

Served: March 25, 1998



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 25th day of March, 1998

Fitness determination of

VINTAGE PROPS & JETS, INC.

as a commuter air carrier under 49 U.S.C. 41738

ORDER TO SHOW CAUSE

Summary

By this order, we tentatively conclude that Vintage Props & Jets, Inc. (“VP&J”) is a citizen of the United States, and is fit, willing, and able to provide scheduled air transportation as a commuter air carrier.

Background

On October 22, 1997, VP&J, an operating Part 298 air taxi operator based in New Smyrna Beach, Florida, filed an application for commuter air carrier authority. It accompanied its application with the information required by section 204.3 of our regulations for an examination of its fitness.¹

Section 41738 of Title 49 of the United States Code (“the Statute”) and section 298.21(d) of the Department’s regulations (14 CFR 298.21(d)) direct us to determine whether companies proposing to provide scheduled passenger service as commuter air carriers are “fit, willing, and able to perform such service,” and to ensure that all operations relating to this service conform to the safety standards established by the Federal Aviation Administration (FAA).² In making fitness findings, the Department uses a three-part test that reconciles the Airline Deregulation Act’s liberal entry policy with Congress’s concern for operational safety and consumer protection. The three areas of inquiry that must be addressed in order to determine a carrier’s fitness are whether

¹ On January 29 and March 12, 1998, VP&J supplemented its application with information on personnel, operating plans, and financial resources.

² Part 204 of our rules sets forth the evidence we need to make fitness findings.

the applicant (1) will have the managerial skills and technical ability to conduct the proposed operations, (2) has access to financial resources which are sufficient to commence operations without posing an undue risk to consumers, and (3) will comply with the Statute and regulations imposed by federal and state agencies. We must also determine that an applicant is a U.S. citizen.

Based upon our review of VP&J's application and the safety and compliance information on the applicant received from the FAA and NTSB, we tentatively conclude that VP&J is a U.S. citizen and has met the fitness test to conduct commuter operations. We will, however, give interested persons an opportunity to show cause why we should not adopt as final our tentative determination that VP&J is fit, willing, and able to provide commuter service.

The Company

VP&J was founded as a Florida corporation on February 1, 1991, by Mr. William T. and Mrs. Linda Crevasse, who jointly own 100 percent of its stock. The company operates charter flights, 90 percent of which are between points in Florida and points in the Bahamas, particularly Marsh Harbour and Treasure Cay. VP&J owns four passenger aircraft, each having a maximum seating capacity of nine or less, and leases one cargo aircraft with a maximum capacity of 7,500 pounds.³

VP&J has filed an amended Air Taxi and Commuter Air Carrier Registration Form (OST Form 4507) under 14 CFR Part 298 and has applied for an amendment to its FAA Operations Specifications under Part 135 for the authorization of scheduled passenger operations.⁴

If VP&J is found fit to conduct commuter service, it plans to add scheduled flights between Daytona Beach, Florida, and Marsh Harbour, the Bahamas, to its ongoing charter operations.

FITNESS

Managerial Competence

Mr. William T. Crevasse is the applicant's President, Secretary, Check Airman, and Director of Maintenance. He holds a Commercial Pilot Certificate and an Airframe and Powerplant Mechanic Certificate from the FAA and has accumulated over 20,000 hours of flight time. Prior to forming VP&J, Mr. Crevasse attended Embry-Riddle Aeronautical University in Miami, worked as a crop duster in Georgia and Florida, and as airport manager in Live Oak, Florida. He ultimately formed his own business in 1986 to restore vintage aircraft and provide flight instruction, Tom's Aero Service, Inc., near New Smyrna Beach, Florida. In 1990, Mr. Crevasse relocated this company to the New Smyrna Beach Airport and had it reincorporated in 1991 as Vintage Props & Jets. More recently, he has discontinued his restoration work in favor of operating charter flights.

³ VP&J has one Piper Navajo PA31-310 (7 seats), two Piper Chieftains PA31-350 (9 seats), one King Air 100 (9 seats), and one DeHavilland DHC-4A Caribou (7,500 pounds).

⁴ The carrier also holds a permit authorizing charter operations from the government of the Bahamas and an overflight exemption from the U.S. Customs Service.

Ms. Linda B. Crevasse, wife of William Crevasse, is the applicant's Treasurer and co-owner of its stock. Since 1986, she has been responsible for the accounts payable and receivable, and financing arrangements for VP&J and its predecessor, Tom's Aero Service. Ms. Crevasse previously was employed as a loan officer at First Union National Bank in Daytona and as business office manager at Suwannee County Hospital in Live Oak, Florida. Her education has included classes on management, accounting, and computer operations.

Mr. John P. Verner was designated VP&J's Director of Operations in 1997. He first joined the company in 1991 as its General Manager, a position he held until 1997. In addition, Mr. Verner has flown charter flights for the company since 1993. He studied mechanical engineering at Louisiana State University and graduated from Embry-Riddle. He holds an FAA Airline Transport Pilot Certificate.

Mr. Jason Mikulak, who has worked as a flight line technician, flight instructor and charter pilot for VP&J since 1992, was recently named Chief Pilot. He received a B.S. degree in Aeronautical Science from Embry-Riddle in 1990, and subsequently studied airframe maintenance at that institution. Mr. Mikulak holds certificates from the FAA as an Airline Transport Pilot, Airframe Mechanic, Aircraft Dispatcher, and Flight Instructor, and has logged over 3,500 hours of flight time.

Taking into consideration the experience of the applicant's personnel and the fact that the FAA must also review the qualifications of certain of these individuals to determine if they meet the requirements for their positions,⁵ we tentatively conclude that VP&J has the management and technical ability to conduct the proposed operations as a commuter air carrier.

Operating Proposal and Financial Condition

If VP&J is found fit to conduct commuter service, it plans to supplement its ongoing charter flights with scheduled service of five round-trip flights per week during the high season (April through September) and three round-trip flights per week during the off season (October through March) between Daytona Beach and Marsh Harbour, using its 9-passenger Piper Navajo Chieftain.

VP&J furnished detailed projections of passenger traffic and of anticipated operating revenues and expenses per block-hour for its first year of scheduled passenger operations. Load factors are projected to range between 66 percent and 88 percent according to season, and the revenue from the scheduled operations is expected to comprise approximately 30 percent of VP&J's total revenue. We have examined the applicant's cost forecasts, which are based in large part on the costs it has been experiencing in its charter operations, and have found them to be reasonable in

⁵ Before authorizing a carrier to conduct commuter operations, the FAA evaluates the carrier's Directors of Maintenance and Operations and Chief Pilot with respect to the minimum qualifications for those positions as prescribed in Part 135 of the Federal Aviation Regulations. The FAA's evaluation of these key personnel provides an added practical and in-person test of the skills and technical ability of these individuals.

view of the limited scope of the proposed commuter service. Since VP&J is already operating on a charter basis to the points designated to receive scheduled service, no material start-up costs have been projected. Based on our evaluation of the applicant's projections, we have calculated the amount of funds that VP&J will need to have available to meet the Department's financial fitness criteria.⁶

The applicant states that it intends to finance the start-up of the commuter service from its own internal resources. As evidence of its financial condition, VP&J filed copies of its historical financial statements for calendar years 1995, 1996, and 1997, and for the six-month periods ending June 30, 1996, and 1997, which were compiled, but not audited, by a certified public accounting firm.

Although according to VP&J's financial statements, the carrier ends each year with moderate operating and net losses, and with negative working capital and stockholders' equity, its mid-year financial statements reflect much more positive results, as one might expect to see in an operator with a strong spring season. For the first six months of 1996 and 1997, VP&J was able to report operating and net income in the mid-five figure range. Due to the positive operating results and the sale of some assets, VP&J's balance sheet as of June 30, 1997, reflected a significant improvement in the company's financial condition, including a positive working capital balance (current ratio of 1.48:1), and a long-term debt-to-equity ratio of 6.09:1; its retained earnings balance comprised about 87 percent of the company's stockholders' equity. By the end of 1997, however, VP&J's current ratio had fallen to 0.57:1, and both its working capital and stockholders' equity had deficit balances.

However, the company's bank provided a statement that the carrier had equity in a low six-figure amount in three aircraft financed by the bank, and that a portion of that equity could serve as collateral for working capital loan advances.

Based on our assessment of VP&J's operating proposal and its financial condition and resources, we tentatively conclude that it has developed a modest and viable operating proposal and that it will have access to sufficient funds to undertake the proposed commuter air service without imposing undue risks on the public or their funds. We note that VP&J, which has been an operating air taxi for about six years, is not acquiring new or larger aircraft or entering into new markets. Rather, the carrier proposes merely to apply a schedule to certain flights it has been operating on a charter basis. Moreover, the scope of the scheduled operations is narrow, involving only three to five round-trip flights per week in one market that is less than two flight-hours away. We also note that, if VP&J is found fit and granted commuter authority, it should be able to institute its scheduled flights in time for the peak spring travel season. In addition, it

⁶ To meet the Department's financial fitness criteria, an applicant should have access to financial resources sufficient to cover its pre-operating expenses and the expenses that are reasonably projected to be incurred during three months of normal commuter operations. Because forecasts of the first several months of air transportation service frequently do not include all costs that are incurred during a normal period of operations, it is our practice to base our three-month test on one-quarter of the first year's operating cost forecast. Projected revenues are not used to offset any of this amount.

appears that VP&J could readily supplement any working capital shortfall by proceeds of an aircraft equity loan.

Compliance Disposition

The applicant states that no charges of fraud, felony or antitrust violations, or of unfair, anticompetitive or deceptive business practices have been filed against it or any of its key personnel within the past ten years, and that there are no judgments outstanding against it or those individuals. VP&J further states that neither it nor any of its key personnel are the subject of any pending investigations, formal complaints or enforcement actions regarding compliance with the Statute or any regulations, orders, or requirements issued pursuant to the Statute, and that neither it nor any of its key personnel have been involved in any aviation accidents or incidents that remain under investigation.

We have researched the safety and compliance record of VP&J and its key personnel. FAA and NTSB records reveal that VP&J has not had any accidents involving revenue flights.⁷ The only reported incident occurred in 1994 when a twin-engine aircraft lost oil pressure in one engine and was forced to divert to a near airport. FAA files show no open enforcement cases involving VP&J or any of its key personnel. The FAA states that VP&J has applied for an amendment to its Part 135 Operations Specifications authorizing it to engage in scheduled passenger operations, that certification work is proceeding at an acceptable pace, that the proposed key personnel have been found qualified to hold their respective positions, and that the FAA knows of no reason why we should not find the applicant fit.

In light of the foregoing, we tentatively conclude that VP&J will have the proper regard for the laws and regulations governing its service to ensure that its aircraft and personnel conform to applicable safety standards and that acceptable consumer relations practices are followed.

CITIZENSHIP

The statute requires that authority to engage in air transportation operations be held only by citizens of the United States as defined in 49 U.S.C. 40102(a)(15) (*see* former section 101(16) of the Act). That section specifies that the president and two-thirds of the board of directors and other managing officers be U.S. citizens and that at least 75 percent of the outstanding voting stock be owned or controlled by U.S. citizens. We have also interpreted the statute to require that, as a factual matter, the carrier must actually be controlled by U.S. citizens.

VP&J is owned by Mr. William T. Crevasse and Mrs. Linda Crevasse, husband and wife, both of whom are U.S. citizens. In addition, the applicant has provided affidavits attesting that it, the members of its board of directors, and all other key personnel are citizens of the United States.

⁷ In the past seven years, VP&J aircraft have been involved in three accidents while on personal or instructional flights. Although the aircraft were substantially damaged, only a minor injury was sustained by one pilot. The NTSB attributed all three accidents to pilot error.

Further, there is nothing in the record that would lead us to conclude that control of this applicant is not with United States citizens.

In view of the foregoing, we tentatively conclude that VP&J is a U.S. citizen and that it is fit, willing, and able to provide the scheduled passenger service it proposes as a commuter.

OBJECTIONS

We will give interested persons 14 days following the service date of this order to show cause why the tentative findings and conclusions made here should not be made final; answers to objections will be due within 7 days thereafter. We expect that persons objecting to our tentative findings and conclusions will support their objections with relevant and material facts. We will not entertain general, vague, or unsupported objections. If no substantive objections are filed, we will enter an order making final our tentative findings and conclusions.

EFFECTIVE COMMUTER AUTHORIZATION CONDITIONS AND LIMITATIONS

In the event that we find VP&J fit, willing, and able to conduct the proposed scheduled service, we will issue to it a Commuter Air Carrier Authorization. However, that authorization will not become effective until the company has fulfilled all of the requirements for effectiveness as set forth in the Terms, Conditions, and Limitations attached to it. Among other things, this includes our receipt of evidence of VP&J's authority from the FAA to conduct scheduled passenger operations, and evidence of liability insurance coverage that meets the requirements of section 205.5(b) of our rules.

Our conclusion as to VP&J's fitness is based on the operating plans described in its application. These plans call for VP&J to utilize one of its five aircraft in its commuter operations, while continuing to utilize the remainder of the fleet in on-demand operations. Our fitness findings might no longer apply if the company were to substantially change the scope of its operations through the introduction of several additional aircraft. Therefore, once VP&J's commuter authority becomes effective, should it propose to utilize more than six aircraft in its combined commuter and on-demand operations, it must notify the Department in writing at least 45 days in advance and demonstrate its fitness for such operations prior to placing the additional aircraft into service.

We remind VP&J of the requirements of 49 U.S.C. 41110(e). Specifically, that section requires that, once a company is found fit initially, it must remain fit in order to hold its authority. To be assured that commuter air carriers continue to be fit after effective authority has been issued to them, we require that they supply information describing any subsequent substantial changes they may undergo in areas affecting fitness. In this regard, should VP&J propose any substantial changes in its ownership, management, or operations, it must first comply with the requirements

of section 204.5 of our regulations.⁸ The compliance of the carrier with this requirement is essential if we are to carry out our responsibilities under the statute.⁹

ACCORDINGLY,

1. We direct all interested persons to show cause why we should not issue an order finding that Vintage Props & Jets, Inc., is fit, willing, and able under 49 U.S.C. 41738 to provide service as a commuter air carrier.

2. We direct any interested persons having objections to the issuance of an order making final any of the proposed fitness findings set out here to file such objections with Carol Woods, Air Carrier Fitness Division, X-56, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, and serve them on all persons listed in Attachment A no later than 14 days after the service date of this order; answers to objections will be due within 7 days thereafter.

3. We will accord full consideration to the matters and issues raised in any timely and properly filed objections before we take further action.

4. In the event no one files objections, we will deem all further procedural steps waived, and we will enter an order making final the tentative findings and conclusions set out here and awarding Vintage Props & Jets, Inc., a Commuter Air Carrier Authorization, subject to the attached specimen Terms, Conditions, and Limitations.¹⁰

5. We will serve a copy of this order on the persons listed in Attachment A.

6. We will publish a notice of this order in the Federal Register.

By:

⁸ VP&J may contact our Air Carrier Fitness Division to report proposed substantial changes and to determine what additional information, if any, will be required under section 204.5. If VP&J fails to file the information or if the information fails to demonstrate that it will continue to be fit upon implementation of the substantial change, the Department may take such action as is appropriate, including enforcement action or steps to modify, suspend, or revoke the carrier's commuter authority.

⁹ We also remind VP&J about the requirements of section 204.7 of our rules which provides, among other things, that: (1) the commuter authority granted to a company shall be revoked if the company does not commence actual flying operations under that authority within one year of the date of the Department's determination of its fitness; (2) if the company commences the operations for which it was found fit and subsequently ceases such operations for any reason, it may not resume commuter operations unless its fitness has been redetermined; and (3) if the company does not resume operations within one year of its cessation, its authority shall be revoked for dormancy. The carrier must file a notice of its intent to resume operations at least 45 days prior to said resumption. This notice shall contain updated fitness information.

¹⁰ Since we have provided for the filing of objections to this order, we will not entertain petitions for reconsideration.

CHARLES A. HUNNICUTT
Assistant Secretary for Aviation
and International Affairs

(SEAL)

*An electronic version of this document is available on the World Wide Web at
<http://dms.dot.gov>*

SPECIMEN

Attachment



Terms, Conditions, and Limitations

VINTAGE PROPS & JETS, INC.

is authorized to engage in scheduled passenger air transportation operations as a commuter air carrier.

This authority is subject to the following provisions:

- (1) The authority to conduct scheduled passenger operations will not become effective until six (business) days after the Department has received the following documents; provided, however, that the Department may stay the effectiveness of this authority at any time prior to that date:
 - (a) A copy of the holder's Air Carrier Certificate and Operations Specifications authorizing such operations from the Federal Aviation Administration (FAA).
 - (b) A certificate of insurance on OST Form 6410 evidencing liability insurance coverage meeting the requirements of 14 CFR 205.5(b) for all of its aircraft.
 - (c) A statement of any changes the holder has undergone in its ownership, key personnel, operating plans, financial posture, or compliance history, since the date of the Show Cause Order in this case.
- (2) Pending receipt of effective authority, the holder may not accept payment of any kind (i.e., cash, check, or credit card) or issue tickets for scheduled passenger operations, and any advertisement or listing of flights by the holder must prominently state: "This service is subject to receipt of government operating authority."
- (3) The holder shall at all times conduct its operations in accordance with the requirements of 14 CFR Part 298 and any other regulations prescribed by the Department of Transportation for the services authorized here, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (4) The holder may not operate aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds.

(5) The holder's authority is effective only to the extent that such operations are also authorized by the FAA.

(6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).

(7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render this authority ineffective, and this or other failure to comply with the provisions of Subtitle VII of Title 49 of the United States Code or the Department's regulations shall be sufficient grounds to revoke this authority.

(8) The holder shall maintain in effect at all times with the Department of Transportation current information on OST Registration Form 4507.

(9) The holder may not provide scheduled passenger air transportation to or from Dallas (Love Field), Texas, except within the limits set forth in section 29 of the International Air Transportation Competition Act of 1979.

(10) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(11) In the event that the holder does not commence actual flying operations as a commuter air carrier under this authority within one year of the date of the Department's determination of its fitness, its commuter authority shall be revoked for dormancy. Further, in the event that the holder commences but subsequently ceases all scheduled passenger operations, the authority granted here shall be suspended under the terms of 14 CFR 204.7 and the holder may not recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

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