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April 3, 2019

The Honorable Elaine Chao
Secretary
Department of Transportation
1200 New Jersey Ave. SE
Washington, DC 20590

Mr. Dan Elwell
Acting Administrator
Federal Aviation Administration
800 Independence Ave. SW
Washington, DC 20591

Dear Secretary Chao and Acting Administrator Elwell:

I write with regard to your recently-announced formation of an expert Special Committee to Review the Federal Aviation Administration's (FAA) Aircraft Certification Process (the "Special Committee"), including the Boeing 737 MAX.¹ This Special Committee has been formed to provide information about the mistakes made by the FAA and Boeing that resulted in the approval of an aircraft that appears to have catastrophic safety problems. In order to fulfill its important mission, however, it is essential that members of the Special Committee meet strong ethics standards to ensure that the recommendations are based on the facts and are not swayed by special interests. For this reason, I am writing to ask you to ensure that members of the Special Committee meet strong ethics and disclosure standards to avoid actual or potential conflicts of interest.

The Special Committee should be able to determine if the FAA approved faulty aircrafts as a result of rampant conflicts of interest in the approval process, and whether the FAA's "reli[ance] on employees of airplane manufacturers to do government-required safety inspections," in which employers "do work for an agency charged with keeping the skies safe while being paid by an industry that the FAA is regulating," may have compromised aviation safety standards.²

In order for the Special Committee to make these critical determinations, you must act quickly to end these dangerous conflicts of interest at the FAA. You should also ensure that the Special Committee can investigate, draw its conclusions, and provide its recommendations while

¹ Department of Transportation, DOT Announces Special Committee to Review FAA's Aircraft Certification Process, March 25, 2019, <https://www.transportation.gov/briefing-room/dot1619>.

² Chicago Sun Times, Critics question 'conflict of interest' issues in FAA oversight of Boeing, March 15, 2019, <https://chicago.suntimes.com/news/faa-boeing-oversight-deadly-crashes-grounded-max-8/>.

avoiding these conflicts. That starts with the selection of members to serve on the Special Committee. A U.S. Department of Transportation (DOT) spokesperson recently announced that Secretary Chao will appoint members to this Special Committee “who will be subject matter experts on aircraft or the certification process, who have no conflicts of interest in the Department or with the manufacturer, connected to the 737 MAX certification.”³ I appreciate this statement, but to reinforce it with bold action, I urge you to take specific steps to ensure that Special Committee members adhere to the highest ethics standards.

Last year, I introduced the *Anti-Corruption and Public Integrity Act*, legislation that would require that federal employees, officers, and elected officials meet strict ethics standards and scrupulously avoid conflicts of interest. But you do not need to wait for legislation. You have the authority to act on your own to enhance aviation safety and to eliminate real or perceived conflicts of interest on the Special Committee. To do so, in addition to banning anyone from serving on this Special Committee with any connection to Boeing, you should impose the following ethics standards, which mirror those in my legislation, on the Special Committee members:

- **Heightened recusal standard for Special Committee members.** You should ban Special Committee members (including any DOT staff supporting the Special Committee’s work) from participating personally and substantially in any matter before the Special Committee that the member knows, or reasonably should have known, is likely to have a direct and predictable effect on the financial interests of an organization or company which the Special Committee member has served as an employee, officer, director, trustee, or general partner in the past 4 years, or any prospective employer with whom the Special Committee Member is seeking employment.⁴
- **Lobbyist ban.** You should ban any former registered lobbyist for a company regulated by the FAA or National Transportation Safety Board (NTSB) from serving as a member of or working on the Special Committee.⁵
- **Ban on stock ownership.** You should ban Special Committee members (including any staff supporting the Special Committee’s work) from owning or trading any individual stocks in companies regulated by the FAA.
- **Lobbyist Disclosure.** You should require that the Special Committee provides transparency about who is lobbying and providing information to its members and staff. Specifically, you should require the Special Committee to disclose any contact by a registered lobbyist⁶ for a company regulated by the FAA or NTSB, including:
 - Each specific issue on which the lobbyist engaged with any member of the Special Committee or staff supporting the Special Committee’s work;

³ Politico, DeFazio hits DOT aviation committee as a ‘rush job’. March 26, 2019.

⁴ 5 C.F.R. § 2635.604.

⁵ Under my legislation, the ban lasted six years after the individual terminated his or her lobbyist registration. The President or the Secretary of the Treasury could waive this ban, subject to waiver requirements. Waivers were required to be made publicly available, searchable, and include a justification sent to House and Senate Transportation committees explaining why the individual brought such unique and relevant expertise that it would not be practical to find an alternative candidate with the same skill set.


⁶ As defined by the Lobbying Disclosure Act of 1995, as amended, 2 U.S.C. § 1601 et. seq.

- Each lobbying activity in which the lobbyist engaged on the client's behalf, including:
 - each document the lobbyist prepared that was submitted to any committee member or staff supporting the committee's work;
 - each meeting with a committee member or staff supporting the committee's work that would constitute a lobbying contact,⁷ including the subject, date, and name and position of each individual who was a party to the meeting;
 - each phone call that constituted a lobbying contact with a committee member or staff supporting the committee's work, including the subject, date, and the name and position of each individual who was a party to the phone call;
 - each email that constituted a lobbying contact with a committee member or staff supporting the committee's work, including the subject, date, and name and position of each individual who was a party to the email;
- a copy of any document transmitted to any Special Committee member or staff supporting the committee's work in the course of the lobbying activity.

In addition to these ethics standards, I urge you to require each Special Committee member to complete the financial disclosure form outlined in Title I of the Ethics in Government Act of 1978,⁸ and to publish these public disclosures on an easily accessible and publicly-available DOT website.

Thank you for your attention to this matter. I look forward to working with you to end conflicts of interest at the FAA and improve aviation safety. I ask that you provide me with a written description of the ethics standards in place for the Special Committee no later than April 15, 2019.

Sincerely,



Elizabeth Warren
United States Senator

⁷ As defined by the Lobbying Disclosure Act of 1995, as amended, 2 U.S.C. § 1601 et. seq.

⁸ 5 U.S.C. App 102.