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U.S. Department  
of Transportation  
Federal Aviation  
Administration

File # AWP20070078

PRIVACY ACT NOTICE  
AND  
EMPLOYEE/CONTRACTOR INFORMATION ACKNOWLEDGEMENT

Read carefully and initial each section. Initialing and signing this form is only an acknowledgement that you understand your rights under the Privacy Act of 1974 and as an employee or contractor of the Federal Aviation Administration and does not waive any of your rights under the Act or as an employee/contractor. The information requested will be used by officials of the FAA, and others with a need-to-know, in making determinations regarding employment designations, certifications, security clearances, access to classified information and restricted areas, qualifications, suitability, and loyalty. The information may be disclosed to other agencies in accordance with the routine uses printed on the reverse side of this form.

IV I have been informed and I understand this is an official investigation involving matters relating to my official duties as a Federal employee/contractor.

IV I have been informed and I understand that authority to collect information requested in this interview is derived from one or more of the following: Title 5, United States Code (U.S.C.), Section 301, Chapter 73 and Subchapters 1 and 11 of Chapter 75; Title 28, U.S.C., Section 1346; Executive Order 10450; and Executive Order 10865.

IV I have been informed and I understand that this is not a criminal investigation and neither the information I provide in response to questions by the investigator or any evidence gained by reason of my answers will be used against me in a criminal proceeding.

IV I have been informed and I understand that, as an FAA employee, if I refuse to cooperate and answer questions in this official investigation, my refusal to cooperate can be a basis for disciplinary action against me up to and including removal from Federal service.

IV I have been informed and I understand that, as an FAA employee, if I provide information during this official investigation that I know to be false at the time I provide the information, my providing false information can be a basis for disciplinary action against me which may result in my removal from Federal service and/or criminal prosecution under Title 18 U.S.C., Section 1001.

~~\_\_\_\_\_ I have been informed and I understand that, as a contractor employee, if I provide information during this official investigation that I know to be false at the time I provide the information, my providing false information can be a basis for removal from a contract and/or criminal prosecution under Title 18 U.S.C., Section 1001.~~

~~\_\_\_\_\_ I have been informed and I understand that, as a contractor employee, I am not required to cooperate with this investigative effort, that if I refuse to cooperate the FAA will evaluate my case on the basis of all available information, and that any investigative findings may cause my access to current and/or future FAA contract work to be denied.~~

[Signature]  
Interviewee's Signature

[Signature]  
FAA Special Agent

3-23-2007  
Date

3/23/07  
Date



Exhibit 11

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U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
SECURITY AND HAZARDOUS MATERIALS DIVISION

Date of Interview: March 23, 2007  
Location of Interview: ATCT, Livermore, CA.

I, Jeffrey Lewis, make the following statement freely and voluntarily to Special Agent James Austin who has identified himself to me as Special Agent of the Federal Aviation Administration. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me. I make this statement with full knowledge that it may be used in any administrative or civil proceeding.

I am employed as an ATCS at Concord ATCT. I have been advised that the FAA is conducting an investigation into inappropriate comments and hostile work environment.

I have consented to Special Agent Austin in assisting me in preparing this statement.

✓

How long have you worked at the Concord tower? Since mid-October 2006

Do you recall an incident where you felt William Marks did not handle an aircraft properly and you began shouting at him and you were told to leave the cab? This was the 11/15 gear-up Bonanza incident wherein, after Ken Hougey made a comment about Bill's handling the situation, Bill shouted back at Ken Hougey that "...the pilot is an idiot!", ... at which point I told Bill I felt he mishandled it, that if the pilot was my father (who flies a Bonanza) he "...would have tanned my hide when he landed". Bill shouted back at me. Ken Moyer (as CIC) shouted at me "You're out of line!" I then commented that we cannot be having this debate while on position and asked to combine my FD/CD position to Ken Hougey's GC and leave. Ken Moyer granted my request and I left. I do not believe I was "told to leave".

Did you poke Ken Moyer in the chest before you left the cab? I did not poke Ken Moyer in the chest before I left the cab. I was shocked when I was told by Patricia Hardy that it was alleged I did that. After Patricia gave me a memo about this (3-days later), I asked Ken Moyer about the allegation I had poked his chest. This is so out of character for me (I've never done this); Ken demonstrated that I had pulled the back of my hand downward and lightly touched his chest with the back of a fingertip, and that he was not intimidated. I told him that doesn't seem like me but if he claims I did it I'll assume I did, and I apologized. Numerous others were in the cab witnessing this brief discussion.

Did you return to the cab? I'm pretty sure I did, just to sign out.

JL

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Have you ever while at the Concord tower spoke in a manner mimicking someone who is African American? Yes, I have mimicked two people, but only one who was African-American, and his ethnicity had nothing to do with the mimicry. I was mimicking James who very frequently mimics Jason, I'd estimate 2-8 times per shift. The mimicry is about Jason's management style and apparent severe need to control conversations, but has nothing to do with Jason's ethnicity. James often says "We're not gonna have another Lexington here" to mimic something Jason apparently once said to him. The mimicry was always for levity (James has repeatedly complained about how Jason hammers him for being "jovial"). The other mimicry I did was about Ken Moyer's mumbling habit, which is very distracting and bugs lots of others at CCR, too; I was hoping Ken would recognize the annoyance and correct his habit.

Did anyone tell you that type of speech was inappropriate and tell you to stop speaking in that manner? No, absolutely not. In fact, I thought it was strange around the first of February when James and Andrew were talking about how they had been told to not mimic Ken Moyer anymore, but I had not been told to change anything. As for the general impropriety of mimicry, many people at CCR do it; in fact, on 1/22/2007 Patricia mimicked me; I had suggested that if I am busy and do not hear her try to coordinate, saying my name or "Ground" will quickly catch my attention (she had repeatedly asked to coordinate and I did not realize she was talking to me until Ken Moyer shouted "Jeff, she's talking to you!")

While at work in the Concord tower did you make a statement similar to "us niggers can't get any leave"? No

While at work in the Concord tower did you make a statement similar to "they're trying to hold us niggers down"? No. As for similarity, the reference is to a lyric I quoted (and explained) from a Randy Newman song called "Rednecks". The song is about oppression and ignorant rednecks, given no respect by urban northerners, but finding solace in the feeling they are "keeping the niggers down". The comment was made during a Sunday morning discussion with John and James; it followed James' comments likening ATC training to the "hazing" that goes on in fraternities. I said, roughly: "yeah, it's like the lyric in Randy Newman's song, keeping the niggers down...the CPC's have a chance to assert their pecking order, so the step on the trainees".

Did anyone tell you that type of speech was inappropriate and tell you to stop making that type of statement? No. For the record, the night before the 1/21/2007 incident, James had set up his PC on the LC console with a DVD called "Boondocks". I watched with him for an hour or so (Andrew was there, too, but less interested in the DVD) and heard the n-

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IL word used dozens of times in a couple animated episodes. I never would have felt a reference to Randy Newman's lyric would be acceptable had I not shared this DVD with James and Andrew.

While at work in the Concord tower did you make a statement similar to "how are all you niggers doing?" No. This is unbelievable, how made-up these allegations are.

After having a disagreement with Ken Moyer over how he should address you when coordinating with you did you request sick leave and have it denied? Yes, and I was denied. Patricia told me roughly, "*just because you don't feel well doesn't mean you can have sick leave. We can't keep letting you go every time you get upset.*"

After having been denied sick leave did you tell someone from Travis Approach that you had a migraine headache? Yes. Travis called to coordinate an arrival. I could not focus on the letters I was trying to right on a strip. I mentioned the migraine so Travis would slow down and give me time to double-check my strip-marking was correct.

After being denied sick leave while working ground control did you tell a pilot you had a migraine headache and that you were unable to see or take leave? I told the pilot I had a migraine and I had difficulty seeing. I had previously twice told Patricia I could not focus and might need to tell the next pilot I have a migraine and was losing my vision; she twice ignored me. The pilot call happened first, then the Travis coordination, at which point Patricia unplugged and told me to leave on sick leave.

Do you get migraine headaches very often? No, but I started getting them when I arrived at Concord and I started having them 2 or 3 time a week. I have had them for many years but the usually occur during stressful periods. I have never seen a doctor for the migraines, but I have mentioned them in routine physicals.

After Patricia Hardy had you sign a letter advising you that you were under investigation for using racial slurs did you leave the tower? Yes I did, it was the end of my work week. I had expressed concern about the inaccuracy of what I was being compelled to sign for, but she would not allow me to annotate. So I signed and left.

Did you return to the tower demanding the letter back and yell at her? I demanded nothing. I drove a hundred yards down the road, took a closer look at the letter (Appendix 5, Notice to Respondent, per Order 1110.125A) and decided to return. I explained again my concern about "writing a blank check" with my signature and asked to either have it returned so I can annotate, or returned and allow me to provide a statement after I

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returned from my weekend. I did not yell at her. I was concerned what the investigation was about, all I knew it was about using the "n" word.

Do you think that word is appropriate in the work place? No

Did Patricia Hardy call Bill Marks to the office to intervene and calm you down? You'd have to ask Patricia that question; to my knowledge she brought him down on the basis of Weingarten.

Did you have a meeting with Jason Ralph and Bill Marks to advise you that an outside investigation into the allegation of inappropriate racial remarks was going to take place? Based on a phone conversation with Bill Marks the night before, I understood that we would meet with Jason and expected instructions for both of us to go to Livermore ATCT the next week for an investigative interview. When the 2/16/2007 morning meeting with Jason happened, however, Jason roughly read the first paragraph of his memo about "interfering with an official investigation". He gave me a copy and I pointed out it was false, that I had NOT been previously notified of a gag order. I asked to annotate. After some discussion Jason eventually shouted "*I order you do not annotate on that memo!*" If the purpose of the meeting was "to advise that an outside investigation... was taking place", I was never told this and it never came up that morning.

During this meeting did you approach Mr. Ralph and shout at him and poke your finger toward his face? No, we were standing when we were having this discussion and during this discussion I pointed out that he was turning up the corners of his mouth, starting to smile. This was a very serious conversation and I felt it was inappropriate, and wanted him to be aware of his mixed signal.

Did Mr. Ralph tell you to stop pointing your finger toward his face? I believe absolutely no, especially as I did not "continue" to point.

Did you continue to shout at him and shake your hand toward his face? No, I made the comment about his turning up the corners of his mouth and that was it. Done.

After this meeting did Mr. Ralph tell you to leave the building? No. I asked for sick leave, Jason granted it. I left the building. In a telephone call a few hours later he told me that this day would be sick leave but that I was being put on administrative leave afterward, with a new workweek until further advised.

After leaving the building did you return and knock on Mr. Ralph's door and start shouting at him? I did come back to get my cell phone and water bottle. I ran up the stairs

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past Jason's office. He sounded alarmed when he yelled (through his locked door) to not go upstairs. I replied I was just getting my cellphone and kept going, quickly. I passed by his door on the way back down less than 15-seconds later. I wanted out of there and felt like a caged animal, so I did not knock on Jason's door, nor have any interest engaging him in another futile discussion. I did not make any attempt to talk to Jason about our previous conversation.

Is there anything you would like to add to your statement? I have lots more to say, but in the interest of moving on I'll withhold my other documentation and limit my additional comments.

The 2/7/2007 anonymous call to the Administrator's Hotline took a non-incident, the use of a racial slur in a non-disparaging context, and blew it up into an image of a racist lunatic. I am not a racist and, in fact, have annoyed good friends by pushing back on their discriminatory comments. The real meat of the call to the Administrator's Hotline, though, is the fact that Jason has been so ineffective for so many years, long before I arrived last October, creating a workplace that is truly and profoundly desperate. The workplace dynamic at CCR ATCT needs to be changed.

As regards the issue of "hostile work environment", immediately prior to the start of this investigative interview, I was given a statement to sign. I asked for clarification on the issue of "hostile work environment", specifically to differentiate between are we investigating the hostile work environment in general (as per the "desperate treatment" comment in the 2/7/2007 anonymous call to the Administrator's Hotline) or more specifically an allegation that I create a hostile work environment. I was advised that this interview would focus on the latter: my alleged inappropriate comments, and my alleged actions that create a hostile work environment.

For the record, in a memo to Patricia Hardy I left at the base of Jason's locked door on February 13<sup>th</sup> entitled "My written statement for the Record of Investigation" (she and Jason refused to accept it), I expressed my feeling that I am in a hostile work environment. Three days later, after my weekend, I was effectively locked out from my workplace and forced to endure the uncertainty of indefinite administrative leave without any sufficient explanation. Consequently, I was not allowed to offer any input to the investigation into the Administrator's Hotline call, which was due 2/23/2007. I was effectively excluded from this process. This needs to be corrected.

If you have any further questions I will gladly answer them.

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