We complain of this conduct and put for your consideration that such a directive (in order to have an AOC renewed) is demonstrative of a blatant and disinterested regard to Natural Justice and conduct not befitting a Commonwealth Department.

We have endeavored to be pertinent and circumspect in articulating the events of almost 12 months with the Regulator of Civil Aviation and we submit the complains with the expectation that they will be treated in open, systematic and rational matter via your internal procedures with the primary objective of resolving this rather wasteful administrative engagement in which Polar Aviation has found itself.

We would be grateful should you confirm receipt of this complaint to [opps@polaraviation.com.au](mailto:opps@polaraviation.com.au) as promptly as convenient

Yours faithfully,



Clark Butson,  
MD  
18 April 2005

**A P P E N D I X**

# **POLAR AVIATION PTY LTD**

PO Box 772  
PORT HEDLAND WA 6722

## **Re : CASA and Polar Aviation Show Cause Action and Decisions by CASA in regard to the Flying School**

Australian Company Number (ACN) 007 968 834  
Australian Business Number (ABN) 90 007 968 834  
Company ARN 073 061  
Company AOC (W073 661-11)

### **Executive Summary**

On the 21 July 2004 Polar Aviation received notice of 'proposed action' to revoke the Chief Flying Instructor (CFI) Approval. This 'action' is known as a Show Cause Notice (SCN). On 18 January 2005 such action, by CASA, occurred. The principal justifications for revoking the CFI Approval was the failure to produce Competency Based Training (CBT) materials and inadequate responses to previous Requests for Corrective Action (RCAs).

We understand that there are in fact very few flying schools, Australia-wide (indeed the nominal CASA figure is 5%), who have a complete competency based flying syllabus. With the exception of the Royal Aero Club at Jandakot (the most advanced large volume "trainer" institution) we are hard pressed to identify any other flying school in Western Australia who is CBT compliant; and so, incidentally, is CASA - despite numerous appeals to CASA from Polar Aviation to identify the CBT compliant schools that the company may liaise with them.

As to the RCA issued for not possessing CBT training materials the two Flight Operations Inspectors (FOIs) who re-audited Polar Aviation in November 2004 were not aware of any other flying school who had received an RCA for non-CBT training materials; much less a SCN. With regard to the progress of Polar Aviation in this task it is disappointing to observe that the programme that was in place and fully addressed at a meeting in Perth at the CASA office on 18 October has received no mention whatsoever.

Notwithstanding that the training materials of Polar Aviation have been completely rewritten and are now CBT compliant CASA have made it clear that the MD of Polar Aviation, Mr Clark Butson, will not be reinstated as CFI short of a directive from the Administrative Appeals Tribunal (AAT). Furthermore, despite requests, CASA have offered no indication as to a date in respect of their acceptance (or otherwise) of the training materials submitted.

Until the suspension of the Flying School (18 January 2005) the flying training occurred on a regular basis. The principal licenses were GFPT, PPL and NVFR. Hundreds of local residents (and some whose main place of residence was the greater Perth area) have learnt to fly with Polar Aviation. Until the closure of the control tower in 1998 Port Hedland was the only aerodrome other than Perth/Jandakot where a student could obtain controlled airspace (CTA) experience.

Clark Butson, the MD of the company, who held the CFI appointment has 18 thousand hours of flying experience and 8 thousand hours of instruction. He has held a Grade 1 instructor rating for decades.

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<sup>1</sup> Email of 15 March (in Appendix)

Needless to say two generations of new pilots have hired the training aeroplane for trips to Karratha, Broome or wherever. Once again there was never an accident with a polar trained student flying the trainer aeroplane in a command capacity after the completion of their license. This situation contrasts with the experience of flying schools generally.

### **An Analysis of the SCN – Flying School**

The Show Cause Notice (of 21 July 2004, SCN) identifies a number of perceived justifications for revoking the CFI and, inter alia, they are as follows :

1. that on 18 November 1999 the CFI was advised of the need to update the company Operations Manual so that flying training operations took account of the day VFR syllabus v.2 July 1999 – in other words redesign flying training around competency based training (CBT)
2. Polar Aviation failed to respond to a RCA issued 21 February 2002 on this matter.
3. Para 11 of the SCN records correspondence from John Dolby (of the CASA West Office) sending “an example Competency Based Training (“CBT”) [sic] CPL training course on a CD ROM to assist you in developing your own CBT course..”
4. Para 12 observes that a copy of the Polar Aviation Operations Manual was provided to auditors on CD in the course of the audit of May 2004; the paragraph also records that Part E of the Operations Manual was not CBT compliant.
5. Para 16 of the SCN emphasises that in regard to the conditions on the AOC the CFI of a school must : “ensure that the school’s operations are conducted in accordance with the Civil Aviation Act and Civil Aviation Regulations. Para 21 observes a breach of CAR 215 (2) on account of the training materials not being CBT compliant; in fact the regulation pertains to provisioning of an operations manual with provides for the “safe conduct of flight operations” and the requirement for compliance with the instructions in the operations manual.
6. Para 23 attempts to introduce a non sequitur by claiming that the current materials do not offer sufficient training to the student and do not examine the elements in the Day VFR syllabus.
7. Para 25 attempts to make something of the alleged remark by the MD of Polar Aviation to the effect that the MD (and then CFI) “would prefer to cease Flying School operations rather than adopt the current style of CBT” training methods. Para 26 records the receipt of an email of 14 June (04) where the matter was clarified.

Aspects of the ‘Entry Interview’ at the commencement of the audit in May 2004 were also reiterated in the said email. However, what was expressed as matter of fact and work in progress prior to the audit were enlisted as a club the effect further assault upon the flying school of Polar Aviation.

Para 28 notes the “many years of warnings and assistance from CASA” and yet the breaches of the regulations continue and para. 29 observes “you appear to be not complying with one or more specific requirements of condition 1 of the Polar Aviation AOC”

### **An Assessment by Polar Aviation of the SCN**

One could ‘nit-pick’ the various paragraphs of the SCN but it would be tedious to do so; nevertheless some observations are in order. In particular the “assistance” that CASA provided to Polar Aviation by way of the aforementioned CD ROM amounted to a collated set of flying sequences with references to particular elements of the Day VFR syllabus; the CD ROM most certainly could not be described as a CBT suite suitable for inclusion into a company’s Operations Manual. Beyond this measure of “assistance” there is no record and the former CFI (and MD of the company) has no memory of any other item of correspondence which would have materially improved or transformed training materials to CBT characteristics.

A merger of two TAFE colleges in the Pilbara during 2003 created, in effect, a redundancy in the management structure of one College. Kyle Hargraves<sup>2</sup> was offered a position with Polar Aviation during 2003 and assumed duties at the end of January 2004. The position of Operations Manager was formalised over August 2004.

Various decisions of a material nature were discussed in regard to the overall management of Polar Aviation during early February; it was agreed that the Polar Aviation Web page ought to be a "hub" for public and staff in regard to information and of course this initiative would be extended to flying training. By the end of April the Operations Manual had been converted so as to be accessible, by staff and others with a legitimate interest, on the Polar Web site and the flying training materials were to follow. These events were discussed at length by all participants at the 'Entry Interview' at the audit of May 2004.

A copy of the Polar Web page (on CD), comprising the Operations Manual and GFPT briefings to date was given to Mr Terry Robinson at the conclusion of the Exit Interview of the May 04 audit. It was emphasised upon handing the CD to the auditor there was a considerable amount of work pending in regard to attaining a level satisfactory to Polar Aviation – but (it was also emphasised) the fundamental structure was in place. In particular the briefings for GFPT were complete.

On the 14 June 2004 the MD received a communication from the West Office (Perth CASA Office) of the intention to close the flying school of Polar Aviation. Polar Aviation responded in writing<sup>3</sup> on even date reminding the FOIs of the particulars of the Entry Interview and qualifications in regard to the CD given to Mr Terry Robinson. Within a day CASA reversed its decision.

In respect of paragraph 25 of the SCN, it would seem that the opinions of the CFI in regard to CBT have a direct bearing as to whether a school is permitted to conduct flying training. It was pointed out, subsequently, that the MD had no confidence in CBT and its introduction into flying training did not justify compromising methods which had served the industry well for seventy years. The topic was also discussed that the Entry Interview (May 2004) in the context of the apprenticeship system where multiple, non-trivial and integrated cognitive actions are requisite for effective commissioning of any task which cannot be treated in CBT format and this opinion is supported by a considerable amount of research literature in Education.

As to the sentiments pertaining to the effectiveness of CBT it is notable the Universities resisted this strategy successfully in the late 80s. The TAFEs did adopt it and indeed adopted the hypothesis that such training would reduce the range of attributes or knowledge across students for any particular course. In other words any student would be close to the "mean" or average via CBT; in statistical terms the variance or standard deviation (the two are related) would be diminished. However, over 12 years the opposite has occurred. Large company employers have also noted this unfortunate trend and there is now, within TAFE, various proceedings to dispense with CBT – just when the aviation industry is about to embrace it !

The Operations Manager attended the seminar for Instructors in Perth during September 2004. The (CASA) presenter of the session on CBT, Mr Ian Dix, observed to a large audience that 5% of the Nation is compliant (and by corollary 95% is not compliant). The somewhat high-handed attitude (expressed as effecting 'administrative action' in an RCA and the comments in para. 28 and 29) may be justified if 95% of the flying schools were compliant but it amounts to an act of persecution of Polar Aviation in the circumstances.

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<sup>2</sup> having very strong academic qualifications, experience in CBT, excellent IT knowledge and managerial skills along with 300 hours of aeronautical experience

<sup>3</sup> See Appendix

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<sup>2</sup> having very strong academic qualifications, experience in CBT, excellent IT knowledge and managerial skills along with 300 hours of aeronautical experience

<sup>3</sup> See Appendix

The briefings promised by CASA and to be organised by CASA on CBT of which mention was made at the seminar during September 04 occurred in Western Australia on 1 and 2 March 2005. The CASA West Office was kind enough to send Polar Aviation a copy of the materials that were distributed at the two day briefing. Although informative and useful as a guide to construct a CBT course Polar Aviation offers the opinion that the materials, notwithstanding the time to prepare them, would in fact be of little benefit to an organisation who did not have a member of staff conversant with CBT methods. This opinion will be vindicated should there be a high proportion of flying schools (e.g. 65%) that remain non CBT compliant by the end of 2005. We (Polar Aviation) conjecture such to be the case.

Following what Polar Aviation deemed to be a reasonable interval of time the company sought an estimate<sup>4</sup> as to when the training materials might be approved and when the MD might be reinstated as CFI. In the course of a discussion with an West Office FOI the collective view was that a period of four hours would be sufficient to determine the adequacy of a suite of training materials. However, in the course of a week, no reply has been forthcoming on the subject.

#### **Additional Comments on the SCN – CFI**

Paragraph 30 of the SCN is entirely consistent with para.31 (which quotes the CAO reference (40.0 4.4a) of the SCN. The company, thanks to its solicitors, has also been made aware of the common law (duty of care) consideration in this regard. However, having rejected Part-E of the Operations Manual as inadequate (and not CBT compliant) CASA in para 32 seeks to enlist an Appendix contained in Part-E to justify its position. Paragraph 33 wanders off on yet another non sequitur. Given that for any single aeroplane less than a maximum takeoff weight of 5,700 kgs a pilot endorsed on one such aeroplane is endorsed on all such aeroplanes 0.3 hours is entirely adequate. Such aeroplanes which possess a retractable undercarriage differ only in the manner of emergency undercarriage extension; given that this briefing and training occurred para. 35 is completely without foundation. Given local knowledge para 36 is an inadequate assessment of the accident; the pilot was a known drug user; the amount of alcohol in his body, apparently, couldn't be determined – yet the assessment makes no mention of this aspects as contributing to the accident.

On 4 February 2005 the Team Leader (FOI), Mr John Dolby, wrote to the MD of Polar Aviation and requested names and ARNs of all persons who had received twin endorsement training at Polar Aviation – on the basis that the training that they had received was deficient. For good measure the CAO reference (40.0 4.4a) was quoted once again. We harbour the speculation that the company's reply to the request may have effected a revelation upon Mr Dolby when it became apparent that the disagreements between the MD and the FOIs on asymmetric training were hypothetical. In any event only company personnel have been given twin endorsements by Polar Aviation and such endorsements have always included engine failures; typically as an engine was about to be replaced.

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<sup>4</sup> see the email in the appendix



### **Concluding Observations.**

Polar Aviation has submitted a complete set of training materials for evaluation and acceptance by CASA yet the Regulator has declined to provide a date for consideration of the materials (much less acceptance) despite a follow-up email of Friday 18 March. It is also clear, given the (CASA figure) of industry non-compliance of 95% one would have to conclude that Polar Aviation has been "singled-out" in regard to having a RCA served on it and especially a SCN. The email of Mr Dolby (15 March) provides some evidence in respect of a vendetta against the MD as CFI; CASA does have the discretion to reinstate Mr Butson but has made it clear that Mr Butson will be reinstated only via a directive from the ATT.

We would request of the AAT that Mr Butson be reinstated as CFI immediately or failing that course of action that a 'stay' be placed on the order by CASA to revoke the CFI of Polar Aviation pending whatever additional information the AAT may require.

Clark Butson

MD  
22 March 2005

**A P P E N D I X**

## MEMORANDUM

To : FOI – Civil Aviation Safty Authority  
Mr Gary Presneill, Mr Terry Robinson

From : Chief Pilot : Polar Aviation Pty Ltd

Subject : Aviation Safety Report (04/6190)

Date : 14 June 2004

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Further to the telephone conversation of this morning with Terry Robinson, I wish to make a comment in regard to the observations contained in the Executive Summary – Summary – as they pertain to the Flying School.

Terry Robinson was indeed handed a CD as described. However, as was emphasized at the 'Entry Interview' and on at least three subsequent occasions that the competency-based briefings as they pertain to the Flying School are complete for GFPT and exist as documents in Microsoft Word Format.

The briefings in HTML format, as contained on the said CD have only been partially converted. Indeed, it was made clear that this aspect remained as 'work in progress'. Further more the content on the CD in regard to flying training had (of course) not been proofed.

Kyle Hargraves joined Polar Aviation earlier this year and, amongst other flying duties, developed the Web site which was given to Terry Robinson (by Kyle Hargraves). The principal purpose of presenting the CD was to ensure that the Auditors had a copy of the company's Operations Manual.

Developing the Web site and converting the Operations Manual to HTML has been a significant undertaking for Polar Aviation and it was freely admitted, during many discussions that there exist opportunities for improvement.

Kyle briefed the auditors on the location of the training materials (i.e. the location of the network drive) but it seemed that little examination, if any, occurred on this aspect of the Audit. I, as Chief Pilot, cannot recall any discussion in respect of the Flying School in the course of the recent audit.

With regard to the subject of Competency Based Training Kyle has a number of University degrees and amongst them a Graduate Diploma in Education from a Western Australian University and a teaching background ranging from the University to the High school sector. The TAFE sector has enlisted competency based techniques for many years and Kyle is conversant with such methods. It was also pointed out, during the 'Entry Interview' that the NSW and Victorian TAFE sectors are considering dispensing with competency based training as, indeed, they have dispensed with non-graded assessment.

With regard to my sentiments on the (competency-based) matter I deem you to misquote me in the last paragraph of the section titled 'Background' of the Executive Summary. Suffice to say that I do admit to having no confidence in such methods when proven flying training methods have been in existence for seventy five years or more. I trust this observation clarifies the matter.

The Company would take the view that for CASA to - effectively – unilaterally prevent the Flying School from operating would amount to a significant denial of Natural Justice. The Company is quite happy to make the flying training materials available to CASA and receive any comment. Specifically, we would require definitive examples as to how and where the training materials were deficient in respect to competency based training.

I believe it was generally accepted that the Auditors were favorably impressed with the concept of electronic media for Operations Manuals and Training materials. This is the direction the Airlines are struggling with in regard to modernising their methods.

We expect to be able to provide you with a formal response to your Audit by the week of the 19 July 2004.

Clark Butson

Date: Tue, 15 Mar 2005 10:57:36 +1100  
From: "DOLBY, JOHN" <JOHN.DOLBY@casa.gov.au>  
To: 'Kyle Hargraves' <kyle@polaraviation.com.au>  
Cc: "ALDEN, MARLENE" <MARLENE.ALDEN@casa.gov.au>  
Subject: WAO: Polar Aviation : Opps Manual Part E Reply 2

Kyle

The assessment of the Part E is progressing in order of priority with other tasks. I will be in contact with you soon regarding this. You will need to nominate another CFI if you wish to recommence flying training after the Part E is approved.

The matter of Mr Butson as CFI is before the AAT at the request of Mr. Butson and will be decided in that venue.

Régards

---

John Dolby  
Team Leader Flying Operations West Area

-----Original Message-----

From: Kyle Hargraves [mailto:kyle@polaraviation.com.au]  
Sent: Monday, 14 March 2005 10:10 AM  
To: DOLBY, JOHN  
Subject: Polar Aviation : Opps Manual Part E : complete

John,

It is with a measure of confidence that we advise Part E of the Operations Manual, which addresses flying school operations, is complete from a functional perspective and is CBT compliant in regard to the Day VFR syllabus.

The training materials which you would have received 10 (or so) ago appear in Part E, on the Web Site, as 'E9 School Training Materials'

Garry Presneill is aware that I have provided CASA with a dedicated login and password for the Polar internet site; to wit

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login          casa
password      xxxxxxxxxxxxxxxx
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Given that we have every expectation that what has been produced will meet with your approval I'd be grateful to your advice as to the procedure to be adopted in returning the flying school to a functional status. I would imagine that the process would include returning Clark Butson as CFI (and thus recinding the decision of 18 January).

Given that, to the best of our understanding, no other flying school in Australia has received a RCA for non compliance in regard to CBT (the CASA figure being 95% of flying schools nationally) - much less a SCN for the same fault - I think it may fairly be said that some room exists for the opinion that the decision to close the Polar flying school was somewhat 'heavy-handed' in the first place.

--

Kind regards,

Kyle Hargraves,  
Operations Manager.

# POLAR AVIATION PTY LTD

PO Box 772  
PORT HEDLAND WA 6722

Grundy Maitland & Co  
Attention : Mr John Maitland  
PO Box 433  
COLLINS ST. WEST VIC 8007

Dear Sir,

Re : Materials from CASA : 4 Volumes – 900 pages – received 1 April

We consider the compilation from CASA to be (not surprisingly) somewhat one-sided with some attempt having been undertaken to convey to a third party that all “relevant” aspects have been taken into consideration.

We consider that the early part of the CASA submission has been dealt with at length; therefore we concern ourselves with aspects which are relatively “new”.

However on numerous occasions the selective inclusion of emails has occurred and disclosures on various matters (in particular CASA’s version of the Meeting of 18 October) have been edited and curtailed. As to the 4 volumes we consider the following observations as representative of the entire set.

P328 Letter by John Dolby (2<sup>nd</sup> to last paragraph) – 4 Dec 2003.

CASA cannot permit the current situation regarding GFPT, PPL, and CPL pilot training courses to persist. Flying schools have to align their courses with CBT principals. Failure to do so will unfortunately result in eventual administration against them. I urge you to adopt a positive approach to this letter and take immediate action to align your training courses with CBT principles.

In fact, given that only this year has CASA embarked on a course of education in regard to acquainting flying schools with CBT requirements CASA, in fact, has “permitted the current situation .... to persist”. Moreover, Polar Aviation did in fact “adopt a positive approach” and in February, after the appointment of an additional member of staff, commenced work on the school training materials to satisfy CBT requirements. This aspect was discussed at length at the ‘Entry Interview’ of the May 2004 Audit.

- P.585 reproduces an email on the proposed requirements for Electronic Operations Manuals yet the reply from Polar Aviation is absent but reproduced in the Appendix
- P.586 contains an email discourse which is incomplete. The absent emails follow in the Appendix.
- P.623 is an instructive account of how the West Office of CASA regards Polar Aviation and, for that matter, Grundy Maitland.

P625 has Mr Farquarson objecting to the length of time required for the CBT materials at Polar Aviation to be ready (31 March 05) yet on page 623 there is the acknowledgement that "CASA has to some extent dropped the ball in that only know [sic] has it begun to push CBT nationally. It would seem that the dislike of Mr Butson, personally, by the West Office is the only obvious construction one could place upon the subject statements that provide any rational basis for the objection (p. 625) in the first place.

Of course, it ought to be acknowledged that CASA are (currently) in the process of approving the materials which Polar Aviation have submitted

P. 639 Email, commenting on the opening observation of Mr Dolby, is missing but follows in the appendix

P. 663 The account of the Meeting of 18 October 2004 between CASA and Polar Aviation commences on this page. However, the "transcript" is a greatly edited adaptation of what transpired; given that the meeting consumed four and one half hours clearly extensive editing has occurred (quite apart from the grammatical errors contained within the transcript. Moreover, there is no mention of 'Defect Reporting' or indeed the Polar Aviation Agenda item of 'Effective Business Communication'

A considerable amount of correspondence between Polar Aviation and CASA has been omitted by CASA in respect of their submission to the AAT and what comments appear above ought not to be considered as exhaustive. Whether this level of detail is deserving of inclusion at this point isn't altogether clear. In any event we would remind you of our 50 page submission to your office in February and our submission on the SCN for the Flying School on 23 March. In both cases the submitted materials "rectify" a good many inferences in the 900 pages offered to the AAT by CASA.

Yours faithfully

Clark Butson

MD  
3 April 2005

# A P P E N D I X

Date: Mon, 30 Aug 2004 19:56:34 +0800 (WST)  
From: Kyle Hargraves <kyle@cirrus.polaraviation.com.au>  
To: "PRESNEILL, GARY" <GARY.PRESNEILL@casa.gov.au>  
Cc: 'John Maitland' <macedonlaw@bigpond.com>, 'John Maitland2'  
<melbournelaw@etower.com.au>  
Subject: Re: Polar Avn RCA responses? and use of electronic ops manuals

Gary - again some clarification and some questions.

> I note that the latest round of responses to the RCAs were due on 23 Aug  
> 2004. Please confirm that you have considered the RCAs further, and that  
> your responses will be reaching me in the very near future.

.mmmm -- It was our (Polar's and Grundy Maitlands) understanding  
that the RCAs and the RCAs would accompany the 'Show Cause'  
response due tomorrow (and sent from Grundy Maitland).

The RCAs have been fully addressed, I believe, and Grundy Maitland  
have acted as impartial assessor. We (Polar) take the view that  
every corrective action has a definitive and auditable action  
attached to it. Such ought to prevent similar instances occurring  
in the future.

> Further to what Ben Firkins mentioned regarding the identification of your  
> current Ops Manual - I have also enclosed some guidance that John Dolby had  
> recently given to another operator regarding Electronic Ops Manuals and the  
> need for them to be administered as controlled documents, etc.

>

thanks for passing this on Gary.

I have some questions (for my own edification) in regard  
to the CASA policy being adopted. It will probably be more  
effective to go through the following over the phone towards  
the end of next week. I should have either Thu or Fri early  
PM free. In any event my questions follow (as a "heads-up")

> This is the policy that we are applying:

is the Policy to be National or (Area) state-based ?

> 1. Operations Manuals may be electronic, providing the person has a  
> similar level of access to that provided by a personal paper copy.

.mmm so providing an Office PC for pilots would be appropriate ?

> 2. Electronic Ops Manuals must be provided on a CD -R, not a rewritable  
> disk.

Is the CD to sit with the regulatory library doco or is each  
Pilot/member of staff to have a CD-R copy (or both) ?

> 3. Electronic Ops Manuals may optionally be provided on a DVD-R (only),  
> provided all employees have access to a suitable DVD player and after  
> acceptance by this office.

I presume that the DVD reader need only be in the office ? What  
would CASA consider favourable in regard to 'acceptance' ?

> 4. Electronic Ops Manuals must have an implementation date recorded on  
> the disk ( Minimum 1 month after being sent to CASA)



ok - I get it; doing this is sequence of points made. items 2 & 3 refer to the CASA copies - not office copies.

- > 5. Electronic Ops Manuals must have a clear indication of the version number on each disk (EG Polar Avn Ops Manual Version 1.5.2 effective 25 August 2004)

thats fair !

- > 6. There must be only one version of the ops manual in circulation at any one time. IE You must physically exchange the old version with the new version at the time of issuing the new version of the Ops Manual.

and any version can be cross-referenced with the Web site (perphas a required procedure)

- > 7. The electronic copy of the Ops Manual is to be a trackable and accountable document.

not 100% sure what is intended here. Could you provide an example of what CASA has in mind in this regard ?

- > 8. A register is to be kept and maintained reflecting who has possession of the ops manual and in receipt of which version.

I presume you mean - if a hard copy is printed or is this requirement to apply to CDs as well ?

- > 9. Each issue of an electronic Ops Manuals must be re-issued in its entirety.

for both a electronic (CD) or hard copy - I presume

- > 10. The text of the latest amendments to the Ops Manual must be highlighted in yellow so that the reader can easily find and read the amendment. (only the latest amendment is to be highlighted. As each new amendment is made remove the previous amendment highlighting)

with my IT/Programming hat on - I'd avoid the stipulation of a colour for two reasons :

- i colour, in programming terms has an OFFICIAL 6 figure definition in hexadecimal (base 16) - normal people use base 10 - for everyday use. is CASA stipulating the colour code FF FF 00 specifically ?
- ii if a site uses (for example) a WHEAT or GOLD or LEMON CHIFFON background (all official colours) then YELLOW will not be visable - or VERY difficult to read. Is generally difficult to read on red backgrounds but easy on blue (Polar's) !

I'd suggest rewordng the requirement to "a colour which contrasts the normal text and is distinct from a colour defined for a link or visited link or for any other other purpose on the site".

- > 11. If the Ops Manual is to be also web based then a CD - R copy must be kept as well.

what is the reasoning here ? I must say I do find this requirement odd because

- i a backup (normal IT backup) will exist in any event and
- ii whenever there is a change (and most of the points above are concented with changes) a new set of CDs are to be cut - with the amendments in a colour with contrasts.

I practice a spare copy would probably be kept to be given to a person requesting it without delay - but I struggle with the idea of it being a requirement.

- > 12. If the Ops Manual is to be web based then the operational version
- > must only be accessible to employees. A second link must be made available
- > via password to the developer and CASA to view new amendments that are being
- > proposed.

There are two points here. Given that anyone can have access to a paper-based Opps Manual then I see no obvious requirement in surpressing an electronic copy across the WEB. Surely this is a decision for an operator and not for a regulator.

As to CASA having access to work in progress I can conjecture 'Commercial in Confidence' situations that should preclude such 'rights'

However, it would be useful for CASA to have an 'assessment area' to review amendments prior to posting into the (real) Manual.

with regard to Polar's position we have restricted the access to the Opps Manual and probably won't have any great CiC matters - but I anticipate this issue being significant to larger operators.

- > 13. At least one current version hard copy of the manual must be kept in
- > a readily accessible place in the main office.

and, presumably, at any 'branch' office

- > 14. All operational staff must have ready access to a home computer, be
- > provided with either a suitable computer, or a hard copy of the current
- > version of the ops manual.

The 'electronic' aspects make sense but in the case of an operator with only a paper based Manual is there a requirement to provide staff with a copy of the Ops Manual. If not then (14) would initiate such a requirement. It would make little sense to provision staff at home, with no IT facility, with a Paper Opps Manual ONLY because the Master Copy is electornic.

- > Points 10, 11 and 12 would be particularly relevant to Polar Avn's
- > situation. Another aspect is that organisations where this is done well,
- > have the system automatically print out a version number and/or With Effect
- > Date on any hard-copy pages printed (as they become uncontrolled copies
- > after printing).

Acknowledging that anything can be improved, Gary, I think we've gone to some length in regard to Part A (in our case).

One final point - which may help CASA

There is too often a tendency, amongst non-IT Management, to consider or percieve the computer function or electronic copies as somewhat 'different' or contrasing to paper systems. However, logic compels us to ensure that the functions are treated in an identical manner. For example, I've had no end of discssions with CEOs who have taken the view that the Finance system should be isolated (put on its own LAN) but having given the contents of the filing cabinets in HR/Personnel not a second thought.

Another example concens penalties for accessing computer systems (not necessarily breaking in - just sitting in the chair - and penalties (or lack therof - possibly trespass) of going through rubbinsh bins or filing cabinets. Its all a question of how we (come to) see things.

Electronic methods open up tremendous opportunities for working smarter but I think we need to keep our eye on the objective or goal and in this case its to present an Operations Manual. Ease of access is a 'given'; there is probably something to be said (recommended) for an indexing method for the new CAR 1998. But, boardly speaking, appreciating that one could find fault with the paper system of many operators in some manner or other, topics such as verson control, while important, haven't been 'sovled' in paper systems - and that all systems have faults. Successive approximation (as opposed to 'grand opinion paradigms') are the preferred course.

As an aside - do you mind contancting the operator which is intending to implement an electronic Ops Manual and pass our contact details onto them (available from [www.polaraviation.com.au](http://www.polaraviation.com.au)) for the purpose of working collabratively or at least exchanging ideas ?

Kind regards,

Kyle Hargraves  
Operations Manager

Date: Mon, 30 Aug 2004 17:59:31 +0800 (WST)  
From: Kyle Hargraves <kyle@cirrus.polaraviation.com.au>  
To: "PRESNEILL, GARY" <GARY.PRESNEILL@casa.gov.au>  
Cc: 'John Maitland' <macedonlaw@bigpond.com>, 'John Maitland2' <melbournelaw@etower.com.au>  
Subject: RE: Polar Avn - M. Rel Overruns - TRN

Gary,

It would seem that a clarification is required in regard to my email to you of 27 August.

On Mon, 30 Aug 2004, PRESNEILL, GARY wrote:

>  
> My original request was "could you please send me those audit results for  
> CASA to review" - but you send me this non-answer!

- i the email was motivated by my being mindfull of the delay between your original request and the date of my reply (27 August)
- ii I advised in the email that Grundy Maitland had been instructed to contact you on this matter. Such being the case I made no attempt to become involved in the response process - but merely to point out what was germane to Polar Aviation.
- iii The matter was passed to Grundy Maitland on 12 August and followed up a few times; my most recent follow up was 23 August with request to be advised when you (CASA) had been given a response to this matter.

I think a re-reading of my email of 27 August would suggest that I made no attempt to 'argue' or take the matter from Grundy Maitland. My view is the email amounted to a civility to you; a "touch-base" if you like.

> Politicians use this trick during interviews, but it does not work well  
> against safety regulators! In fact - when companies start doing this  
> sort of thing it attracts our attention even more! If the situation is  
> as I suspect, and you have no reports from auditors - then at least if  
> you are up-front about it, and admit the problem, I could give Polar Avn  
> credit for being "open".

May I convey, Gary, that it is my experiece that this tone seldom assists matters.

> Reference your point ii - Although Class B aircraft generally do not require  
> external audits, they do not generally have the 10% flexibility either.  
> However, external audits are required by your Maintenance Control Manual,  
> where the aircraft is specially approved to use an "approved system of  
> maintenance" (which allows the 10% flexibility).

ok - it is my understanding (from Northam Air Services) that such isn't the case. I admit to being on an 89 degree learning curve but I'll seek clarification from NAS again. I beleive the Maintenance Control Manual has either been amended or that moving to Class B dispenses with the external audit requirement.

> Reference your point iii - What part of - "The result of the audit shall be  
> retained and made available to [CASA] on request" - do you find difficult to  
> comprehend?

Certainly this is what you quoted in your email of 11 Aug. However,

the result of internal discussions yielded my remark :

iii        The length of time of retaining audit doco  
              wasn't apparent

which is from the Company's perspective. Frankly the clause you quote could be understood as "from annual audit to annual audit" or retained (and made available) for [the current] one year.

> Reference your point iv - If you want to elect to change from your current  
> approved system of maintenance I understand that CAR 42E allows you to elect  
> to go back to something like "Schedule 5", but you would need to specify  
> something like the manufacturer's schedule for the aircraft engine. Your  
> maintenance organisation should know about the process of making a "log book  
> statement" to elect to operate under an alternative system.

Well this is precisely what I'm given to understand has occurred;  
such a log book entry has been made.

> However, none of these potential changes (affecting the future) affect my  
> request for information from the past. I say again - Could you please send  
> me those audit results for CASA to review?

My preference is for Grundy Maitland to reply on our behalf and in  
the meantime I'll follow up the items you refer to with our  
maintenance people.

Kind regards,

Kyle Hargraves  
Operations Manager.

Date: Thu, 7 Oct 2004 13:19:19 +0800 (WST)  
From: Kyle Hargraves <kyle@polaraviation.com.au>  
To: JOHN.DOLBY@casa.gov.au  
Cc: Clark Butson <polaraviation@bigpond.com>, macedonlaw@bigpond.com,  
melbournelaw@etower.com.au  
Subject: Meeting : 18 Octover

John,

Thank you for your fax of 6 Octover (04/9316-03)

For the record, we should point out that the number of emails on this matter of the meeting amount to two (Wed 29 and Thu 30 to Terry Farquharson and yourself respectively) - or three if you wish to include our response to RCAs directed through Terry Farquharson also on the 30 Sept. In difference to your assertion of "numerous emails and telephone calls of the past week" we recall only one telephone call on this matter (along with the the 2 emails).

We regard the meeting as having a very specific object and hence we take the view that agenda item 8, Other Business, is not an applicable item of business in this instance. In its place we wish to have an item to the effect 'Constructive Business Communication' given, as Grundy Maitland have pointed out, that a good deal of the of the disruption has been created by a breakdown in effective communication. Indeed the introductory sentence of the subject fax possesses an unjustifiable tone of frustation by CASA.

We look forward to a beneficial meeting for all concerned.

--  
Kind regards,

Kyle Hargraves,  
Operations Manager.