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in the Matter of:

BRADEN'S BALLOONS ALOFT, INC.

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FAA-99-6446-10

Docket No. CP99SW0037
FAA Case No. 98SW010055

Hon. James W. Lawson

AGREED AMENDED COMPLAINT

The Federal Aviation Administration (FAA), by counsel, hereby files its Complaint, pursuant to Rule 208 of the Rules of Practice (14 C.F.R. 13.208), and states as follows:

I.

1. On July 28, 1998, Respondent, BRADEN'S BALLOONS ALOFT, INC. , was advised through a Notice of Proposed Civil Penalty, that the FAA proposed to assess a civil penalty in the amount of \$3,600. On September 1, 1999, Respondent was advised through a Final Notice of Proposed Civil Penalty, that the FAA proposed to assess a civil penalty in the amount of \$3,300. On September 20, 1999, the FAA received Respondent's request for a hearing.

II

1. Respondent, BRADEN'S BALLOONS ALOFT, INC, holds Air Agency Certificate No. B4LR629J and Approved Repair Station Operations Specifications authorizing it to operate under Part 145 of the Federal Aviation Regulations (FARs).

2. On or about April 18, 1996, BRADEN'S BALLOONS ALOFT INC., performed maintenance on N57199, serial number S55A-714, an AeroStar (Raven) Balloon, Model S55A.

3. Respondent **BRADEN'S BALLOONS ALOFT, INC.**, performed maintenance on **N57199** by replacing approximately **between 54% and 64% of the envelope fabric**, with material from Custom Nine Designs, Inc.

4. **Aerostar** Hot Air Balloons, Instructions for Continued **Airworthiness**, indicate that fabric replacement is normally limited to **35%** of the surface area of the envelope within **100** flight hours or one year.

5. **Aerostar** Hot Air Balloons, Instructions for Continued Airworthiness, indicate that deviations up to **65%** total fabric replacement may be approved after consultation with **Aerostar** (Raven) factory.

6. **Aerostar (Raven) Hot Air Balloons, Instructions for Continued Airworthiness**, indicate that such extensive replacement may only be undertaken if approved **in writing** by **Aerostar (Raven)**.

7. The records for **Aerostar (Raven)** fail to document any authorization for the fabric replacement of **N57199** described in paragraph 3 above.

8. On or about April **18, 1996**, after performing the maintenance described above, Respondent, **BRADEN'S BALLOONS ALOFT, INC.**, approved **N57199** for return to service.

III

By reason of the foregoing facts and circumstances, Respondent, **BRADEN'S BALLOONS ALOFT, INC.**, has violated the following Sections of the Federal Aviation Regulations:

a. Section **43.13(a)**, in that **BRADEN'S BALLOONS ALOFT, INC.**, a certificated repair station, maintained, altered or performed preventive maintenance, on an aircraft, engine, propeller, or appliance and it failed to use the methods, techniques, and practices prescribed in the current manufacturers' Maintenance Manual or Instructions for Continued Airworthiness prepared by its manufacturer; or other methods, techniques and practices acceptable to the Administrator,

b. Section **43.13(b)**, in that **BRADEN'S BALLOONS ALOFT, INC.**, a certificated repair station, failed to maintain, alter, or perform preventive maintenance, in such a manner and use materials of such a quality, that the condition of the aircraft, airframe, aircraft engine, propeller, or appliance worked on was at least equal to its original or properly altered condition,

c. Section **43.15(a)**, in that **BRADEN'S BALLOONS ALOFT, INC.**, a certificated repair station, failed to perform the annual inspection so as to determine whether the aircraft, or portion(s) thereof under inspection, meets all applicable airworthiness requirements,

d. Section **43.16**, in that **BRADEN'S BALLOONS ALOFT, INC.**, a certificated repair station, failed to perform the inspection or other maintenance in accordance with the Airworthiness Limitations section of the manufacturer's maintenance manual or Instructions for Continued Airworthiness or other maintenance in accordance with that section, and

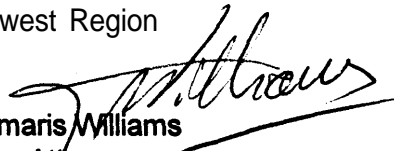
e. Section **145.57(a)**, in that **BRADEN'S BALLOONS ALOFT, INC.**, a certificated repair station, failed to perform its maintenance in accordance with the standards in part **43**.

Pursuant to **49 U.S.C. § 46301**, **BRADEN'S BALLOONS INC.**, is subject to a civil penalty not to exceed **\$1,100** for each violation described above. Under the facts and circumstances of this case, a civil penalty of **\$3,300** is reasonable and appropriate.

WHEREFORE, the Agency, by and through counsel, respectfully requests that the Administrative Law Judge enter an order that Respondent be assessed a civil penalty in the amount of **\$3,300**.

Respectfully submitted this January 13, 2000.

LYNETTE WORD
Regional Counsel
Southwest Region

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Stellamaris Williams
Agency Attorney
Voice: (817) 222-5081
Fax: (817) 222-5945

CERTIFICATE OF SERVICE

I hereby certify that one original and a copy of the foregoing AGREED AMENDED COMPLAINT has been mailed this date by Certified Mail, Return Receipt Requested, to:

Hearing Docket
Federal Aviation Administration
800 Independence Avenue, SW.
Room 924A
Washington, DC 20591

And a copy of the foregoing AGREED AMENDED COMPLAINT has been mailed this date by Certified Mail, Return Receipt Requested, to:

The Honorable James W. Lawson
Administrative Law Judge
Office of Hearings, M-20, Room 5411
U. S. Department of Transportation
400 Seventh Street, SW
Washington, DC 20590

And to:

BRADEN'S BALLOONS ALOFT, INC.
Mr. R. Morgan **Bradens**, President
3900 2nd. Street NW
Albuquerque, NM 87107

And to:

Mr. Ronald **DiGiovanni**
Custom Nine Designs
70 E. Washington Avenue
Washington, NJ 07882



Aileen Casillas, Legal Clerk

Date: 1-13-00