November 20 1995

Stacey A. Hegarty
[redacted]

Re: FAA Case # 88NM670114

Dear Ms. Hegarty:

This is in response to your November 3, 1995, letter regarding the subject case, which, in effect, asks the Federal Aviation Administration to issue you an Airline Transport Pilot Certificate with all of the ratings which you once held, without your having to re-qualify for that certificate and those ratings. Your request is denied, since granting it would be contrary to agency policy and legal requirements, and contrary to agency practice in previous similar cases.

Your letter misstates the record of this case in several significant respects. As you note, my January 4, 1989, Order of Revocation applied to "any airman pilot certificate now held by you, including Commercial Pilot Certificate No. 348586585 and CFI No. 348586585". Your appeal of that order to the NTSB stayed its effect for several years, during which you acquired an Airline Transport Pilot Certificate with several ratings, replacing your Commercial Pilot Certificate. Under long-standing agency policy and practice, if an airman has upgraded her pilot certificate during the pendancy of a certificate action appeal, the agency order will also apply to the upgraded certificate at the time the order finally becomes effective. By upgrading your certificate and acquiring new ratings during this period, you were taking a risk on whether or not the agency's order would be upheld.

In his September 27, 1989, order, Judge Geraghty modified the applicability of the agency's order to delete the revocation of your CFI certificate [which is not an airman pilot certificate]. His order did not, however, modify the agency requirement that an ATP certificate be revoked in lieu of a commercial certificate when it is upgraded during the pendancy of an appeal.

Your assertion that your "Commercial privileges had not been replaced by the ATP but merely supplemented" is also contrary to the facts. When you received your ATP certificate, you did not retain your Commercial Pilot Certificate, but had to surrender it in order to obtain the ATP certificate. Nor does FAR 61.171 support your position. This regulation simply provides that the holder of an ATP may continue to exercise the privileges of a commercial pilot with associated ratings.

I hope that this letter addresses all of the questions raised by your letter.

Sincerely

Karl B. Lewis
FAA Attorney