


CITY OF SAN JOSE, CALIFORNIA

CITATION NO. 2015-33-2411

**NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT
ADMINISTRATIVE CITATION**

DATE CITATION ISSUED April 16, 2015			
NAME Hawaiian Airlines			
ADDRESS, RESIDENCE (Street, Apt. or Space No.) (City, State, Zip Code)			
ADDRESS, BUSINESS (Street, Space No.) P.O. Box 30008 (City, State, Zip Code) Honolulu, HI 96819			
VIOLATIONS			
SJMC SECTION (check as applicable)	DESCRIPTION	FINE AMOUNT	DUE DATE
25.03.300 <u> x </u> 25.03.310 <u> </u>	Arrival of a Boeing B767-300, Flight #9976 on March 07, 2015 and 01:17 hours (PST) at Norman Y. Mineta San Jose International Airport	\$2,500.00	5/16/2015
ISSUING ENFORCEMENT OFFICER  _____ Kimberly J. Becker Director of Aviation			
FOR OFFICE USE ONLY:			

SEE REVERSE SIDE FOR FURTHER INFORMATION AND INSTRUCTIONS

IMPORTANT - PLEASE READ

Order: You are ordered to immediately cease the commission of the Municipal Code violation(s) listed on the front of this Administrative Citation.

Administrative Citation: Pursuant to Chapter 25.03 of the San Jose Municipal Code, if you continue or repeat the commission of the Municipal Code violation(s) listed on this Administrative Citation, the City may issue to you another Administrative Citation or may pursue any other legal remedy available to the City against you.

The amount of the Administrative Fine imposed for committing a Municipal Code violation is set forth in Chapter 25.03 of the San Jose Municipal Code. A copy of Chapter 25.03 may be obtained from the Office of the City Clerk for the City of San Jose, at City Hall, Room 116.

Payment Process Information: The amount of the Administrative Fine being imposed upon you for violation(s) of the Municipal Code is listed on the front of this Administrative Citation. The Administrative Fine must be paid to the City within thirty (30) days from the date of this Administrative Citation. A mailing envelope is provided with this Administrative Citation.

You may pay and deliver the Administrative Fine(s) to the City by mail or in person to the Director of Aviation at 1701 Airport Blvd Suite B-1130, San Jose, CA 95110. Payment should be in the form of personal check, cashier's check or money order, and payable to the "City of San Jose." Please write the Administrative Citation Number on your check or money order. **Unless you have requested a hearing to contest the Administrative Citation, you will be subject to the imposition of a 10% late payment penalty, plus interest, if you fail to pay the Administrative Fine by the due date.** Payment of Administrative Fines does not excuse or discharge any continuation or repeated occurrence of the Municipal Code violation(s) listed on this Administrative Citation.

Hearing Process Information: You have the right to contest this Administrative Citation at a public hearing before the Norman Y. Mineta San Jose International Airport Commission. To request this hearing, you must complete a Request For Hearing Form and return that Form, **together with a deposit of the total Administrative Fine amounts listed on the front of this Administrative Citation**, by mail or in person, within thirty (30) days from the date of this Administrative Citation to the Director of Aviation, 1701 Airport Blvd Suite B-1130, San Jose, CA 95110. Request For Hearing Forms may be obtained from the Director of Aviation, 1701 Airport Blvd Suite B-1130, San Jose, CA 95110. You will later be notified of the date and time set for your hearing. If you fail to appear at your hearing, this failure will result in a forfeiture of your deposit of Administrative Fine and will constitute a failure to exhaust your administrative remedies.

If you are financially unable to deposit the total amount of the Administrative Fine, you may file an Advance Deposit Hardship Waiver Application Form with the Director of Aviation, 1701 Airport Blvd Suite B-1130, San Jose, CA 95110. An Advance Deposit Hardship Waiver Application Form may be obtained from the Director of Aviation and must be filed within fifteen (15) days from the date of this Administrative Citation.

Failure to Pay Administrative Fines: If you fail to pay Administrative Fine(s) within the time required by this Citation or the decision of the Airport Commission, the City may use all available legal means to collect the Administrative Fine, together with any late payment penalties and interest. The City also may recover its collection costs incurred in these actions.

The Office of the Director of Aviation is located at:

**1701 AIRPORT BOULEVARD
SUITE B-1130
SAN JOSÉ, CALIFORNIA 95110**

If you would like further information about this Administrative Citation, any of the procedures described above, or how you can come into compliance with the Municipal Code, please call (408) 501-0956.

1 PROOF OF SERVICE

2 Hawaiian Airlines

3 **ADMINISTRATIVE CITATION**

4 I, the undersigned, say: I am a citizen of the United States, over 18 years of
5 age, a resident of the Santa Clara County, and not a party to the within action. My
6 business address is 1701 Airport Blvd Suite B-1130, San Jose, California 95110.

7 On April 16, 2015 I served the within:

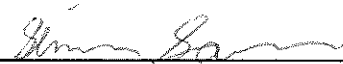
8 **NORMAN Y. MINETA SAN JOSE INTERNATIONAL**
9 **AIRPORT ADMINISTRATIVE CITATION**

10 by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully
11 prepaid, for collection and mailing at my place of business following ordinary business
12 practices. Said correspondence will be deposited with the United States Postal Service at
13 the place so addressed below. I am aware that on motion of party served, service is
14 presumed invalid if postal cancellation date or postage meter date is more than one (1)
day after date of deposit for mailing in affidavit.

15 Hawaiian Airlines
16 P.O. Box 30008
Honolulu, HI 96819

Administrative Citation: 2015-33-2411

17
18 I declare under penalty of perjury that the foregoing is true and correct. Executed
19 at San Jose, California, on April 16, 2015.

20
21 
22 _____
Rosalyn Bond
23 For Rosalyn Bond
24 Simranjit Sandher
25
26
27
28


Curfew Violations 2015-55-1159 / 2015-33-2411 HA9976 SJC-SJC

Phipps, Paula <Paula.Phipps@hawaiianair.com>

Wed 3/11/2015 7:17 PM

Inbox

To:France, Rosalyn <RFrance@sjc.org>;

 2 attachments

2015 03-07 Curfew HA9976 SJC-SJC N583 Departure.pdf; 2015 03-07 Curfew HA9976 SJC-SJC N583 Arrival.pdf;

Aloha Rosalyn,

Please accept our report this this curfew infraction due to a test flight and subsequent flight cancellation. I apologize for operating a test flight after hours as Hawaiian Airlines tries to be a good steward for the community. However, we felt that it would better serve the community if we could verify the aircraft status for the next morning's flight. In this case, the test flight failed and we were able to start re-accommodating passengers immediately before they showed up at the airport. If you have any questions, please do not hesitate to call me.

Mahalo,

Paula Phipps
Sr. Director, SOCC
Hawaiian Airlines
808-835-3071

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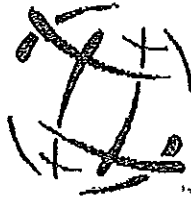
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**1701 AIRPORT BOULEVARD
SUITE B-1130
SAN JOSÉ, CALIFORNIA 95110**

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NORMAN Y. MINETA
SAN JOSE
INTERNATIONAL
AIRPORT

Via Fax and U.S. Mail

March 09, 2015

Ms. Paula Phipps
Hawaiian Airlines
P.O. Box 30008
Honolulu, HI 96819

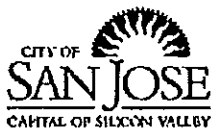
**Re: TEN (10) DAY NOTICE OF AIRCRAFT OPERATION DURING CURFEW HOURS
NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT CURFEW
ORDINANCE**

Dear Ms. Phipps,

Pursuant to Chapter 25.03 of the San Jose Municipal Code (the "Airport Curfew Ordinance"), this letter is notice of an arrival at the Airport by a Boeing B767-300 (N583HA) Flight # 9976 on March 07, 2015 at 01:17 hours (PST). As provided in the Curfew Ordinance, only those jet aircraft listed on the Schedule of Authorized Aircraft may takeoff or land at the Airport during the Curfew Hours from 11:30 p.m. to 6:30 a.m. The Boeing B767-300 is not listed on the Schedule of Authorized Aircraft and is therefore prohibited from taking off or landing at the Airport during the Curfew hours from 11:30 p.m. to 6:30 a.m. Copies of the Curfew Ordinance and the Schedule of Authorized Aircraft were previously provided to you.

Aircraft not listed on the Schedule of Authorized Aircraft may takeoff or land at the Airport during the Curfew Hours from 11:30 p.m. to 6:30 a.m. only if: (a) the takeoff or landing is exempt from the Curfew Hour Restrictions as the result of a Force Majeure Event pursuant to Section 25.03.320 of the Curfew Ordinance; or (b) the operator demonstrates in writing to the Director of Aviation that the FAA Part 36 manufacturer certified noise level of its aircraft (using the arithmetic average of the takeoff, sideline, and approach noise levels) is equal to or less than 89.0 EPNdB.

If you believe that the arrival at the Airport by Flight # 9976 on March 07, 2015 at 01:17 hours was exempt or otherwise compliant with the Curfew Ordinance under either of the circumstances described above, you must provide the Director of Aviation a completed Curfew Operation Report and Flight Routing History within ten (10) calendar days of the date of this notice.



1701 Airport Blvd., Suite B-1130 San Jose, CA 95110-1206 Tel: 408.501.7600 Fax: 408.573.1676

www.sjc.org

TEN (10) DAY NOTICE OF AIRCRAFT
OPERATION DURING CURFEW HOURS

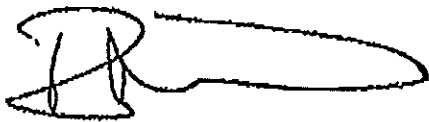
Page 2

March 09, 2015

If the Director of Aviation determines: (a) that the Curfew Operation Report documents facts sufficient to support an exemption from the Curfew Hour Restrictions; or (b) that the arrival was otherwise compliant with the Curfew Ordinance, no further action will be taken. In the event that; (a) you fail to file a Curfew Operation Report with the Director of Aviation with ten (10) calendar days of the date of this Notice; or (b) the Director determines that a timely filed Curfew Operation Report does not document facts sufficient to support either an exemption from the Curfew Hour Restrictions or a determination that the an arrival was otherwise not compliant with the Curfew Ordinance, the Director shall issue an administrative citation to you in the amount of \$2,500 for a violation of the Curfew Ordinance.

Enclosed is a Curfew Operation Report form and instructions that will assist you in providing either: (a) a complete flight routing history necessary to claim an exemption; or (b) documentation that the FAA Part 36 manufacturer certified noise level of the aircraft which performed the arrival (using the arithmetic average of the takeoff, sideline, and approach noise levels) is equal to or less that 89.0 EPNdB. If you have any questions, feel free to call the Noise Monitoring Center at (408) 392-3535 during normal business hours or contact the Manager on Duty at (408) 277-5378 during non-business hours, weekends and holidays.

Sincerely,



Rosalyn France
Airport Operations Superintendent
Mineta San Jose International
Airport
Phone: (408) 392-3508
Fax: (408) 392-3598



1701 Airport Blvd., Suite B-1130 San Jose, CA 95110-1206 Tel: 408.501.7600 Fax: 408.573.1676

www.sjc.org

1 **PROOF OF SERVICE**

2 Hawaiian Airlines

3 I, the undersigned, declare as follows:

4 I am a citizen of the United States, over 18 years of age, employed in Santa Clara
5 County, and not a party to the within action. My business address is 1701 Airport
6 Blvd. Suite B-1130, San Jose, California 95110, and is located in the county where
the service described below occurred.

7 On March 09, 2015 I caused to served the within:

8
9 ✓ **TEN (10) DAY NOTICE OF AIRCRAFT OPERATION
DURING CURFEW HOURS**

10 _____ by MAIL, with a copy of this declaration, by depositing them into a sealed
11 envelope, with postage fully prepaid, and causing the envelope to be deposited
for collection and mailing on the date indicated above.

12 I further declare that I am readily familiar with the City of San Jose business
13 practice for collection and processing of documents for mailing with the United
14 States Postal Service. I placed this document for mailing into a United States
15 Postal Service mailbox, located at the San Jose International Airport on the
16 date listed above, before the collection time listed on the mailbox, and
therefore this document in the ordinary course and scope of business would be
received by the United States Postal Service on the date listed above.

17 I further declare that the name and address on the envelope appear as
18 follows:

19 Paula Phipps

20 Hawaiian Airlines
21 P.O. Box 30008
Honolulu, HI 96819

Curfew Report #2015-33-2411

22 Fax: 808-838-5562

23 I declare under penalty of perjury that the foregoing is true and correct. Executed
24 at San Jose, California, on March 09, 2015.

25 
26 _____
27 Rosalyn France
28

**MINETA SAN JOSE INTERNATIONAL AIRPORT
CURFEW OPERATION REPORT**

CURFEW OPERATION REPORT
(Airport Department use only)

Report Date: March 07, 2015 A/C Operator: Hawaiian Airlines Flight #: 9876
Aircraft Type B767-300 Aircraft Tail #: N583HA Event Type: arrival
Scheduled: 3/7/2015 00:30 Actual: 3/7/2015 01:17 Delay Into curfew: 107
Type of Delay: Mechanical Problems
City(e) at which delay(s) occurred: SJC City Contacted: Yes No
Remarks: Maintenance test flight

Airline Rep: Kevin City Employee: Hogg, Ian

INSTRUCTIONS

1. Complete Flight Routing History/Delay Summary (Page 2) starting with the SJC Curfew Intrusion, followed by all prior flight segments necessary to account for the number of minutes the operation infringed upon the applicable restricted hours.
2. Give a brief explanation for all flight segments that qualify for an exemption under the NCP (Mechanical, Weather, ATC, Security or Other).
3. Complete Airline Certification section below, and return this form, along with the Flight Routing History/Delay Summary to Airport Noise Office - Fax to (408) 392-3598

AIRLINE CERTIFICATION

I hereby certify that the information listed below is true and accurate:

Signature: *Paula S. Phipps* Date: 3-10-2015
Printed name: PAULA S. PHIPPS
Title: SR DIRECTOR SOCC

CURFEW OPERATION AUTHORIZATION
(Airport Department use only)

Curfew Operation Approved Denied

Approved by: _____ Reviewed by: _____
Noise Abatement Manager Deputy Director, Aviation

FLIGHT ROUTING HISTORY

Intrusion Report # 2015-33-2411

Minutes Past Curfew: 107

Aircraft #: N583HA Flight #: HA9776 City Pair: SJC Scheduled OUT: 2300 Actual: 2331 Delay (min): 31 MIN
 A/C swap OFF: 2359 ON: 0121 IN: 0122 82 MIN
 First flight of day Enroute Delay: NA
 Delay: Mechanical Weather Air Traffic Control Security Other (describe) N/A

Explanation: N583 was scheduled to operate HA43 SJC-HNL the following morning. The aircraft had extensive repair work completed on the rudder trim which had previously caused 2 cancellations. HA intentions for test flight were to ensure the aircraft was ready for revenue service.

Aircraft #: _____ Flight #: _____ City Pair: _____ Scheduled OUT: _____ Actual: _____ Delay (min): _____
 A/C swap OFF: _____ ON: _____ IN: _____ IN: _____ That test flight was not passed, flight was cancelled and passenger protection began immediately rather than waiting in morning.
 First flight of day Enroute Delay: _____
 Delay: Mechanical Weather Air Traffic Control Security Other (describe) N/A
 Explanation: _____

Aircraft #: _____ Flight #: _____ City Pair: _____ Scheduled OUT: _____ Actual: _____ Delay (min): _____
 A/C swap OFF: _____ ON: _____ IN: _____ IN: _____
 First flight of day Enroute Delay: _____
 Delay: Mechanical Weather Air Traffic Control Security Other (describe) N/A
 Explanation: _____

Aircraft #: _____ Flight #: _____ City Pair: _____ Scheduled OUT: _____ Actual: _____ Delay (min): _____
 A/C swap OFF: _____ ON: _____ IN: _____ IN: _____
 First flight of day Enroute Delay: _____
 Delay: Mechanical Weather Air Traffic Control Security Other (describe) N/A
 Explanation: _____

Aircraft #: _____ Flight #: _____ City Pair: _____ Scheduled OUT: _____ Actual: _____ Delay (min): _____
 A/C swap OFF: _____ ON: _____ IN: _____ IN: _____
 First flight of day Enroute Delay: _____
 Delay: Mechanical Weather Air Traffic Control Security Other (describe) N/A
 Explanation: _____

FLIGHT ROUTING HISTORY

Intrusion Report # 2016-33-2411

Minutes Past Curfew: 107

Aircraft #: N583 Flight #: HA43 City Pair: SJC Scheduled OUT: 0950 LCL Actual: _____ Delay (min): _____
 OUT: _____

A/C swap 7 March OFF: _____ ON: _____
HNL IN: 1330 LCL IN: _____

First flight of day Enroute Delay: _____
 Delay: Mechanical Weather Air Traffic Control Security Other (describe) N/A

Explanation: HA43 SJC-HNL canceled due to N583 test flight unsuccessful. Flight booked to 6 First Class/194 Coach, total 200 passengers who were protected on various Bay area flights from SJC, OAK, SMF, SFO.

Aircraft #: N583 Flight #: HA976 City Pair: SJC Scheduled OUT: 2300 LCL Actual: _____ Delay (min): _____
 OUT: 2331 31 min

A/C swap 6 March OFF: 2359 ON: 0121
SJC IN: 0000 LCL IN: 0122 82 min

First flight of day Enroute Delay: 0 N/A
 Delay: Mechanical Weather Air Traffic Control Security Other (describe) N/A

Explanation: Test Flight - see previous submission.

Aircraft #: N583 Flight #: HA45 City Pair: SJC Scheduled OUT: 0750 LCL Actual: _____ Delay (min): _____
 OUT: _____

A/C swap 6 March OFF: _____ ON: _____
OGG IN: 1115 LCL IN: _____

First flight of day Enroute Delay: _____
 Delay: Mechanical Weather Air Traffic Control Security Other (describe) N/A

Explanation: Flight canceled due to N583 AOG for rudder trim. Passengers booked 16 FC/192 coach, total 198 pax.

Aircraft #: N583 Flight #: HA46 City Pair: OGG Scheduled OUT: _____ Actual: _____ Delay (min): _____
 OUT: _____

A/C swap 6 March OFF: _____ ON: _____
SJC IN: _____ IN: _____

First flight of day Enroute Delay: _____
 Delay: Mechanical Weather Air Traffic Control Security Other (describe) N/A

Explanation: Flight canceled due to N583 AOG for rudder trim. Passengers booked 0 FC/131 coach, total 131 pax.

Aircraft #: N583 Flight #: HA46 City Pair: OGG Scheduled OUT: 1320 LCL Actual: _____ Delay (min): _____
 OUT: 1311 9 min early

A/C swap 5 March OFF: 1335 ON: 2001
SJC IN: 2010 LCL IN: 2005 5 min early

First flight of day Enroute Delay: 0
 Delay: Mechanical Weather Air Traffic Control Security Other (describe) N/A

Explanation: Flight 46 arrived SJC on time with an inbound write up for rudder trim.

KEVIN FISHER
Sr. Deputy City Attorney
Direct Line: (408) 535-1943

May 26, 2015

Paula Phipps
Sr. Director, SOCC
Hawaiian Airlines
P O Box 30008
Honolulu HI 96819
Paula.Phipps@hawaiianair.com

Kevin Blumberg
Station Manager, SJC
Hawaiian Airlines
2077 Airport Blvd, Suite 103
San Jose CA 95110
kevin.blumberg@hawaiianair.com

**Re: NOTIFICATION OF HEARING BEFORE THE NORMAN Y. MINETA SAN JOSÉ
INTERNATIONAL AIRPORT COMMISSION; ADMINISTRATIVE CITATION
NOS. 2015-33-2411 and 2015-55-1159**

Good day:

The City has received your Requests for Hearing and advance deposits of the fines in regard to each of the above-referenced Administrative Citations.

Pursuant to San José Municipal Code Section 25.03.440, this letter serves as notice that a hearing before the Norman Y. Mineta San José International Airport Commission has been scheduled for **Monday, June 8, 2015 at 6:00 p.m.** at:

**Norman Y. Mineta San José International Airport
1701 Airport Boulevard, Suite B-1130
San Jose, CA 95110-1206**

Pursuant to San José Municipal Code Section 25.03.440, the failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust its administrative remedies.

The hearing will proceed under the following procedures:

- The presentation of evidence shall be informal and not subject to technical compliance with the Evidence Code.
- The City shall have the obligation to proceed with its evidence in support of the issuance of the Administrative Citations first.
- Hawaiian Airlines shall be given the opportunity to testify and present evidence concerning the Administrative Citations.
- Copies of the Administrative Citations and any other documentation that City staff is submitting to the Airport Commission in regard to this matter will be posted to the Airport Commission website (<http://www.flysanjose.com/fl/about.php?page=commission/meetings&exp=2&subtitl e=Airport+Commission+|+Meetings+|+Minutes>) no later than seven (7) days prior to the hearing date. If Hawaiian Airlines intends to present any written evidence to the Airport Commission, please submit any such evidence to the Director of Aviation at 1701 Airport Boulevard, Suite B-1130, San Jose, CA 95110-1206, with a copy to the undersigned.
- The Airport Commission shall consider any relevant evidence if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The Chair of the Airport Commission may exclude from consideration irrelevant or cumulative evidence, or other evidence found to be unduly time consuming or inflammatory.
- The rules of privilege shall be effective to the extent that they are otherwise required by law to be recognized.
- The parties shall have the right to call and examine witnesses, and present relevant documentary and physical evidence.
- All oral testimony shall be under oath or affirmation.
- The parties shall have the right to present impeachment or rebuttal witnesses and evidence, and shall have the right to cross-examine witnesses on any matter relevant to the issues whether or not that matter was raised in direct examination.
- Parties to the hearing may be represented by legal counsel.

- The hearing shall be recorded by audiotape. The parties may use a court reporter at their discretion and expense.
- The duration of the hearing and any procedural issues that arise are within the sole discretion of the Chair of the Airport Commission, whose rulings on such procedural issues are final.
- The Chair of the Airport Commission is authorized to make changes and additions to the hearing rules if such changes are deemed useful or necessary.

After closing the hearing, the Airport Commission shall render a decision to uphold or cancel the administrative citation and shall list the reasons for that decision. The decision of the Airport Commission shall be the City's final determination.

Very truly yours,

RICHARD DOYLE, City Attorney

By: 

KEVIN FISHER
Sr. Deputy City Attorney

cc: Airport Commissioners
Kimberly Becker, Director of Aviation
Curt Eikerman
Rosalyn Bond

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AMENDED

PROOF OF SERVICE

[Correcting address of Paula Phipps by adding City]

CASE NAME: HAWAIIAN AIRLINES

CITATION NOS.: 2015-33-2411 AND 2015-55-1159

I, the undersigned declare as follows:

I am a citizen of the United States, over 18 years of age, employed in Santa Clara County, and not a party to the within action. My business address is 200 East Santa Clara Street, San Jose, California 95113-1905, and is located in the county where the service described below occurred.

On May 26, 2015, I caused to be served the within:

NOTIFICATION OF HEARING BEFORE THE NORMAN Y. MINETA SAN JOSE INTERNATIONAL AIRPORT COMMISSION; ADMINISTRATIVE CITATION NOS. 2015-33-2411 and 2015-55-1159,

by MAIL, with a copy of this declaration, by depositing them into a sealed envelope, with postage fully prepaid, and causing the envelope to be deposited for collection and mailing on the date indicated above.

I further declare that I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. Said correspondence would be deposited with the United States Postal Service that same day in the ordinary course of business.

by ELECTRONIC TRANSMISSION, with a copy of this declaration, to an electronic address listed below.

I further declare that the electronic transmission was sent on May 26, 2015, at 6:18 p.m., and that the City of San Jose, City Attorney's electronic address is CAO.Main@sanjoseca.gov.

Addressed as follows

Paula Phipps
Sr. Director, SOCC
Hawaiian Airlines
P.O. Box 30008
Honolulu, HI 96819
Paula.Phipps@hawaiianair.com

Kevin Blumberg
Station Manager, SJC
Hawaiian Airlines
2077 Airport Blvd., Suite 103
San José, CA 95110
kevin.blumberg@hawaiianair.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on May 26, 2015, at San Jose, California.



Sue Uemura