

clarification by the Board on two points, one factual and one legal, would be necessary for the court to determine whether our decision should be sustained. Specifically, the court expressed concern over: 1) the adequacy of the evidence to support a § 91.9 charge, where specific operational charges had been dismissed; and 2) the adequacy of the notice to the airman that the § 91.9 charge was more than derivative of the dismissed charges.

After considering this record in the light of the reviewing court's reservations, the Board does not believe that additional procedures would further the interests of justice or air safety.

The Board had itself declined to affirm the bulk of the Administrator's charges against respondent, those related to an unproven NOTAM. To pursue further an undefined general charge of carelessness, apparently intended to be derivative of two unproven operational violations, is unwarranted, particularly as the Board, like the reviewing court, believes that the Administrator may have been less than clear as to the specific nature of the conduct deemed careless.

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's order of suspension, to the extent affirmed by Board Order No. EA-3506, is dismissed; and

2. Proceedings in this matter are terminated.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HAMMERSCHMIDT, and HALL, Members of the Board, concurred in the above order.