



July 17, 2012

*Via Certified #70103090000219426011*

Captain Morten "Chip" Homme  
Unit 703  
50 North Sierra Street  
Reno, NV 89504

Re: JAL Flight 6589

Dear Captain Homme:

On June 16, 2012, you were the Captain assigned to a flight between Osaka (KIX) and Shanghai (PVG), to be operated as JAL 6589. Because it was flight planned for IFR conditions, an alternate airport was required. In accordance with normal procedures, our customer, Japan Airlines (JAL), has identified a number of airports to use as alternates. For the purpose of Flight 6589, given the planned cargo weight, only Kitakyusha General Airport (RJFR) would have been acceptable. Consequently, JAL 6589 was planned with RJFR as the alternate.

During pre-flight planning – about 50 minutes before departure – you discovered that RJFR was not loaded into the Flight Management Computer (FMC). You then contacted flight control and asked that the flight plan be changed to have a different alternate. You were asked if the fact that RJFR was not in the nav data base was the only reason you wanted the alternate to be changed. Your answer was, "Yeah, that's correct." You were then informed that changing the alternate would require about 11,000 pounds of freight to be bumped. Your response was, "Yeah, it's really—I don't, you know, it's really not my problem if the company doesn't want to put more airports in the database." Shortly thereafter, the flight controller transferred you to Ken Tomaric, the Flight Control Supervisor.

Mr. Tomaric told you that he'd just talked with Captain Ezell, who assured him that, if you have the appropriate approach plates and other information – and you did – it was entirely legal to operate into RJFR without it being in the FMC nav database; he then offered to put Captain Ezell on the line to speak with you. You did not accept that invitation. Mr. Tomaric then told you that the customer – JAL – had identified RJFR as a preferred alternate because it had support there in the form of fuel and maintenance. Your response minimized the customer's expectation and put dispositive weight on the fact that RJFR was not in the FMC nav database. Shortly after you expressed this disregard for the customer's concerns and priorities, Mr. Tomaric put you on hold and transferred the call to Captain Ezell.

**Attachment C**

Captain Ezell explained to you that there was nothing unusual about operating into an airport that is not in the FMC nav database, and that he had just done it during a flight to Europe. The concerns you expressed to Captain Ezell boiled down to RJFR not being in your “backyard.” Because RJFR was not in your “backyard,” and even after being told again that changing the alternate would require bumping freight, you insisted upon changing the alternate to one that was in the FMC nav database. Flight control changed your flight plan to show KIX as the alternate (the only alternate, other than RJFR, that was acceptable to JAL), which required off-loading of freight. One container with approximately 16,000 pounds of freight was removed from the aircraft. As I’m sure you must have understood, our customer was upset that Flight 6589 departed without 16,000 pounds of freight that safely and legally could have been carried.

As you know – and have never disputed – there would have been nothing about having RJFR as an alternate, or operating into RJFR, under those circumstances that would have been contrary to any Federal Aviation Regulation (FAR), any Company policy or manual. Indeed, operating into non-nav database destinations is a “supplemental normal” procedure under the Company’s Flight Operations Manual (FOM). Other “supplemental normal” procedures include CAT II and CAT III operations, which are undertaken by ABX crewmembers on a regular basis. Even without RJFR in the nav database, you still would have had the moving map display for the area around RJFR. Indeed, the only relevant information you would have been missing would have been the electronic versions of the instrument approaches into RJFR; but you had the necessary navigation charts and instrument approach plates with you and certainly could have asked for radar vectors onto the ILS approach if you had to divert.

Because you refused to accept a flight plan that was entirely legal under the FARs and all Company policies and manuals, and unnecessarily caused the offload of our customer’s freight, it was decided that a meeting under Section 5.B.1. of the collective bargaining agreement between the Company and IBT (the CBA) should be convened. After due notice, a meeting was held on June 22, 2012. You attended and were represented by Local 1224.

You agreed during that meeting the operating into RJFR would have been legal. You indicated that, with more planning time, you *might* have accepted RJFR as the alternate – but on June 16 you never asked for additional planning time or indicated that more time would have made any difference. The essence of your after-the-fact position at the meeting – though never expressed to Joe Ezell on June 16 – was that you did not think that operating into RJFR under the circumstances would have been safe.

Because there was nothing about operating into RJFR that would have been contrary to any FAR or Company policy or regulation, the Company concluded that your explanation was not reasonable in view of all the circumstances. As you know, the ABX business model has changed since you were hired; we are no longer domestic pilots. Every ABX pilot must be able to operate *safely and reliably* in the international arena. JAL is an important customer and every pilot who flies for ABX in the Far East must be

able to operate safely and reliably in that environment. Our commitment to JAL is to move its freight safely and on time. As the captain of Flight 6589, you made a decision that knowingly sacrificed the reliability of our operation for what was, to all outward appearances, an implausible safety concern, and because you were aggravated that RJFR was not in the FMC nav database. Consequently, it was decided that a hearing should be held under Section 5.B.2. of the CBA.

That hearing was held on June 29, 2012, and once again you were represented by Local 1224. We were hopeful that, after reflection, you would conclude that you had erred and accept some measure of responsibility for the unnecessary off-loading of our customer's freight. You did not. We are left with several significant areas of concern. The first is well-illustrated by your initial conversations with flight control. During those conversations you never mentioned safety. Even after being told that changing the alternate would require off-loading freight, your position was that simply was not your problem; if the Company had not loaded the alternate into the FMC nav database, you would insist on one that was, even though you had the appropriate resources with you to safely operated into RJFR if that was necessary.

Another area of concern is your attitude toward our customer; even after being told that there were two alternates acceptable to JAL, you continued to ask about other possibilities. And, of course, there was the unnecessary offloading of freight.

Finally, there are what you described during the hearings as your safety concerns. There are a number of factors that you identified as contributing to your concerns during the Section 5.B.2. hearing. Those were: (1) night; (2) IFR; (3) weather; (4) a non-database alternate; (5) routing; (6) a deferred fuel quantity gauge; (7) language; (8) international operations; and (9) need input from other captains. Your expressed concerns were not objectively reasonable.

You, and every other ABX pilot, are qualified to operate into airports that are not in the FMC nav database in CAT II and CAT III conditions. Night and IFR operations are what we do on a daily basis. The supposed weather concerns are simply nonsense; you mentioned worrying about the winds at RJFR shifting, but they were not forecast to shift. The forecast was that the winds would be moderating. Non-database navigation and approaches are a supplemental normal procedure. They require nothing beyond the exercise of routine flight navigation skills that any IFR-qualified pilot – especially a CAT II and CAT II qualified pilot – is expected to be able to do. With respect to routing your concerns were without merit because the necessary information was readily available. The deferred fuel quantity gauge merely requires ordinary vigilance over fuel burn as procedurally outlined in the MEL. The final three issues, language, international operations, and the supposed need for input from other captains, are simply not valid concerns. The global language of air traffic control is English, the air traffic controllers are required to meet international ICAO standards, and, given our mission, our pilots must work within those standards. As noted earlier, every ABX pilot must be capable of operating in an international environment; that is what we do. And every ABX captain

must be capable of operating as a captain in that international environment without prior discussion or consultation with other captains. We will receive charters to new international locations and the crews who are assigned to fly those trips must be able to do so.

But, we are not prepared to say that you were not concerned about safety when you had the alternate changed; but, objectively, your concern in this case was not valid. ABX – and indeed ABX’s customers – place a premium on safety and understand that, when circumstances dictate, reliability must give way to safety. And we agree that captains must have the authority to make that call; but that authority must be exercised in a reasonable manner and based on a reasonable assessment of the facts.

Given the reasons you expressed at the time, and during the Section 5.B.1. meeting and 5.B.2. hearing, it is our conclusion that you require additional training so that your comfort level will allow you to operate safely and reliability as a captain in the international operating environment, including operating without an operating FMC – which is a deferrable item on the MEL. You will be contacted by Joe Ezell to arrange two (2) hours of ground training, followed by four (4) hours of simulator training, followed by a complete demonstration of proficiency so that you can demonstrate the level of competence and confidence that is necessary for an ABX pilot. Additionally, you will be required to sign the attached letter of commitment.

**You will have until 5 pm EDT on July 19, 2012 to execute the attached letter of commitment and to provide a signed copy to the Company (email is acceptable). If you fail to do so, we will only be able to conclude that you are unwilling or unable to meet the Company’s need for pilots who are fully capable of operating in the international environment in conformance with the FARs and the Company’s manuals and policies, and your employment will be terminated effective July 19, 2012, at 5:01 pm EDT.**

It is my hope that you will sign the attached letter and we can go forward in a cooperative manner so that you can get the training you need to operate successfully in the international environment.

Sincerely,



Robert J. Boja  
Director of Flight Operations

Cc: Paul Rutter, Esq. *VIA Facsimile and Certified #70000520001249174550*  
Robert Gray  
Joe Ezell