
Civil Air Patrol
Board of Governors Meeting
8 June 2005
Washington DC

Members Present

Chairman, Civil Air Patrol Board of Governors
Honorable Michael L. Dominguez
Acting Secretary of the Air Force

Vice Chairman, Civil Air Patrol Board of Governors
Major General Dwight H. Wheless, CAP
Civil Air Patrol National Commander

Members

Brigadier General Paul M. Bergman, CAP
Member-at-Large

Major General Richard L. Bowling, CAP
Member-at-Large

Major General Roger W. Burg, USAF
Director of Strategic Security
Office of the Deputy Chief of Staff for Air and Space Operations

Lieutenant General Nicholas B. Kehoe, USAF (Ret)
President, Congressional Medal of Honor Foundation

Rear Admiral David R. Nicholson, USCG (Ret)
Department of Homeland Security

Brigadier General Antonio J. Pineda, CAP
Civil Air Patrol National Vice Commander

Lieutenant General John F. Regni, USAF
Commander, Air University

Lieutenant General Charles Searock, USAF (Ret)
General Aviation & Technology Consultant

Mister Bruce N. Whitman, President
FlightSafety International Incorporated

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Schedule

CALL TO ORDER
Honorable Michael L. Dominguez

PLEDGE OF ALLEGIANCE
Major General Dwight H. Wheless, CAP

ROLL CALL
Mr. Al Allenback

RECOGNITION OF NEW MEMBERS AND VISITORS
OPENING REMARKS
Honorable Michael L. Dominguez

CIVIL AIR PATROL BOARD OF GOVERNORS AGENDA

CLOSING REMARKS
ADJOURNMENT
Honorable Michael L. Dominguez

Civil Air Patrol
Board of Governors Meeting
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Opening Remarks

Opening Remarks and Announcements

CALL TO ORDER. Honorable Michael L. Dominguez, Chairman, Civil Air Patrol Board of Governors, called the meeting to order. Maj Gen Dwight H. Wheless, CAP, Vice Chairman, Civil Air Patrol Board of Governors, led the group in reciting the Pledge of Allegiance. Al Allenback, Executive Secretary, called the roll and noted that all members were present.

THE CHAIRMAN thanked everyone attending this June meeting of the Civil Air Patrol Board of Governors. He welcomed and introduced one new member on the board: Maj Gen Roger Burg, Director of Strategic Security, Office of the Deputy Chief of Staff for Air and Space Operations. He noted that Maj Gen Burg is replacing Lt Gen Ronald Keys, USAF, who has recently been promoted to General and confirmed by the Senate as Commander, Air Combat Command, United States Air Force. He added that Maj Gen Burg, USAF, brings to the board a perspective, knowledge, and operation of the Air Force Deputy Chief of Staff for Operations' business. He has oversight responsibility for the homeland security functions of the Air Force and the Air Staff, which includes looking at Civil Air Patrol operational activities. Gen Burg will be a significant contributor to the board and to Civil Air Patrol.

THE CHAIRMAN also introduced and recognized special guests including Civil Air Patrol Independent Auditors from Wilson, Price, Barranco, Blankenship & Billingsley, P. C. Mr. Carl Barranco, Billy Daniels, and Clynt Hart. Hon Dominguez noted that they have been a great team for several years working with CAP and helping CAP move forward. He recognized the Civil Air Patrol leadership attending the meeting: Col Larry Kauffman, CAP, Chief of Staff; Col Don Angel, CAP, National Finance Officer; Col Ted Chavez, CAP, National Legal Officer; Col Richard Greenhut, CAP, Northeast Region Commander; Col Rex Glasgow, CAP, North Central Region Commander; Col Merle Starr, CAP, Pacific Region Commander; Col Charlie Glass, CAP, Middle East Region Commander, and Col Rock Palermo, CAP, Special Advisor to the National Commander. The chairman also recognized Ms. Mary Beth Tyler, Grants Officer, Air Education & Training Command, and noted that she has been a regular attendee at the Audit Committee and Board of Governors meetings. He thanked her for attending and stated that her presence is a valuable asset. He also noted Civil Air Patrol-United States Air Force (CAP-USAF) personnel: Col George Vogt, USAF, CAP-USAF Commander; Col Russ Hodgkins, USAF, CAP-USAF Vice Commander; Lt Col Randy Mathis, USAF, CAP-USAF Director of Operations; Lt Col Don Herring, USAF, CAP-USAF Inspector General; and Maj Dee Dee Tentman, USAF, CAP-USAF Judge Advocate and thanked them for their appearance.

THE CHAIRMAN announced that the BoG needed to discuss two personnel matters and due to privacy act considerations these discussions would be conducted in Executive/Closed Sessions. He also stated that he would record the results but not the content of the deliberations and provide them for inclusion in the minutes.

THE CHAIRMAN announced that due to time constraints there was agreement that only necessary actions would be completed at this meeting and that other information would be included in the minutes for review by board members.

Agenda Item: 1

Approval of Previous Minutes

Background

The BoG met last on 1 December 2004 in Washington DC. The June 2005 meeting of the Board of Governors is to review and approve the previous meeting minutes.

Proposed BoG Action

That the Board of Governors approve the 1 December 2004 minutes.

Funding Impact

None.

Committee Recommendation

None.

BoG Action

MAJ GEN BOWLING, CAP, moved and LT GEN KEHOE, USAF (Ret), seconded a motion that the BoG approve the minutes of the 1 December 2004 minutes.

THE MOTION CARRIED UNANIMOUSLY

Agenda Item: 2

CAP National Commander's Report

Background

Maj Gen Dwight Wheless, CAP, will discuss the following Civil Air Patrol issues, plus other items of interest since the last meeting of the Board of Governors.

- a. Update on CAP activities
- b. Items referred by the December 2004 BoG, CAP's March 2005 National Board Meeting and the May 2005 National Executive Committee Meeting
 - 1. Investment Policy (See Audit Committee Report - Agenda Item 3)
 - 2. Wing Commander Selection Process
 - 3. Ethics Policy

Proposed BoG Action

To be determined.

Funding Impact

To be determined.

Committee Recommendation

None.

BoG Action

Due to time constraints, the report was not given.

Agenda Item: 3

Audit Committee Report

Background

The Board of Governors' Audit Committee will provide an update on recent activities and findings.

Proposed BoG Action

To be determined.

Funding Impact

To be determined.

Committee Recommendation

The Committee members will present and make any recommendations.

BoG Action

BRIG GEN BERGMAN, CAP, gave an abbreviated report on the Audit Committee meeting. The Audit Committee minutes are attached (**See Appendix A**).

ITEM 1. **Audit Committee Chair:**

The vacancy in this position created by the move of Hon Michael L. Dominguez to Chairman of the BoG needs to be filled. The Audit Committee Charter, paragraph 3, states, "The BoG will appoint the members and the committee chair." The Audit Committee nominated Brig Gen Paul M. Bergman, CAP, to fill the vacancy and this action needs BoG approval.

LT GEN SEAROCK, USAF (Ret), moved and RADM NICHOLSON, USCG (Ret), seconded the motion that the BoG approve Brig Gen Paul M. Bergman, CAP, as chairman of the BoG Audit Committee.

THE MOTION CARRIED UNANIMOUSLY**ITEM 2. **Exception for 2004 Single Audit Financial Statements****

The normal process is for the auditor to submit audited financial statements to the Audit Committee for review. The Audit Committee then brings those documents forward to the Board of Governors. The BoG retains the right to approve financial statements for publication—as explicitly stated in the amended Audit Committee Charter. However, an

exception was requested in order to meet the publication deadline for these financial statements.

LT GEN SEAROCK, USAF (Ret), moved and MAJ GEN BOWLING, CAP, seconded a motion that, due to the delay in starting the 2004 single audit caused by the competitive bid process to select the independent auditor, and in order to be able to publish the documents on time, the BoG delegate to the Audit Committee authority of the BoG to approve the 2004 audited financial statements for publication.

THE MOTION CARRIED UNANIMOUSLY

ITEM 3. Statement of Investment Policy (See Appendix B)

A Statement of Investment Policy was approved by the CAP National Executive Committee at its November 2004 meeting (Agenda Item 9), discussed at the December BoG 2004 meeting (Agenda item 7), and again discussed at the May 2005 NEC meeting (Agenda Item 7). The Statement of Investment Policy was reviewed by the Audit Committee and changes made to reflect the intent that this policy statement required approval by the BoG. The revised Statement of Investment Policy (DRAFT 06/08/05) was presented to the BoG with a recommendation of the Audit Committee to approve.

MAJ GEN BOWLING, CAP, moved and MAJ GEN WHELESS, CAP seconded a motion that the BoG approve the Statement of Investment Policy (DRAFT 06/08/05), as submitted.

THE MOTION CARRIED UNANIMOUSLY

ITEM 4. Ethics Policy

There was a comment that the Ethics Policy is still a work in progress.

Agenda Item: 4

Executive Director's Update

Background

Mr. Al Allenback, Executive Secretary, will update the BoG on the following items:

- a. FY05 Year-to-Date Review
- b. FY06 Corporate Budget (**See Appendix C**)
- c. FY08-12 POM
- d. Line of Credit Review
- e. Investments

Proposed BoG Action

To be determined.

Funding Impact

To be determined.

Committee Recommendation

The CAP Finance Committee has reviewed the financial data presented and forwarded these items through CAP's National Executive Committee for presentation to the Board of Governors.

BoG Action

Due to time constraints, not all items in the proposed update were covered. Below is the one item requiring BoG action.

ACTION:

- b. FY06 Corporate Budget

There was clarification that the corporate budget funds come from membership dues, and that the adjustments made will primarily provide operating cash that any business needs to be able to cover unexpected expenses.

RADM NICHOLSON, USCG (RET), moved and LT GEN KEHOE, USAF (Ret), seconded a motion that the BoG approve the FY06 Corporate Budget, as presented.

THE MOTION CARRIED UNANIMOUSLY

Agenda Item: 5

XOS-H Update on the Status of CAP Initiatives

Background

Col Frye/XOS-H will present an update on the status of the previously developed CAP Initiatives.

Proposed BoG Action

To be determined.

Funding Impact

To be determined.

Committee Recommendation

None.

BoG Action

Due to time constraints, no report was given.

Agenda Item: 6

Civil Air Patrol Foundation

Background

Mr. Stan Leibowitz, Headquarters Civil Air Patrol General Counsel will update the Board of Governors on the proposal to establish the Civil Air Patrol Foundation. This proposal was originally brought to the December 2004 meeting of the Board of Governors and the Board asked that it be further staffed and brought back.

See **Appendix D** for the proposed Bylaws and Articles of Incorporation.

Proposed BoG Action

That the Board of Governors vote to establish the Civil Air Patrol Foundation.

Funding Impact

To be determined.

Committee Recommendation

None.

BoG Action

MR. STAN LEIBOWITZ, HQ CAP/GC reminded that a proposal was brought up at the December 2004 BoG (Agenda Item 6) to establish a Civil Air Patrol Foundation as a vehicle or means for people to make contributions to Civil Air Patrol, but not directly to Civil Air Patrol. He provided the following report:

MR. LEIBOWITZ stated the proposed foundation would be a fund-raising vehicle for areas like planned giving, bequests under wills or trusts, and possibly fund-raising activities. The foundation would be a separate corporation from Civil Air Patrol the purpose of which would be to support Civil Air Patrol and its programs and members. Any monies raised would be expended on Civil Air Patrol programs or scholarships for CAP members to participate and attend CAP-type functions as determined by the Board of Directors of the Foundation. The proposal was sent back to National Headquarters for further study for two primary reasons. (1) Some of the provisions were not spelled out explicitly in the Bylaws; rather they were left to state law to determine how certain actions and transactions are handled. (2) There were a number of questions raised about the BoG control of the foundation. Examples of bylaws of other foundations were used to update the bylaws to more explicitly detail how the foundation would operate. In terms of control, it being a separate corporation although it would be to support Civil Air Patrol unless there was common control of that corporation and Civil Air Patrol, this board would have no control over the foundation. Therefore, to resolve that problem, he rewrote the proposed bylaws so that the board of the foundation would be

identical to the board of the Civil Air Patrol. The chairman of this board would be the chairman of the foundation. That arrangement would provide complete control of both entities.”

LT GEN REGNI, USAF raised the issue of whether it would be a conflict of interest for active-duty Air Force officers to serve on the board of this private organization. He also wanted to ensure that operating expenses would come from funds of the foundation and not from appropriated funds from the Air Force. He asked if that was explicitly built into the administration of the foundation.

MR. LEIBOWITZ clarified that the policy is built into the administration of Civil Air Patrol that any time or expenses that are incurred by Civil Air Patrol on the foundation are charged to the foundation and not to appropriated funds.

There was discussion on the issue of whether there is a conflict of interest for active-duty Air Force officers to serve on the board of the foundation and, if so, ways to resolve including seeking an opinion from Air Force General Counsel.

MAJ GEN BURG, USAF, stated that since his office has responsibility on the Air Staff for issues associated with Civil Air Patrol, offered to work with Mr. Leibowitz to seek an opinion from the General Counsel and the Judge Advocate on the appropriateness or difficulty of an active-duty officer or a political appointee serving in this capacity on a private organization foundation.

THE FOLLOWING RESOLUTION WAS APPROVED BY CONSENT:

RESOLVED to refer action to Maj Gen Burg. Mr. Leibowitz will submit by 30 June 2005 to the BoG a revision or an update and the BoG will meet and approve that document by an electronic session, not later than 10 July 2005.

Agenda Item: 7

Litigation Update

Background

Mr. Stan Leibowitz, Headquarters Civil Air Patrol General Council, will update the Board of Governors on the status of litigation involving the Civil Air Patrol.

Proposed BoG Action

To be determined.

Funding Impact

To be determined.

Committee Recommendation

None.

BoG Action

A written report was submitted and is attached (**See Appendix E**).

Agenda Item: 8

Membership Action Review Board Report

Background

The Membership Action Review Board (MARB) was established by the Constitution as a board of final review for adverse membership actions taken by commanders at all levels. It has the authority to independently review demotions, removal from command, membership suspensions in excess of 60 days, and membership terminations. It has jurisdiction when a member claims that the adverse membership action was motivated by retaliation, reached without due process, or involved a material failure to follow applicable CAP regulations; and has the authority to affirm, reverse, or modify in favor of the member, the final adverse membership action. The Board of Governors has requested the MARB report on recent activities.

Proposed BoG Action

To be determined.

Funding Impact

None.

Committee Recommendation

None.

BoG Action

A written report was submitted and is attached (**See Appendix F**).

Agenda Item: 9

Other Business

Background

All other business brought to the table by members of the Board of Governors.

Proposed BoG Action

To be determined.

Funding Impact

To be determined.

Committee Recommendation

None.

BoG Action

HON MICHAEL L. DOMINGUEZ announced that at the end of the session today he would resign his position on the Board of Governors and the BoG chairmanship would be vacant. He stated that three candidates are available from those appointed by the Secretary of the Air Force, and according to the bylaws, the term of office must be completed by a member appointed by the Secretary. He added that the Secretary would appoint a member to fill the vacant seat on the BoG, but the appointee is unknown at this time. He recommended that the BoG elect a new chairman at this session.

MAJ GEN WHELESS, CAP, moved and MAJ GEN BOWLING, CAP, seconded the nomination of Lt Gen John F. Regni, USAF, as Chairman of the Board of Governors.

LT GEN REGNI, USAF, stated that he was honored with this nomination and added that this issue came up about 6 months ago and he and his boss talked. They determined that there are so many transformational things going on in Air University, including establishment of the Chief Learning Officer of the United States Air Force, that he is hesitant to say that he has the time and energy to perform this job. He added that he understands all the board members are busy but he is also a field commander and he is concerned about the ability to do the job and provide the leadership that the board deserves. He clarified that he was not withdrawing as a candidate but provided this information for consideration.

BRIG GEN BERGMAN, CAP moved and RADM NICHOLSON, USCG (Ret), seconded the nomination of Maj Gen Roger W. Burg, USAF, as Chairman of the Board of Governors.

The issue of Gen Burg's temporary appointment to the BoG was raised.

MAJ GEN BURG, USAF, stated that he believed his membership on the board is temporary because of the absence of an Air Force XO.

HON DOMINGUEZ clarified that the Secretary of the Air Force need not appoint people by position. Because the Secretary has done so in the past, he doesn't necessarily need to do so now. Gen Burg could be kept in the position. He queried Gen Burg as to whether he had any other reservations about accepting the position of chairman, other than the tenure issue.

MAJ GEN BURG, USAF, replied that his only concern would be that his principal responsibility on the Air Staff is to manage Civil Air Patrol relationships with the Air Force. His concern was that there might be a conflict of interest between his responsibilities to the Secretary of the Air Force and Chief of Staff in that regard and his responsibilities to the BoG.

ACTION

HON DOMINGUEZ stated that in the absence of a chairman, the vice chairman performs the duties of chairman. The Secretary will nominate a candidate to fill the current board vacancy and at the next meeting of the BoG, the board can elect a chairman from four members of the board appointed by the secretary.

Agenda Item: 10

Next Meeting Date

Background

The BoG normally meets twice a year. The proposal for the second meeting of the year is Wednesday, 7 December 2005 in the Washington DC area.

Proposed BoG Action

That the Board of Governors approve 7 December 2005 as the date for the next meeting and that it be held in the Washington DC area.

Funding Impact

None.

Committee Recommendation

None.

BoG Action

MAJ GEN BOWLING, CAP, moved and BRIG GEN PINEDA, CAP seconded a motion that the Board of Governors meet on 7 December 2005 in the Washington, DC, area.

MOTION CARRIED UNANIMOUSLY

Administrative Announcements

THE BOG WAS IN EXECUTIVE SESSION, 1050 – 1355 (WITH A BREAK FOR WORKING LUNCH).

THE CHAIRMAN provided the following information for the record:

The CAP National Legal Officer reported to the Board of Governors the process, plan, and schedule for consideration by the CAP National Board of the Inspector General's Report of Investigation of allegations made against the National Commander, and his for reporting those results to the BoG. The BoG discussed the importance of care and sensitivity in personnel actions affecting CAP leadership during the period of the National Board's consideration of this issue.

THE BOG WAS IN EXECUTIVE SESSION, 1445 – 1515.

No information for this closed session was available for the minutes.

THE MEETING ADJOURNED IN OPEN SESSION AT 1516, WEDNESDAY, 8 JUNE 2005.

APPENDIX A

CIVIL AIR PATROL BOARD OF GOVERNORS AUDIT COMMITTEE MEETING 8 JUNE 2005

A. Old Business:

- a. Approval of minutes from Dec 2004 meeting

MR. WHITMAN moved and LT GEN KEHOE, USAF seconded a motion to approve the minutes of the 1 December 2004, audit committee meeting, as corrected on page 2, paragraph f. line 2: Change the word “QuickBooks” to “Quicken.”

THE MOTION CARRIED UNANIMOUSLY

- b. Investment Policy

MS EASTER proposed that it would be appropriate for the audit committee to recommend this policy for BoG approval.

LT GEN KEHOE, USAF, stated that he agreed with the policy but reminded that the fiduciary responsibility of the board rests with the Board of Governors and the BoG should approve the investment policy. To date, the BoG has not approved the investment policy. He further stated that the BoG doesn't need to manage the investment program—it is fine the way it is set up; however, the investment policy doesn't mention the BoG in the compliance area. He recommended the following addition at the end of the first sentence in paragraph 2 under Compliance: “and submitted to the BoG for approval.” There was also a recommendation to change the words “Mutual of Omaha” to read “investment advisor,” and other minor changes.

BRIG GEN BERGMAN, CAP, proposed making a formal audit committee recommendation to the BoG for approval of the investment policy.

LT GEN KEHOE, USAF (Ret), stated that his interpretation was that Mr. Dominguez was trying to separate that policy from the audit committee in that it belongs to the BoG, and it is on the BoG agenda. There was agreement to just let the investment policy, as amended, come up on the BoG agenda, as scheduled.

- c. Ethics Policy

MS. EASTER reviewed the DRAFT 6/6/05 CAP ethics policy, which has not yet been approved by the National Commander. She invited input to the policy. She added that after finalization, the National Commander will issue a command directive.

COL CHARLES/IG reminded that this issue began with a recommendation of the audit committee for a fraud policy, which evolved to an ethics policy.

There was discussion on whether the ethics policy should be extended to BoG members.

ACTION:

MS. EASTER was tasked to develop an ethics policy for the BoG, independent from the CAP ethics policy, with a recommendation for approval.

d. Fraud Insurance

MR. LEIBOWITZ briefed that currently CAP has fraud insurance for employees that provides only \$25,000 of coverage with a \$2,500 deductible. He stated, "It was originally felt that this was sufficient because with the checks and balances in the regulations any impropriety would be discovered quickly and the exposure would be limited and the limitation of \$25,000 should be enough to carry us over between the time the theft begins and the time of discovery. As directed, we inquired as to what it would cost to increase those limits and it was very inexpensive to increase to even \$50,000 or \$100,000 coverage with the same \$2,500 deductible. The cost was in the range of \$125 additional annual premium to go to \$50,000 and about \$250 additional annual premium to go up to \$100,000. The only theft that I am aware of by an employee is the one in Nevada. The second theft that was discovered in Washington would not have been covered by the policy because it was not by an employee—it was a volunteer. We are exploring what it would cost to take coverage for the volunteers as well. The problem there is that we have 30,000 to 35,000 senior members so we have limited it to covering only unit commanders and unit finance officers, which would be approximately 3,500 volunteers instead of 35,000 volunteers. We are still trying to get a quote from insurance companies. Many of them have said they will not quote us for that because the risk is too unknown and the coverage is too broad. We don't have any information about that, but based on the very small increase in premium, unless directed otherwise, when that policy renews we will increase the coverage, probably up to \$100,000."

In response to a question as to total cost of the policy, Mr. Leibowitz replied that it is a low-cost policy--under \$1,000.

In response to a question as to whether checks and balances are in place to prevent fraud, Ms. Easter replied that they are at the wing level, but probably not at the squadron level because FM has not been a presence at the squadron level.

MR. WHITMAN stated that every effort should be made to ensure the checks and balances are in place because it reflects poorly on CAP when there is fraud. Even the fact that we have to insure for it has an adverse reflection.

MR. LEIBOWITZ clarified that the insurance isn't only for fraud; it is part of the coverage of the G & O policy—an umbrella—a small piece of a much larger policy.

e. Wing Administrators

MS. EASTER reported that job descriptions for the Wing Administrators have been released and distributed. She added that the positions have been advertised and interviewing for the initial hires will soon start. She stated that the basis for determining which wings would get the first hires was an evaluation of (1) internal controls at wing level, (2) the number of transactions at the wing level, and (3) the number of volunteers within any wing. After that analysis, the region commanders will make the final selections.

MR. ALLENBACK stated that the first 13 wing administrators would be onboard by 1 July. There is an issue being worked with the Air Force as to their status. He stated an opinion that they are National Headquarters employees eligible for benefits, even if they are operating in the field. This issue will be clarified.

MS. EASTER continued reporting that some wings will get full-time employees and some wings will get part-time employees. She stated that they had projected to the next 5 years to make sure they would have adequate funding.

B. Cash Management Policy

MS. EASTER reported that the cash management policy is a good news story. They have permanently closed the line of credit. FM worked very closely with the grants officer and CAP-USAF to ensure they had a cash management policy that would meet their needs—oversight responsibilities. CAP is now on advances for monthly operations for salaries and strategic items of procurement. A copy of the Cash Management Policy is included in the agenda.

MR. ALLENBACK expressed appreciation to CAP-USAF and Ms. Mary Beth Tyler, Grants Officer, for working diligently with CAP to resolve a 2-year effort.

C. 2005 FM Summit

- a. Wing commander training – See discussion under b.
- b. Accountability matrix

MS. EASTER noted the accountability matrix, which is included in the agenda folder. She stated this is the first time that FM has provided region commanders with an understanding of how their wing commanders are doing as far as financial control, and it was based on the things that are under their control. If the controls are in place then the wing has a very low risk factor. The matrix will be updated quarterly.

In response to a question, Ms. Easter clarified that the entire matrix will be updated quarterly—not just for the high-risk areas.

In response to a question as to what procedures are in place for wings in the troubled areas, Ms Easter responded that region and wing commanders would receive copies of the standard form memos that address the problem areas so that the wing commanders have a better opportunity to correct the shortcomings in their wings and gives notice to

the region commanders. She added that this is a command responsibility and decision as to what other actions may be necessary.

In response to a question as to whether the matrix is understood, Ms. Easter responded that the region commanders understand, and this matrix will be incorporated into the wing commander training course. She explained that this matrix is really a tool for region commanders so they can succeed in their oversight responsibilities. Also, the evaluation is not arbitrary—the wings are either doing the quarterly audits, etc. or they are not. If the wings are doing all the things that are being evaluated, they will be successful.

It was noted that this data is being cross-shared between the IG Compliance Inspections and the wing financial analyst reports. As a result, if the wing analysts find anything more significant than a lack of a process or lack of a finance officer or suspicion of a deeper problem, the reports will be sent to the IG.

In response to a question posed to the auditors, Mr. Daniels replied that the matrix is also a very beneficial tool for the auditors. The auditors have to seek and try to identify risk areas within the organization so it will be helpful as they go through the process of looking at risk and potential fraud as well as identifying wings for site visits.

D. Unqualified audit opinion update

a. Materiality

MS. EASTER stated that the analysis initially had to be based on materiality and materiality at the squadron level because the materiality of the financial information that is not on the web leads to our qualified opinion.

The Financial Accounting Standards Board definition of materiality is “. . . the magnitude of an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would have been changed or influenced by the omission or misstatement.”

b. Analysis of squadron data

MS. EASTER reported that the evaluation of finances at squadron level was done in a 3-fold approach. First, a squadron asset questionnaire was sent out and there was a 100 percent response. A list of assets was provided. The assets are significant and they need to be evaluated and put on the books. Hopefully by the December 2005 meeting the total value of these assets will be available.

HON DOMINGUEZ called attention to the 100 percent response from the squadrons. This is historic, quite significant, and worth noting. It is a tribute to the leadership in the Civil Air Patrol and the degree that all are working to improve their professionalism and standards in the corporate organization. This is evidence of a change in the relationship between the units below wings and the national organization. He added that there is

learning and dialogue, which is enormously healthy, and a tribute to the National Headquarters staff and the volunteer leadership.

MS. EASTER continued briefing that Phase I included determining assets and cash at squadron level and distributing software to squadrons. Phase II was to revise CAPR 173-1, Financial Procedures and Accounting report for Units below Wing Level. She stated that Phase I is nearly completed and the success of identifying squadron assets is due in large part to the efforts of region commanders. She added that an offshoot benefit was identifying financial officers at squadron level, which will result in the ability to communicate with them. The software will allow FM to link the squadrons individually to the wing, yet retain individual identities, which will ensure the ability to task squadrons with maintaining their assets.

MS. EASTER stated that FM evaluated all 1500 reports from the annual reporting under AFR 173-1 to evaluate cash, based on annual expenditures and on the ending cash balances. Cash is very easy to audit; expenditures are more difficult. The units are reporting on a cash basis versus accrual basis. She added that they expected to find the largest amount of cash and expenses in a few large squadrons and could focus their visits there, but found the opposite to be true. Thus, they could not escape materiality at the smaller squadron level. In view of this, Ms. Easter said they would have to focus on all the squadrons in order to achieve an unqualified opinion.

There were questions on whether a sampling would suffice. Mr. Daniels expressed an opinion that if sampling were utilized they would need to be able to ensure that controls are at that level. He added that is what the auditors do at the wing level—sampling—but there are already controls at that level to give them the assurances that the assets are accounted for.

HON DOMINGUEZ clarified that it is a systems processes, standards, record keeping, etc.—they would have to have a financial system deployed for 1500 units below wing, people trained to use them and making sure the records are kept and train people to operate in that controlled, disciplined environment. You would have to reach out and raise everyone to this level of professionalism and then test it with a sample.

c. Estimated costs

MS. EASTER briefed the almost prohibitive costs of immediately achieving an unqualified audit for units below wing level. In addition to personnel costs, the finance regulation would have to be changed to reflect an accrual instead of a cash basis, which would result in more costs for training of unit finance officers. There would also be costs for QuickBooks and computers. Each squadron has received a computer but the first computers went to operational activities—not financial. FM estimated a cost of \$8M for the first year, which would be reduced to \$5M for succeeding years.

d. Alternative proposal

MS. EASTER recommended an alternative of pursuing accountability instead of an immediate unqualified audit opinion because of the costs associated with that goal. She proposed purchasing Quicken for each squadron (costing approximately \$52,000), rewriting CAPR 173-1, which would require more reporting and standardize the charge

of accounts so that all levels match National Headquarters. This would result in more accountability and accuracy in reporting. This action would permit standardized accounting, promote consistency, and put everyone on a common platform. To date, CAP has not provided the squadron finance officers with any assistance with finance whatsoever. She predicted that the squadrons would be very open to the assistance. Ms. Easter recommended a phased approach of gradually getting the assistance to the squadrons, improving accountability and training, and continuing to revisit an unqualified opinion.

MR. WHITMAN asked whether CAP meets the industry standard for an organization of its size in not having an unqualified opinion. The auditors replied that Civil Air Patrol is a very unique organization in that it has a magnitude of smaller organizations falling under the CAP umbrella—unlike organizations such as the Boy Scouts with the individual organizations having independent franchises.

MR. WHITMAN asked whether the fiduciary responsibility of the audit committee is fulfilled by not having an unqualified opinion. The auditor replied that the costs and risks would have to be evaluated in not going down that path and document why that was not done. The auditor also stated, “It is within your purview to reach a conclusion that you would not because the amount of money you had to spend to make sure that a relatively smaller amount of money is safe.”

MR. WHITMAN expressed concern about the estimates to achieve an unqualified audit being internal with no professional statement that this estimate is accurate. He stated that he believed there could be criticism if CAP does not have an unqualified opinion. He didn’t propose that CAP should spend \$8M to have an unqualified opinion, but the documentation should be clear as to why it wasn’t done. He expressed an opinion that the internal estimate may not satisfy the criteria and suggested that Wilson Price & Associates give CAP some statement as to their estimate of costs to have an unqualified opinion, for the record. There was acknowledgment that there was collaboration with the auditors in determining the estimate and in general they agreed with it.

e. Wilson Price perspective

MR. DANIELS briefed on what the auditors look at in the area of materiality. For example, almost 10 percent of the total assets reported for 2003 were \$48M; the cash that was reported was \$4M. He added that when they look at materiality, it is a judgment call and they have to decide if a reasonable person looks at that omission, would it change their opinion on the next year’s statement? He further added that CAP units also need to attach contingencies and anything the auditors don’t know about at that level such as leases, so the magnitude of what the auditors do know that is not included in the financial statements, as well as the potential magnitude of what is not in there creates an uncertainty that forces the auditors into the unqualified opinion. For example, the squadron expenditures were \$6,700,000 in 2003; the total expenditures on the auditor’s financial statements were \$48M. There is a significant difference as well as there could be inter-company transactions that weren’t eliminated if they were consolidated.

MR. DANIELS briefed the essential elements that would have to be in place. The ultimate goal in this process is to isolate at the squadron where there is only cash because cash is relatively easy to audit, and then bring every other asset they have at that level up to the wing. Management could strengthen the regulation to raise the standard on its own controls over those squadrons, and then they would have a mechanism for monitoring them. Then the auditor could come in and say that CAP has a mechanism with controls to account for that cash and also has a system to monitor it. Then the auditor could test that system and could provide some kind of assurance that the process is working. After that, the auditor could take the accumulation of cash and say, "This is easily auditable and we can give an opinion on it." Mr. Daniels agreed with the alternative proposal presented by Ms. Easter.

MR. DANIELS also briefed that the other two slides basically outline what the auditors would do to verify cash is accounted for at units below wing level. He added that obviously they would not go to 1380 or 1500 units. The auditors would allow the system to function and they would test the system and the accumulation of cash and would hopefully get some unqualified opinions. He noted the costs to test 10 to 20 squadrons to ensure that the policies and procedures are in place as well as assuring that the cash is in place. He closed with saying that is what would happen if there were a perfect environment. If that perfect system were in place, they are ready to start testing it.

LT GEN KEHOE, USAF (Ret), summarized that, in view of the costs of an unqualified opinion to both CAP and the auditors, the challenge of the board is to determine whether the risk of not spending the estimated costs to achieve an unqualified audit opinion or pursue the compensating phased-in approach recommended by FM are adequate, at least for now, to tighten up what goes on in the units below wing level.

MR. WHITMAN agreed that the phased-in approach recommended by FM continues CAP on the path to pursue an unqualified opinion, whether it is achieved in 3 years, more or less, is progress, and recommended approval of the FM proposal.

HON DOMINGUEZ asked about the ability to retain visibility over the asset inventory for both currently identified assets and those acquired in the future. FM responded that the same year-end confirmation of assets reports that are currently filed for the wings would be extended to the squadron level.

LT GEN KEHOE, USAF (Ret) asked the auditors if the interim steps proposed by FM appear to be a prudent way to mitigate risk to the extent possible, as an alternative to the perfect solution.

MR. DANIELS replied in the affirmative and added that even as the procedures are developed in the larger squadrons and they are brought into the national audit, the number of qualified audits will decrease every year.

There was agreement that if the right people are selected and trained, the goal will be achieved.

ACTION:

MR. WHITMAN moved and LT GEN KEHOE, USAF (Ret) seconded a motion that the Audit Committee approve the FM recommended alternative proposal, which reads: “Provide the following support for squadrons: Purchase Quicken for each squadron; rewrite CAPR 173-1 (standardize the charge of accounts to provide more accountability and increased accuracy in reporting); and visit a sampling of squadrons to develop an understanding of squadron activity and financial controls.”

THE MOTION CARRIED UNANIMOUSLY

E. Sales and use tax liability

MS. EASTER, CFO briefed that CAP has a potential sales tax liability. An initial study conducted by Ducharme, McMullen and Associates—a firm retained by Civil Air Patrol to make this determination reported that CAPMart should have been charging sales tax, not only in Alabama but also in every other state. Every state can claim nexus over CAP sales because CAP has assets or employees in every state. Nexus means that any state can claim a right to collect a sales tax, and CAP has an obligation and legal responsibility to collect sales taxes. After presenting this potential liability to the National Executive Committee, that body directed CAP to consider outsourcing CAPMart or obtain software capable of managing sales tax calculations. A bigger issue is the use tax that CAP, as purchaser, may need to remit on purchases such as aircraft and vehicles. She further briefed that CAP is attempting to go to the state legislature to get an exemption to the sales tax liability as have other charitable and nonprofit organizations, and backdate the exemption to the time the law changed. The liability for past sales tax is substantial.

MR. WHITMAN asked if the amount of liability has been quantified, by state. Ms. Easter responded that the CAPMart software system was not set up to track or collect sales tax, so the potential liability is unknown, but the penalties and interest would probably double the amount and could be collected as far back as CAP has records. Ms. Easter also clarified that the use tax applies in the states where the equipment is titled—not where it was purchased.

MR. WHITMAN advised that before CAP seeks assistance or relief, it needs to quantify the problem—how many states, how much, and what the laws are in those states. Then plan a strategy to deal with it because it is a very complex issue. He added that if CAP knows it is doing something wrong now, it needs to be corrected immediately, either by outsourcing or software—CAP has to comply with the law going forward. Going backward is a different issue—CAP needs to quantify that and there has to be a policy determination of the strategy that can work through it.

HON DOMINGUEZ expressed similar concerns as to what the obligation is, now that we know about the problem, going forward from this day, to comply with the spirit and intent of the laws of the United States.

MR. ALLENBACK reassured the committee that the headquarters is working to get the processes in place to take care of this issue.

F. 2004 Audit update

MR. CARL BARRANCO expressed his appreciation on behalf of his firm for being selected as CAP auditors in the recent bidding process. He noted that CAP has been a flagship account for Wilson Price Barranco & Associates. He stated that they have gained a lot of knowledge into the unique CAP operation and was thrilled to be selected as auditors for the next time period. Mr. Barranco stated that he wanted to personally thank all those involved in that process.

MR. DANIELS briefed that the 2004 audit notification was received 23 Mar 05, the audit fieldwork began 18 Apr 05 and provided anticipated completion dates. He pointed out that due to this delay the financial statements were not ready for audit committee approval at this meeting. It was pointed out that approval could be handled by electronic transmission. Hon Dominguez reminded that the audit committee charter requires BoG approval of financial statements prior to publication.

ACTION:

THE CHAIRMAN will request a BoG exception to the policy for publication of the 2004 financial statements during the audit committee report to the BoG.

MR. DANIELS briefed that the scope of the 2004 financial audit includes National Headquarters, CAPMart, and a continuation of the "National audit concept." The results of the national audit concept were the elimination of 60 separate audits, centralized control of financial reporting, enhanced internal controls, less burden on wing finance officer, trained professionals assisting and training wing finance officers, and most importantly, reliable, timely, and consistent financial information from the wing level.

G. Permissions systems audit

MR. DANIELS briefed that in addition to the financial audits and single audits the auditors have been engaged to do two separate systems audits, one of which is the permissions systems audit. This audit will be accomplished by the firm's internal IT professional who will be using Microsoft Application Development Standards as a basis for testing the system. The permission system is the first level of security control for CAP's web page. Once this system is tested then CAP can use it as the basis for electronic signatures for processing requests for payment. There are five levels of security in the system. The anticipated start date for this audit is August 2005.

H. Communication Equipment Management System (CEMS) Audit

MR. DANIELS briefed that the auditors would do a CEMS audit. He stated that the software for this audit was developed by NTC to account for communications equipment. The intent is to test the business rules and controls within the system as well as account for the communications equipment. He added that the ultimate goal is to enable CAP to achieve a paperless environment.

MS EASTER emphasized the importance of this audit in view of the substantial amount of money provided by the Air Force to the CAP communications infrastructure. Also, CAP wants to provide the Air Force with assurance that these assets and this equipment are being tracked and processes are in place to ensure accountability. The anticipated start date for this audit is also August 2005.

I. External auditor independence confirmation

MR. HART briefed that the existence of independence in both fact and appearance is the most important aspect of the audit with CAP as well as other clients. He stated that this issue is addressed at the beginning of any audit undertaken. Also, in the preliminary preparation for audits, every member of the audit team has to acknowledge his/her independence in relation to CAP with a signature. He further stated that because CAP has a single audit and has to follow governmental auditing standards, there are even more stringent independence elements with a separate checklist, which specifically addresses the governmental audit standards. In addition, Wilson Price has set a committee of two shareholders who are independent of this process to resolve any questions that may be brought by any audit member of the team.

J. Wilson Price proposed agenda for Dec meeting and 2005 audit schedule

The agenda items were listed: (1) Presentation of 2004 Financial audit, (2) Presentation of 2004 Single audit, (3) Management letter, (4) Required Communication by Auditors to Committee, (5) System audits, (6) Status of 2005 Audit.

MR. DANIELS also provided the anticipated schedule for the 2005 audit with completion by 16 June 2006, after presentation to the Audit Committee for review and approval by the Board of Governors.

Ms. Easter stated that with the Audit Committee's approval and concurrence of Wilson Price & Associates, she proposed that the auditor conduct some of its 2005 visits to some of the wings for testing during non-peak audit periods, starting in the summer of 2005.

ACTION:

THE CHAIRMAN stated that hearing no objection, the direction of the Audit Committee would be to proceed with the proposal for some of the 2005 test wing visits to start in the summer of 2005.

K. IG update

COL CHARLES, CAP, IG introduced his counterpart, Lt Col Don Herring, USAF, CAP-USA/IG, and emphasized that they work closely together.

COL CHARLES, CAP, IG updated the two fraud cases:

- a. Nevada Wing. As a result of this case, a lot of corrections have been made in the financial area. The paid employee who went to prison failed to receive parole at a recent hearing. CAP has just received a check for \$4,000 from the family as a start of the restitution, and the IG is working through General Counsel with an attorney in Nevada who is looking at asset recovery.
- b. Washington Wing. Everything is on hold from a CAP standpoint. The OSI at McChord AFB investigated this incident and turned over the results to the FBI. The FBI was diligently working the case until it was called off to work another issue. The prosecutor has indicated to the FBI that he will prosecute the volunteer who was involved in the fraud. The amount of the fraud is approximately \$61,000.00 and goes back about 3 1/2 years. After the FBI and prosecution goes forward, the IG will work with General Counsel to more thoroughly examine to determine how the fraud happened. All this goes back to the training of our commanders and finance officers and is further proof that the rules need to be tightened up. That wing was not following the quarterly audit rules or the financial management controls that were in place. The good news is this fraud was discovered because of the tightened oversight and relationship with the wing financial analysts through the compliance inspections.

L. New Business

- a. Nomination of new chairman

LT GEN KEHOE, USAF, moved and MR. WHITMAN seconded the nomination of Brig Gen Paul M. Bergman, CAP, as Chairman of the Audit Committee, subject to approval by the Board of Governors.

THE MOTION CARRIED UNANIMOUSLY

NOTE: This action was the first order of business.

- b. Need for more than two meetings a year

BRIG GEN BERGMAN, CAP, asked if it would be beneficial for the Audit Committee to meet more than twice a year. There was consensus that, if necessary a meeting could be called, or required business handled electronically or with a net meeting. There was emphasis that the board members are always available between the scheduled meetings and there are a lot of ways to keep the members informed and to keep the dialogue open.

HON DOMINGUEZ provided comments on his time on the audit committee. He stated that his practice was to go to Maxwell AFB/Montgomery about 30 – 45 days prior to an audit committee meeting He would spend the morning with the Executive Director and CFO and their staff and the afternoon at Wilson Price & Associates with the auditors going through the business of the audit committee, keying up the agenda and following through. This process opened up a lot of issues that helped frame some of the issues and kept momentum going, which really sharpened the focus coming into the

committee, as well as establishing open, healthy, positive chain of communications between the independent auditor and the committee. He expressed an opinion that it would be important if someone from the committee would maintain that practice. There was agreement that one or more of the audit committee members would continue with this preparation prior to audit committee meetings.

THE AUDIT COMMITTEE MEETING ADJOURNED AT 0950, WEDNESDAY, 8 JUNE 2005

FOLLOWING THE OPEN MEETING THE FOLLOWING PRIVATE MEETINGS WERE HELD:

- M. Private meeting with CAP-IG – NOT RECORDED**
- N. Private meeting with CAP-USAF and Ms. Tyler – NOT RECORDED**
- O Private meeting with external auditors – NOT RECORDED**
- P. Private meeting with CAP – NOT RECORDED**

APPENDIX B

Civil Air Patrol Investment Policy

It is the fiduciary responsibility of the Civil Air Patrol to manage its corporate investment account to preserve to the best of its ability the principal of the corporation's investments while simultaneously trying to maximize said investments to fund needed programs for Civil Air Patrol.

Goal:

The immediate goal of the Civil Air Patrol corporate investment program is to grow its portfolio to a base line of \$4,000,000.00. The long-term goal is to increase the base line to \$5,000,000.00. Once accomplished, these goals shall be re-evaluated. A portion of monies above the "base line" may be made available for liquidation to fund National Board, or National Executive Committee when the National Board is not in session (hereinafter referred to National Board), for approved corporate projects.

Plan:

Accumulation:

To comply with the stated policy, the investment advisor shall actively manage Civil Air Patrol's corporate investments in an Asset Allocation account using modern portfolio theory to achieve a moderate to conservative model with minimal risk. Re-allocation shall be performed at least quarterly.

- The account shall be allowed to grow in value through:
 - Quarterly re-allocation
 - Appreciation of investments
 - Reinvestment of earnings
 - Contributions from Membership Dues
 - Donated monies
- The portfolio shall be limited to mutual funds, [preferably not less than a Morningstar 4 star rating; in no case less than 3], fixed income investments such as corporate and government bonds, [preferably not less than a Standard & Poor's and/or Moody's rating of "A"; in no case less than S&P "BBB" or Moody's "Baa"], certificates of deposit, treasuries and when necessary, cash.
- Annual Civil Air Patrol membership dues may be proportionately contributed to the corporate reserve account to be invested.

These monies may be assessed and invested on a quarterly basis.

- Designated funds shall be "ear marked" for purposes so designated.

- Donor restricted funds shall be separately maintained pursuant to the requirements of the donor.
- Appropriated funds shall not be used for investment purposes.

Withdrawals:

- Authority to liquidate investments is limited to the National Board.
- Upon concurrence of a vote by the National Board to withdraw investments, the National Board authorizes the National Finance Officer, the National Chief of Staff, the National Commander, National Vice Commander, or the Executive Director to sign authorizations with the investment advisor to withdraw investments for specific purposes so authorized.
- Said liquidations shall be drawn from profitable sub-accounts unless, pursuant to advice of the investment advisor, it is in the best interest of the organization to liquidate a non-profitable sub-account. Should a dire financial situation so arise, the National Board shall be required to affirm with a second vote of concurrence to withdraw a majority of non-profitable sub-accounts.
- Ninety percent [90%] of monies above the “base-line” values herein listed are readily available to fund National Board approved corporate programs. The remaining earnings shall be left for reinvestment to insure against the possibility of a declining portfolio and/or to facilitate growth of the portfolio to the next “base line”.
- Funds so designated by the National Board for a specific purpose can only be withdrawn for said purpose unless otherwise authorized by the National Board. Withdrawals shall follow the same guidelines as stated above.
- Restricted funds shall only be withdrawn to fund programs for which the fund was created.

Impact:

The expected impact of the Civil Air Patrol corporate investment account is that proper implementation will smooth out the financial volatility the organization currently experiences. It will greatly help to diversify CAP’s sources for corporate funding, allowing the organization more efficiently manage its program.

Compliance:

The CAP National Finance Officer will be providing copies of all corporate investment account statements.

This Investment Policy must be approved by majority vote of the NEC and submitted to the BoG for approval. The National Finance Committee shall review the policy on not less than an annual basis.

APPENDIX C

CAP FY06 Corporate Budget

APPENDIX D

CAP Foundation Proposed Bylaws & Articles of Incorporation

BYLAWS

CIVIL AIR PATROL FOUNDATION, INC.

Article 1. Name

The name of the Corporation shall be "Civil Air Patrol Foundation, Inc." (herein after "The Foundation").

Article 2. Purposes

The purposes of the Corporation shall be to promote and support Civil Air Patrol and its programs and missions; provide direct financial support to Civil Air Patrol and its programs, missions and operations; and provide scholarships to members of Civil Air Patrol, consistent with all applicable federal and state laws currently in existence and which may come into existence or be amended from time to time, and also consistent with The Foundation's Articles of Incorporation and these Bylaws.

Article 3. Office

The registered office of The Foundation shall be located at 105 South Hansell Street, Maxwell Air Force Base, Alabama 36112-6332, or other location as determined by the Board of Governors.

Article 4. Members

There shall be no members of The Foundation.

Article 5. Board of Directors

Section 1. Powers. All corporate powers shall be exercised by or under authority of, and the business and affairs of The Foundation shall be managed under the direction of a Board of Directors. Directors shall be natural persons but need not be residents of Alabama. The Directors of the corporation shall not, as such, be liable for obligations of The Foundation.

Section 2. Number, Tenure, and Qualifications. The Board of Directors of The Foundation shall consist of all members of the Civil Air Patrol Board of Governors. The number of Directors may increase or decrease from time to time by amendment of the Bylaws, provided that a majority of Directors shall also be members of Civil Air Patrol or

members of the Board of Governors of Civil Air Patrol and further provided that all members of the Board of Governors of Civil Air Patrol remain members of the Board of Directors of The Foundation. Directors shall be qualified at the meeting of the Board of Directors immediately following their appointment to the Civil Air Patrol Board of Governors, and the term of office of each Director shall automatically continue for so long as he/she remains a member of the Civil Air Patrol Board of Governors. The term or office of any other Director shall be three years from the date of appointment.

Section 3. Chairman and Vice Chairman. The Chairman of the Board of Directors shall be the Chairman of the Civil Air Patrol Board of Governors, and shall also be the president of The Foundation. The Vice Chairman of the Board of Directors shall be the Vice Chairman of the Civil Air Patrol Board of Governors and shall also be the vice president of The Foundation.

Section 4. Removal. Directors who are also members of the Civil Air Patrol Board of Governors may not be removed from the Board of Directors. Other Directors may be removed from the Board of Directors prior to the end of the term held by such Director by a two-thirds (2/3) vote of the Board of Directors. Such removal should be only for reasons that are contrary to the best interests of The Foundation.

Section 5. Vacancies. Vacancies in the Board of Directors due to a vacancy in the Civil Air Patrol Board of Governors shall be filled only by appointment to the vacancy in the Civil Air Patrol Board of Governors. Vacancies in any other Director position or by reason of an increase in the number of Directors may be filled by the affirmative vote of a majority of the remaining Directors, though less than a quorum of the Board of Directors,

Section 6. Committees. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more committees each of which shall consist of three or more Directors, which committees, to the extent provided in such resolution, in the Articles of Incorporation or in the Bylaws of The Foundation, shall have and exercise all the authority of the Board of Directors, except that no such committee shall have the authority of the Board of Directors in reference to amending, altering or repealing the Bylaws; electing, appointing or removing any member of any such committee or any Director or Officer of the corporation; amending the Articles of Incorporation, restating Articles of Incorporation, adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange or mortgage of all or substantially all of the property and assets of The Foundation; authorizing the voluntary dissolution of The Foundation or revoking proceedings therefore; adopting a plan for the distribution of the assets of The Foundation; or amending, altering or repealing any action or resolution of the Board of Directors which by its terms provides that it shall not be amended, altered or repealed by such committee. Other committees not having and exercising the authority of the Board of Directors in the management of the corporation may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Director of any responsibility imposed upon it or him/her by law.

Section 7. Meetings.

a. Regular Meetings. A regular meeting of the Board of Directors shall be held in conjunction with, and at the same place as the first meeting of Civil Air Patrol Board of Governors in each calendar year.

b. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the president or any two Directors, and shall be held at the principal office of The Foundation or at such other place as the Directors may determine. Any or all Directors may participate in a special meeting by, or conduct the meeting through the use of, any means of communication by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means, except to protest on the record notice of such meeting, is deemed to be present in person at the meeting.

c. Committee Meetings. Meetings of committees of the Board of Directors may be called by or at the request of the chairman or any two committee members, and shall be held at the principal office of The Foundation or at such other place as the chairman may determine. Any or all committee members may participate in a committee meeting by, or conduct the meeting through the use of, any means of communication by which all committee members participating may simultaneously hear each other during the meeting. A committee member participating in a meeting by this means, except to protest on the record notice of such meeting, is deemed to be present in person at the meeting.

Section 8. Notice. Notice of any meeting shall be given at least fourteen calendar days before the time fixed for the meeting, by written notice delivered personally, mailed to each Director at his business address, or by fax or electronic mail to the fax number or electronic mail address on file with The Foundation. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid, not less than three days prior to the commencement of the above-stated notice period. The notice shall state the purpose of the meeting and whether or not additional items of business may be transacted at the meeting. Any Director may waive notice of any meeting. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Section 9. Quorum. A majority of the number of Directors fixed in these Bylaws shall constitute a quorum for the transaction of business. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law, the Articles of Incorporation or these Bylaws. If a quorum is present when the meeting is convened, the Directors present may continue to do business, taking action by a vote of a majority of a quorum as fixed above, until adjournment, notwithstanding the withdrawal of enough Directors to leave less than a quorum as fixed above, or the refusal of any Director present to vote. The quorum of any committee shall be a majority of the members of the committee.

Section 10. Action By Directors Without Meeting. Any action required by law, the Articles of Incorporation or the Bylaws to be taken at a meeting of the Directors of The

Foundation or any action which may be taken at a meeting of the Directors or of a committee of Directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Directors or all of the members of the committee of Directors, as the case may be. Such consent shall have the same force and effect as a unanimous vote and may be stated as such in any articles or documents filed with either the probate judge or Secretary of State.

Section 11. Waiver of Notice. Whenever any notice is required to be given to any Director of The Foundation under the provisions of law or these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

Section 12. Proxies. Proxies shall not be allowed.

Section 13. Rules. Meetings of the Board of Directors shall be governed by the latest edition of *Robert's Rules of Order*.

Article 6. Officers

Section 1. Officers. The Officers of the Corporation shall be a president, vice president, secretary, treasurer, and such other elected Officers a majority of the Board of Directors determines are necessary or prudent, from time to time. Each elected Officer shall be elected by the Board of Directors from among the Directors. No Director may simultaneously hold more than one officer position. The Officers of The Foundation shall not, as such, be liable for obligations of The Foundation.

Section 2. Election and Term of Office.

a. The elected Officers of The Foundation shall be elected annually at the regular meeting of the Board of Directors. If the election is not held at such meeting, such election shall be held as soon as possible thereafter as is convenient. Each elected Officer shall hold office until his or her successor has been duly elected and qualified or until his or her death, resignation, or removal in the manner hereinafter provided. Elected Officers may be reelected by the Board of Directors to serve successive terms.

b. The election of all elected Officers shall be by ballot unless there is only one nominee for an office, in which case the election for such office may be held by voice vote. A majority vote shall be required to elect all Officers.

c. Elected Officers shall assume their respective duties immediately following the close of the meeting at which they are elected.

d. When a vacancy occurs in an elected Officer position, the Directors shall elect a replacement from among the members of the Board of Directors to serve until the next regularly scheduled election. The vote may take place by phone, facsimile or electronic mail, provided at least fourteen calendar days notice and the reason for such a vote is given to each Director. The Chairman, or in the Chairman's absence, the Vice Chairman, shall validate the results of the ballot. Such person filling an elected Officer

vacancy under this Section shall hold his or her position until the next regular election of Officers.

e. Upon a majority vote of the Board of Directors, any elected Officer may be removed from the position that such person holds. Such removal should be only for reasons that are contrary to the best interests of The Foundation.

Section 3. Powers and Duties of Officers.

a. The Chairman and President will:

(1) Convene meetings of the Board of Directors, ensuring proper call and/or notice in accordance with these Bylaws, as well as any applicable state or federal laws.

(2) Preside at all meetings of the Board of Directors.

(3) Maintain general supervision over all activities for coordinating and rendering efficient the work of The Foundation.

(4) Represent the Foundation at meetings and functions pertaining to the work of The Foundation or, if unable to do so, delegate the task to the Vice Chairman or to any other Director the Chairman believes is best suited to serve The Foundation's needs for such delegation.

(5) Appoint Directors to any standing and/or ad hoc committee, subject to approval of the Board of Directors.

(6) Report at the annual meeting of The Foundation's Board of Directors on the activities of The Foundation, as well as any recommendations for improvement or initiatives that will further the mission and purposes of The Foundation.

(7) Accept resignations from any elected Officer or any Director who is not a member of the Civil Air Patrol Board of Governors.

(8) Supervise permanent or part-time administrative staff, as applicable.

b. The Vice Chairman and Vice President will:

(1) Perform those duties delegated by the Chairman and President

(2) In the absence of or vacancy in the office of the Chairman and President, or the inability of the Chairman and President to serve, perform the duties of those offices.

c. The Secretary will:

(1) Perform those duties delegated by the Chairman and President

(2) Record the proceedings of meetings of The Foundation Board of Directors.

(3) Maintain a current roster of Directors and Officers, and permanent staff, including business and home addresses, telephone and facsimile numbers, and electronic mail addresses.

(4) Perform such other duties as are normally incidental to the office of Secretary.

d. The Treasurer will:

(1) Perform those duties delegated by the Chairman and President

(2) Be responsible for all records associated with funds belonging to The Foundation and the deposit of such funds into Foundation accounts, including but not limited to any banking, lending or investing institution authorized by the Board of Directors.

(3) Sign Foundation checks or monitor that responsibility if carried out by an authorized and properly designated alternate for the disbursement of funds in payment of Foundation obligations.

(4) Be responsible for the development of an annual Foundation budget and for the reporting of same to the Board of Directors for approval.

(5) Make a full report of all receipts, disbursements, and investments not less than once each year and file any reports that may be required by law with all appropriate federal, state or local agencies.

(6) Perform such other duties as are normally incidental to the office of Treasurer.

Section 4. Salaries. No Director or Officer shall receive monetary compensation for his/her services as a Director or Officer.

Section 5. Removal. Any Officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an Officer shall not of itself create contract rights.

Article 7. Administrative Staff

Salaried permanent or part-time staff may be employed as the programs and activities of The Foundation require and the Board of Directors deems necessary. The Board of Directors shall approve any positions required and their compensation. The Board of Directors may use the services of the Executive Director of Civil Air Patrol and any employees of Civil Air Patrol to perform any or all of the administrative functions of The Foundation, with or without compensating Civil Air Patrol for these services.

Article 8. Contracts, Loans, Checks, and Deposits

Section 1. Contracts. The Board of Directors may authorize any Officer or Officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of The Foundation, and such authority may be general or confined to specific business.

Section 2. Loans. No loans shall be contracted on behalf of The Foundation and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

Section 3. Checks, Drafts, or Orders. All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness shall be signed by such Officer or Officers, agent or agents of The Foundation and in such manner as from time to time shall be determined by resolution of the Board of Directors.

Section 4. Deposits. All funds of The Foundation not otherwise employed shall be deposited from time to time to the credit of The Foundation in such banks, trust companies, or other depositories as the Board of Directors shall select.

Article 9. Fiscal Year

The fiscal year of the Corporation shall be January 1 to December 31.

Article 10. Amendments

The Foundation's Articles of Incorporation and these Bylaws may be altered, amended, or repealed, and new Articles of Incorporation or Bylaws may be adopted by the Board of Directors at any regular or special meeting of the board by a 2/3 majority vote.

Article 11. Books and Records

The Foundation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Board of Directors and committees having and exercising any of the authority of the Board of Directors, and shall keep at the principal office a record giving the names and addresses of the Directors and Officers. All books and records of The Foundation may be inspected by any Director or Officer, or his agent or attorney, for any proper purpose at any reasonable time.

Article 12. Dissolution or Sale of Assets

A two-thirds vote of the Directors shall be required to sell or mortgage assets of The Foundation not in the regular course of business or to dissolve The Foundation. Upon dissolution of The Foundation, any assets remaining after payment of or provision for its debts and liabilities shall, consistent with the purposes of the organization, be paid over to charitable organizations exempt under the provisions of Section 501(c)(3) of the U.S. Internal Revenue Code or corresponding provisions of subsequently enacted federal law. No part of the net assets or net earnings of The Foundation shall inure to the

benefit of or be paid or distributed to an Officer, Director, employee, or donor of the organization.

Article 13. Loans to Directors and Officers

No loans shall be made by a corporation to its Directors or Officers. Any Director or Officer who assents to or participates in the making of any such loan shall be liable to the corporation for the amount of such loan until the repayment thereof.

Article 14. General Standards of Conduct

Section 1. A Director shall discharge his or her duties as a Member of the Board of Directors, including his or her duties as a member of a committee, in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Director reasonably believes to be in the best interests of The Foundation. In discharging his or her duties, a Director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

a. One or more Officers or employees of The Foundation whom the Director reasonably believes to be reliable and competent in the matters presented;

b. Legal counsel, public accountants or other persons as to matters the Member of the Board of Governors reasonably believes are within the person's professional or expert competence; or

c. A committee of the Board of Directors of which the Director is not a member, as to matters within its jurisdiction, if the Director reasonably believes the committee merits confidence.

Section 2. A Director is not acting in good faith if the Director has knowledge concerning the matter in question that makes reliance otherwise permitted by this Article unwarranted.

Section 3. A Director is not liable to The Foundation, for any action taken or not taken as a Director, if the Director acted in compliance with this Section.

Section 4. A Director shall not be deemed to be a trustee with respect to The Foundation or with respect to any property held or administered by The Foundation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of such property.

Article 15. Conflict of Interest

Section 1. A conflict of interest transaction is a transaction with The Foundation in which a Director has a direct or indirect interest. A conflict of interest transaction is not voidable or the basis for imposing liability on the Director if the transaction was fair at the time it was entered into or is approved. A transaction in which a Director has a conflict of interest may be approved if the material facts of the transaction and the

Director's interest were disclosed and the Board of Directors authorized, approved, or ratified the transaction. Transactions with Civil Air Patrol are not a conflict of interest.

Section 2. For purposes of this Article, a Director of The Foundation has an indirect interest in a transaction if (a) another entity in which the Director has a material interest or in which the Director is a general partner is a party to the transaction or (b) another entity of which the Director is a director, officer, or trustee is a party to the transaction. Membership in or employment by Civil Air Patrol, or being a member of the Civil Air Patrol Board of Governors does not give rise to an indirect interest for purposes of this Article.

Section 3. For purposes of Section 1 a conflict of interest transaction is authorized, approved, or ratified, if it receives the affirmative vote of a majority of the Directors who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this Section by a single Director. If a majority of the Directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this Section. The presence of, or a vote cast by, a Director with a direct or indirect interest in the transaction does not affect the validity of any action taken if the transaction is otherwise approved as provided in Section 1.

Article 16. Indemnification of Directors

Section 1. For purposes of this Article:

a. " Director" means an individual who is or was a Member of the Board of Directors, or an individual who, while a Member of the Board of Directors, is or was serving at The Foundation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic business or nonprofit corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. A Director is considered to be serving an employee benefit plan at The Foundation's request if the Director's duties to The Foundation also impose duties on, or otherwise involve services by, the Director to the plan or to participants in or beneficiaries of the plan. "Director" includes, unless the context requires otherwise, the estate or personal representative of a Director.

b. "Expenses" include counsel fees.

c. "Liability" means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses actually incurred with respect to a proceeding.

d. "Party" includes an individual who was, is or is threatened to be made a named defendant or respondent in a proceeding.

e. "Proceeding" means any threatened, pending, or completed action, suit or proceeding whether civil, criminal, administrative, or investigative and whether formal or informal.

Section 2. Except as provided in Section 4, The Foundation may indemnify an individual made a party to a proceeding because the individual is or was a Director against liability incurred in the proceeding if the individual:

a. Conducted himself or herself in good faith; and

b. Reasonably believed:

(1) In the case of conduct in his or her official capacity with The Foundation, that his or her conduct was in its best interests; and

(2) In all other cases, that his or her conduct was at least not opposed to its best interests; and

c. In the case of any criminal proceeding had no reasonable cause to believe his or her conduct was unlawful.

A Director's conduct with respect to an employee benefit plan for a purpose the Director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirements of Section.2.b.(2).

Section 3. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the Director did not meet the standard of conduct described in this Section.

Section 4. The Foundation may not indemnify a Director under this Section:

a. In connection with a proceeding by or in the right of the corporation in which the Director was adjudged liable to The Foundation; or

b. In connection with any other proceeding charging improper personal benefit to the Director, whether or not involving action in his or her official capacity, in which the Director was adjudged liable on the basis that personal benefit was improperly received by the Director, or in connection with a transaction in which the Director failed to disclose a conflict of interest.

Section 5. Defense and/or indemnification permitted under this Section in connection with a proceeding by or in the right of The Foundation is limited to reasonable expenses incurred in connection with the proceeding.

Section 6. The Foundation shall indemnify a Director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which he or she was a party because he or she is or was a Director against reasonable expenses actually incurred by the Director in connection with the proceeding.

Section 7. The Foundation may pay for or reimburse the reasonable expenses incurred by a Director who is a party to a proceeding in advance of final disposition of the proceeding if:

a. The Director furnishes The Foundation a written affirmation of his or her good faith belief that he or she has met the standard of conduct described in Section 3;

b. The Director furnishes The Foundation a written undertaking, executed personally or on his or her behalf, to repay the advance if it is ultimately determined that the he or she did not meet the standard of conduct; and

c. A determination is made that the facts then known to those making the determination would not preclude indemnification under this Article.

d. The undertaking required by Section 7.b. must be an unlimited general obligation of the Director but need not be secured and may be accepted without reference to financial ability to make repayment.

e. Determinations and authorizations of payments under this Article shall be made in the manner specified in Section.8.

Section 8. The Foundation may not indemnify a Director unless authorized in the specific case after a determination has been made that indemnification of the Director is permissible in the circumstances because the Director has met the standard of conduct set forth in Section 2.

a. The determination shall be made:

(1) By the Board of Directors by majority vote of a quorum consisting of Members of the Board of Directors not at the time parties to the proceeding;

(2) If a quorum cannot be obtained under Section 8.a.(1), by majority vote of a committee duly designated by the Board of Directors (in which designated Directors who are parties may participate), consisting solely of two or more Directors not at the time parties to the proceeding;

(3) By special legal counsel:

(a) Selected by the Board of Directors or its committee in the manner prescribed in Section 8.a. (1) or (2); or

(b) If a quorum of the Board of Directors cannot be obtained under Section 8.a. (1) and a committee cannot be designated under Section.8.a. (2), selected by majority vote of the full Board of Directors (in which selection Directors who are parties may participate)

b. Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under Section 8.a.(3) to select counsel.

STATE OF ALABAMA
DOMESTIC NON-PROFIT CORPORATION
ARTICLES OF INCORPORATION
CIVIL AIR PATROL FOUNDATION, INC.

The undersigned, all of whom are citizens of the United States, desiring to form a Non-Profit Corporation under the Non-Profit Corporation Law of Alabama, do hereby certify:

Article I The name of the corporation:
Civil Air Patrol Foundation, Inc.

Article II The duration of the corporation is perpetual.

Article III The corporation has been organized exclusively for charitable and educational purposes that support Civil Air Patrol (a Non-Profit corporation established under 36 U.S.C. 40301), including, for such purposes, the making of distributions to and the granting of scholarships to members of Civil Air Patrol.

Article IV The corporation shall have no members.

Article V The street address of the registered office is 105 South Hansell Street, Maxwell Air Force Base, Alabama 36112-6332 and the name of the registered agent at that office is Stanley H. Leibowitz, General Counsel, Civil Air Patrol.

Article VI The names and addresses of the Initial Directors are:

Dwight H. Wheless, P.O. Box 500, Manteo, NC 27954
Antonio J. Pineda, 1101 NW 114 Ave, Plantation, FL 33323
Richard L. Bowling, 2122 Island Home Blvd, Knoxville, TN 37920
Paul M. Bergman, 511 Washington Street, Wabash, IN 46992
John F. Regni, Building 800, 55 LeMay Plaza, Maxwell AFB, AL 36112
Michael L. Dominguez, 1600 Air Force Pentagon, Washington D.C., 20330
Nicholas B. Kehoe, 7622 Shreve Road, Falls Church, VA 22043
Bruce N. Whitman, Marine Terminal, LaGuardia Airport, Fluxhing, NY 11371
David R. Nicholson, 4304 Berwick Place, Woodbridge, VA 22192
Charles J. Searock, 39 Teepee Court, Medford, NJ 08055

Article VII The name and address of the Incorporator is:

Civil Air Patrol
(a Non-Profit corporation established under 36 U.S.C. 40301)
105 South Hansell Street
Maxwell Air Force Base, AL 36112-6332

Article VIII No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its directors, officers or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article III hereof, provided that all directors and officers shall serve without compensation. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of the articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Article IX Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations as said Court shall determine, which are organized and operated exclusively for such purposes.

Article X The number of Directors shall be not less than three and the number of Directors may be increased or decreased from time to time by amendment of the bylaws, provided that a majority of Directors shall also be members of Civil Air Patrol or members of the Board of Governors of Civil Air Patrol.

IN WITNESS THEREOF, the undersigned incorporator executed these Articles of Incorporation on this the _____ day of _____, 2005.

Civil Air Patrol, by
Dwight H. Wheless
National Commander

APPENDIX E

CAP Litigation Cases

1. Allen v Morrison et al.

Venue: US District Court – Kentucky

Filing Date: 02/15/00

Allegations: Defamation/Negligence– TV Camera caught cover of IG investigation report on desk showing Allen as subject of investigation

Status: One deposition taken (CAP/IG). No discovery or motions in over a year.

2. Campbell et al. v CAP

Venue: Alabama U.S. District Court

Filing Date: 01/04/99

Allegations: Retaliatory termination

Status: 12 of 13 counts dismissed

Jury Trial: 7/02 – Verdict for CAP

Appealed to 11th Cir Ct of App – Vacated and remanded

8/13/04 Trial Court dismissed, finding that Campbell's failure to file post-trial motions left Campbell with no legal remedies.

Campbell appealed dismissal to 11th Cir Ct of App.

Oral arguments heard 7 Jun 05

3. Estate of Ashley/Estate of Kennedy

Defendants: CAP, NCWG of CAP, Estate of Kennedy, Estate of Futrell, Cardinal Air LLC, Cessna, Lycoming, Precision Airmotive Corp, Edenton Aviation Services, Avfuel Corp.

Allegation: Wrongful death of non-member law enforcement officer killed in CAP airplane crash

Status: Filed claim against Government. Suits filed 6/23/04 and 7/15/04 in NC state court. CAP removed to federal court under FTCA. CAP resisting motion to remand to state court.

4. Miller v CAP

Defendants: CAP, AZWG/CC

Allegation: Wrongful possession of personal property

Status: Prior member alleges CAP failed to return approximately \$3,000 of personal property. Wing legal officer moving for dismissal due to statute of limitations

5. Burchett v CAP/Sweitzer v CAP

Separate workers compensation claims
Unspecified damages

APPENDIX F

MEMBERSHIP ACTION REVIEW BOARD

8 June 2005

MEMORANDUM FOR BOARD OF GOVERNORS

FROM: NHQ/GC

SUBJECT: Membership Action Review Board

1. The Membership Action Review Board (MARB) was created on 27 Feb 01 by Article XVI of the CAP Constitution. The purpose of the MARB is to review appeals of final adverse membership actions where the member, or former member, alleges that the final adverse membership action was motivated by retaliation, reached without due process, or involved a material failure to follow applicable Civil Air Patrol regulations. A final adverse membership action is defined as demotion in grade; removal from command of a region, wing, group, squadron or flight; suspension of membership in excess of 60 days; or termination or non-renewal of membership.

2. The MARB consists of five voting members: The National Legal Officer who is the Chair, Col. Ted Chavez, CAP; The National Director of Leadership Development and Membership Services, currently vacant; and three active senior members in the grade of Colonel, not currently in the command or vice command of a region or wing, Col. Charles Davenport, CAP, Colonel Fredrick Weiss, CAP, and Col. Ernest Pearson, CAP.

3. Pursuant to Paragraph 6 of Article XVI, the MARB has published rules of practice and procedure in CAPR 35-8 dated 26 Feb 01. Paragraph 9a of CAPR 35-8 requires that General Counsel shall make an annual report to the Board of Governors on the activities and proceedings of the MARB. This report satisfies the requirement for the fourth annual report covering the period 1 Oct 04 through 8 Jun 05.

4. During this report period the MARB has resolved three cases as follows:

a. CASE 04-05 – Second Lieutenants Glenn and Shelly Thibodaux, Louisiana Wing, appealed their demotions from captain to second lieutenant, their involuntary reassignment from LA-093 to LA-000, and certain restrictions in their CAP participation and duty assignments. These actions were taken by the wing commander, who was the appeal authority for a membership termination action initiated by the squadron commander at the direction of the wing commander, for allegedly improper actions taken at a wing conference when Lieutenants Thibodaux encountered cadets who had been drinking. The actions were taken because the appeal board appointed by the wing commander did not concur in the membership termination. The Thibodauxs alleged that the actions were taken in retaliation and that the appointment of the wing commander as the appeal authority for an action taken at his direction, violated due process. The MARB noted that there is no restriction in CAP regulations to preclude a wing commander from instructing a squadron commander to take an adverse membership action and then be the appeal authority in the same action. Thus, there was no violation of due process or substantial violation of CAP regulations in the

appointment of the appeal authority. There was no indication of retaliation. The facts were not in dispute and, based on the facts presented, the MARB concluded there was no basis for an adverse membership action. Having jurisdiction only over adverse membership actions, as defined in CAPR 35-8, the MARB reversed the demotions, but had no authority to address the other personnel actions taken by the wing commander.

b. CASE 05-01 - 2nd Lt. Tommy Rea appealed his demotion from 1st Lt and retroactive 60 day suspension imposed by the commander of the 42nd Composite Squadron, Little Rock, Arkansas, for conduct unbecoming a CAP officer. Lt. Rea alleged that these actions were taken without due process, in violation of unspecified CAP regulations and in retaliation for his complaining about racial discrimination and racial statements allegedly made by the commander. The MARB found that the basis for the commander's action was that Lt Rea, while at work at a Wal-Mart, over-zealously admonished a young cadet for improperly wearing a compass on his CAP uniform. The MARB dismissed the appeal of the 60 day suspension because it was not an "adverse membership action" as defined in CAPR 35-8. It concluded that by giving Lt. Rea written notice of his demotion, the commander exceeded the due process requirements of CAPR 35-5. Finally, it found that the action was not taken in retaliation because (i) the demotion was based on a separate, unrelated act; and (ii) the allegations that the commander displayed racial discrimination and made racial statements was not made until Lt Rae appealed to the MARB, and, although the alleged racial discrimination and racial statements occurred two to three months prior to the Wal-Mart incident, there was no prior report or corroborating evidence to support the allegation. Therefore, the MARB sustained the demotion.

c. CASE 05-02 - Major Al DiSanto appealed his removal as Long Island Group commander by the New York Wing commander. Maj. DiSanto alleges that this action denies his due process rights under unspecified regulations because the wing commander's letter said that the action is not subject to appeal and because the wing commander threatened to terminate his membership. He also alleges that that these actions are in complete retaliation for the response to a short notice inspection and subsequent questioning and heated debate. The MARB found that Maj. DiSanto was instructed by the wing commander to respond to a lengthy list of discrepancies found during a short notice inspection. Maj. DiSanto failed to respond to the wing commander's satisfaction and the wing commander ordered an investigation of the flight activities conducted under Maj. DiSanto's command. On finding numerous violations of CAPR 60-1, and the failure of Maj. DiSanto to be fully honest with the investigating officer, in violation of CAPR 123-2, the wing commander removed Maj. DiSanto from command. The MARB determined that the wing commander has broad discretion in appointing and removing subordinate commanders and that removing a commander for cause is not retaliatory. It determined that giving Maj. Santos actual notice of removal from office exceeded the notice requirement found in CAPR 35-1, and that failing to cooperate with an official investigation may be grounds for membership termination. Therefore, the MARB sustained the removal from command.

6. There are presently no cases pending before the MARB.

Respectfully submitted,

STANLEY H. LEIBOWITZ, Colonel, CAP
General Counsel