NATIONAL RAILROAD PASSENGER CORPORATION

OFFICE OF THE INSPECTOR GENERAL

INVESTIGATIVE CLOSING REPORT

TITLE: Financial Reporting Irregularities **CASE NUMBER: 01-086**

DATE OF REPORT: October 8, 2008 **SUMMARY REPORT**

REPORT PREPARED BY: [redacted]

BACKGROUND:

This investigation began in approximately May of 2001, when [redacted], an Amtrak employee, commented to [redacted] of the Inspector General's Audit Division that Amtrak employees were making numerous journal entries to the books to "hang up" expenses on the balance sheet or to move revenue, implying they were "cooking the books," creating the impression that Amtrak was meeting its budget targets. The Office of the Inspector General (OIG) began a joint investigation with the United States Postal Inspection Service.

SUMMARY OF INVESTIGATION:

1) Amtrak's OIG determined that [redacted] [redacted] and [redacted] submitted false information to various entities, in reports, financial statements, and oral representations indicating that Amtrak was on the "Glidepath" to achieving operational self-sufficiency when, in fact, Amtrak was not meeting its financial goals and was not "on the Glidepath."

During Amtrak's FY 2001, which ran from October 1, 2000, to September 30, 2001, Amtrak executive management, including [redacted] and [redacted], examined variances on the monthly profit and loss financial statements. Variances expressed the difference between actual profit and loss amounts to the budgeted amounts. At times the financial statements reflected a favorable variance (i.e., showing that Amtrak's losses were lower than expected) and other times showed an unfavorable variance (showing that the losses were higher than expected).

After [redacted] and [redacted] reviewed the preliminary profit and loss statements, [redacted] directed areas to be looked at and [redacted] directed individuals to make manual journal entries that would reduce the variance, so as to increase or decrease Amtrak's expenses and revenues as needed to bring results closer to the budget plan ("booking to budget"). In the beginning of FY 2001, Amtrak was in a cash poor position and needed a cash infusion in order to make payroll. If cash was not obtained quickly, Amtrak was facing bankruptcy.

Although George Warrington (Warrington), [redacted], [redacted], and a few people in the Finance Department were aware of Amtrak's serious financial position, this information was guarded and not shared among other company employees. Warrington represented to Congress, ARC, lenders, and others that Amtrak was in good financial condition, when as CEO he approved the financing arrangements to mortgage Penn Station. Instead of going to Congress for additional funding, Warrington professed that Amtrak was managing its money and was "on the Glidepath."

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2. After an Investigation lasting several years that involved the United States Attorney's Office for the District of Columbia and the assistance of a Federal Grand Jury, the OIG concluded that inappropriate entries included on Amtrak's financial statements provided to government entities and private lenders were misleading when they indicated that Amtrak was "on the glidepath to self sufficiency" and was only $500,000 off budget.

3. While prosecution was subsequently declined, Wilkie Farr & Gallagher were retained by the Board of Directors to conduct an independent review and to advise the Board on the conclusions of the OIG. Wilkie Farr concluded that many of the OIG's factual findings were correct. Wilkie Farr concluded that "Amtrak personnel made false and/or non-GAAP compliant manual accounting entries to monthly financial records, for the express purpose of making the reported monthly results appear closer to budget." Wilkie Farr concluded, "as did OIG, that uncorrected, inappropriate journal entries had been made in months for which monthly and quarterly interim financial statements were prepared and delivered to a number of entities – among others, the Board of Directors, Amtrak Reform Council, Federal Railroad Administration, Department of Transportation, and private lenders." Wilkie Farr concluded that "two Amtrak employees, [redacted] and [redacted], violated Amtrak corporate policy by, in [redacted]'s case, knowingly booking non-GAAP or otherwise inappropriate accounting entries, and in [redacted]'s case, failing to report his knowledge of such practices in a timely fashion." Wilkie Farr further concluded that "neither of the two individuals whose legal fees were advanced by Amtrak during the OIG's investigation are entitled to indemnification, though the original determination to advance those individuals' fees was appropriate." Amtrak advanced fees of $60,485 on [redacted]'s behalf and $88,136 on [redacted]s behalf. Wilkie Farr concluded that "neither individual acted in good faith and in a manner reasonably believed to be in Amtrak's best interests." [redacted] and [redacted] were released from employment in May of 2007.

RECOMMENDATIONS:

It is recommended this case be closed, with no further action.

Director Special Investigations/
Deputy Counsel's Signature: [redacted]

Deputy Inspector General/
Counsel's Signature: _________________

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