

CONSTANTINE CANNON LLP

Eric Havian
Partner

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June 28, 2019

BY FEDEX

Honorable Robert L. Sumwalt
Chairman, National Transportation Safety Board
490 L'Enfant Plaza East, SW
Washington, DC 20594

Re: Whistleblower Information Regarding Boeing 737 Production Concerns
and 737 MAX Crashes

Dear Chairman Sumwalt:

We represent Ed Pierson, a recently retired Boeing Senior Manager who possesses significant information regarding the alarming state of Boeing's 737 Renton, Washington factory in 2018. Mr. Pierson worked within the Production System Support organization and was responsible for overseeing production support for 737 Final Assembly and P-8 manufacturing operations. In 2018 Boeing manufactured hundreds of aircraft at the Renton factory, including both 737 MAX planes that crashed within the last year. Mr. Pierson is gravely concerned the chaotic and rapidly deteriorating factory conditions may have contributed to these tragic crashes and the flying public will remain at risk unless this unstable production environment is rigorously investigated and ruled out as a contributing factor.

Mr. Pierson's concerns are underscored by the fact, according to publicly available information, that no firm determination has yet been made about the root cause(s) of the faulty Angle of Attack (AOA) sensors that contributed to both accidents. These devices have a long history of reliability, and it is alarming these sensors failed on multiple flights with two failures resulting in fatal crashes—just a few months after both airplanes were manufactured. Accordingly, the accident investigation teams should aggressively investigate the 737 factory to determine if manufacturing errors could be probable causes contributing to the faulty AOA performance on both aircraft.

The enclosed binder provides documentary evidence that details and substantiates Mr. Pierson's concerns about 737 MAX production. These documents include Mr. Pierson's recommendation in June 2018—four months before the first crash—to “[s]hut down the production line to allow our team time to regroup so we can safely finish the planes.” Alarmed by numerous metrics showing a dramatic decline in the factory's performance and an unprecedented number of production errors, Mr. Pierson also recommended a thorough engineering and quality analysis to determine if potential risks might need to be communicated to Boeing customers. Mr. Pierson

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reported his concerns directly to the senior leadership of Boeing's 737 Airplane Program, but Boeing rejected his recommendations.

After Mr. Pierson left Boeing in August, the Lion Air crash confirmed his worst fears. Despite his retirement, Mr. Pierson wrote to Boeing's CEO and later to Boeing's Board of Directors reiterating and amplifying his manufacturing concerns, requesting their assistance in contacting the Boeing employees supporting the Lion Air accident investigation, and proposing urgent action to determine if manufacturing problems contributed to the accident. Boeing's General Counsel spoke with Mr. Pierson on several occasions, eventually asking for Mr. Pierson's recommendations. Mr. Pierson insisted again that the production line be stopped and the operating environment within the factory be investigated. Once again, Boeing took no action and declined to shut down production. The tragic Ethiopian Airlines accident followed.

Mr. Pierson next brought his concerns to numerous Federal agencies including the NTSB. Initially, the NTSB ignored Mr. Pierson's communications. After months of effort, Mr. Pierson finally spoke with an NTSB investigator assigned to the Ethiopian Airlines crash on June 26, 2019. However, Mr. Pierson's information is not limited to the Ethiopian Airlines crash. To the contrary, it concerns hundreds of aircraft manufactured over many months, including not only the Lion Air plane but also numerous other planes that have experienced significant safety incidents.

Mr. Pierson's experience with the NTSB suggests its investigators may be ill-positioned to communicate his information about Boeing's manufacturing conditions to persons with the appropriate level of authority to thoroughly investigate the extent to which those conditions may have contributed to the two accidents and may also risk future 737 accidents. Having repeatedly raised the alarm at Boeing and been ignored each time, Mr. Pierson is justifiably worried the NTSB's reluctance to interview him may signal the agency shares Boeing's aversion to exploring systemic causes for the crashes.

As the Chairman of the NTSB's Board, you are best-positioned to ensure the Indonesian and Ethiopian Investigators-in-Charge and their respective investigative teams have an appropriate opportunity to thoroughly investigate the manufacturing conditions and records at the Renton, Washington factory. As a data-driven and fact-based organization, the NTSB, in concert with the international investigative teams, should be very interested in analyzing the engineering and quality data and manufacturing history of these airplanes. To facilitate such an investigation, Mr. Pierson has provided a list of manufacturing data sources and records, as well as a list of serious incidents involving other 737 MAX planes. Upon request, Mr. Pierson can also identify numerous witnesses that would corroborate his information regarding the factory environment. All of this information should also be shared with the investigative teams.

Finally, we wish to emphasize that Mr. Pierson is not an alarmist. He has held numerous leadership positions in both the public and private sectors. He honorably served in the military for 30 years

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to include serving as a Squadron Commanding Officer. But even to Mr. Pierson, the state of the Renton factory was undeniably alarming. He believes that any investigation into the 737 MAX crashes and the long-term safety of aircraft manufactured at the Renton site must include a rigorous examination of the dangerously unstable production environment he witnessed first-hand as a senior manager.

We appreciate your attention to these exceedingly serious issues and trust you will give Mr. Pierson's concerns the due consideration they deserve. We request you share all the information he has voluntarily provided to the NTSB with the Indonesian and Ethiopian Investigators-In-Charge, as well as with appropriate U.S. agencies. Please confirm whether you have reviewed Mr. Pierson's information and shared it with the appropriate stakeholders by July 12.

We look forward to hearing from you soon. Mr. Pierson is eager to assist your investigation in any way possible.

Sincerely,



Eric Havian

cc: Bruce Landsberg, Jennifer Homendy, and Earl F. Weener



National Transportation Safety Board

Washington, DC 20594

Office of the Managing Director

August 6, 2019

Mr. Eric Havian
Constantine Cannon LLP
150 California St., Ste. 1600
San Francisco, CA 94111

Dear Mr. Havian:

This is in response to your June 28, 2019, letter regarding the “whistleblower” information provided by your client, related to the production of the Boeing 737 aircraft; specifically, the potential impact of poor factory conditions on the production of the 737 MAX.

To provide you some background, the NTSB is an independent federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in the other modes of transportation—railroad, highway, marine, and pipeline. We determine the probable cause of the accidents and issue safety recommendations aimed at preventing future accidents. In addition, we carry out special studies concerning transportation safety and coordinate the resources of the federal government and other organizations to provide assistance to victims and their family members affected by major transportation disasters. The NTSB derives this authority from Title 49 *United States Code* Chapter 11.

Your client’s concerns fall outside the scope of the NTSB’s role in the 737 MAX accident investigations. We are serving solely as an accredited representative to the Indonesian and Ethiopian investigations under Annex 13 of the International Civil Aviation Convention and are not independently investigating either accident.

One of the NTSB’s accredited representatives received your information by phone a few weeks ago, which is consistent with the written materials you sent with your letter. He has reviewed the information in the context of the ongoing investigations and will contact you if he has any questions.

We suggest that you contact the Office of the Inspector General at the US Department of Transportation, if you have not already done so.

Sincerely,

A handwritten signature in blue ink that reads "Sharon W. Bryson". The signature is fluid and cursive.

Sharon W. Bryson
Managing Director