

**CIVIL AVIATION TRIBUNAL**

BETWEEN:

**Spur Aviation Ltd., Applicant**

- and -

**Minister of Transport, Respondent**

**LEGISLATION:**

*Aeronautics Act, R.S.C. 1985, c. A-2, s. 7.1(1)b)*

**Operating Certificate, Ceasing to Meet Conditions of Issuance, Approved Maintenance Organization Certificate**

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**Review Determination  
Robert L. Mortimer**

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**Decision: March 22, 1995**

*The Minister's suspension of the Spur Aviation Ltd. Approved Maintenance Organization Certificate #110-91 effective December 19, 1994 is confirmed.*

A **Review Hearing** on the above matter was held Tuesday, February 28, 1995, at 09:00 hours at the offices of Indian and Northern Affairs Canada, in the city of Yellowknife, North West Territories.

At the start of the Review Hearing, the Applicant requested an adjournment to prepare his case for presentation, because unforeseen circumstances precluded his representation by counsel as planned. The Review Hearing was adjourned and recommenced at 15:00 hours.

**BACKGROUND**

In a Notice of Suspension dated December 19, 1994, Spur Aviation Ltd. was informed that its Approved Maintenance Organization (AMO) Certificate was suspended effective December 19, 1994. The Notice reads in part:

" Pursuant to section 7.1(1)(b) of the *Aeronautics Act*, the Minister of Transport has decided to suspend the above indicated Canadian aviation document for the following reasons:

1. The Organization does not employ a Director of Maintenance, Quality Manager, or Production Manager who each demonstrate to the Minister, knowledge of the planning, implementation and direction, of maintenance programs for products of the type listed in the maintenance specifications, and of the Aeronautics Act, and the subordinate regulations and standards as required by Airworthiness Manual chapter 573 section 573.209.

2. The Organization has not established a functional quality assurance system that ensures compliance with regulations and conformity to standards as required by Airworthiness Manual chapter 573 section 573.211."

On January 17, 1995, The Civil Aviation Tribunal received a request from Robert O. Jensen, President of Spur Aviation Ltd., for a review of the suspension. In his letter, Mr. Jensen referred also to the follow-on suspension of Spur Aviation's Operating Certificate. Although that Suspension Notice was not part of the original documentation for the case, both parties agreed that, because of its relevance to the suspension of the AMO Certificate, the suspension of Spur Aviation's Operating Certificate should be included in the Review Hearing.

The Notice of Suspension for the Operating Certificate was dated and effective December 20, 1994, and reads in part:

" Pursuant to paragraph 7.1(1)(b) of the Aeronautics Act, the Minister of Transport has decided to suspend your Operating Certificate No. 6707 (Domestic), dated June 28, 1994, and Operating Certificate No. 3432 (Flight Training), dated August 29, 1988, in whole, for the following reason:

- Spur Aviation Ltd. does not meet or comply with the conditions subject to which the document was issued."

The Appendix to that Notice of Suspension specifies the Grounds for Suspension:

" 1. Spur Aviation Ltd. does not employ an individual who ensures that required maintenance is performed, as required by Airworthiness Manual, Chapter 573, Section 573.107.

2. Spur Aviation Ltd. has not established a functional maintenance control system that ensures that all aircraft operated by Spur Aviation are maintained as required by Airworthiness Manual, Chapter 573, Section 573.103.

3. Spur Aviation Ltd. has not established a functional system for the control of defects, as required by Airworthiness Manual, Chapter 573, Section 573.111.

4. Spur Aviation Ltd. has not established a system of maintenance dispatch that ensures aircraft are not operated unless they have been maintained in accordance with the Maintenance Control Manual, as required by Airworthiness Manual, Chapter 573, Section 573.113.

5. Spur Aviation Ltd. has not established a functional system of continuing analysis that evaluates the effectiveness of Spur Aviation's maintenance control system as required by Airworthiness Manual, Chapter 573, Section 573.115."

## **PRELIMINARY AGREEMENT**

At the start of the proceedings, the parties advised that they agreed that the content, signature and service of the Notice of Suspension of the AMO Certificate were in keeping with the *Aeronautics Act*. They also agreed that the suspension of the AMO Certificate is the key matter, because the Operating Certificate status is dependant on the AMO certificate status. Therefore, the Review Hearing could be restricted to consideration of only the AMO Certificate suspension.

## **EVIDENCE**

Mr. Ribout, the Case Presenting Officer for Transport Canada, stated that Spur Aviation did not meet the conditions of issue of Approved Maintenance Operation Certificate No. 110-91. Said Certificate had therefore been suspended on December 19, 1994. Specifically, Spur Aviation did not employ a Director of Maintenance, Quality Manager, or Production Manager who each demonstrated to the Minister the knowledge required. He further stated that comparable conditions had resulted in a previous suspension of AMO Certificate 110-91 in July 1993. He added that failure of the Director of Maintenance to adequately exercise his duties was also noted in audits of Spur Aviation in October 1993, April 1994, and September 1994.

In an audit carried out at Spur Aviation February 15-18, 1993, seven findings required short and long-term corrective actions (Exhibit M-3). These findings related to failure to fully comply with the company's approved Maintenance Control Manual (MCM) and were in the audit areas of Technical Publications, Parts/Material Control, Aircraft Maintenance Records, Reliability Program, and Sample Aircraft for Conformance.

Although each of the February 1993 findings was responded to by Spur Aviation outlining intended corrective actions and dates of completion, Transport Canada responded on July 6, 1993 that the findings were unacceptable, because, for the most part, they had not taken place. This situation led to a Notice of Suspension of Spur Aviation's AMO Certificate on July 13, 1993, effective August 13, 1993.

As the first witness for the Minister, **Mr. Swanson**, from the Transport Canada Yellowknife Office, reviewed the eight grounds for suspension of Spur Aviation's AMO Certificate on July 13, 1993 (Exhibit M-1):

- " 1. SECTION 2.3.1 - The Director of Maintenance has failed to exercise his duties and responsibilities as required to ensure compliance with the applicable regulations.
2. SECTION 7.4 - Required Technical and Regulatory Publications are not available in the library.
3. SECTION 7.3 - All parts/components within 'BONDED' stores are not certified or traceable.
4. SECTION 7.3 - 'QUARANTINE' stores has not been identified and secured in accordance with the Maintenance Control Manual.
5. SECTION 7.3 - Serviceable and Unserviceable parts intermixed throughout the facility.
6. SECTION 4.3.1 - Additional Work Sheets are not being used for the recording of work performed.
7. SECTION 5.6 - The Reliability Review program has not been carried out in accordance with the manual.
8. SECTION 5.1 - Company aircraft C-FJQE, C-FWXE and C-FGBA are not in compliance with the Approved Inspection Programs."

In a series of reports (Exhibit M-1) from follow-on surveillance visits on July 21, August 3, 16, 17 and 18, 1993, Mr. Swanson observed on inconsistent progress towards the conditions for reinstatement until after an "intense meeting" with the owners on August 17. On August 19, 1993 AMO 110-91 was reinstated subject to the following conditions:

- " a) The new Director of Maintenance successfully pass the Transport Canada Air Regulations for Maintenance Manager (E-MMAR) examination within the next 60 days.
- b) The new Director of Maintenance become familiar with and implement the requirements of the approved company Maintenance Control Manual ..."

The new Director of Maintenance at that time was Mr. Cherwaty. Just over three months later, on October 25, 1993, Mr. Cherwaty submitted to Mr. Jensen a letter of resignation from the position of Director of Maintenance effective November 8, 1993 (Exhibit-M2), citing two reasons:

- " 1) Non-compliance of agreed terms stated in employment contract.
- 2) Difference of opinions based on business ethics."

On October 26, 1993, Mr. Swanson sent Spur Aviation another Notice of Suspension of AMO Certificate 110-91 effective November 8, 1993, because of the anticipated vacancy in the Director of Maintenance position. After a new Director of Maintenance, Mr. Barry Frain, met all requirements and was accepted by Transport Canada, AMO Certificate 110-91 was again reinstated on December 22, 1993.

The next audit of spur Aviation, which was announced and scheduled in advance, took place April 18-21, 1994. At that time, Mr. Frain had left the company, and Mr. Jensen had assumed the position of Director of Maintenance, Quality Manager and Chief Engineer.

In the Audit Report April 18-21, 1994 (Exhibit M-6), unsatisfactory observations were noted in some 15 Airworthiness areas, resulting in 27 Audit Findings. Several of those observations reflect an apparent lack of knowledge and non-compliance with the requirements of the Airworthiness Manual and the company MCM. Many of the reported observations relate to inadequate or incomplete control measures and records. It was also noted that Mr. Jensen simultaneously held the positions of Managing Director, Chief Pilot and Director of Maintenance.

Mr. Lonnen, the Team Leader for the Airworthiness section of the April 1994 audit, testified that to properly maintain the number of aircraft operated by Spur Aviation, one or two additional maintenance personnel would be needed. He also observed that Spur Aviation Ltd. needed a full time Director of Maintenance to properly organize and manage the maintenance function.

As a result of the airworthiness shortcomings found in the April 1994 audit, Spur Aviation's AMO Certificate was again suspended on April 22, 1994, with the recommendation that a complete airworthiness recertification audit be carried out prior to the lifting of the suspension.

The next airworthiness audit was done on September 16, 1994. Apparently the AMO Certificate was reinstated some time after the April 22, 1994 suspension, although the precise date of reinstatement was not presented in evidence. Observations were made in the September audit on inadequacies in some 13 airworthiness areas, resulting in 12 audit findings.

In the summary of his Airworthiness Audit Report on Spur Aviation Ltd. September 21, 1994 (Exhibit M-7), Mr. Lonnen stated that the company still had major problems and that there had been little improvement since the April 1994 Audit. He further stated that "Robert Jensen still has a problem comprehending the rules, regulations and standards that govern aviation in Canada."

Spur Aviation's Operating Certificate was again suspended on September 17, 1994 for "failure to have an acceptable Director of Maintenance, an acceptable Quality Assurance Reliability Program and acceptable answers to the outstanding audit findings from the April 1994 audit." (Exhibit M-6) The Operating Certificate was subsequently reinstated on September 19, 1994.

Mr. Berger, Airworthiness Inspector, who had participated in the April 1994 and September 1994 airworthiness audits of Spur Aviation Ltd., testified that most of the responses from Spur Aviation to the April 1994 audit findings were unsatisfactory. He added that some

were still outstanding at the September 1994 audit. He stated his impression that the aircraft were not being maintained in keeping with the company's inspection program, and cited problems of documentation and records. He also described an unapproved repair of an elevator torque tube flange attachment, the finding of an inappropriate (non-aircraft type) alternator, and being unable to determine the status and source of parts that were on hand.

On December 16-19, 1994, an Audit Follow-up Inspection took place. In his report on this inspection (Exhibit M-4), Mr. Swanson states that of the 12 findings from the September 1994 audit, the action taken in three was unacceptable. These three findings were in the areas of Maintenance Training Standards, Sample Aircraft for Conformance and Parts/Material Control. In addition, new findings were identified in the following areas:

- "Maintenance Training Standards
- Aircraft Conformity to Inspection Requirements
- Parts/Material Control
- Airworthiness Directive Compliance
- Defect/deferred defect Reporting and Control
- Certification of Maintenance
- Certification of Components
- Reliability/Quality Control
- Dispatch Control"

Mr. Swanson identified some of the new findings that came out of the December 1994 audit as follows:

- an Airworthiness Directive overdue for implementation,
- an overhaul not specified in the AMO Certificate (heater),
- failure to follow the MCM procedures concerning defect recording and deferred defect control,
- incomplete journey logs, and
- no reliability/quality control internal audits.

In the Summary to his Report, Mr. Swanson states that the same problem areas in Spur Aviation have been identified time after time. He further contends that "It is clear that any corrective action proposed by this company is only temporary in nature and not directed at a true resolution to the problem." He also alleges that the owners of Spur Aviation have demonstrated a chronic attitude of complacency and/or contempt for the regulations by not being able to operate within the regulations that applied.

Transport Canada's historical summary of Spur Aviation's record since 1974 is part of Exhibit M-4.

In cross-examination by Mr. Jensen on the issue of the overdue AD (94-01-03 R1), Mr. Swanson stated he was not aware of a Transport Canada alleviation order on the matter, and that it had not been issued at the time of the inspection.

In response to redirect questions from Mr. Ribout, Mr. Swanson stated that an aircraft owner must apply for alleviation, before it could apply to his aircraft.

Representing the Applicant, **Mr. Jensen** gave evidence as his own witness. He submitted that all follow-up action to the April 1994 audit had been done to the satisfaction of Transport Canada. The 27 audit findings from April 1994 were entered as Exhibit D-4; the findings in the airworthiness areas were numbers 12 to 27.

In Exhibit D-1, Mr. Jensen comments on and describes the action taken to correct the 27 audit findings. He concludes that, of the 27 items listed in the audit findings of April 18-24, only 10 items required any rectification, and none of those 10 compromised the safety of the operation. Corrective action on all items was completed by October 31, 1994.

Exhibit D-2 is a letter from Transport Canada dated August 17, 1994 in which the responses submitted by Spur Aviation to the April 1994 audit were unsatisfactory for eight of the findings. Exhibit D-3 is a letter from Transport Canada dated September 15, 1994 in which the short and long-term corrective actions in those eight findings were declared acceptable.

Exhibit D-5 is a paper in which Mr. Jensen addresses in detail each of the 12 findings from the September 16, 1994 audit. For example, he specifies what each of the total 50 defects found on eight aircraft were. Many of these were minor discrepancies on which some of the corrective actions were stop drilling cracks in non-structural fairings, replacing individual missing screws, or replacing illegible compass correction cards, exit signs or fuel type and quantity placards. Some of the defects were of a more serious nature, such as the following:

- a propeller that had exceeded its five-year Time Between Overhauls,
- the apparent incorrect type of rudder control cable attachment nuts and bolts, and
- the absence of an independent control check certification in the journey log after an engine change and aileron bracket repair.

The paper indicates that corrective action was taken on all 12 audit findings.

Exhibit D-6 comprises the 12 findings from the September 16, 1994 airworthiness audit. The company corrective action plans, short and long-term, dated between September 24, 1994 and October 21, 1994, were annotated acceptable by Transport Canada for 11 of the 12 findings.

Exhibit D-7 is further general comments of Mr. Jensen on the Transport Canada Airworthiness Audit Report of September 21, 1994. This exhibit includes a copy of the November 15, 1994 response on long-term corrective action for the single outstanding item No. 10 of 12 from the September audit.

Exhibit D-8 is an Application for a Flight Permit dated August 5, 1994 that Mr. Jensen failed to use in accordance with the specified instructions.

Exhibit D-9 is the Monthly Internal Audit form prepared by Spur Aviation in response to the observation in the December 16-19, 1994 inspection about the absence of an approved internal system of Reliability/Quality Control.

Exhibit D-10 is a copy of a page from the log of C-GSBK showing a hasty-note on three "snags" that was placed on the page, rather than an entry of defect being made in the log. Mr. Jensen stated that in his view the three items were not really defects but rather points that should be noted and acted on in due course.

Exhibits D-11 to D-20 are items of correspondence between Spur Aviation Ltd. and Transport Canada concerning the December 1994 inspection and subsequent suspension of AMO certificate 110-91 on December 19, 1994. Mr. Jensen stated that the grounding of three aircraft, after the December 1994 inspection due to a failure to comply with an airworthiness directive (FAA AWD 94-01-03R1), was not justified, because that directive was essentially a repeat of an earlier Airworthiness Directive in 1973 which had been complied with at that time.

Exhibit D-21 contains two letters from PRO AERO ENGINES INC. dated January 9, 1995 and January 12, 1995. The letters state that five magnetos specified by part and serial numbers were inspected, showing that Airworthiness Directives 73-07-04 and 94-01-03 had been complied with. This exhibit also includes additional information provided by Mr. Jensen on the magneto inspection. Mr. Jensen maintained that the 1973 and 1994 Airworthiness Directives were the same in substance and that he had complied with the 1973 directive. Because he did not readily have documentary proof of the 1973 action taken, he placed reminder sticky tags on each of the three aircraft logs (Exhibit D-22), while he sought that documentary proof.

In cross-examination of Mr. Jensen, Mr. Ribout had the Conditions for Reinstatement of Spur Aviation's AMO Certificate read into the record. Those conditions are:

- " 1. The Organization must employ management personnel who each meet the requirements of Airworthiness Manual chapter 573 section 573.209.
2. The Organization must establish a functional quality assurance system, and that system must complete a quality audit of the Organization. Corrective action to resolve all findings of the quality audit must be completed."

In response to Mr. Ribout's question on whether Spur Aviation Ltd. employed such management persons, Mr. Jensen said No.

Mr. Ribout asked Mr. Jensen whether he had received a February 1995 letter in which Transport Canada advised the reasons why he, Mr. Jensen, was not acceptable as the appointed Director of Maintenance for Spur Aviation Ltd. Mr. Jensen stated he had not received the letter.

In his final argument, Mr. Ribout stated that Spur Aviation, over a prolonged period, had been found to have repeated failings in not meeting the requirements of the company written and Transport Canada approved Maintenance Control Manual. He added that, in view of their findings and their responsibilities to ensure safety in commercial flight operations, Transport



Canada would have been negligent to have left the AMO Certificate in force. Mr. Ribout stated further that, although Spur Aviation had made promises, the company has not yet demonstrated that they "have a handle" on the situation. He contends the Minister therefore acted reasonably in suspending Spur Aviation's AMO Certificate.

In his final argument, Mr. Jensen stated that Spur Aviation was and is listening to Transport Canada, but he added that the removal of the Certificate of Airworthiness on the three aircraft, because of alleged non-compliance with an Airworthiness Directive, was unjustified. He further stated this had resulted in domino action whereby their AMO Certificate, Operating Certificate and NTA Licence were all suspended. He stated that nevertheless the company was actively looking for people who can take the maintenance positions and who would meet Transport Canada's requirements.

## **THE LAW**

Transport Canada's Airworthiness Manual, chapter 573, contains the following Statutory Authority:

" This chapter is issued on the authority of the Minister of Transport as interim procedures for the conduct of persons engaged in airworthiness matters and as interim standards for Air Carrier Maintenance organizations and other Approved Maintenance Organizations, pending the issue of regulations based on this chapter, to be published under Series V of the Canadian Aeronautics Code."

Subchapter C of chapter 573 of the Airworthiness Manual addresses Approved Maintenance Organizations. Section 573.203, Certificate of Approval, states in part:

" (a) Approval of an AMO will be indicated by the issue of a certificate, endorsed with one or more ratings which will identify the scope of privileges of the organization.

(b) An AMO certificate shall remain in effect until surrendered, suspended, or cancelled."

Section 573.207, Management Personnel, states in part:

" (a) Each AMO shall appoint a Director of Maintenance, who shall be responsible for all technical activities of the organization.

(b) Each AMO shall appoint a Quality Manager, who shall report to the Director of Maintenance and be responsible for quality assurance.

(c) Each AMO shall appoint a Production Manager, who shall report to the Director of Maintenance and shall be responsible for the timely completion of work.

(...)

(e) Where appropriate to the size and nature of the organization, the Minister may authorize a single person to occupy more than one position within the organizational structure, provided that the positions held are all at the same level or are immediately succeeding positions."

Section 573.209 of the Airworthiness Manual concerns Qualifications of Management Personnel and directs that:

" The Director of Maintenance, Quality Manager and Production Manager for an AMO shall:

(1) have acquired a minimum of six years current experience in the performance or direct supervision of maintenance of the type undertaken by the organization, or meet such requirements as are appropriate to the type and scope of maintenance performed as may be specified by the Minister;

(2) demonstrate to the Minister, knowledge of the planning, implementation and direction, of maintenance programs for products of type listed in the maintenance specifications, and of the Aeronautics Act and the subordinate regulations and standards; and

(3) successfully complete the Department of Transport Aircraft Maintenance Engineer examination on Air Regulations."

Section 573.211 of the Airworthiness Manual, entitled Quality Assurance System, directs that:

" (a) Each AMO shall establish a quality assurance system to ensure compliance with regulations and conformity to standards.

(b) The quality assurance system required by this section shall be under the sole control of the Quality Manager.

(c) Personnel may be assigned responsibilities for other duties in addition to those related to the quality assurance system, provided that the quality assurance responsibilities take precedence over all other responsibilities.

(d) When performing quality assurance functions, personnel shall be responsible solely to the Quality Manager.

(e) The quality assurance system shall include a program of surveillance or internal audit which will provide a check of the system's own effectiveness, and procedures to ensure the correct performance of critical maintenance tasks."

Section 7.1 of the *Aeronautics Act* states in part:

" 7.1 (1) Where the Minister decides

(...)

(b) to suspend or cancel a Canadian aviation document on the grounds that the holder of the document is incompetent or the holder or any aircraft, airport or other facility in respect of which the document was issued ceases to have the qualifications necessary for the issuance of the document or to meet or comply with the conditions subject to which the document was issued,

(...)

the Minister shall, by personal service or by registered or certified mail sent to the holder or to the owner or operator of the aircraft, airport or facility, as the case may be, at the latest known address of the holder, owner or operator, notify the holder, owner or operator of the Minister's decision.

(...)

(8) On a review under this section of a decision of the Minister to suspend, cancel or refuse to renew a Canadian aviation document, the member of the Tribunal conducting the review may determine the matter by confirming the suspension, cancellation or refusal to renew or by referring the matter back to the Minister for reconsideration."

## **DISCUSSION**

The evidence shows a long history of documented inadequacies in the Approved Maintenance Organization of Spur Aviation Limited. The company has a Transport Canada approved Maintenance Control Manual, but in several instances the requirements of their own manual and those of the relevant Transport Canada publications have not been fully met.

Some of Transport Canada's observations and findings were of a minor "paper work" nature, but complying with those requirements is important, so that the audit trail is complete and can be readily identified when Transport Canada undertakes the inspections it is mandated to do in the interest of safe commercial flight operations. Moreover, some observations and findings were repeated in subsequent inspections, and some corrective actions seemed to take an inordinately long time to complete. Still, some items likely could have been dealt with on the spot after a brief discussion between the parties. The objective of safety can possibly be more effectively achieved when a small matter, such as the lack of an AMO number in a log book entry, is advised and corrected on the spot.

An adversarial relationship between the parties seemed present at times. I can understand the frustrations on both sides in this case, but I suggest that renewed efforts to understand the requirements and problems on both sides could improve the effectiveness of communications between them.

With respect to the direct action of suspending Spur Aviation AMO Certificate 110-91 on December 19, 1994, several shortcomings were identified in the December 16-19 inspection. Although I found the evidence to be insufficient to reach a firm conclusion about whether or not the matter of Airworthiness Directive 94-01-03R1 warranted Certificate of Airworthiness suspensions, and to what degree it contributed to the AMO suspension, it was the basis of three of the nine new findings on that inspection. Nevertheless, there were also six other findings, some of which were in areas of previous observations, including those of defect entries, certification, and quality control.

The primary issue in this case is whether or not Spur Aviation on December 19, 1994 employed a Director of Maintenance who satisfactorily demonstrated the requisite knowledge of maintenance programs and the relevant regulations and standards. An argument might be made that the "requisite knowledge" specified could be "demonstrated" by examination and that poor performance of the maintenance organization does not necessarily reflect a lack of the required knowledge on the part of the Director of Maintenance. No such argument was made, but I would not accept such an argument, should it be put forward.

I see the performance of the maintenance organization to be a direct measure of the knowledge and the application of the knowledge of the Director and other key personnel of an AMO. I believe that interpretation is consistent with many sections in subchapter B of chapter 573. I therefore consider the demonstrated knowledge of a Director of Maintenance to be directly related to the results achieved by the AMO in airworthiness audits and inspections which in this case were unsatisfactory.

The several changes in Director of Maintenance appointments at Spur Aviation over the last two years made for poor continuity and undoubtedly contributed to the delays in establishing an effective and efficient maintenance organization. Mr. Jensen's self-appointment as Director of Maintenance, when he was also owner, managing director and chief pilot, seems an overextension of responsibilities. This probably denied him the time needed to establish, implement and supervise proper maintenance procedures and controls.

Mr. Jensen's sometimes hesitant and uncertain presentation in this Review Hearing indicated a lack of familiarity with and knowledge of the activities and records of the company. The impression given was that Spur Aviation Ltd. lacked a systematic approach to meeting the activities and responsibilities of an AMO and showed some carelessness in properly meeting requirements related to identification, documentation and record keeping.

I also found that, on the other hand, Mr. Jensen understood and accepted the requirement for Spur Aviation's Approved Maintenance Organization to meet the requirements of the Airworthiness Manual, the company's approved Maintenance Control Manual and other relevant criteria to keep its AMO Certificate valid. Moreover, I found no indication of contempt for the regulations as had been alleged but rather a frustration related to some details of the required documentation and records.

Transport Canada's first condition for reinstatement of the AMO Certificate is the appointment of an acceptable Director of Maintenance. That Director must not only have the required

knowledge, but he must also demonstrate this by ensuring that his work is thorough and of a quality that meets the common standard for all equivalent companies. While I acknowledge the experience of Mr. Jensen and can understand his feelings that his own appointment as Director of Maintenance should be acceptable to Transport Canada, it is clearly the prerogative of Transport Canada to approve or not approve that appointment as one that will satisfy the requirements of the Airworthiness Manual. From the evidence presented at this Review Hearing, the position of Transport Canada to not accept Mr. Jensen as the Director of Maintenance for Spur Aviation is understandable.

A second condition for reinstatement is for Spur Aviation to have an established and functional quality assurance system that ensures compliance with regulations and conformity to standards, as required by the Airworthiness Manual. The record of observed shortcomings over a two-year period and the slowness and inadequacy of the responses to those observations leads to a conclusion that, on December 19, 1994, Spur Aviation did not have in place a satisfactorily functioning quality assurance system.

For the future, Transport Canada has set clear and reasonable conditions for reinstatement of the AMO Certificate. By his testimony, Mr. Jensen seems to belatedly be taking appropriate measures to establish satisfactory management systems and procedures in Spur Aviation's Approved Maintenance Organization. Efforts have been made by the company since December 19, 1994 to correct all outstanding findings and to establish a quality control system. Mr. Jensen stated an undertaking to find a person acceptable to Transport Canada for appointment as Director of Maintenance. Those efforts suggest that the reinstatement of AMO Certificate 110-91 should be achievable.

## **CONCLUSION**

From the evidence presented to this Tribunal, it is clear that at the time of the December 16-19, 1994 Airworthiness Inspection, Spur Aviation did not employ a Director of Maintenance, Quality Manager or Production Manager who fully met the requirements of Airworthiness Manual section 573.209. Moreover, Spur Aviation did not have in place at that time an effective quality assurance system that satisfied the requirements of section 573.211.

The record of the company's performance in maintenance audits and inspections during the preceding two years indicates Spur Aviation repeatedly had serious problems in meeting the requirements for an Approved Maintenance Organization.

Not all the points presented by Transport Canada were just cause for the suspension of the company's AMO Certificate, but more than sufficient evidence exists to warrant the Minister's action. Besides the substance of the shortcomings specified in the findings, the delay and incompleteness of some responses from Spur Aviation further reflect on inadequacies in the Approved Maintenance Organization.

Given these circumstances, suspension of AMO Certificate 110-91 effective December 19, 1994 was justified.

**DETERMINATION**

**The Minister's suspension of the Spur Aviation Ltd. Approved Maintenance Organization Certificate #110-91 effective December 19, 1994 is confirmed.**

Robert L. Mortimer  
Member  
Civil Aviation Tribunal