

MAILED 4/30/08

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Thursday, May 1, 2008

Mr. Glen Rotella, AWP-16
Federal Aviation Administration
15000 Aviation Boulevard, Room 2017
Lawndale, CA 90261

Mr. Rotella,

Enclosed is a copy of your offered Settlement Agreement, with my signed and dated acceptance. I have also enclosed a copy of the cover letter I am simultaneously mailing to Pamela Richards at FLRA.

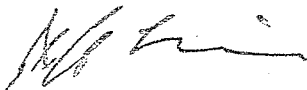
Please also accept the enclosed grievance, seeking to finally and fully resolve the CCR ATCT situation. I appreciate your offer to receive this grievance and forward it on to the appropriate FAA officials for timely processing. I have also provided a sheet detailing my proposed Leave Restoration calculations.

I have taken the liberty to also enclose copies of two letters I sent to Jason a year ago. I found these while reviewing my files, and felt they best illustrated the situation at the time I filed the original grievance. Perhaps they will help.

If you need copies of any other documents, please advise.

Thanks again for your cooperation and assistance in getting us this far. I hope we can soon fully resolve all grievances related with the CCR ATCT situation.

Sincerely,



Jeff Lewis

ATTACHMENTS:

Settlement Agreement withdrawing ULP
Copy of letter to Pamela Richards, mailed to her with a signed copy of Settlement Agreement
New Grievance (4p)
Leave Restorations (1p)
Copy of my 4/27/07 email to Jason (1p)
Copy of my 6/11/07 letter to Jason (3p)

Lewis-FAA Case
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Ex. # **32.1**

Settlement Agreement

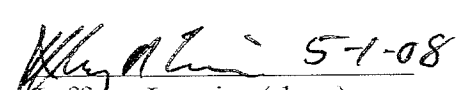
This agreement is entered into by Mr. Jeffrey Lewis, Air Traffic Controller at Concord Tower, and the Federal Aviation Administration (FAA). This agreement is intended to settle grievance number (NC) 07-63982-CCR and thereby withdraw Unfair Labor Charge (ULP) number SF-CA-08-0087.

The parties agree to the following actions:

- 1) The Agency (FAA) will restore seventy-two (72) hours of sick leave to Mr. Jeffrey Lewis leave balance.
- 2) SFO Hub Manager Andy Richards, will issue Mr. Jeffrey Lewis a letter explaining his current employment status with regards to his administrative leave.
- 3) Mr. Jeffrey Lewis shall have twenty (20) calendar days, from the signing of this agreement, to file a new grievance concerning other leave issues, payment of Medical examination and other issues involved in the Medical examination, that occurred while employed at Concord Tower (CCR). The time frame for the issues raised is from May 2007 to date of this agreement. The Agency agrees not to raise a timeliness issue if filed within this time period.
- 4) Mr. Jeffrey Lewis will withdraw Unfair Labor Charge (ULP), number SF-CA-08-0087, upon signing this agreement.
- 5) Mr. Jeffrey Lewis will consider grievance number (NC) 07-63982-CCR as resolved with the restoration of seventy-two (72) hours of sick leave.

This agreement constitutes the complete understanding between the parties and no other promises or agreements shall be binding unless signed by all the parties. This agreement shall not set any precedent and does not constitute an admission by any party of any violation of any federal law, rule, or regulation.

By entering and signing this agreement the parties consider the matters raised in grievance number (NC)-07-63982-CCR and unfair labor charge number SF-CA-08-0087 resolved. The parties retain all rights granted to them by law, rule, regulation, and/or contract.

 5-1-08
Jeffrey Lewis (date)


Glen Rotella FAA (date)

Cc: Hamid Ghaffari NATCA RVP
Pamela Richards FLRA

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Ex. # 32.2

Dates of Alleged Violation:	February 16, 2007 through August 30, 2007
Date Submitted:	May 1, 2008 (NOTE: FAA has agreed to waive the timeliness issue, in an agreement signed by Glen Rotella, AWP Labor Relations)
Name of Grievant:	Jeffrey N. Lewis, ATCS, CCR ATCT
Name of NATCA Representative:	Filed by grievant; no NATCA Representative.
Issue(s) / Subject:	Evidence collected in the past year indicates Jason Ralph, ATM CCR ATCT, violated the NATCA Contract by forcing me to obtain a Medical Evaluation at personal expense, then forcing me to involuntarily burn all my sick leave and annual leave, and eventually forcing me to lose pay in an LWOP pay status. In an attempt to validate these actions, Air Traffic management communicated with the Aerospace Medicine office, which resulted in my being declared medically disqualified (without evaluation) and caused one flight surgeon to draft a defamatory memo and insert it into my FAA medical file. Lastly, FAA management has greatly amplified the stress and uncertainty of my situation by routinely obstructing communications and ignoring my repeated requests for information.
Statement of Facts:	<ul style="list-style-type: none"> On 2/16/2007, in a telephone call from Jason Ralph, I was effectively locked out from my ATC workplace. Jason told me to not come to the tower and to not even call the tower; more specifically, he stated I must not make <u>harassing</u> calls to the tower. As I have never made harassing calls to anyone, I asked him to explain; Jason refused to explain. On 2/20/2007, after numerous calls to clarify my pay status, I finally reached the acting SFO Tower Hub manager (Ferrera), and he advised I was in a paid administrative leave status. On 2/26/2007, I received my first letter from Jason Ralph. In this letter, dated 2/16/2007, I was advised that I was medically incapacitated and placed on administrative leave, and directed to not report to duty. Receiving this information from Jason (and not from the Regional Flight Surgeon), I reasonably assumed Jason himself had declared me "incapacitated". Additionally, Jason directed me to mail in my FAA badge and key, which I promptly did. My second letter from Jason Ralph was received on 3/19/2007. In this letter, Jason directed me to submit "required medical documentation" and declared that my "...failure to provide...may result in disciplinary action." The letter did not clearly explain what specific medical documentation was required, so I had to research. I made numerous phone calls and, eventually, on 3/22/2007, I learned from Dick Fossier (Regional Office, Employee Relations) that a DSM-IV 5-axis evaluation was required. I also learned from Dick Fossier that Jason had initiated a teleconference on 2/16/2007 in which his statements led Dr. Goodman (Regional Flight Surgeon) to declare me medically incapacitated. Dr. Goodman

did not support his action with any evaluative effort, not even a simple phone call to me to investigate Jason's allegations.

- In compliance with Jason's directive, I scheduled an appointment for 4/26/2007, the earliest available date. My appointment was set with Dr. Douglas Haldeman, a PhD psychologist in Seattle who has done psychological evaluations for the FAA for approximately twenty years. I chose Dr. Haldeman because I knew he was well-regarded by the FAA; in fact, the FAA had chosen him to evaluate me in April 1991, in reprisal to my speaking up about safety and fraud issues at my first ATC facility. For the record, the 1991 evaluation confirmed my mental fitness and identified problems systemic to that ATC facility (the manager referred to himself as a warden and our workplace as a jail cell), for which FAA management was encouraged to involve an organizational development specialist.
- Between 3/22/2007 and 4/5/2007, I made several phone calls to the Regional Flight Surgeon's office and to the medical branch office at Oakland Center. I left messages with Dr. Goodman and Dr. Roberts, but they never called back. I made numerous requests to talk with the doctors, but eventually was told by medical office staff (both Sandi Poland and Mary Williams) that they had been advised to not answer my questions and instead refer me to "LR".
- In a phone call I made to the Regional Flight Surgeon on 3/27/2007, Mary Williams confirmed that my evaluation appointment would be at my own expense; this contradicts the Contract between NATCA and FAA.
- Contrary to the contract, the Regional Flight Surgeon did not provide me with any required written notification until my permanent medical disqualification was received on 6/29/2007, 133-days after the temporary medical disqualification (incapacitation) was imposed.
- On 4/24/2007, I received my third letter from Jason Ralph, an attachment to an email advising that a week earlier I had been removed from Administrative Leave "...because you are medically incapacitated and have failed to provide required medical documentation...". Jason further requested me to advise which form of leave I would like to be charged. I sent an email reply to Jason on 4/27/2007, after my evaluation. In my reply, I explained the necessary delay in obtaining the required evaluation, and requested he continue administrative leave. He did not even acknowledge my request; weeks later, I learned I had been charged sick leave when I saw my paystub.
- On 4/26/2007, I had my evaluation with Dr. Haldeman. This evaluation included an MMPI test, which revealed abnormally high scores for mistrust and paranoia, not surprising, given the work situation I was enduring. Nonetheless, to validate or otherwise explain these scores, and as part of his standard procedure for completing the evaluation report, Dr. Haldeman called Jason Ralph and Dr. Goodman to discuss my alleged behavior; inexplicably, they refused to talk, just as they had refused to provide me with any documents detailing their concerns. This refusal put Dr. Haldeman in a difficult spot. On the one hand, he had a professional obligation to produce a report that would evaluate and possibly diagnose a patient who came to him; on the other hand, he was not given any evidence to support a "presenting concern" that would justify a diagnosis. Given this untenable situation, I believe Dr. Haldeman did what most medical doctors are trained to do: he tried to help. He exercised his authority and assigned a non-specific diagnosis, hoping it would help resolve the situation; he later suspended his diagnosis, for lack of supporting documentation.

- On 6/6/2007, Dr. Haldeman's report was received by the Regional Flight Surgeon. On 6/7/2007, an internal memo between Drs. Goodman and Roberts was produced, in which the author opined that I had a seventeen-year history of abusive and inappropriate behavior, and thus should be retired...not accommodated into non-ATC work, just permanently, medically disqualified and retired on a disability. I first learned of this memo on 7/24/2007, when I received a copy of my "entire medical file" from the Regional Flight Surgeon. The memo alone was shocking, but the bigger puzzle was that there was absolutely NOTHING in my file to support it, not in twenty years and more than two hundred pages of medical documentation. So, where did this come from?
- Through the summer months, I spent much time trying to convince the Regional Flight Surgeon to abandon their decision to permanently disqualify me, and trying to obtain any documentation to explain why I was being medically retired. In general, I was getting nowhere. My correspondence was routinely ignored (e.g., the San Francisco Hub manager, Dennis Sullivan, answered none of my three letters requesting the status of the Level Two grievance his office had received on 7/2/2007).
- In summary, I believe that Jason Ralph abused his authority as the manager of CCR ATCT with the intent to harm me. Other FAA managers blindly aided him when they accepted his allegations as fact. The actions taken were extremely hostile. As a result of Jason's allegations, I lost my medical clearance, I was locked out from work (and remain so, nearly fifteen months later), I was compelled to spend thousands of dollars on medical evaluations, I involuntarily burned all my leave, and I lost thousands of dollars in pay. My family and I have also endured more than a year of stress and anxiety, not knowing what was happening or if I was even being paid anymore. All of this needs to be fixed.

Alleged
Contractual
Provision(s)
Violated (not
meant to be all
inclusive):

FAA Management has violated the following provisions of the 2006 imposed Contract between NATCA and FAA:

- Article 66: **Medical Qualifications**

This Article clearly defines the requirement to establish and uniformly apply ATC medical standards nationwide. It further obligates the Regional Flight Surgeon to make responsible and supported medical decisions, communicate those decisions in writing, pay for further medical evaluations as required, and ensure required ATC evaluations are conducted on duty time with reimbursement for various expenses. In this particular case, the extent of FAA's failure is astounding.

- Article 10: **Disciplinary / Adverse Actions**

This Article covers suspensions and reductions in pay and specifies communications procedures required by Air Traffic management. In this case, it appears that Air Traffic management chose simply to not officially declare any "actions", and thus waived their responsibility to comply with notification procedures. The effect was punitive and painful, as it left me uncertain of what management was doing, and denied me any effective recourse.

- Article 22: **Employee Records**

This Article defines reasonable standards for employee records, effectively to ensure the records are valid and correct. Consistent with

	<p>this Article, I made numerous FOIA requests but was provided with no records that supported Jason Ralph's actions against me. If the records exist, FAA's violation of FOIA and refusal to provide copies has denied me my contractual right to add a statement of disagreement to my files. More likely, if the records do <u>not</u> exist, FAA management has allowed Jason Ralph to initiate serious and damaging actions against me while denying me a reasonable right to timely recourse.</p>
<p>Remedy Sought:</p>	<p>I am requesting that FAA management take the following actions:</p> <ul style="list-style-type: none"> • Reimburse all costs associated with the April 2007 Psychological Evaluation that Jason Ralph required me to obtain, under threat of disciplinary action. A full reimbursement would include \$195.90 for the 404 miles driven, compensation at the appropriate rate for 1.5 days of Meals and Incidental Expenses (M&IE), \$8.00 for parking, and \$1,645 for the doctor's fees. • Restore all leave that I was forced to involuntarily burn. Pay records indicate a complete restoration would include 132:00 hours of annual leave, 546:00 hours of sick leave, and 3:30 hours credit hours earned. • Compensate for the improper charge of Leave Without Pay (LWOP) last August. Pay records indicate this would require payment of 101:00 hours of regular pay. • Reimburse all costs associated with my annual physical (10/30/2007) and my follow-up evaluation with Dr. Haldeman (December 2007). FAA was billed the medical costs, but my travel expenses have not yet been reimbursed. I submitted a request on 12/19/2007 for the following: \$33.95 (70 miles round-trip to my annual physical, in Vancouver), \$195.90 (404 miles round-trip to Seattle), \$13 (parking in Seattle), and an unknown amount to compensate at the appropriate rate for 1.5 days of M&IE. • Direct both Jason Ralph and Patricia Hardy (ATC supervisor, CCR ATCT) to send me copies of all their notes regarding my alleged behavior; or, if they believe they have already sent me all notes in response to my FOIA requests, a letter so stating. My request includes <u>all</u> notes, including so-called "personal notes", that would indicate specific concerns that Jason and/or Patricia shared with other FAA officials, including the Regional Flight Surgeon. • Direct the Regional Flight Surgeon to send me a letter explaining the history behind the June 7, 2007 defamatory memo added to my medical file. Specifically, I request that this letter clearly identify both the author and recipient of this memo, explain the history of correspondence and phone calls that preceded it (who made what allegations, on what dates), and explain why this defamatory memo was drafted and placed into my medical file. • Put an end to the absurdity of fifteen-plus months of mostly-paid non-work, an embarrassment to the FAA and an insult to the public we serve. Fully close this matter, as Congress and the general public would expect, by establishing a timeline to put me back to work in an appropriate non-ATC job... perhaps conducting ATC-related evaluation and quality assurance work.

<p>Whether or Not a Meeting is Requested:</p>	<p>If necessary to produce a full remedy, I request a meeting with Jason Ralph or another FAA manager from outside CCR ATCT.</p>
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Ex. # 32.6

ANNUAL LEAVE:

- I started 2007 with 11:45 hours (eleven hours and forty-five minutes).
- At the time I was locked out by Jason Ralph (2/16), I had used 21:45 hours of annual leave.
- For the year, I was to earn 208:00 hours.
- Therefore, at the end of the 2007 pay year, my Annual Leave balance should have been (11:45 plus 208:00) minus 21:45, equals 198:00 hours. However, my last paystub for 2007 (Pay Period 27) shows a balance of 64:00 hours of annual leave. The difference needs to be restored.
- Annual Leave Restoration... 134:00 hours.

134 hrs ... see 5/20/08 letter elevating grievance to Rotella,

SICK LEAVE:

- I started 2007 with 481:30 hours.
- Before my last day at CCR ATCT (2/16), I had used zero hours of sick leave.
- On 2/16, I drove to work for a meeting with Jason Ralph and Bill Marks and was to then work in the tower. However, at the end of our meeting I requested and was granted sick leave. Therefore, I used 7:30 hours of sick leave that day.
- For the year, I was to earn 104:00 hours.
- Therefore, at the end of the 2007 pay year, my Sick Leave balance should have been (481:30 plus 104:00) minus 7:30, equals 578:00 hours. However, my last paystub for 2007 (Pay Period 27) shows a balance of 32:00 hours of annual leave. The difference needs to be restored. If 72:00 hours have been previously settled for Grievance (NC) 07-63982-CCR, then this amount should be reduced.
- Sick Leave Restoration... 546:00 hours.

SOURCE: PAYROLL ACT REQUEST, ACCORD 9-1-10 (pg. 187 of 420 pgs)

CREDIT HOURS:

- At the time I was locked out by Jason Ralph (2/16), I had 3:30 hours of credit hours earned.
- Credit Hours Restoration... 3:30 hours. ✓

LWOP:

- I was first charged Leave without Pay in Pay Period 18; my paystub for that Pay Period showed 37:00 hours. I was also charged LWOP in Pay Periods 19 through 21.
- In Pay Period 23, many of my LWOP hours were restored. However, 101:00 hours were never restored, as reflected in subsequent paystubs.
- LWOP to be converted and paid... 101:00 hours.

email I sent to Jason, 4/27/2007, after my evaluation by Dr. Haldeman:

Jason,

I received your 4/17/2007 letter which you emailed to me as an attachment on 4/24/2007 at 2:39PM. I understand you have also sent me a certified letter, which I was unable to receive yesterday at the Pleasanton mailing address I have on file. I expect to collect this certified letter next Monday.

I am presently in Seattle. Yesterday, I spent six hours with a PhD psychologist doing a DSM-IV 5-axis evaluation, as directed by you and Dick Fossier. Please consult the 4/2/2007 memo I faxed to you which details the appointments I had arranged to comply with your directions. Please note, too, yesterday was the earliest I could obtain this required evaluation, and the doctor will still need 1-2 more weeks to consult with you and Dr. Roberts and prepare a written report.

As for the issue of my leave status in your recent letter, I have a request. I request that you continue me in a paid administrative leave status until the Regional Flight Surgeon obtains what they need to validate my medical fitness. At present, the Regional Flight Surgeon has not made a definitive finding about my medical fitness; rather, they are merely agreeing to support your desire to treat me as "incapacitated" until an evaluative report is completed and reviewed. The Regional Flight Surgeon has agreed to this based primarily on your telecon presentation to them on 2/16/2007 in which you falsely alleged my "condition" as a dangerous racist lunatic...which you know, I am not.

I respect that you are the manager of Concord ATCT and therefore you have the authority and responsibility to consult with the Regional Flight Surgeon about my fitness to do ATC work. However, this authority does not confer to you the right to make false allegations about my "condition". This is what you have done, in a manner that continues to damage me. As such, it would not be appropriate for me to be compelled to use my sick leave to cover your arbitrary and hostile management actions.

Please expect a more detailed letter from me next week, after I collect the certified letter in Pleasanton.

Jeff

email sent by Jason, 4/24/2007 @ 2:32PM; attached letter was dated 4/17...

--- Jason.Ralph@faa.gov wrote:

> Jeff,

>

> Please review the attached letter regarding your

> leave status and advise

> me of your request, as instructed.

>

> Jason Ralph

Lewis-FAA Case 8/2012 FLRA filing Ex. # 32.8
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